



## AGENDA

Tuesday, December 20, 2016

5:30 P.M. Closed Session  
6:30 P.M. Open Session

**REGULAR MEETING  
CITY COUNCIL, AIRPORT COMMISSION,  
MARINA ABRAMS B NON-PROFIT CORPORATION, PRESTON PARK SUSTAINABLE  
COMMUNITY NON-PROFIT CORPORATION AND SUCCESSOR AGENCY OF THE  
FORMER MARINA REDEVELOPMENT AGENCY**

Council Chambers  
211 Hillcrest Avenue  
Marina, California

**TELECONFERENCE LOCATION:<sup>1</sup>**

799 West Birch Court  
Louisville, Colorado 80027

### VISION STATEMENT

Marina will grow and mature from a small town bedroom community to a small city which is diversified, vibrant and through positive relationships with regional agencies, self-sufficient. The City will develop in a way that insulates it from the negative impacts of urban sprawl to become a desirable residential and business community in a natural setting. **(Resolution No. 2006-112 - May 2, 2006)**

### MISSION STATEMENT

The City Council will provide the leadership in protecting Marina's natural setting while developing the City in a way that provides a balance of housing, jobs and business opportunities that will result in a community characterized by a desirable quality of life, including recreation and cultural opportunities, a safe environment and an economic viability that supports a high level of municipal services and infrastructure. **(Resolution No. 2006-112 - May 2, 2006)**

1. **CALL TO ORDER**



2. **ROLL CALL & ESTABLISHMENT OF QUORUM:** (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Successor Agency of the Former Redevelopment Agency Members)

Nancy Amadeo, David W. Brown, Gail Morton, Mayor Pro-Tem/Vice Chair Frank O'Connell, Mayor/Chair Bruce C. Delgado

3. **CLOSED SESSION:** *As permitted by Government Code Section 54956 et seq., the (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency Members) may adjourn to a Closed or Executive Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the City's Meyers-Milias-Brown Act representative.*

<sup>1</sup> Note: Pursuant to Government Code Section 54953(b), this meeting will include teleconference participation by Council Member Frank O'Connell from the address above. This Notice and Agenda will be posted at the teleconference location

- a. Real Property Negotiations
  - i. Property: Building 524, 761 Neeson Road, Marina  
Negotiating Party: Christian Hestness, dba Bella on the Bay Monterey  
Property Negotiator: Jeff Crechriou, Airport Service Manager  
Terms: All terms and conditions

**6:30 PM - RECONVENE OPEN SESSION AND REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION**

- 4. **MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE** (Please stand)
- 5. **SPECIAL PRESENTATIONS:**
  - a. **Recreation Announcements**
- 6. **SPECIAL ANNOUNCEMENTS AND COMMUNICATIONS FROM THE FLOOR:** *Any member of the Public or the City Council may make an announcement of special events or meetings of interest as information to Council and Public. Any member of the public may comment on any matter within the City Council's jurisdiction which is not on the agenda. Please state your name for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on a future agenda. City Council members or City staff may briefly respond to statements made or questions posed as permitted by Government Code Section 54954.2. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of four (4) minutes. Any member of the public may comment on any matter listed on this agenda at the time the matter is being considered by the City Council*
- 7. **CONSENT AGENDA FOR THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY:** *Background information has been provided to the Successor Agency of the former Redevelopment Agency on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the City Council may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda for Successor Agency to the former Marina Redevelopment Agency and placed at the end of Other Action Items Successor Agency to the former Marina Redevelopment Agency.*
- 8. **CONSENT AGENDA:** *Background information has been provided to the City Council, Airport Commission, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the City Council may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda and placed at the end of Other Action Items.*
  - a. **ACCOUNTS PAYABLE:**
    - (1) Accounts Payable Check Numbers 80557-80690, totaling \$175,622.18
  - b. **MINUTES:**
    - (1) December 6, 2016, Regular City Council Meeting

- c. CLAIMS AGAINST THE CITY: None
- d. AWARD OF BID: None
- e. CALL FOR BIDS:
  - (1) City Council consider adopting Resolution No. 2016-, authorizing advertising and call for bids for building 504, 3220 Imjin Road Tenant Improvement Project.
- f. ADOPTION OF RESOLUTIONS: None
- g. APPROVAL OF AGREEMENTS:
  - (1) City Council consider adopting Resolution No. 2016-, approving a Conditional Airport Use Permit for South Bay Regional Public Safety Training Consortium to conduct non-aviation related public safety cadet and officer automobile training activities on south tarmac at the Marina Municipal Airport; and authorizing City Manager to execute the Conditional Airport Use Permit on behalf of City, subject to final review and approval by City Attorney.
  - (2) City Council consider adopting Resolution No. 2016-, approving a Conditional Airport Use Permit for Monterey Bay Karters to conduct non-aviation related motorsport activity on the north tarmac at the Marina Municipal Airport; and authorizing City Manager to execute the Conditional Airport Use Permit on behalf of City, subject to final review and approval by City Attorney.
  - (3) City Council consider adopting Resolution No. 2016-, approving a Conditional Airport Use Permit for Marina Motorsports, Inc. to conduct non-aviation related motorsport activity on the south tarmac at the Marina Municipal Airport; and authorizing City Manager to execute the Conditional Airport Use Permit on behalf of City, subject to final review and approval by City Attorney.
  - (4) City Council consider adopting Resolution No. 2016-, approving a Conditional Airport Use Permit for Skydive Monterey Bay Inc. to use an interim parachute landing zone at the Marina Municipal Airport; and authorize the City Manager to execute the Conditional Airport Use Permit on behalf of the City, subject to final review and approval by the City Attorney.
- h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None
- i. MAPS: None
- j. REPORTS: (RECEIVE AND FILE):
  - (1) City Council consider adopting Resolution No. 2016-, accepting responses to the 2016 Final Report – Monterey County Grand Jury for the City of Marina, and; direct that the responses be forwarded to the Presiding Judge of the Superior Court.
  - (2) City Council consider adopting Resolution No. 2016-, receiving and filing the 2017 Information Report on the adjustment of mitigation fees for new development.
- k. FUNDING & BUDGET MATTERS: None
- l. APPROVE ORDINANCES (WAIVE SECOND READING): None

m. APPROVE APPOINTMENTS: None

9. PUBLIC HEARINGS:

10. OTHER ACTIONS ITEMS OF THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY: *Action listed for each Agenda item is that which is requested by staff. The Successor Agency may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*

11. OTHER ACTION ITEMS: *Action listed for each Agenda item is that which is requested by staff. The City Council may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*

***Note: No additional major projects or programs should be undertaken without review of the impacts on existing priorities (Resolution No. 2006-79 – April 4, 2006).***

12. COUNCIL & STAFF INFORMATIONAL REPORTS:

- a. Monterey County Mayor's Association [Mayor Bruce Delgado]
- b. Council and staff opportunity to ask a question for clarification or make a brief report on his or her own activities as permitted by Government Code Section 54954.2.

13. ADJOURNMENT:

#### CERTIFICATION

I, Anita Sharp, Deputy City Clerk, of the City of Marina, do hereby certify that a copy of the foregoing agenda was posted at City Hall and Council Chambers Bulletin Board at 211 Hillcrest Avenue, Monterey County Library Marina Branch at 190 Seaside Circle, City Bulletin Board at the corner of Reservation Road and Del Monte Boulevard on or before 5:30 p.m., Friday, December 16, 2016.

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ANITA SHARP, DEPUTY CITY CLERK

*City Council, Airport Commission and Redevelopment Agency meetings are recorded on tape and available for public review and listening at the Office of the City Clerk, and kept for a period of 90 days after the formal approval of MINUTES.*

*City Council meetings may be viewed live on the meeting night and at 12:30 p.m. and 3:00 p.m. on Cable Channel 25 on the Sunday following the Regular City Council meeting date. In addition, Council meetings can be viewed at 6:30 p.m. every Monday, Tuesday and Wednesday. For more information about viewing the Council Meetings on Channel 25, you may contact Access Monterey Peninsula directly at 831-333-1267.*

*Agenda items and staff reports are public record and are available for public review on the City's website ([www.ci.marina.ca.us](http://www.ci.marina.ca.us)), at the Monterey County Marina Library Branch at 190 Seaside Circle and at the Office of the City Clerk at 211 Hillcrest Avenue, Marina between the hours of 10:00 a.m. 5:00 p.m., on the Monday preceding the meeting.*

*Supplemental materials received after the close of the final agenda and through noon on the day of the scheduled meeting will be available for public review at the City Clerk's Office during regular office hours and in a 'Supplemental Binder' at the meeting.*

*Members of the public may receive the City Council, Airport Commission and Successor Agency of the Former Redevelopment Agency Agenda at a cost of \$55 per year or by providing a self-addressed, stamped envelope to the City Clerk. The Agenda is also available at no cost via email by notifying the City Clerk at [marina@ci.marina.ca.us](mailto:marina@ci.marina.ca.us).*

*ALL MEETINGS ARE OPEN TO THE PUBLIC. THE CITY OF MARINA DOES NOT DISCRIMINATE AGAINST PERSONS WITH DISABILITIES. Council Chambers are wheelchair accessible. meetings are broadcast on cable channel 25 and recordings of meetings can be provided upon request. to request assistive listening devices, sign language interpreters, readers, large print agendas or other accommodations, please call (831) 884-1278 or e-mail: [marina@ci.marina.ca.us](mailto:marina@ci.marina.ca.us). requests must be made at least **48 hours** in advance of the meeting.*

Upcoming 2017 Meetings of the City Council, Airport Commission, Marina Abrams B Non-Profit Corporation, Preston Park Sustainable Community Nonprofit Corporation and Successor Agency of the Former Redevelopment Agency

Regular Meetings: 5:30 p.m. Closed Session;  
6:30 p.m. Regular Open Sessions

**Tuesday, January 3, 2017 (Cancelled)**  
**\*\* Wednesday, January 18, 2017**

**\*\* Wednesday, July 5, 2017**  
Tuesday, July 18, 2017

Tuesday, February 7, 2017  
**\*\*Wednesday, February 22, 2017**

**\*\*\* Wednesday, August 2, 2017**  
Tuesday, August 15, 2017

Tuesday, March 7, 2017  
Tuesday, March 21, 2017

**\*\*Wednesday, September 6, 2017**  
Tuesday, September 19, 2017

Tuesday, April 4, 2017  
Tuesday, April 18, 2017

Tuesday, October 3, 2017  
Tuesday, October 17, 2017

Tuesday, May 2, 2017  
Tuesday, May 16, 2017

Tuesday, November 7, 2017  
Tuesday, November 21, 2017

Tuesday, June 6, 2017  
Tuesday, June 20, 2017

Tuesday, December 5, 2017  
Tuesday, December 19, 2017

**\*\* Regular Meeting rescheduled due to Monday Holiday**

**\*\*\* Regular Meeting rescheduled due to National Night Out Event**

**NOTE: Regular Meeting dates may be rescheduled by City Council only.**

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**C I T Y H A L L H O L I D A Y S**  
(City Hall Closed)

Winter Break -----Friday, December 23, 2016 –Monday, January 2, 2017

## 2017 COMMISSION DATES

**Upcoming 2017 Meetings of Design Review Board**  
**3<sup>rd</sup> Wednesday of every month.** Meetings are held at the Council Chambers at 6:30 P.M.  
 \*\* = Change in location due to conflict with Council meeting

**January 18, 2017	May 17, 2017	September 20, 2017
February 15, 2017	June 21, 2017	October 18, 2017
March 15, 2017	July 19, 2017	November 15, 2017
April 19, 2017	August 16, 2017	December 20, 2017

**Upcoming 2017 Meetings of Economic Development Commission**  
**1<sup>st</sup> Thursday of every month.** Meetings are held at the Council Chambers at 6:30 P.M.

February 2, 2017	May 4, 2017	September 7, 2017
March 2, 2017	June 1, 2017	October 5, 2017
April 6, 2017	July 6, 2017	November 2, 2017
	August 3, 2017	December 7, 2017

**Upcoming 2017 Meetings of Planning Commission**  
**2<sup>nd</sup> and 4<sup>th</sup> Thursday of every month.** Meetings are held at the Council Chambers at 6:30 P.M.

January 12, 2017	May 11, 2017	September 14, 2017
January 26, 2017	May 25, 2017	September 28, 2017
February 9, 2017	June 8, 2017	October 12, 2017
February 23, 2017	June 22, 2017	October 26, 2017
March 9, 2017	July 13, 2017	November 9, 2017
March 23, 2017	July 27, 2017	November 23, 2017 (Cancelled)
April 13, 2017	August 10, 2017	December 14, 2017
April 27, 2017	August 24, 2017	December 28, 2017 (Cancelled)

**Upcoming 2017 Meetings of Public Works Commission**  
**3<sup>rd</sup> Thursday of every month.** Meetings are held at the Council Chambers at 6:30 P.M.

January 19, 2017	May 18, 2017	September 21, 2017
February 16, 2017	June 15, 2102	October 19, 2017
March 16, 2017	July 20, 2017	November 16, 2017
April 20, 2017	August 17, 2017	December 21, 2017

**Upcoming 2017 Meetings of Recreation & Cultural Services Commission**  
**1<sup>st</sup> Wednesday of every quarter month.** Meetings are held at the Council Chambers at 6:30 P.M.

March 1, 2017	June 7, 2017	September 6, 2017	December 6, 2017
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**Upcoming 2017 Meetings of Marina Tree Committee**  
**2<sup>nd</sup> Wednesday of every quarter month.** Meetings are held at the Council Chambers at 6:30 P.M.

April 12, 2017	July 12, 2017	October 11, 2017
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# AP Check Register 12-09-16

Bank Account: 024 - Accounts Payable ZBA  
Batch Date: 12/09/2016

Agenda Item: 8a  
City Council Meeting of  
December 20, 2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
<b>Bank Account: 024 - Accounts Payable ZBA</b>					
Check	12/09/2016	80557 Accounts Payable	Ace Hardware		7.93
	Invoice	Date	Description		Amount
	061224	12/03/2016	Battery for CO Detector in dorm room		6.51
	061120	11/23/2016	Fasteners for lock box/keys on 5421		1.42
Check	12/09/2016	80558 Accounts Payable	Ace Hardware		33.00
	Invoice	Date	Description		Amount
	061112	11/23/2016	Fasteners		15.64
	061136	11/28/2016	Battery-Photo 3V 123 - City Hall Alarm System		17.36
Check	12/09/2016	80559 Accounts Payable	Aramark Uniform Service		169.40
	Invoice	Date	Description		Amount
	757707275	11/28/2016	Uniform Service - Public Works Crew		44.40
	757707276	11/28/2016	Uniform Service - Public Works Crew		48.00
	757707277	11/28/2016	Uniform Service - Public Works Crew		33.56
	757707278	11/28/2016	Uniform Service - Public Works Crew		43.44
Check	12/09/2016	80560 Accounts Payable	AT & T		147.73
	Invoice	Date	Description		Amount
	11-14-16	11/14/2016	Alarm, EOC & PEBST Equipment 11/14/16		147.73
Check	12/09/2016	80561 Accounts Payable	AT & T		746.89
	Invoice	Date	Description		Amount
	000008901381	11/20/2016	CALNET3-9391023433 (234-342-8596)		164.83
	000008925237	11/28/2016	CALNET3-9391023437 (384-0425)		17.85
	000008925239	11/28/2016	CALNET3-9391023439 (384-0552)		19.75
	000008925240	11/28/2016	CALNET3-9391023440 (384-0860)		19.79
	000008925241	11/28/2016	CALNET3-9391023441 (384-0888)		56.58
	000008925242	11/28/2016	CALNET3-9391023442 (384-1702)		19.75
	000008925243	11/28/2016	CALNET3-9391023443 (384-2081)		37.60
	000008925244	11/28/2016	CALNET3-9391023444 (384-2083)		37.60
	000008925248	11/28/2016	CALNET3-9391023448 (384-2934)		19.75
	000008925249	11/28/2016	CALNET3-9391023449 (384-2967)		21.81
	000008925252	11/28/2016	CALNET3-9391023452 (384-3717)		17.85

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# AP Check Register 12-09-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/09/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
		000008925256	11/28/2016	CALNET3-9391023456 (384-4718)	19.75
		000008925257	11/28/2016	CALNET3-9391023457 (384-5140)	17.85
		000008925263	11/28/2016	CALNET3-9391023461 (384-7238)	19.75
		000008925264	11/28/2016	CALNET3-9391023462 (384-7547)	22.14
		000008925265	11/28/2016	CALNET3-9391023463 (384-7854)	19.75
		000008925268	11/28/2016	CALNET3-9391023466 (384-8477)	37.60
		000008926269	11/28/2016	CALNET3-9391023467 (384-8760)	17.85
		000008925270	11/28/2016	CALNET3-9391023468 (384-9148)	20.30
		000008925271	11/28/2016	CALNET3-9391023469 (384-9337)	19.75
		000008925272	11/28/2016	CALNET3--9391023470 (384-9682)	17.85
		000008920798	11/27/2016	CALNET3-9391023471 (582-0100)	41.89
		000008920800	11/27/2016	CALNET3-9391023473 (582-2398)	19.75
		000008920802	11/27/2016	CALNET3-9391023475 (582-9032)	19.75
		000008920804	11/27/2016	CALNET3-9391023477 (582-9803)	19.75
Check	12/09/2016	80562 Accounts Payable	Branch's Janitorial		2,059.44
	Invoice		Date	Description	Amount
		225938	10/22/2016	October 2016 Services	2,059.44
Check	12/09/2016	80563 Accounts Payable	Carmel Fire Protection Associates		800.00
	Invoice		Date	Description	Amount
		116474	11/27/2016	Plan check and Inspection for Deli Delicious	200.00
		116468	11/25/2016	Plan review for Marina Heights Master Plan 4	200.00
		116467	11/25/2016	Plan review for Marina Heights Master Plan 5	200.00
		116466	11/25/2016	Plan review for Marina Heights Master Plan 3	200.00
Check	12/09/2016	80564 Accounts Payable	Comcast		168.96
	Invoice		Date	Description	Amount
		11-14-16	11/19/2016	cable & internet	168.96
Check	12/09/2016	80565 Accounts Payable	Cypress Sporting Goods		173.76
	Invoice		Date	Description	Amount
		771	11/03/2016	trophies & plaques	173.76
Check	12/09/2016	80566 Accounts Payable	Dave's Repair Service		80.00
	Invoice		Date	Description	Amount

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# AP Check Register 12-09-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/09/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
		24824	11/16/2016	Monthly Site Inspections	80.00
Check	12/09/2016	80567 Accounts Payable	Emergency Vehicle Specialists		1,401.03
	Invoice		Date	Description	Amount
		6283	12/02/2016	Mount Green Dome to 5401, toggle switch and labor	1,401.03
Check	12/09/2016	80568 Accounts Payable	Farmer Brothers Co.		165.89
	Invoice		Date	Description	Amount
		64716418	12/02/2016	Fire Dept Coffee	165.89
Check	12/09/2016	80569 Accounts Payable	FedEx		60.63
	Invoice		Date	Description	Amount
		5-615-46546	11/18/2016	Postage/Shipping Service/(2) packages 11/18/16	60.63
Check	12/09/2016	80570 Accounts Payable	First Alarm		105.00
	Invoice		Date	Description	Amount
		971584	11/18/2016	Remote Alarm Code Entry for Fred Aegerter	35.00
		971517	11/17/2016	Service Call/PS Building 11/17/16	35.00
		971581	11/18/2016	Service Call/Storage Facility 11/18/16	35.00
Check	12/09/2016	80571 Accounts Payable	Goldfarb & Lipman		667.00
	Invoice		Date	Description	Amount
		121359	11/16/2016	Preston Park - October 2016	225.00
		121358	11/16/2016	Marina Heights	442.00
Check	12/09/2016	80572 Accounts Payable	Hub International Insurance Services		374.84
	Invoice		Date	Description	Amount
		11-30-16	11/30/2016	Insurance for Rentals	374.84
Check	12/09/2016	80573 Accounts Payable	Mandell Municipal Counseling		754.00
	Invoice		Date	Description	Amount
		11-14-16	11/14/2016	Revenue Advice - October 2016	754.00
Check	12/09/2016	80574 Accounts Payable	Marina Coast Water District		3,165.80
	Invoice		Date	Description	Amount
		000056045 111816	11/18/2016	000056 045 - 3100 Preston Park Irrig (10/22/16 - 11/18/16)	2,468.52
		000056006 111816	11/18/2016	000056 006 188 Seaside Cir (10/22/16 - 11/18/16)	36.62

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Batch Date: 12/09/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
		000056040 111816	11/18/2016	000056 040 - Center Median Hilo Ave (10/22/16 - 11/18/16)	119.21
		000056090 111816	11/18/2016	000056 090 Locke Paddon Park (10/22/16 - 11/18/16)	55.55
		000056061 111816	11/18/2016	000056 061 - Seaside and Reservation (10/22/16 - 11/18/16)	68.65
		000056042 111816	11/18/2016	000056 042 - 3040 Lake Dr, Animal Shelter (10/22/16 - 11/18/16)	114.41
		000056028 111816	11/18/2016	000056 028 - ROW Calif Ave and Jerry (10/22/16 - 11/18/16)	63.99
		012016000 111816	11/18/2016	012016 000 - 199 Paddon Pl Locke Paddon (10/22/16 - 11/18/16)	121.52
		000056046 111816	11/18/2016	000056 046 - 3100 Preston Park Bldg (10/22/16 - 11/18/16)	117.33
Check	12/09/2016	80575 Accounts Payable	Marina Grocery Outlet		1,422.92
	Invoice		Date	Description	Amount
		09-12-16 yc	09/12/2016	youth center	21.62
		09-02-16 sc	09/02/2016	Senior Center Purchases	45.94
		09-07-16 sc	09/07/2016	Senior Center Purchases	36.11
		09-08-16 sc	09/08/2016	Senior Center Purchases	106.51
		09-09-16 sc	09/09/2016	Senior Center Purchases	128.42
		09-17-16 sc	09/17/2016	Senior Center Purchases	23.45
		09-21-16 sc	09/21/2016	Senior Center Purchases	10.66
		09-22-16 sc	09/22/2016	Senior Center Purchases	38.07
		09-23-16 sc	09/23/2016	Senior Center Purchases	33.25
		09-29-16 sc	09/29/2016	Senior Center Purchases	20.04
		09-30-16 sc	09/30/2016	Senior Center Purchases	31.89
		09-09-16 sd	09/09/2016	TCB	23.96
		09-17-16 sd	09/17/2016	TCB	17.92
		09-02-16 con	09/02/2016	Teen Concessions	330.67
		09-09-16 con	09/09/2016	Teen Concessions	89.35
		09-12-16 con	09/12/2016	Teen Concessions	32.00
		09-15-16 con	09/15/2016	Teen Concessions	71.48
		09-17-16 con	09/17/2016	Teen Concessions	51.57
		09-22-16 con	09/22/2016	Teen Concessions	181.35
		09-30-16 con	09/30/2016	Teen Concessions	128.66
Check	12/09/2016	80576 Accounts Payable	Medics For Life, Inc.		1,000.00
	Invoice		Date	Description	Amount
		1038	11/20/2016	Training - 1st Responder Recert & Quarterly Medical Training	1,000.00
Check	12/09/2016	80577 Accounts Payable	Monterey Auto Supply		77.82

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Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount	
			Invoice	Date	Description	Amount
			456910	11/22/2016	Veh - Maint Parts & Supply	77.82
Check	12/09/2016	80578 Accounts Payable	Monterey County Information Technology		1,164.00	
			Invoice	Date	Description	Amount
			06-01-15	06/01/2015	Network Access/Radio Maintenance 6/1/15	1,164.00
Check	12/09/2016	80579 Accounts Payable	Monterey Regional Waste Management District		104.02	
			Invoice	Date	Description	Amount
			1575430	11/16/2016	Building 504 Cleaning for FBI 11/16/16	35.19
			1575223	11/16/2016	Building 504 Cleaning for FBI 11/16/16	43.99
			1575484	11/16/2016	Building 504 Cleaning for FBI 11/16/16	24.84
Check	12/09/2016	80580 Accounts Payable	Nextel Communications		357.35	
			Invoice	Date	Description	Amount
			866147022-171	11/22/2016	October 19 - November 18, 2016	357.35
Check	12/09/2016	80581 Accounts Payable	Office Depot		502.74	
			Invoice	Date	Description	Amount
			877798838002	11/10/2016	Office Suplies - 2017 Weekly Planner	29.32
			880654165001	11/18/2016	Office Supplies-Finance	97.15
			880654165002	11/21/2016	Office Supplies-Finance	20.63
			878606034-001	11/14/2016	Office Supplies - file folders	34.10
			877912821001	11/09/2016	paper	321.54
Check	12/09/2016	80582 Accounts Payable	Office Depot		718.80	
			Invoice	Date	Description	Amount
			880181746001	11/17/2016	(2) Black Toner - Admin 11/17/16	154.68
			2006073780	11/14/2016	(4) Toner/5' Binder/Sheet Protectors-Admin 11/14/16	502.34
			2004920491	11/10/2016	Office Supplies/Team Building 11/10/16	61.78
Check	12/09/2016	80583 Accounts Payable	Pacific Gas & Electric		6,118.59	
			Invoice	Date	Description	Amount
			313-6.NOV16	11/28/2016	PG&E 6793435313-6	6,118.59
Check	12/09/2016	80584 Accounts Payable	Potter's Electronics		3.26	

# AP Check Register 12-09-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/09/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount	
			Invoice	Date	Description	Amount
			65801	11/28/2016	12-10 YL Vinyl INS - Unit 521	3.26
Check	12/09/2016	80585 Accounts Payable	Rincon Consultants, Inc.			879.74
			Invoice	Date	Description	Amount
			28265	10/31/2016	Environmental Consulting - VTC Initial Study/MND	879.74
Check	12/09/2016	80586 Accounts Payable	Ryan Ranch Printers			48.88
			Invoice	Date	Description	Amount
			18443	11/23/2016	Business Card - Dan Paolini	48.88
Check	12/09/2016	80587 Accounts Payable	Salinas Valley Pro Squad			9.77
			Invoice	Date	Description	Amount
			272589	10/14/2016	18" Velcro Tie-Chief Rodriguez 10/14/16	9.77
Check	12/09/2016	80588 Accounts Payable	San Jose BMW			3,964.56
			Invoice	Date	Description	Amount
			4257214	07/07/2016	Replace Damaged Right Saddle Bag - 2016 BMW	1,179.04
			4261682	09/17/2016	Renew Bent Crash Bars Rear - Unit 2016 BMW	1,267.79
			4259680	08/17/2016	Renew Rear Brake Pads - 2015 BMW	1,517.73
Check	12/09/2016	80589 Accounts Payable	Sentry Alarm Systems of America, Inc.			2,852.40
			Invoice	Date	Description	Amount
			2040108	11/17/2016	Installation of Security System/Training Center 11/17/16	2,852.40
Check	12/09/2016	80590 Accounts Payable	Sherwin-Williams			621.12
			Invoice	Date	Description	Amount
			6996-4	08/12/2016	Yellow Paint	621.12
Check	12/09/2016	80591 Accounts Payable	TechRx Technology Services			208.43
			Invoice	Date	Description	Amount
			6464	11/30/2016	teen center	208.43
Check	12/09/2016	80592 Accounts Payable	United Parcel Service			17.30
			Invoice	Date	Description	Amount
			00008Y4481476	11/19/2016	Shipping charges for turnout repairs	17.30
Check	12/09/2016	80593 Accounts Payable	United Site Services			182.07

# AP Check Register 12-09-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/09/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
	Invoice		Date	Description	Amount
		114-4681832	11/14/2016	Toilet Rentals - Corner Beach Rd - De Forest	182.07
Check	12/09/2016	80594 Accounts Payable		Valley Saw & Garden Equipment	12.99
	Invoice		Date	Description	Amount
		110446	09/22/2016	Pump, Priming	12.99
Check	12/09/2016	80595 Accounts Payable		Rabobank Visa Cardmember Service	69.99
	Invoice		Date	Description	Amount
		11-28-16	11/28/2016	Visa Purchases	69.99
Check	12/09/2016	80596 Accounts Payable		Rabobank Visa Cardmember Service	983.32
	Invoice		Date	Description	Amount
		11-28-16	11/28/2016	Visa Purchases	983.32
Check	12/09/2016	80597 Accounts Payable		Rabobank Visa Card Cardmember Service	1,105.60
	Invoice		Date	Description	Amount
		11-28-16	11/28/2016	Fire Dept Visa Purchases	1,105.60
Check	12/09/2016	80598 Accounts Payable		AFLAC - Attn.:Remittance Process	2,626.68
	Invoice		Date	Description	Amount
		12-02-16	12/02/2016	71 - AFLAC Cancer Post-Tax*	2,626.68
Check	12/09/2016	80599 Accounts Payable		Discovery Benefits, Inc.	121.54
	Invoice		Date	Description	Amount
		12-02-16	12/02/2016	94 - Medical Care FSA	121.54
Check	12/09/2016	80600 Accounts Payable		Franchise Tax Board - State of CA	190.00
	Invoice		Date	Description	Amount
		12-02-16	12/02/2016	551 - Garnishment (FTB) \$	190.00
Check	12/09/2016	80601 Accounts Payable		ICMA Retirement Trust	6,973.47
	Invoice		Date	Description	Amount
		12-02-16	12/02/2016	12 - ICMA 457 %*	6,973.47
Check	12/09/2016	80602 Accounts Payable		Nationwide Retirement	1,660.76
	Invoice		Date	Description	Amount

# AP Check Register 12-09-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/09/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
	12-02-16		12/02/2016	10 - Nationwide 457 %*	1,660.76
Check	12/09/2016	80603 Accounts Payable	Pre-Paid Legal Services		26.90
	Invoice		Date	Description	Amount
	12-02-16		12/02/2016	14 - Prepaid Legal \$	26.90
024 Accounts Payable ZBA Totals:				Transactions: 47	\$45,106.32
Checks:	47		\$45,106.32		

# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
<b>Bank Account: 024 - Accounts Payable ZBA</b>					
Check	12/16/2016	80604 Accounts Payable	Abbott's Pro-Power		41.20
	Invoice		Date	Description	Amount
		100241	11/23/2016	Pulley - Idler, Flat - Unit148	41.20
Check	12/16/2016	80605 Accounts Payable	Ace Hardware		132.51
	Invoice		Date	Description	Amount
		059365	07/12/2016	Fasteners & other supplies	36.09
		059387	07/13/2016	13 & 18 inch Bag Combo	24.97
		059433	07/16/2016	12 Volt Battery & Trash Bag	21.16
		059521	07/25/2016	Fasteners	17.14
		060173	09/17/2016	Hook Rope Ball & Fasteners	33.15
Check	12/16/2016	80606 Accounts Payable	Ace Hardware		18.57
	Invoice		Date	Description	Amount
		060992	11/14/2016	Fasteners 11/14/16	18.57
Check	12/16/2016	80607 Accounts Payable	Ace Hardware		180.86
	Invoice		Date	Description	Amount
		061172	11/30/2016	Battery Photo Lith 3V 2Pack - City Hall	16.28
		061159	11/29/2016	Wasp & Y Jacket Foam - Wetlands	15.19
		061152	11/29/2016	Nut washer, washers & Pop-up complete chrome - PD	50.12
		061203	12/02/2016	Number Reflect - Vinyl - Poles for playground	19.42
		060689	10/24/2016	Washer Bolt & Gasket	5.49
		061236	12/06/2016	Crimper Light Duty 8"L	14.11
		061038	11/17/2016	Ties Cable 4"	8.66
		061273	12/07/2016	B527 Air Compressor Repair Supplies	35.00
		061291	12/08/2016	B527 Air Compressor Repair Supplies	8.67
		061300	12/09/2016	Fasteners - Teen Center	7.92
Check	12/16/2016	80608 Accounts Payable	Advantage Gear		32.20
	Invoice		Date	Description	Amount
		117031	11/30/2016	Basket Weave Belt for B. Roberson	32.20
Check	12/16/2016	80609 Accounts Payable	American Supply Co.		716.82
	Invoice		Date	Description	Amount

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# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
	2749722		12/07/2016	Cleanning Supplies - CW	716.82
Check	12/16/2016	80610 Accounts Payable	Aramark Uniform Service		169.40
	Invoice		Date	Description	Amount
	757719104		12/05/2016	Uniform Service - Public Works Crew	44.40
	757719105		12/05/2016	Uniform Service - Public Works Crew	48.00
	757719106		12/05/2016	Uniform Service - Public Works Crew	33.56
	757719107		12/05/2016	Uniform Service - Public Works Crew	43.44
Check	12/16/2016	80611 Accounts Payable	AT & T		28.25
	Invoice		Date	Description	Amount
	000008878446		11/15/2016	AT&T Billing/South Field Office 11/15/16	28.25
Check	12/16/2016	80612 Accounts Payable	Blueglobes LLC		866.05
	Invoice		Date	Description	Amount
	OAR-23628		11/09/2016	Airport_Runway Lighting Hardware	270.78
	OAR-23805		12/06/2016	Beacon Replacement Light Bulbs	595.27
Check	12/16/2016	80613 Accounts Payable	Bogner Sheet Metal		280.00
	Invoice		Date	Description	Amount
	12892		11/30/2016	Zone System Alarm in ducts going off - PS Bldg	280.00
Check	12/16/2016	80614 Accounts Payable	Branch's Janitorial		2,235.00
	Invoice		Date	Description	Amount
	225974		11/26/2016	Janitorial Service-Police/Fire/Airport November 2016	2,235.00
Check	12/16/2016	80615 Accounts Payable	California Peace Officers Association		125.00
	Invoice		Date	Description	Amount
	31540		10/28/2016	Membership/Filice 10/28/16	125.00
Check	12/16/2016	80616 Accounts Payable	Cintas Corporation		60.53
	Invoice		Date	Description	Amount
	630206446		11/28/2016	Mat Service-Police/Fire 11/28/16	60.53
Check	12/16/2016	80617 Accounts Payable	Coast Counties Glass, Inc		825.00
	Invoice		Date	Description	Amount
	32493		09/29/2016	Furnished & install 1 bronze operator	650.00

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# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
		32514	10/03/2016	Adjusted door as needed	175.00
Check	12/16/2016	80618 Accounts Payable	Comcast		68.52
	Invoice		Date	Description	Amount
		11-26-16	11/26/2016	Cable Sevice-Police/Fire 12/4/16 - 1/3/17	68.52
Check	12/16/2016	80619 Accounts Payable	Commercial Environment Landscape		2,500.00
	Invoice		Date	Description	Amount
		2796-1216	12/01/2016	Airport Landscape Services	2,500.00
Check	12/16/2016	80620 Accounts Payable	Community Hospital of the Monterey Peninsula		20.00
	Invoice		Date	Description	Amount
		LABC0181649	10/31/2016	Legal Blood Draws/XM0179254 10/18/16	20.00
Check	12/16/2016	80621 Accounts Payable	Diablo Engineering Group		8,204.46
	Invoice		Date	Description	Amount
		1356	12/12/2016	2nd Ave Extension & Patton Parkway Connection	1,780.35
		1330	10/09/2016	2nd Ave Extension & Patton Parkway Connection	6,424.11
Check	12/16/2016	80622 Accounts Payable	Directv		10.00
	Invoice		Date	Description	Amount
		30051026015	11/26/2016	Airport_TV Service for Pilot's Lounge	10.00
Check	12/16/2016	80623 Accounts Payable	Emergency Reporting		2,620.00
	Invoice		Date	Description	Amount
		12-01-16	12/01/2016	Yearly fee for ERS - Fire & EMS Combo	2,620.00
Check	12/16/2016	80624 Accounts Payable	Epic Aviation		17,313.13
	Invoice		Date	Description	Amount
		6927515	12/05/2016	Airport_Jet A Fuel Purchase	17,313.13
Check	12/16/2016	80625 Accounts Payable	Farmer Brothers Co.		64.25
	Invoice		Date	Description	Amount
		64716400 SO	12/01/2016	Coffee Service/Admin 12/1/16	64.25
Check	12/16/2016	80626 Accounts Payable	First Alarm		315.00
	Invoice		Date	Description	Amount

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# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
	.				
	971905		11/22/2016	Service Call-PS Bldg. Fire Test-Police/Fire 11/22/16	315.00
Check	12/16/2016	80627 Accounts Payable	Fort Ord Reuse Authority		2,407.59
	Invoice		Date	Description	Amount
	Dec 2016		12/09/2016	Las Animas 50% Shared Rent	2,407.59
Check	12/16/2016	80628 Accounts Payable	Gavilan Pest Control		1,475.00
	Invoice		Date	Description	Amount
	0103338		11/30/2016	Pest Control Svc @ Shoemaker & Locke Paddon Pond	75.00
	0103410		11/30/2016	Pest Control Svc - Preston Park Sports Field	175.00
	0103036		11/30/2016	Airport Pest Control Services	1,150.00
	0103037		11/30/2016	Airport Pest Control Services_B504	75.00
Check	12/16/2016	80629 Accounts Payable	GCS Environmental Equipment Services		455.14
	Invoice		Date	Description	Amount
	14698		12/05/2016	Veh - Maint & Repair - Unit 598	455.14
Check	12/16/2016	80630 Accounts Payable	George T. Powell		950.00
	Invoice		Date	Description	Amount
	12012016		12/01/2016	Parking Rental-Police/Fire 12/1 thru 12/31/16	950.00
Check	12/16/2016	80631 Accounts Payable	Graniterock/Pavex Construction		237.31
	Invoice		Date	Description	Amount
	1001214		12/03/2016	Cold Mx 231-131	237.31
Check	12/16/2016	80632 Accounts Payable	Hinderliter, Dellamas & Associates		1,758.18
	Invoice		Date	Description	Amount
	0026315-IN		11/23/2016	Sales Tax 4th Qtr & Audit	1,758.18
Check	12/16/2016	80633 Accounts Payable	Marina Coast Water District		919.76
	Invoice		Date	Description	Amount
	000057000 113016		11/30/2016	000057 000 - 3220 Imjin Road (11/01/16 - 11/30/16)	114.36
	000056041 113016		11/30/2016	000056 041 - 3260 Imjin Rd, Fire Station 2 (11/01/16 - 11/30/16)	194.06
	000056043 113016		11/30/2016	000056 043 - 761 Imjin Rd, Hangar 524 (11/01/16 - 11/30/16)	117.33
	000056044 113016		11/30/2016	000056 044 - 781 Neeson Rd, Admin Office (11/01/16 - 11/30/16)	114.36
	000056049 113016		11/30/2016	000056 049 - Imjin Road University (11/01/16 - 11/30/16)	127.17

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# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
		000056051 113016	11/30/2016	000056 051 - 721 Neeson Rd Skydive (11/01/16 - 11/30/16)	138.12
		000056083 113016	11/30/2016	000056 083 - 3240 Imjin Rd Hangar 510 (11/01/16 - 11/30/16)	114.36
Check	12/16/2016	80634 Accounts Payable	Maynard Group Inc.		919.88
		Invoice	Date	Description	Amount
		P231249	12/01/2016	Platinum Service Maintenance Coverage 12/1/16	919.88
Check	12/16/2016	80635 Accounts Payable	Michael Baker International, Inc.		1,230.32
		Invoice	Date	Description	Amount
		960946	11/21/2016	SR-1 Imjin Pkwy Ramp Signal (08/29/16 - 09/30/16)	1,230.32
Check	12/16/2016	80636 Accounts Payable	Monterey Auto Supply		76.74
		Invoice	Date	Description	Amount
		458281	12/01/2016	Veh - Maint Parts & Supply - Unit 867	23.42
		458970	12/05/2016	Veh - Maint Parts & Supply - Unit 553	18.40
		459194	12/06/2016	Veh - Maint Parts & Supply	34.92
Check	12/16/2016	80637 Accounts Payable	Monterey County Clerk		50.00
		Invoice	Date	Description	Amount
		12-06-16	12/06/2016	Locke-Paddon Park/Del Monte Blvd/Reservatiomm Rd	50.00
Check	12/16/2016	80638 Accounts Payable	Monterey County Convention & Visitors Bureau		29,180.25
		Invoice	Date	Description	Amount
		Sep 2016	12/13/2016	Sep 2016 TID	15,502.41
		Oct 2016	12/13/2016	Oct 2016 TID	13,677.84
Check	12/16/2016	80639 Accounts Payable	Monterey County Herald		175.14
		Invoice	Date	Description	Amount
		0005848355	11/05/2016	Notice Inviting Proposal-Stormwater Program	175.14
Check	12/16/2016	80640 Accounts Payable	Monterey County Information Technology		1,183.75
		Invoice	Date	Description	Amount
		11-29-16	11/29/2016	Network Users/Radio Maintenance October 2016	1,183.75
Check	12/16/2016	80641 Accounts Payable	Monterey County Petroleum		1,292.10
		Invoice	Date	Description	Amount



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# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
	Invoice		Date	Description	Amount
	100935		11/30/2016	Landscaping	1,735.00
Check	12/16/2016	80647 Accounts Payable	Office Depot		197.07
	Invoice		Date	Description	Amount
	883028373001		11/29/2016	Office Supplies - Toner	197.07
Check	12/16/2016	80648 Accounts Payable	Office Depot		196.63
	Invoice		Date	Description	Amount
	2006476097		11/15/2016	Office Supplies	196.63
Check	12/16/2016	80649 Accounts Payable	Opticsplanet		2,384.99
	Invoice		Date	Description	Amount
	791856		11/14/2016	Optics Sniper Magana	2,384.99
Check	12/16/2016	80650 Accounts Payable	Pacific Gas & Electric		445.75
	Invoice		Date	Description	Amount
	809-3.DEC16		12/08/2016	Utilities B510	445.75
Check	12/16/2016	80651 Accounts Payable	Peninsula Messenger LLC		400.00
	Invoice		Date	Description	Amount
	121940		11/30/2016	Courier Service/Records 11/30/16	280.00
	121910		11/30/2016	Daily Deposit pick-up	120.00
Check	12/16/2016	80652 Accounts Payable	Pitney Bowes		972.18
	Invoice		Date	Description	Amount
	3100794464		11/30/2016	Postage Meter Lease Quarterly Payment	972.18
Check	12/16/2016	80653 Accounts Payable	Pure H2O		108.60
	Invoice		Date	Description	Amount
	5779		12/01/2016	Water Cooler Service-Police/Fire 12/1/16	108.60
Check	12/16/2016	80654 Accounts Payable	Redshift		7.85
	Invoice		Date	Description	Amount
	1756813-4		12/01/2016	DNS Hosting/Domain Redirecting	7.85
Check	12/16/2016	80655 Accounts Payable	Richard B. Standridge		3,600.00

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# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
	Invoice		Date	Description	Amount
	16-25		12/09/2016	Services Rendered 11-29/12-08-16	3,600.00
Check	12/16/2016	80656 Accounts Payable	Salinas Valley Ford		5.95
	Invoice		Date	Description	Amount
	100952FOW		12/06/2016	Nut-wheel - Unit 590	5.95
Check	12/16/2016	80657 Accounts Payable	Salinas Valley Pro Squad		1,711.51
	Invoice		Date	Description	Amount
	273801		11/22/2016	A Magana Uniform and Ballistic Vest	1,156.51
	273137		10/31/2016	Flores belt	31.59
	273568		11/16/2016	Rikalo Belt	31.59
	273252		11/17/2016	Morten Uniform	203.95
	273888		11/28/2016	Careaga Belt	31.59
	273832		11/23/2016	E Garcia uniform pants	224.69
	273116		10/31/2016	Carcano belt	31.59
Check	12/16/2016	80658 Accounts Payable	Sentry Alarm Systems of America, Inc.		115.39
	Invoice		Date	Description	Amount
	2040126		11/22/2016	Installation Equip/Burglar Alarm 11/22/16 thru 1/31/17	115.39
Check	12/16/2016	80659 Accounts Payable	Sherwin-Williams		195.66
	Invoice		Date	Description	Amount
	6962-6		08/11/2016	Gold color paint	195.66
Check	12/16/2016	80660 Accounts Payable	Sierra Springs & Alhambra		51.54
	Invoice		Date	Description	Amount
	9696351 112616		11/26/2016	CDD - Sierra Spring - Water Svc @ 2660 5th Ave	51.54
Check	12/16/2016	80661 Accounts Payable	Taygeta Scientific, Inc.		2,500.00
	Invoice		Date	Description	Amount
	000211		12/05/2016	IT Network Audit Part Two	2,500.00
Check	12/16/2016	80662 Accounts Payable	TechRx Technology Services		8,160.00
	Invoice		Date	Description	Amount
	6462		11/30/2016	IT Support - November 2016	8,160.00

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# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	12/16/2016	80663 Accounts Payable	Thyssenkrupp Elevator Corporation		1,143.57
	Invoice	Date	Description		Amount
		3002890396	12/01/2016	Full Maint Svc Elevator - PS Bldg	1,143.57
Check	12/16/2016	80664 Accounts Payable	Toshiba Financial Services		454.69
	Invoice	Date	Description		Amount
		318366796	11/23/2016	Copier Contract/Records 11/23/16	454.69
Check	12/16/2016	80665 Accounts Payable	Union Bank - Corporate Trust Division		2,000.00
	Invoice	Date	Description		Amount
		11-18-16	11/18/2016	Nov 2016 - Oct 2017 Trustee Fee	2,000.00
Check	12/16/2016	80666 Accounts Payable	Usbancorp - Equipment Finace Service		343.54
	Invoice	Date	Description		Amount
		318297132	11/23/2016	Copier Lease Payment - December 2016	343.54
Check	12/16/2016	80667 Accounts Payable	Valley Saw & Garden Equipment		17.41
	Invoice	Date	Description		Amount
		115270	11/30/2016	Fuel Pump	17.41
Check	12/16/2016	80668 Accounts Payable	Verizon Wireless		609.31
	Invoice	Date	Description		Amount
		9775572165	12/13/2016	CDD Cell Phones (10/16/16 - 11/18/16)	340.04
		9775971791	11/25/2016	Fire Dept Mobile Charges	269.27
Check	12/16/2016	80669 Accounts Payable	Cardmember Service		16.28
	Invoice	Date	Description		Amount
		11-28-16	11/28/2016	Airport Visa Card	16.28
Check	12/16/2016	80670 Accounts Payable	Rabobank Visa Card Cardmember Service		80.00
	Invoice	Date	Description		Amount
		11-28-16	11/28/2016	Visa-Filice 10/27 thru 11/28/16	80.00
Check	12/16/2016	80671 Accounts Payable	Rabobank Visa Card Cardmember Service		364.78
	Invoice	Date	Description		Amount
		11-28-16	11/28/2016	Visa 10-27/11-28-16	364.78
Check	12/16/2016	80672 Accounts Payable	Rabobank Visa Card Cardmember Service		180.51

# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
	Invoice		Date	Description	Amount
	11-28-16		11/28/2016	Visa-Nolan 10/27 thru 11/28/16	180.51
Check	12/16/2016	80673 Accounts Payable		Rabobank Visa Card Cardmember Service	2,875.43
	Invoice		Date	Description	Amount
	11-28-16		11/28/2016	Visa-Dept. 10/27 thru 11/28/16	2,875.43
Check	12/16/2016	80674 Accounts Payable		Rabobank Visa Card Cardmember Service	734.36
	Invoice		Date	Description	Amount
	11-28-16		11/28/2016	Visa - Comm Dev Dept (11/26/16)	734.36
Check	12/16/2016	80675 Accounts Payable		Rabobank Visa Card Cardmember Service	5,339.13
	Invoice		Date	Description	Amount
	11-28-16		11/28/2016	VISA November Statement 2016	5,339.13
Check	12/16/2016	80676 Accounts Payable		Rabobank Visa Card Cardmember Service	8.93
	Invoice		Date	Description	Amount
	11-28-16		11/28/2016	Visa-Rodriguez 10/27 thru 11/28/16	8.93
Check	12/16/2016	80677 Accounts Payable		Vision Service Plan	78.56
	Invoice		Date	Description	Amount
	12-01-16.		12/01/2016	VSP Adjustment (12/2016)	78.56
Check	12/16/2016	80678 Accounts Payable		W.W. Grainger, Inc.	2,074.47
	Invoice		Date	Description	Amount
	9292377125		11/29/2016	B527 Air Compressor Replacement Motor	2,074.47
Check	12/16/2016	80679 Accounts Payable		Wasson's Cleaning	320.00
	Invoice		Date	Description	Amount
	5930		12/01/2016	Emergency Code Enforcement Clean-up Service - 3005 Max Circle	320.00
Check	12/16/2016	80680 Accounts Payable		Zoom Imaging Solutions	444.95
	Invoice		Date	Description	Amount
	1716035		11/28/2016	Meter Read/Patrol Copier 11/28/16	140.61
	1716034		11/28/2016	Meter Read/Records 11/28/16	304.34
Check	12/16/2016	80681 Accounts Payable		Discovery Benefits, Inc.	62.50

\*LIVE\* Marina, CA \*LIVE\*

# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
	Invoice		Date	Description	Amount
	11-30-16		11/30/2016	Admin Fee (11/2016)	62.50
Check	12/16/2016	80682 Accounts Payable	Marina Employees Association		145.00
	Invoice		Date	Description	Amount
	12-02-16		12/02/2016	24 - MEA Dues	145.00
Check	12/16/2016	80683 Accounts Payable	Marina Police Association-MPOA		250.00
	Invoice		Date	Description	Amount
	12-02-16		12/02/2016	23 - MPOA Dues	250.00
Check	12/16/2016	80684 Accounts Payable	Marina Professional Fire Fighters Association		200.00
	Invoice		Date	Description	Amount
	12-02-16		12/02/2016	35 - MPFFA Dues	200.00
Check	12/16/2016	80685 Accounts Payable	Marina Public Safety Management Association		75.00
	Invoice		Date	Description	Amount
	12-02-16		12/02/2016	19 - MPSMA Dues	75.00
Check	12/16/2016	80686 Accounts Payable	Police Officers Association - POA		1,350.00
	Invoice		Date	Description	Amount
	12-02-16		12/02/2016	25 - POA Dues	1,350.00
Check	12/16/2016	80687 Accounts Payable	Premier Access Insurance - Dept. 34114		7.00
	Invoice		Date	Description	Amount
	12-01-16		12/01/2016	Prem Access Adm Fee (12/2016)	7.00
Check	12/16/2016	80688 Accounts Payable	Premier Access Insurance		5,075.50
	Invoice		Date	Description	Amount
	12-01-16		12/01/2016	101 - Dental EE+1*	5,517.87
	12-01-16		12/01/2016	Dental Claim (12/2016)	(442.37)
Check	12/16/2016	80689 Accounts Payable	Standard Insurance Company		1,219.35
	Invoice		Date	Description	Amount
	12-01-16		12/01/2016	92 - Additional/Supplemental Life Ins*	1,301.15

# AP Check Register 12-16-16

Bank Account: 024 - Accounts Payable ZBA

Batch Date: 12/16/2016

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
	12-01-16.		12/01/2016	Standard Life Insurance	(81.80)
Check	12/16/2016	80690 Accounts Payable	Vision Service Plan		1,670.50
	Invoice		Date	Description	Amount
	12-01-16		12/01/2016	103 - Vision EE*	1,670.50
024 Accounts Payable ZBA Totals:			Transactions: 87		<u>\$130,515.86</u>
Checks:		87		\$130,515.86	



**DRAFT**

Agenda Item **8b(1)**  
City Council Meeting of  
December 20, 2016

**MINUTES**

**Tuesday, December 6, 2016**

**5:30 P.M. Closed Session**  
**6:30 P.M. Open Session**

**REGULAR MEETING**  
**CITY COUNCIL, AIRPORT COMMISSION,**  
**MARINA ABRAMS B NON-PROFIT CORPORATION, PRESTON PARK SUSTAINABLE**  
**COMMUNITY NON-PROFIT CORPORATION AND SUCCESSOR AGENCY OF THE**  
**FORMER MARINA REDEVELOPMENT AGENCY**

Council Chambers  
211 Hillcrest Avenue  
Marina, California

**VISION STATEMENT**

Marina will grow and mature from a small town bedroom community to a small city which is diversified, vibrant and through positive relationships with regional agencies, self-sufficient. The City will develop in a way that insulates it from the negative impacts of urban sprawl to become a desirable residential and business community in a natural setting. **(Resolution No. 2006-112 - May 2, 2006)**

**MISSION STATEMENT**

The City Council will provide the leadership in protecting Marina’s natural setting while developing the City in a way that provides a balance of housing, jobs and business opportunities that will result in a community characterized by a desirable quality of life, including recreation and cultural opportunities, a safe environment and an economic viability that supports a high level of municipal services and infrastructure. **(Resolution No. 2006-112 - May 2, 2006)**

1. **CALL TO ORDER**



2. **ROLL CALL & ESTABLISHMENT OF QUORUM:** (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Successor Agency of the Former Redevelopment Agency Members)

**MEMBERS PRESENT:** Nancy Amadeo, David W. Brown, Gail Morton, Mayor Pro-Tem/Vice Chair Frank O’Connell, Mayor/Chair Bruce C. Delgado (Late, arrived at 5:35)

3. **CLOSED SESSION:** *As permitted by Government Code Section 54956 et seq., the (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency Members) may adjourn to a Closed or Executive Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the City’s Meyers-Milias-Brown Act representative.*

City Attorney Rob Wellington ask the council to add an item to tonight’s closed session agenda, a matter that came to our attention after the agenda was posted, it being a conference with legal counsel concerning a matter of pending or prospective litigation, pursuant to Government Code section 54956.9(d)(4).

**AMADEO/MORTON: to add the item to the Closed Session agenda. 4-0-1(Delgado)-0. Motion Passes**

- a. Real Property Negotiations
  - (1) Property: 3240 Imjin Road, Marina, Ca, Hangar 510  
 Negotiating Party: Rick Wicoxson, Driven Performance, LLC  
 Property Negotiator: City Manager  
 Terms: All terms and conditions
  - (2) Property: 761 Neeson Building 524  
 Negotiating Party: Christian Hestness, Bella On The Bay Monterey  
 Property Negotiator: City Manager  
 Terms: All terms and conditions

**6:30 PM - RECONVENE OPEN SESSION AND REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION**

City Attorney Rob Wellington reported out Closed Session: Council met at 5:30 as indicated on the agenda with regard to the two items listed under Real Property Negotiations. Council only discussed 3a(1) information was received, direction given and no reportable action was taken.

With regard to the Urgent Item added prospective litigation, pursuant to Government Code section 54956.9(d)(4), Council received information and no action was taken.

4. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE (Please stand)

5. SPECIAL PRESENTATIONS:

- a City Council consider adopting **Resolution No. 2016-147**, canvassing the November 8, 2016 General Municipal Election of the City of Marina and Measures U and V.

**BROWN/MORTON: TO APPROVE RESOLUTION NO. 2016-147, CANVASSING THE NOVEMBER 8, 2016 GENERAL MUNICIPAL ELECTION OF THE CITY OF MARINA AND MEASURES U AND V. 5-0-0-0 Motion Passes**

- b Swearing In of City Council Member-Elect Gail Morton by Supervisor Jane Parker
- c Swearing In of City Council Member-Elect Frank O’Connell by Monterey County Superior Court Commissioner Diana Baker
- d Swearing In of Mayor-Elect Bruce C. Delgado by Senator Bill Monning

***--ADJOURN FOR LIGHT REFRESHMENTS IN THE COUNCIL CHAMBERS--***

**7:30 PM RECONVENE OPEN SESSION**

**SPECIAL PRESENTATIONS Cont.....**

- e State of Public Education in Monterey Peninsula USD, PK Diffenbaugh, Superintendent
- f Certificates of Appreciation/Recognition - Marina Student Art Contest Winners
  - 1. Mrs. Cobb’s Classroom, Olson Elementary School, Grade 4
  - 2. Isabella Pia, Olson Elementary School, Grade 4
  - 3. Mr. Ashton’s Classroom, Los Arboles Middle School, Grade 6
  - 4. Mrs. Lueken’s Classroom, Los Arboles Middle School, Grade 6
  - 5. Mr. Artinyan’s Classroom, Los Arboles Middle School, Grade 6
  - 6. Mrs. Julie Haws, Los Arboles Middle School, Grade 6

7. Miss Jen Shayani, Los Arboles Middle School, Grade 6

- g Presentation by Citizens for Sustainable Marina – Snowy Plover
- h Recreation Announcements
- i Certificate of Adjournment – Dale Leddy

6. **SPECIAL ANNOUNCEMENTS AND COMMUNICATIONS FROM THE FLOOR:** *Any member of the Public or the City Council may make an announcement of special events or meetings of interest as information to Council and Public. Any member of the public may comment on any matter within the City Council’s jurisdiction which is not on the agenda. Please state your name for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on a future agenda. City Council members or City staff may briefly respond to statements made or questions posed as permitted by Government Code Section 54954.2. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of four (4) minutes. Any member of the public may comment on any matter listed on this agenda at the time the matter is being considered by the City Council.*

- Margaret Davis – Concerned about an article in the Monterey County Weekly titled Into The Deep regarding saltwater intrusion into the Salinas Valley Groundwater Basin and the intrusion has reached the City of Salinas; Article documents that there has been a failure to solve our water concerns and we are headed for a disaster. Asked council to be an advocate for Marina water supply and make sure there is water for ourselves and for future needs.
- Christopher Wilmot – Commented on volunteer issues as well as the understaff issues. Would like to see at least 2 volunteers for each paid employee. Need a dedicated volunteer system or possibly an incentive program for volunteers to get more involved. Enjoys volunteering at the Marina facilities and civic organizations.
- Karyn Wolfe – Provided the public and council an update on the Locke Paddon Park Oak Woodland Restoration Project. We fixed and repaired the windscreens that surround the small oaks, planted new plantings around the trees to help protect the oaks from the wind and other elements; learned how to make gopher baskets to help protect the roots from being eaten by the gophers. Thanked the 25 volunteers who came and helped for the six (6) hours. Thanks to the companies and organizations for their donations. Next planting day is January 21, 2017.
- John Lundgren – Representing Compass Church, 3131 Crescent Ave which just opened. Thanks to the city staff, council and commissions who put in a lot of hours to make this project happen. Thanks to all the volunteers and contractor who donated supplies and personnel to make help us open. We have two (2) services, 9:30 and 11:00 am on Sundays and we’ve inviting the citizens of Marina to come out to one of our services. We’re also having a Christmas on Main Celebration on Saturday, December 10<sup>th</sup> and Sunday, December 11<sup>th</sup> in Salinas. If you can’t make it, we’re having a simulcast livestream on Sunday at 9:30 and 11:00 am.
- Erin Agradona – Commented on the impacts and consequences of the still operating CEMEX Mine. The mine is contributing to already naturally eroding coastline and the extracting of Marina coastal sand is accelerating the natural erosion significantly. With the sea levels increasing we need to take precautions. CEMEX has received many chances to state their perspective on the intent of the cease and desist order and now are prolonging the situation. 200,000-300,000 cubic yards of sand are extracted. It is impact the shape of our coastline. It’s time to end the sand mining operation and protect the citizens of Marina.

- Paula Pelot – Preston Park Tenants Association – Thanked Margaret Davis for her presentation and hopes everyone reads the article in the Coast Weekly. What was not mentioned is the situation with Cal-Am is only going to worsen and we really need to pay attention to this. Preston Park – On January 14, 2017 we will resume our regular monthly meetings at the Community Center, 679 Wahl Court from 11:30am-1:30pm. January’s topic will be Earth Quake Safety and Preparedness. Asked questioning regarding staffing in the future, when are we going to have someone on board that will be able to work with us and the association and the management company. We’ve had a lot issues come up recently having to do with impacting the safety of other residents. About a year ago that was talk about some kind of review of the management company, which their contract expires at the end of December 2016.
- Mike Owen – Congratulated all the incumbents their reelection and the supporters of the local measures that passed. Provided final comments on Measure V. Regrets that the council really didn’t have a complete picture. Hopes that in the next decade the future council may wish to revisit this Measure to make a best choice that better fits this community.
- Glenn Woodson – Just move to Marina and made comments related to the traffic on California Avenue at Reindollar has become a safety hazard. On most morning traffic is backing up almost to Carmel avenue and people have begun to drive in the bike lane to get to the stoplight at Imjin Parkway.
- Council Member Amadeo – Announced that Marina Youth Arts is one of those organizations that is listed with MCGives and is seeking donations, you can go to their website [www.marinayoutharts.org](http://www.marinayoutharts.org) and push the donate button. For every dollar that you donate we’ll get another \$.13 cents; we’ve raised over \$3,000 so far. Also announced that our new playground has made it into the MCCVB magazine thanks to Marilyn Lidyoff. Friends of the Marina Library are doing a Christmas Carol Sing-A-Long on Sunday from 1:00-3:00 in the Community Room at the Library.
- Mayor Delgado – Shout out to everyone who was involved in this new playground. \$100,000 playground of which \$35,000 was donated from The Marina Foundation and grants they acquired through other organizations and \$65,000 came from our Impact Fees. The Tree Lighting Ceremony was fantastic and The Marina Foundation came through as the lead to organize other nonprofits to put on this event. Announced the openings of Smash Burger, Teriyaki Madness and Blaze Pizza.

7. CONSENT AGENDA FOR THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY: *Background information has been provided to the Successor Agency of the former Redevelopment Agency on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the City Council may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda for Successor Agency to the former Marina Redevelopment Agency and placed at the end of Other Action Items Successor Agency to the former Marina Redevelopment Agency.*

8. CONSENT AGENDA: *Background information has been provided to the City Council, Airport Commission, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the City Council may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda and placed at the end of Other Action Items.*

a. ACCOUNTS PAYABLE:

- (1) Accounts Payable Check Numbers 80285-80556, totaling \$658,788.31  
Wire transfers from Checking and Payroll Account for September 2016 totaling:  
\$815,472.37

b. MINUTES:

- (1) November 1, 2016, Regular City Council Meeting.

c. CLAIMS AGAINST THE CITY: Noned. AWARD OF BID: Nonee. CALL FOR BIDS:

- (1) City Council consider adopting **Resolution 2016-148**, authorizing advertising and call for bids for landscape maintenance services of three (3) landscape maintenance assessment districts, one (1) community facility district and the Marina Branch Library.

f. ADOPTION OF RESOLUTIONS:

- (1) City Council consider adopting **Resolution No. 2016-149**, approving regular City Council meeting schedule for 2017 Calendar Year.
- (2) ~~City Council consider adopting Resolution No. 2016~~, approving Mayor's 2017 recommendation for Mayor Pro Tem and City Council member assignments to various Committees/Commissions/Boards. *Pulled by public, becomes agenda item 11b.*

g. APPROVAL OF AGREEMENTS:

- (1) ~~City Council consider adopting Resolution No. 2016~~, approving Amendment No. 7 amending the agreement between the City of Marina and CSG Consultants, of Foster City, California, to extend the current contract to June 30, 2017, and; authorize the City Manager to execute Amendment No. 7 on behalf of the City subject to final review and approval by the City Attorney. *Pulled by O'Connell, becomes agenda item 11c*
- (2) City Council consider adopting **Resolution No. 2016-150**, approving Amendment #1 to the Monterey County Health Department, Behavioral Health Crisis Negotiations Team Services Interagency agreement, and; authorize the City Manager to execute the agreement subject to final review and approval by the City Attorney.

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS:

- (1) City Council consider adopting **Resolution No. 2016-151**, accepting the completion of the Envelope Stabilization of the Sports Complex and Community Center Project, and; authorizing the filing of Notice of Completion with the Monterey County Recorders' Office.

i. MAPS: Nonej. REPORTS: (RECEIVE AND FILE):

- (1) Monterey Regional Waste Management District November 18, 2016 Highlights.

k. FUNDING & BUDGET MATTERS: None

- l. APPROVE ORDINANCES (WAIVE SECOND READING): None
- m. APPROVE APPOINTMENTS: None

Paula Pelot noted a correction for agenda item 8b(1) correction to minutes, under Special Announcements, under her name to reflect Monterey County Democrats and requested to pull agenda item 8f(2) for questions and comments.

Mayor Pro-Tem O’Connell requested to pull agenda item 8g(1) for the purpose of making a motion with a slight modification to the resolution that in the staff report.

Council Member Morton had a couple of questions for 8g(2) – Have we had any deficiencies in this cooperative measure in the past? If we have, are these proposed amendments adequately covering what our city needs or is there something else that we should be asking for?

Council Member Brown noted a correction to 8f(1) where January 16, 2017 should read January 17, 2017

**DELGADO/AMADEO: TO APPROVE THE CONSENT MINUS 8f(2) AND 8g(1) AND MAKE THE CORRECTION THAT DAVID BROWN MENTIONED ON 8f(1) AND THAT 8b(1) HAS THE CORRECTION SUGGESTED BY PAULA PELOT. 5-0-0-0 Motion Passes**

- 9. PUBLIC HEARINGS:
- 10. OTHER ACTIONS ITEMS OF THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY: *Action listed for each Agenda item is that which is requested by staff. The Successor Agency may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*
- 11. OTHER ACTION ITEMS: *Action listed for each Agenda item is that which is requested by staff. The City Council may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*

*Note: No additional major projects or programs should be undertaken without review of the impacts on existing priorities (Resolution No. 2006-79 – April 4, 2006).*

- a. City Council consider adopting **Resolution No. 2016-152**, accepting and authorizing submission of the revised Ten (10) Year Capital Improvement Program (CIP) for Caltrans Division of Aeronautics grant funded airport improvement projects; accepting and authorizing submission of the revised Five (5) Year Airport Capital Improvement Plan (ACIP) for Federal Aviation Administration (FAA) grant funded airport improvement projects, and; authorizing submission of a request to the FAA to carry-over the 2017 entitlement funding for Marina Municipal Airport.

**AMADEO/BROWN: to approve RESOLUTION NO. 2016-154, ACCEPTING AND AUTHORIZING SUBMISSION OF THE REVISED TEN (10) YEAR CAPITAL IMPROVEMENT PROGRAM (CIP) FOR CALTRANS DIVISION OF AERONAUTICS GRANT FUNDED AIRPORT IMPROVEMENT PROJECTS; ACCEPTING AND AUTHORIZING SUBMISSION OF THE REVISED FIVE (5) YEAR AIRPORT CAPITAL IMPROVEMENT PLAN (ACIP) FOR FEDERAL AVIATION ADMINISTRATION (FAA) GRANT FUNDED AIRPORT IMPROVEMENT PROJECTS, AND; AUTHORIZING SUBMISSION OF A REQUEST TO THE FAA TO CARRY-OVER THE 2017 ENTITLEMENT FUNDING FOR MARINA MUNICIPAL AIRPORT. 5-0-0-0 Motion Passes**

Public Comments: None

- b. City Council consider adopting **Resolution No. 2016-153-**, approving Mayor’s 2017 recommendation for Mayor Pro Tem and City Council member assignments to various Committees/Commissions/Boards. *Pulled by public, was agenda item 8f(2)*

Paula Pelot made comments that current Mayor Pro-Tem O’Connell has done an outstanding job as Mayor Pro-Tem for the last eight (8) years and asked why the change and when did mayor know he was making the change?

**AMADEO/BROWN: TO ADOPT RESOLUTION NO. 2016-153, APPROVING MAYOR’S 2017 RECOMMENDATION FOR MAYOR PRO TEM AND CITY COUNCIL MEMBER ASSIGNMENTS TO VARIOUS COMMITTEES/COMMISSIONS/BOARDS. 5-0-0-0 Motion Passes**

Public Comments:

- Paula Pelot – seems there might be an awkward process to changing appointments if more than one council members comes to the mayor to request a certain change. Maybe the City Attorney help with this process.

- c. City Council consider adopting **Resolution No. 2016-154**, approving Amendment No. 7 amending the agreement between the City of Marina and CSG Consultants, of Foster City, California, to extend the current contract to June 30, 2017, and; authorize the City Manager to execute Amendment No. 7 on behalf of the City subject to final review and approval by the City Attorney. *Pulled by O’Connell, was agenda item 8g(1)*

Mayor Pro-Tem O’Connell requested this item be pulled so that he could make a motion that reflect a change in the resolution associated with the staff report.

**O’CONNELL/DELGADO: TO ADOPT RESOLUTION NO. 2016-154 AS SET FORTH ON PAGES 82 AND 83 WITH THE FOLLOWING CHANGES IN BOLD:**

*“WHEREAS, the extending of this contract for six months will provide time for staff to issue a request for proposals and evaluate proposals from firms providing similar services, and;*

*WHEREAS, The City Council has previously, by Resolution 2016-88, approved Amendment No. 6 to the Agreement to extend the current contract to December 31, 2016.*

*NOW, THEREFORE BE IT RESOLVED that the City council of the City of Marina does hereby*

1. *Approve the attached No. 7 to the Agreement with CSG Consultants of Foster City California to extend the current contract to June 30, 2017, and;*
2. *Authorize and direct the City Manager to issue a request for proposals and evaluate proposals from firms providing similar services, and;*
3. *Authorize and direct the City Manager to execute the attached Amendment No. 7, upon final approval by the City Attorney, on behalf of the City.*

**MOTION VOTE: 5-0-0-0 Motion Passes**

12. COUNCIL & STAFF INFORMATIONAL REPORTS:

a. Monterey County Mayor’s Association [Mayor Bruce Delgado]

Monterey County Mayor’s Association in Monterey this month and discussed League of California Cities four (4) Goals. # 1 was to increase funding for critical transportation and water infrastructure; # 2 to come up with a realistic response to homeless crisis; #3 to improve affordability of workforce housing; #4 is to address the public safety impacts of reduced sentencing law. Talked about Prop. 64, which is the use of Recreational Marijuana to go into effect January 2018 and we have one (1) year to get our policies on distribution/cultivation in place or the State will have its own policies that we’ll have to follow. Update by the County office on the Obama Care possibly being repealed by the newly elected president. Talked about the Energy Community Choice Aggregation and that this might not be a very realistic program if federal monies are diverted away from alternative energies into coal and oil. Measure X passed and will provide an extra \$600 million over the next 30-years. Measure Z passed is going to bring lawsuits from Chevron, Arco and Shell oil companies. They say Salinas Valley’s name is going to change officially to “Happy Valley” because of Prop 64 passaging, several cities in the Salinas Valley are going to allow cultivation. Marina Coast Water District has filed with the State to be a Sustainable Groundwater Agency over a sub-basin of the Salinas Basin from Fort Ord to Torro Park and there is a deadline at the end of this month to show that MCWD has legal standing to be such an agency for a sub-basin of what they call the Monterey Sub-basin of the Salinas Valley.

b. Council and staff opportunity to ask a question for clarification or make a brief report on his or her own activities as permitted by Government Code Section 54954.2.

Council Member Amadeo – Asked Mayor about the Affordable Care Act and as a board member of Community Human Service we’re very concerned about if this is repealed what would it be replaced with because it will impact services provided to Marian residents. Wondered if Covered California if that will be operating as a separate entity and would be able to continue beyond that being abolished and if we could get information regarding Covered California as it relates to the Affordable Care Act.

Council Member Morton – Asked how it’s feasible for the City of Marina to support MCWD in their effort to establish this status? Would like for us to look at that and have that come to the next council meeting if there is some action that we can take. Announce this Friday at 2:00 pm is FORA’s monthly meeting at the Carpenter Hall.

Mayor Delgado – What is the timeline for us to consider what we’re doing with the Marijuana issue?

City Attorney Wellington – A brief report on the Proposition 64 and what we intend to bring in the near future. Recapped what Prop 64 does and doesn’t do. Bottom line is out intent to come back at one the meeting in January with some draft ordinances that outline some issue relative to cultivation and regulations of businesses and taxes.

13. ADJOURNMENT: The meeting adjourned at 10:00 pm in Memory of Dale Leddy.

\_\_\_\_\_  
Anita Sharp, Deputy City Clerk

ATTEST:

\_\_\_\_\_  
Bruce C. Delgado, Mayor

December 14, 2016

Item No. **8e(1)**

Honorable Mayor and Members  
of the Marina City Council

City Council Meeting of  
December 20, 2016

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2016- ,  
AUTHORIZING ADVERTISING AND CALL FOR BIDS FOR BUILDING  
504, 3220 IMJIN ROAD TENANT IMPROVEMENT PROJECT**

**REQUEST:**

It is requested that the City Council consider:

1. Adopting Resolution No. 2016- , authorizing advertising and call for bids for Building 504, 3220 Imjin Road, Tennant Improvement Project.

**BACKGROUND:**

The City of Marina had been approached by the Federal Bureau of Investigation (FBI) with a proposal to utilize Building 504 at the Marina Airport for use as offices for the FBI's North Central Coast Gang Task Force. Prior to entering into the agreement for the use of Building 504, the FBI is required to remodel the building specifically for their use and also the need for ADA requirements.

The City currently owns Building 504. The Police Department is presently using the building for storage of records and equipment in accordance with an Interdepartmental Agreement entered into on May 19, 2011.

Prior to entering into an agreement for the use of Building 504, the FBI is required to remodel the building in accordance with security and structural requirements for buildings used by federal law enforcement agencies. It was proposed the City make the needed upgrades and that the FBI would reimburse the City for expenses incurred (i.e. planning, engineering, legal services and for construction and furnishing the building).

At the regular meeting of August 16, 2016, City Council adopted Resolution No. 2016-129, approving reimbursement agreement between City of Marina and the Federal Bureau of Investigation for the Federal Bureau of Investigation to reimburse the City of Marina for the planning, engineering and legal services and for construction and furnishing Building 504 at the Marina Municipal Airport for the proposed use of said building by the Federal Bureau of Investigations.

**ANALYSIS:**

Upon adopting Resolution No. 2016-129, the City of Marina entered into an agreement with Brian Congleton Architect to complete the necessary construction contract documents for the "tenant improvements" and accessibility upgrades required. At this time the documents are complete and the project is ready to be advertised for a call for bids.

**FISCAL IMPACT:**

There is no fiscal impact when calling for bids.

**CONCLUSION:**

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

Respectfully submitted,

---

Daniel Paolini, CBO  
Building Official  
City of Marina

**REVIEWED/CONCUR:**

---

Fred Aegerter,  
Director Community Development Department  
City of Marina

---

Layne P. Long  
City Manager  
City of Marina

RESOLUTION NO. 2016-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA AUTHORIZING ADVERTISING AND CALL FOR BIDS FOR BUILDING 504, 3220 IMJIN ROAD, TENANT IMPROVEMENT PROJECT

WHEREAS, the Federal Bureau of Investigation (FBI) had approached the City of Marina with a proposal to utilize Building 504 for use as offices for the North Central Coast Task Force, and;

WHEREAS, prior to entering into an agreement for the use of Building 504, the FBI is required to remodel the building in accordance with security and structural requirements for buildings used by federal law enforcement agencies and also the need for ADA requirements, and;

WHEREAS, it was proposed that the City of Marina make the needed upgrades and that the FBI would reimburse the City for expenses incurred, and;

WHEREAS, at the regular meeting of August 16, 2016, City Council adopted Resolution No. 2016-129, approving reimbursement agreement between City of Marina and the Federal Bureau of Investigation for the Federal Bureau of Investigation to reimburse the City of Marina for the planning, engineering and legal services and for construction and furnishing Building 504 at the Marina Municipal Airport for the proposed use of said building by the Federal Bureau of Investigations, and;

WHEREAS, upon approval of Resolution No. 2016-129 the City entered into an agreement with Brian Congleton Architect to provide construction contract documents, and;

WHEREAS, the contract documents are complete and the project is ready to advertise and call for bids, and;

WHEREAS, there is no fiscal impact when calling for bids.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby authorize advertising and call for bids for Building 504, 3220 Imjin Road Tenant Improvement Project.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 20<sup>th</sup> day of December, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

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Bruce C. Delgado, Mayor

ATTEST:

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Anita Sharp, Deputy City Clerk

Honorable Mayor and Members  
of the Marina City Council

City Council Meeting  
of December 20, 2016

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2016-,  
APPROVING A CONDITIONAL AIRPORT USE PERMIT FOR SOUTH BAY  
REGIONAL PUBLIC SAFETY TRAINING CONSORTIUM TO CONDUCT  
NON-AVIATION RELATED PUBLIC SAFETY CADET AND OFFICER  
AUTOMOBILE TRAINING ACTIVITIES ON SOUTH TARMAC AT MARINA  
MUNICIPAL AIRPORT AND AUTHORIZING CITY MANAGER TO EXECUTE  
THE CONDITIONAL AIRPORT USE PERMIT ON BEHALF OF CITY,  
SUBJECT TO FINAL REVIEW AND APPROVAL BY CITY ATTORNEY**

**REQUEST:**

It is requested that the City Council consider:

1. Adopting Resolution No. 2016- , approving a Conditional Airport Use Permit for South Bay Regional Public Safety Training Consortium to conduct non-aviation related public safety cadet and officer automobile training activities on south tarmac at the Marina Municipal Airport; and
2. Authorizing City Manager to execute the Conditional Airport Use Permit on behalf of City, subject to final review and approval by City Attorney.

**BACKGROUND:**

South Bay Regional Public Safety Training Consortium (South Bay) is an organization that provides public safety training to approximately 2,700 full-time equivalent students each year, including professionals from more than seventy (70) city and county agencies, and is the certified police academy (for entry level police officers) for the San Francisco Bay area. South Bay certifies training in law enforcement, fire service, corrections, dispatch, probation, and other public safety areas.

Under a joint powers agreement, South Bay provides public safety training for eight (8) community colleges, which include the College of San Mateo, De Anza College, Evergreen Valley College, Gavilan College, Hartnell College, Monterey Peninsula College, Ohlone College and San Jose City College.

South Bay has utilized the Marina Municipal Airport in the past for non-aviation events through an approved Conditional Airport Use Permit. South Bay uses the tarmac for public safety vehicle training, which involves slow speed maneuvers (<40 mph), high speed maneuvers (40-65 mph), oversteering, understeering, parking, and backing up.

The area used for the South Bay events is planned for aviation development in the 2008 Airport Layout Plan Map and is zoned Airport District (A-1).

The Marina Municipal Airport property was transferred to the City of Marina to be used for public airport purposes (County of Monterey County, Office of Recorder, Salinas, California, Reel 3272, page 693, 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.

The FAA is also 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.

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.

In letters dated February 13, 2013 and June 14, 2013, the FAA made requests of the City to discontinue and relocate the non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs because the activities are considered contrary to the use of Airport infrastructure and do not advance the public's investment in civil aviation. In these letters and in oral communications regarding motorsport activities conducted at the Marina Municipal Airport, the FAA had not disapproved of the use of the south tarmac by South Bay nor had they requested the relocation of their activities to a different on- or off-airport location.

The Airport realizes significant revenue generation through permitting non-aeronautical (non-aviation) activities on the tarmac areas. The City recognizes motorsports activities and public safety training positively, supports their use within the City and values the contribution these activities and organizations provide to the community and region.

At the regular meeting on November 19, 2013, the Marina City Council adopted Resolution No. 2013-171, approving a Conditional Airport Use Permit for a two-year period. On January 16, 2014, the FAA required as a condition precedent that the term of the Permit be reduced to a one-year period expiring on December 31, 2014.

At the regular meeting of December 2, 2014, the City Council adopted Resolution No. 2014-125, approving a Conditional Airport Use Permit for South Bay Regional Public Safety Training Consortium to conduct non-aviation related public safety cadet and officer automobile training activities on the south tarmac at the Marina Municipal Airport. FAA approved the Conditional Airport Use Permits for one year expiring on December 31, 2015.

In a letter dated January 6, 2015, the FAA, in approving the Conditional Use Permit for 2015 Activity, determined that the City provide a corrective action plan to discontinue the non-aeronautical (motorsport) activities by the year ending December 31, 2015 which included the public safety automobile training activities of South Bay.

On May 16, 2015, airport staff submitted the FAA required Corrective Action Plan regarding non-aeronautical (motorsport) use of the south and north tarmac areas. The Corrective Action Plan:

- Acknowledged FAA's ongoing requests to discontinue and relocate the motorsport non-aeronautical activities.
- Affirmed the commitment to transition the south and north tarmac areas to aviation use with future demand by aeronautical users.
- Detailed the efforts and progress of the motorsport users to identify alternate off airport locations for their respective activities beyond December 31, 2015.
- Provided reasoning for and requested FAA consideration of an up to three (3) year extension for non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs.

Since submittal of the Corrective Action Plan to FAA, airport staff has continued dialog with FAA regarding a response.

At the September 2015, Association of California Airports conference, the Airport Services Manager met with the FAA San Francisco Airport District Office Management to discuss the Corrective Action Plan and request for extension of non-aeronautical use of the south and north tarmacs. Based on this meeting, FAA indicated that consideration of a three (3) year extension would be reasonable but there needed to be further follow up internally within FAA before an official determination would be provided.

At the regular meeting of December 15, 2016, the City Council adopted Resolution No. 2015-143, approving a Conditional Airport Use Permit for South Bay Regional Public Safety Training Consortium to conduct non-aviation related public safety cadet and officer automobile training activities on the south tarmac at the Marina Municipal Airport. The term of the one (1) year permit ends December 31, 2016.

In a letter dated January 7, 2016, FAA approved the continuance of permitting non-aeronautical (non-aviation) activities on the tarmacs areas Conditional Airport Use Permits for one year expiring on December 31, 2016 and committed to providing the City/Airport a response to the request for an up to three (3) year extension for conducting non-aviation related activities on the tarmac areas for the purpose of revenue generation in December 2016.

At the October 31, 2016 FAA Airport Capital Improvement Program meeting, there was further discussion of the request for an up to three (3) year extension for conducting non-aviation related activities on the tarmac areas for the purpose of revenue generation. In this discussion, FAA responded positively to further consideration of approving the request based on revenue generation, the ability of the Airport to be self sustainable and that the tarmacs are not currently in demand for aviation use.

**ANALYSIS:**

In anticipation of a positive determination by FAA for an up to three (3) year extension for non-aeronautical (motorsport) use of the south and north tarmacs, the proposed Conditional Airport Use Permit for South Bay is being presented for City Council consideration (“**EXHIBIT A**”).

The Conditional Airport Use Permit allows for South Bay’s use of the south tarmac for the period of January 1, 2017 through December 31, 2017 subject to the condition precedent for FAA approval prior to conducting events for 2017. The fee per day for South Bay’s use of the south tarmac is proposed as \$600 per day which is consistent with the fee paid for 2016 activity.

All other aspects of the Conditional Airport Use Permit for South Bay remain similar to the 2016 City Council approved Conditional Airport Use Permit and other tarmac users’ permits. For the events, South Bay will be responsible for all permits, sanitary facilities, safety, medical personnel, and coordination of all safety issues with the Marina Municipal Airport, Police Department and Fire Department.

Staff has determined that the findings for approval of a Conditional Airport Use Permit can be made, in that the proposed project as conditioned will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working at the Marina Municipal Airport or be detrimental or injurious to property and improvements near the Marina Municipal Airport or to the general welfare of the City or be detrimental to or interfere with aviation activity at the Marina Municipal Airport.

**FISCAL IMPACT:**

Should the City Council approve this request, revenue for the one (1) year period of the Conditional Airport Use Permit will be recorded in the Airport Enterprise Fund, Lic & Permits, Account No. 555.000.000.5200.010.

**CONCLUSION:**

This request is submitted for City Council consideration and direction to staff.

Respectfully submitted,

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Jeff Crechriou  
Airport Services Manager  
City of Marina

**REVIEWED/CONCUR:**

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Layne Long  
City Manager  
City of Marina

RESOLUTION NO. 2016-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA  
APPROVING A CONDITIONAL AIRPORT USE PERMIT FOR SOUTH BAY  
REGIONAL PUBLIC SAFETY TRAINING CONSORTIUM TO CONDUCT NON-  
AVIATION RELATED PUBLIC SAFETY CADET AND OFFICER AUTOMOBILE  
TRAINING ACTIVITIES ON SOUTH TARMAC AT MARINA MUNICIPAL  
AIRPORT AND AUTHORIZING CITY MANAGER TO EXECUTE THE  
CONDITIONAL AIRPORT USE PERMIT ON BEHALF OF CITY, SUBJECT TO  
FINAL REVIEW AND APPROVAL BY CITY ATTORNEY

WHEREAS, South Bay Regional Public Safety Training Consortium, a joint powers agency, has utilized the south tarmac at the Marina Municipal Airport in the past; and

WHEREAS, South Bay Regional Public Safety Training Consortium (South Bay) is an organization that provides public safety training to approximately 2,700 full-time equivalent students each year, including professionals from more than seventy (70) city and county agencies, and is the certified police academy (for entry level police officers) for the San Francisco Bay area. South Bay certifies training in law enforcement, fire service, corrections, dispatch, probation, and other public safety areas; and

WHEREAS, the area used for the South Bay training is the south tarmac of the Marina Municipal Airport, which is planned for aviation development in the 2008 Airport Layout Plan Map and is zoned Airport District (A-1); and

WHEREAS, in letters dated February 13, 2013 and June 14, 2013, the Federal Aviation Administration (FAA) made requests of the City to discontinue and relocate the non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs because the activities are considered contrary to the use of Airport infrastructure and do not advance the public's investment in civil aviation. In these letters and in oral communications regarding motorsport activities conducted at the Marina Municipal Airport, the FAA had not disapproved of the use of the south tarmac by South Bay nor had they requested the relocation of their activities to a different on- or off-airport location; and

WHEREAS, the Airport realizes significant revenue generation through permitting non-aeronautical (non-aviation) activities on the tarmac areas. The City recognizes motorsports activities and public safety training positively, supports their use within the City and values the contribution these activities and organizations provide to the community and region; and

WHEREAS, at the regular meeting on November 19, 2013, the Marina City Council adopted Resolution No. 2013-171, approving a Conditional Airport Use Permit for a two-year period. On January 16, 2014, the FAA required as a condition precedent that the term of the Permit be reduced to a one-year period expiring on December 31, 2014; and

WHEREAS, at the regular meeting of December 2, 2014, the City Council adopted Resolution No. 2014-125, approving a Conditional Airport Use Permit for South Bay Regional Public Safety Training Consortium to conduct non-aviation related public safety cadet and officer automobile training activities on the south tarmac at the Marina Municipal Airport. FAA approved the Conditional Airport Use Permits for one year expiring on December 31, 2015; and

WHEREAS, in a letter dated January 6, 2015, the FAA, in approving the Conditional Use Permit for 2015 Activity, determined that the City provide a corrective action plan to discontinue the non-aeronautical (motorsport) activities by the year ending December 31, 2015 which included the public safety automobile training activities of South Bay; and

WHEREAS, on May 16, 2015, airport staff submitted the FAA required Corrective Action Plan regarding non-aeronautical (motorsport) use of the south and north tarmac areas. The Corrective Action Plan:

- Acknowledged FAA's ongoing requests to discontinue and relocate the motorsport non-aeronautical activities.
- Affirmed the commitment to transition the south and north tarmac areas to aviation use with future demand by aeronautical users.
- Detailed the efforts and progress of the motorsport users to identify alternate off airport locations for their respective activities beyond December 31, 2015.
- Provided reasoning for and requested FAA consideration of an up to three (3) year extension for non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs; and

WHEREAS, since submittal of the Corrective Action Plan to FAA, airport staff has continued dialog with FAA regarding a response; and

WHEREAS, at the September 2015, Association of California Airports conference, the Airport Services Manager met with the FAA San Francisco Airport District Office Management to discuss the Corrective Action Plan and request for extension of non-aeronautical use of the south and north tarmacs. Based on this meeting, FAA indicated that consideration of a three (3) year extension would be reasonable but there needed to be further follow up internally within FAA before an official determination would be provided; and

WHEREAS, at the regular meeting of December 15, 2015, the City Council adopted Resolution No. 2015-143, approving a Conditional Airport Use Permit for South Bay Regional Public Safety Training Consortium to conduct non-aviation related public safety cadet and officer automobile training activities on the south tarmac at the Marina Municipal Airport. The term of the one (1) year permit ends December 31, 2016; and

WHEREAS, in a letter dated January 7, 2016, FAA approved the continuance of permitting non-aeronautical (non-aviation) activities on the tarmacs areas for one year expiring on December 31, 2016 and committed to providing the City/Airport a response to the request for an up to three (3) year extension for conducting non-aviation (motorsport) related activities on the tarmac areas for the purpose of revenue generation in December 2016; and

WHEREAS, at the October 31, 2016 FAA Airport Capital Improvement Program (ACIP) meeting, there was further discussion of the request for an up to three (3) year extension for conducting non-aviation (motorsport) related activities on the tarmac areas for the purpose of revenue generation. In this discussion, FAA responded positively to further consideration of approving the request based on revenue generation, the ability of the Airport to be self sustainable and that the tarmacs are not currently in demand for aviation use; and

WHEREAS, in anticipation of a positive determination by FAA for an up to three (3) year extension for non-aeronautical (motorsport) use of the south and north tarmacs, the proposed Conditional Airport Use Permit for South Bay is being presented for City Council consideration ("**EXHIBIT A**"); and

WHEREAS, the Conditional Airport Use Permit allows for South Bay's use of the south tarmac for the period of January 1, 2017 through December 31, 2017 subject to the condition precedent for FAA approval prior to conducting events for 2017. The fee per day for South Bay's use of the south tarmac is proposed as \$600 per day which is consistent with the fee paid for 2016 activity; and

WHEREAS, all other aspects of the Conditional Airport Use Permit for South Bay remain similar to the 2016 City Council approved Conditional Airport Use Permit and other tarmac users' permits. For the events, South Bay will be responsible for all permits, sanitary facilities, safety, medical personnel, and coordination of all safety issues with the Marina Municipal Airport, Police Department and Fire Department; and

WHEREAS, staff has determined that the findings for approval of a Conditional Airport Use Permit can be made, in that the proposed project as conditioned will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working at the Marina Municipal Airport or be detrimental or injurious to property and improvements near the Marina Municipal Airport or to the general welfare of the City or be detrimental to or interfere with aviation activity at the Marina Municipal Airport; and

WHEREAS, revenue for the one (1) year period of the Conditional Airport Use Permit will be recorded in the Airport Enterprise Fund, Lic & Permits, Account No. 555.000.000.5200.010; and

WHEREAS, the Conditional Airport Use Permit is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15301 (Class 1 – operation, repair, maintenance, or minor alteration of existing structures or facilities not expanding existing uses).

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

1. Approve a Conditional Airport Use Permit for South Bay Regional Public Safety Training Consortium to conduct non-aviation related public safety cadet and officer automobile training activities on south tarmac at the Marina Municipal Airport; and
2. Authorize the City Manager to execute the Conditional Airport Use Permit on behalf of the City subject to final review and approval by City Attorney.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 20<sup>th</sup> day of December 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST:

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Bruce C. Delgado, Mayor

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Anita Sharp, Deputy City Clerk

**MARINA MUNICIPAL AIRPORT  
CONDITIONAL AIRPORT USE PERMIT  
FOR THE NON-AERONAUTICAL USE OF THE SOUTH TARMAC BY  
SOUTH BAY REGIONAL PUBLIC SAFETY TRAINING CONSORTIUM**

**THIS IS TO CERTIFY THAT**, the City of Marina (“City”) City Council at a regular meeting held on December 20, 2016, considered the following request. The City Council at that meeting then approved this Conditional Airport Use Permit (“Permit) for the non-aeronautical use of the south tarmac at the Marina Municipal Airport (“Airport”) 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 Mr. Michael Lombardo, on behalf of **SOUTH BAY REGIONAL PUBLIC SAFETY TRAINING CONSORTIUM**, a joint powers agency formed between eight California community colleges to provide law enforcement and related training, and any other entities under which the business shall do business as (“Permittee”) for permission to use the south tarmac at the Airport for motorized vehicle racing and related events. Permittee has previously operated automotive-related public safety training activities and utilized the south tarmac. The Permit shall go into effect on January 1, 2017, and remain in effect for a twelve (12) month period ending on December 31, 2017.

**BACKGROUND:**

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:**

The City Council finds that, under strict conditions of approval:

1. Permittee’s automotive-related activities and Permittee’s use of the south tarmac 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 automotive-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 automotive-related activities, if conducted in accordance with the Conditions of this Permit, will be consistent with the California Environmental Quality Act Statutes and Guidelines, the General Plan, the Airport Master Plan, the Airport Layout Plan, and the Airport Operating Ordinance (Municipal Code 13.22) of the City of Marina. 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 automotive-related activities and the use of the south tarmac will not present or create a safety hazard to the normal operations of aircraft arriving or departing from the Airport.
5. Reasonable time periods can be and are herein designated for Permittee's automotive-related and related activities.
6. The charge established for the proposed use of the south tarmac is reasonable.
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. Any previous editions of these forms shall be modified to indicate the business name of the Permittee: South Bay Regional Public Safety Training Consortium.
8. Pursuant to Government Code Section 831.7, the City is immune from any liability to its entity and employees resulting from the proposed use for motorized vehicle racing is a hazardous activity and the insurance requirements set forth in this Permit are appropriate for this use. 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:**

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. The City is responsible for obtaining FAA approval and Permittee shall fully cooperate with the City's efforts related thereto.

**TERM OF PERMIT:**

Twelve months, **January 1, 2017 through December 31, 2017.**

**CHARGE:**

The Permittee shall pay to the City a charge for the use of the south tarmac in the amount of \$600.00 per day in advance. The "days" include the days of activities and events, as well as any set up and breakdown days. This amount shall be paid for those days of use at the time Permittee informs the Airport Manager as to the days Permittee wishes to use the south tarmac. If, after payment, days are cancelled by Permittee, no refund or credit will be provided by the City.

Payment shall be made to the “City of Marina”, 781 Neeson Road, Marina, California 93933, Attention: Airport Services Manager.

**BUSINESS LICENSE:**

Permittee shall obtain and keep current a business license issued by the City’s Finance Department. Permit does not go into effect until the business license is obtained.

**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 shall be deemed sufficient cause for the suspension or termination of the Permit. Such suspension of the Permit shall be by the Airport Manager or his/her designee.

**I. Operational**

- A. Permittee’s automotive-related activities shall be confined to the south tarmac, as designated by the City and shown in “**Exhibit A.**” Permittee, by its acceptance of this Permit, acknowledges and understands the area to be used on the south tarmac, as established by the City, is a temporary designation and that this Permit does not contain, and may not be construed to convey, any vested right in Permittee to use another area of the Airport in connection with Permittee’s activities. The south tarmac is to be maintained by Permittee to Airport standards, and at all times free of any structures, vehicles (except for the training vehicles and other related vehicles), debris, trash, fencing, etc. Prior to conducting any operations, Permittee must examine the condition of the south tarmac to determine if it is in a safe condition to use. Permittee shall at all times cooperate and coordinate with the City prior to and in the possible maintenance of the south tarmac.
- B. Prior to conducting any activities on the south tarmac, Permittee shall provide and receive approval of a written schedule of its activity dates to the Airport Services Manager and shall keep the Airport Services Manager fully informed on a timely basis by providing prior written notice concerning any and all changes concerning usage dates. City will attempt to accommodate Permittee’s requested usage dates for activities but reserves the right to cancel, in advance and with prior written notice, or to modify the location for any event if necessary. The “usage dates” include the activity and event dates, as well as any set up and breakdown dates. Prior to the effective date of this Permit, Permittee shall provide to the Airport Services Manager a current list of names and contact information for principal persons who are responsible for the conduct of the activities and who should be contacted in the event of an emergency.
- C. Permittee’s automotive and related activities and operations shall be conducted only between the hours of 5:30 a.m. to 9:00 p.m., subject to wind and weather conditions as determined by the Airport Services Manager. Hours for other types of automotive-related events must be coordinated in advance with the Airport Services 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.

- D. An accurate plan of the location of all events and related activities must be prepared by Permittee and approved in advance by the Airport Services Manager. This plan should include, but is not limited to: safety setbacks, crowd lines, parking areas for visitors and participants. All event activities shall be set back at least 60 feet from Taxiway A. A traffic management plan showing the Airport gate and route to be used for ingress and egress to the event site, and the location of directional signs, security fencing, and barricades, if needed, shall be submitted to the Airport Services Manager at least thirty (30) days before a scheduled event.
- E. Traffic entering or leaving the south tarmac 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 south tarmac, as shown on “**Exhibit B.**”
- F. Set-up and break-down of equipment associated with any event may occur on the day of the event or on the day prior to and the day following an event. All equipment and materials must be removed from the tarmac areas used for an event by noon on the day following conclusion of an event 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.
- G. Permittee is responsible for installing and securing any security fencing (6 feet height), 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 any event. In the event security fencing is already in place, Permittee shall pay their fair share contribution to reimburse the party that has erected existing fencing. The fair share contribution shall be based on a per diem cost for the time Permittee uses the south tarmac.
- H. 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.
- I. In the event of any damages from the Permittee’s activities, the responsible party(s) must pay for and repair all damages to Airport facilities in a timely manner. 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 shall be responsible for the cost of repairs to the damaged tarmac.
- J. If, in the sole determination of the Airport Services Manager, the event site requires sweeping for rocks and small debris following any 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 shall be assessed to Permittee and Permittee

shall pay said charge within seven calendar days of receiving the assessment from the City. All sweeping must be completed as soon as possible of the day following an event.

- K. 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 any 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 5:00 p.m. of the day following any 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 with a two-hour minimum shall be assessed to Permittee, and Permittee shall pay said charge within seven calendar days of receiving the assessment from the City.
- L. Adequate portable restrooms shall be provided for any 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.
- M. First aid kits and supplies as approved in advance by the Airport Services Manager and the City's Fire Department shall be available on-site for the duration of any automotive racing activity. Fire extinguishers fully charged and with tags affixed, shall be provided as required by the City's Fire Department. There shall be no open-air use of hazardous or flammable materials. All fuel shall be stored and dispensed properly from adequately vented containers.
- N. Any accident requiring medical attention must be reported in writing to the Airport Services Manager within 24 hours from the time of the accident.
- O. Permittee by accepting this Permit acknowledges that it has received and shall 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.
- P. Permittee must, within 24-hours from the time of an accident or an incident or reportable event which violates Airport Rules and Regulations or this Permit or requires medical attention, 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.**"
- Q. 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 an event.
- R. There shall 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. Any circumstances which arise during an 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 Manager.

- S. Permittee shall be responsible for, and must take all measures required to ensure that participants or spectators do not trespass onto leased premises at the Airport and do not access the Airport Operations area including Taxiway A.
- T. No persons shall possess or consume any alcoholic beverage or illegal drug in or around any areas of the tarmacs when Permittee's activities are taking place. No person employed by or providing services to Permittee shall possess, consume and/or have in their system any alcoholic beverage or illegal drug in or around any areas when Permittee's activities are taking place.
- U. Permittee shall cooperate with the City in notifying pilots, users and tenants of the Airport about the Permittee's activities and explaining how these activities will affect the Airport and airport operations.
- V. Permittee shall possess adequate insurance and assume full liability for its activities.

## **II. Release of Liability and Assumption of Risk Agreement, Insurance and Indemnification Required**

- A. Release of Liability and Assumption of Risk Agreement. Each participant in motorized vehicle racing, autocross or other automotive-related activities as determined by the Airport Manager and any passenger shall, prior to such participation, sign a Release of Liability and Assumption of Risk Agreement ("Release"), a copy of which is attached hereto as "**Exhibit D**," and a copy of every such executed Release shall be provided to the Airport Manager upon request. All Releases shall be effective for a period of ONE CALENDAR YEAR ONLY. Each year a new Release must be obtained for all participants. Permittee must retain the original of all executed Releases in its files for a period of no less than three (3) years from their date of execution.
- B. Insurance. Permittee agrees to provide insurance in accordance with the requirements set forth herein. Specifically, such insurance shall: (1) protect the City as an additional insured for commercial general and business auto liability; (2) provide City at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non payment of premium; and (3) be primary with respect to City's insurance program. Permittee's insurance is not expected to respond to claims that may arise from the acts or omissions of the City. If Permittee uses 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's shall 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.

- C. Cancellation, Reduction, Change. 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.
- D. Commercial General Liability/Umbrella Insurance. Primary insurance shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88 or a form approved in advance by the City's Risk Manager. Total limits shall be no less than one million dollars per occurrence for all coverage's and one million dollars 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 CG 20 1- 11 85. 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. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Umbrella Liability Insurance (over primary) 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.
- E. Business Auto. Primary coverage must be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto) or another form approved in advance by the City's Risk Manager. Limits shall be no less than one million dollars per accident. Starting and ending dates shall be concurrent. If Permittee owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.
- F. Workers' Compensation/Employers' Liability. Workers' Compensation and Employers' Liability insurance 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 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.
- G. 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, attorneys 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 motorized vehicle racing, driver training, autocross or automotive-related 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 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.

Without affecting the rights of the City under any provision of law, this Permit or this section, Permittee 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 shall be all inclusive and City shall 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 under this or any other provision of this Permit shall not be limited by the provisions of any workers' compensation act or similar act. Permittee expressly waives its statutory immunity under such statutes or laws as to City, its Airport Council, boards and commissions, officers, employees, agents, and volunteers.

Permittee agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from any assignee, subcontractor 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 fail 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 and shall survive the termination of this Permit or this section.

H. Other Agreements re Insurance.

Permittee and City further agree as follows:

1. 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.
2. 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.
3. 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.
4. 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.
5. For purposes of insurance coverage only, this Permit shall 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.
6. All general or auto liability insurance coverage provided pursuant to this Permit shall not prohibit Permittee, Permittee's employees, or agents from waiving the right of subrogation prior to a loss. Permittee hereby waives all rights of subrogation against the City.
7. 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."
8. 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.

9. Permittee agrees 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 and umbrella liability policies using ISO form CG 20 10 11 85 Certificate(s) are to reflect that the insurer shall provide 30 days notice of any cancellation of coverage. Permittee 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. Contractor agrees to provide complete copies of policies to City upon request.
10. 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 shall be furnished at least two weeks prior to the expiration of the coverage's.
11. 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.
12. Permittee agrees to require all subcontractors or other parties hired for this project to provide general liability insurance naming as additional insured's all parties to this Permit. Permittee agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Permittee agrees to require that no contract used by any subcontractor, or contracts Permittee enters into on behalf of City, shall reserve the right to charge back to City the cost of insurance required by this Permit. Failure of City to request copies of such contracts shall not impose any liability on City, its Airport, Council, boards and commissions, officers, employees, agents and volunteers.
13. If any of Permittee's dba entities are or should become lawfully constituted as a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operation are insured's.
14. Permittee agrees to provide immediate notice to City of any claim or loss against Permittee that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

### **III. Enforcement, Suspension, and Termination**

- A. The conditions of this Permit may be enforced by any means and methods by which the City may secure compliance with the provisions of its Municipal Code. These include, but are not necessarily in order of or limited to the following:

warning notices, administrative citations, civil or criminal enforcement or injunctive relief. Multiple enforcement remedies may be used to achieve compliance with respect to persons who commit continuing violations.

- B. In lieu of or in conjunction with enforcement remedies, 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 of suspension, 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 Services Manager. The notice shall set forth the specific violation for which the immediate suspension is imposed. Permittee agrees that, upon receipt of written notice of suspension from the Airport Services Manager it will immediately cease and suspend its use of the south tarmac.
- C. The Airport Services Manager agrees to cooperate with Permittee in its efforts to remedy or to address a cited violation or notice of violation for which this Permit has been suspended. If and when such violation has been addressed to the satisfaction of the Airport Services Manager, immediate verbal notice of Permit reinstatement, followed within not more than 24-hours by a written notice of Permit reinstatement shall be given to Permittee.
- D. This Permit may be suspended by action of the Airport Manager and terminated by action of the City Council.
- E. 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 any 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 reasonable consulted by the attorneys for the prevailing party.
- F. In the event of a request or action by the FAA to cease or terminate the activities as set forth in this conditional use permit, such permit shall become immediately null and void without requirement of any further action by the City Council.

**IV. Non-Transferability, No Exclusive Right, No Right to Lease, No Long-Term Use Contemplated by the Parties**

- A. This Permit is non-transferable.
- B. 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.
- C. 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.

- D. In the event of a request or action by the FAA to cease or terminate the activities as set forth in this Permit, such permit shall become immediately null and void without requirement of any further action by the City Council.
- E. This Permit may be amended only by a writing signed by the authorized representatives of both the City and Permittee.

V. **Notice**

All notices and other communications required to be given under this Permit shall be in writing, and shall be delivered at the addresses set out herein. Notice may be given by personal delivery, recognized overnight courier, by United States mail, by facsimile transmission, or by e-mail, in the manner set forth below. Notice shall be deemed to have been duly given: (a) if by personal delivery, on the first to occur of the date of actual receipt or refusal of delivery by any person at the intended address; (b) if by overnight courier, on the first business day after being delivered to a recognized overnight courier; (c) if by mail, on the third business day after being deposited in the United States mail, certified or registered mail, return receipt requested, postage prepaid; (d) if by facsimile transmission, the next business day after being transmitted, as evidenced by the confirmation slip generated by the sender's facsimile machine; or (e) if by e-mail, the business day after being transmitted, as evidenced by the confirmation generated by the sender's e-mail, addressed as follows:

To the City of Marina:

Airport Services Manager  
City Hall  
211 Hillcrest Avenue  
Marina, California 93933

Phone: 831-582-0102  
Mobile: 831-241-8628  
Facsimile: 831-582-0104  
E-mail: [jrechriou@ci.marina.ca.us](mailto:jrechriou@ci.marina.ca.us)

With a copy to:

City Attorney – City of Marina  
Wellington Law Offices  
857 Cass Street, Suite D  
Monterey, California 93940

Phone: 831-373-8733  
Facsimile: 831-373-7106  
E-mail: [attys@wellingtonlaw.com](mailto:attys@wellingtonlaw.com)

To South Bay Regional Public Safety Training Consortium:

Mr. Michael Lombardo, V.P. of Administrative Services  
South Bay Regional Public Safety Training Consortium  
3095 Yerba Buena Road  
San Jose, California 95135

Phone: 408-274-7900 ext. 6043  
Facsimile: 408-238-0286  
E-mail: mlombardo@theacademy.ca.gov

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.

## **VI. Grant Agreement Covenants**

Permittee acknowledges that City is subject to Federal grant agreement obligations as a condition precedent to granting of funds for the improvement of the Airport, and, accordingly agrees to, and agrees to be bound by, the following covenants provided by the FAA as they may apply to Permittee:

Permittee, by accepting this Permit expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft from Marina Municipal Airport or otherwise constitutes a hazard. In the event this covenant is breached, City reserves the right to enter upon the premises and cause the abatement of such interference at the expense of Permittee. There is hereby reserved to City, its successors and assigns, for the use and benefit of the public, a right for the passage of aircraft in the airspace above the surface of the Premises. The public right of flight shall include the right to cause in the airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking from, or operation on the Airport

Permittee for itself and its personal representatives, successors in interest, and assigns as part of the consideration hereto, does hereby covenant and agree 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 premises. (2) that in the construction of any improvement 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 participating 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 49 CFR Part 21 Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the City (through the City Manager) shall have the right to terminate this Permit, and to re-enter and repossess the premises and hold the same as if this Permit had never been made or issued.

City reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or views of Permittee, and without interference of

hindrance. The City reserves the right, but shall not be obligated to 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 Permittee in this regard, The 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 Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises. This requires the submission of FAA Form 7460-1, Notice of Construction or Alteration to the FAA.

The Permittee by accepting this Permit expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or building nor permit object of natural growth or other obstruction on the land leased hereunder above a height as determined by the application of the requirements of Title 14 CFR Part 77 or above 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 hereunder and to remove the offending structure or object or cut the offending natural growth, all of which shall be at the expense of the Permittee.

The Permittee will furnish services on a reasonable and not unjustly discriminatory basis to all users, and charge 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 types of price reductions to volume purchasers. In the event of breach of the above covenant, the City (through the City Manager) shall have the right to terminate this Permit, and to re-enter and repossess the premises and hold the same as if this Permit had never been made or issued.

The Permit will conform to airport and Federal Aviation Administration safety and security rules and regulations regarding use of the Airport operations area including runways, taxiways, aircraft aprons by vehicles, employees, customers, visitors, etc. in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; will complete and pass airfield safe driving instruction program when offered or required by the Airport; and will be subject to penalties as prescribed by the airport for violations of the airport safety and security requirements.

This Permit is subordinate to the City's obligations to the federal government under existing and future agreements for federal aid for the development and maintenance of the Airport.

This Permit shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States, relative to the development, operation, or maintenance of the Airport. Failure of the Permittee to comply with the requirements of any existing or future agreement between the City and the United States, which failure shall continue after reasonable notice to make appropriate corrections, shall be cause for immediate termination of Permittee's rights hereunder.

## **VII. Modifications for Granting FAA Funds**

In the event that the FAA requires, as a condition precedent to granting of funds for the improvement of the Airport, modifications or changes to this Permit, Permittee agrees to consent in writing upon the request of City to such reasonable amendments,

modifications, revisions, supplements or deletions of any of the terms, conditions, or requirements of this Permit as may be reasonably required to enable the City to obtain FAA funds. A failure by Permittee to so consent shall constitute termination of this Permit.

**VIII. Authority**

If Permittee is a corporation, partnership or limited liability company, the individual executing this Permit on behalf of said entity represents and warrants that he or she is duly authorized to execute and deliver this Permit on behalf of said entity and that this Permit is binding upon said entity in accordance with its terms.

**THIS CERTIFICATE IS TO NOTIFY SOUTH BAY REGIONAL PUBLIC SAFETY TRAINING CONSORTIUM** that the above described Conditional Airport Use Permit was approved by the City of Marina City Council with their action and to become effective as specified in the Permit. However, requesters are notified that should any aggrieved party wish to appeal the decision of the City Council, a written appeal must be filed with the City Clerk no later than the end of the first work day which is at least ten calendar (10) days from the issuance of this Certificate, no later than 5:00 P.M. on Tuesday, January 3, 2017. Such appeal must set forth specifically the points at issue, the reasons for the appeal and describe why the person appealing the decision believes there was an error or abuse of discretion by the City Council. Should no appeal be filed within this time limit, this Certificate shall be valid as written. Any action for judicial review of this decision must be brought within the time limits specified in the California Code of Civil Procedure Section 1094.6.

Dated: December 20, 2016 at Marina, California

**APPROVED**

\_\_\_\_\_  
Layne Long  
City Manager  
City of Marina

\_\_\_\_\_  
Jeff Crechriou  
Airport Services Manager  
City of Marina

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

\_\_\_\_\_  
Michael Lombardo  
V.P. of Administrative Services  
South Bay Regional Public Safety Training Consortium

Dated: \_\_\_\_\_, 201\_\_

Attest: Pursuant to Resolution No. 2016-

\_\_\_\_\_  
Anita Sharp, Acting Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**ATTACHMENTS:**

- EXHIBIT A** Site Plan of South Tarmac
- EXHIBIT B** Access Route to Tarmac
- EXHIBIT C** Incident Report Form
- EXHIBIT D** Release of Liability/Assumption of Risk



**“EXHIBIT B”**  
**Access Route to Tarmac**



**EXHIBIT B** South Bay Access Route to South Tarmac

**“EXHIBIT C”  
Incident Report Form**

**INCIDENT REPORT FORM – FOR OFFICIAL USE ONLY**

Date of Incident \_\_\_\_\_ Pilot in Command \_\_\_\_\_

Total Passengers \_\_\_\_\_ Name of Ground Observer \_\_\_\_\_

Name of Person(s) Involved: \_\_\_\_\_

\_\_\_\_\_

Explanation: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

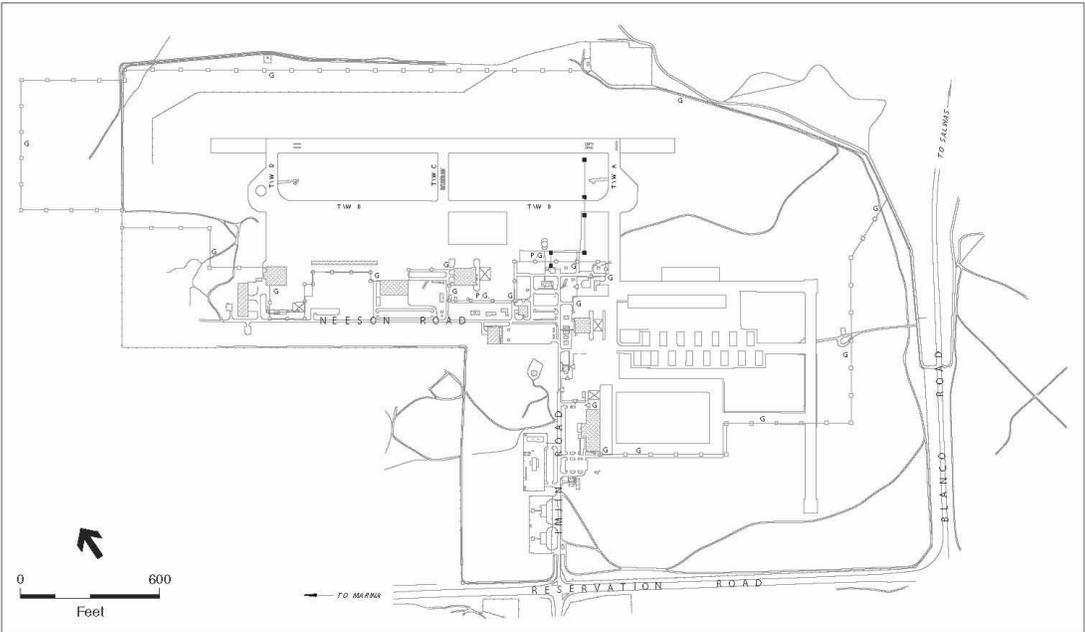
\_\_\_\_\_

\_\_\_\_\_

Report Prepared by \_\_\_\_\_ Date \_\_\_\_\_

Received by \_\_\_\_\_ Date / Time \_\_\_\_\_

MARINA MUNICIPAL AIRPORT



# “EXHIBIT D”

## Release of Liability and Assumption of Risk Agreement

### MARINA MUNICIPAL AIRPORT RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK, AND INDEMNITY AGREEMENT

Description and Location of Scheduled Event	Date Release Signed
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IN CONSIDERATION OF BEING PERMITTED TO compete, drive a motor vehicle, spectate, officiate, observe, work, or PARTICIPATE in any way IN THE ABOVE EVENT(S) OR BEING PERMITTED TO ENTER FOR ANY PURPOSE ANY RESTRICTED AREA (defined as requiring special authorization, credentials, or permission to enter, or any area to which admission by the general public is restricted or prohibited including but not limited to the competition area and any hot pit or paddock area), EACH OF THE UNDERSIGNED, FOR HIMSELF OR HERSELF, HIS OR HER PERSONAL REPRESENTATIVES, HEIRS, NEXT-OF-KIN:

1. ACKNOWLEDGES, AGREES AND REPRESENTS THAT HE OR SHE HAS OR WILL immediately upon entering any such Restricted Area, and will continuously thereafter, INSPECT THE RESTRICTED AREA which he or she enters, and he or she further agrees and warrants that, IF AT ANY TIME, he or she is in or about the Restricted Areas and HE OR SHE FEELS ANYTHING TO BE UNSAFE, HE OR SHE WILL IMMEDIATELY ADVISE THE OFFICIALS OF SUCH and if necessary will leave the Restricted Area AND REFUSE TO PARTICIPATE FURTHER IN THE EVENT(S).
2. HEREBY RELEASES, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES, DISCHARGES AND COVENANTS NOT TO SUE, the CITY OF MARINA and the Marina Municipal Airport, SOUTH BAY REGIONAL TRAINING CONSORTIUM, a California joint powers agency, INC., the U.S. Navy, the U.S. Naval Postgraduate School and the Center for Interdisciplinary Remotely-Piloted Aircraft Studies, the promoters, participants racing associations, sanctioning organizations, or any subdivision thereof, track operators, track owners, officials, competition vehicle owners, drivers, pit crews, rescue personnel, any persons in any Restricted Area, sponsors, advertisers, owners and lessees of premises used to conduct the Event(s), premises and event inspectors, surveyors, underwriters, consultants and others who give recommendations, directions or instructions or engage in risk evaluation or loss control activities regarding the premises or Event(s) and each of them, their councils, directors, officers, agents, and employees, all for the purposes HEREIN REFERRED TO AS RELEASEES, FROM ALL LIABILITY TO THE UNDERSIGNED, HIS PERSONAL REPRESENTATIVES, ASSIGNS, HEIRS, AND NEXT-OF-KIN FOR ALL LOSS OR DAMAGE, AND ANY CLAIM OR DEMANDS THEREFOR ON ACCOUNT OF INJURY TO THE PERSON OR PROPERTY OR RESULTING IN DEATH OF THE UNDERSIGNED ARISING OUT OF OR RELATED TO THE EVENT(S) WHETHER CAUSED BY THE NEGLIGENCE OF THE RELEASEES OR OTHERWISE.
3. HEREBY AGREES TO INDEMNIFY AND SAVE AND HOLD HARMLESS THE RELEASEES AND EACH OF THEM FROM ANY LOSS, LIABILITY, DAMAGE, OR COST they may incur arising out of or RELATED TO THE UNDERSIGNED'S INJURY OR DEATH WHETHER CAUSED BY THE NEGLIGENCE OF THE RELEASEES OR OTHERWISE.
4. HEREBY ASSUMES FULL RESPONSIBILITY FOR ANY RISK, KNOWN AND UNKNOWN, OF BODILY INJURY, PERMANENT DISABILITY, arising out of or related to the Event(s), INCLUDING MEDICAL OR HOSPITAL BILLS, DEATH OR PROPERTY DAMAGE arising out of or related to the Event(s) whether CAUSED BY THE NEGLIGENCE OF RELEASEES OR OTHERWISE.
5. HEREBY ACKNOWLEDGES THAT THE ACTIVITIES OF THE EVENT(S) ARE VERY DANGEROUS and involve the risk of serious injury and/or death and/or property damage. Each of THE UNDERSIGNED, ALSO EXPRESSLY ACKNOWLEDGES THAT INJURIES RECEIVED MAY BE COMPOUNDED OR INCREASED BY NEGLIGENT RESCUE OPERATIONS OR PROCEDURES OF THE RELEASEES.
6. HEREBY AGREES THAT THIS RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK, AND INDEMNITY AGREEMENT EXTENDS TO ALL ACTS OF NEGLIGENCE BY THE RELEASEES, INCLUDING NEGLIGENT RESCUE OPERATIONS and is intended to be as broad and inclusive as is permitted by the laws of the State of California and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.

I HAVE READ THIS RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK, AND INDEMNITY AGREEMENT, UNDERSTAND ITS TERMS, UNDERSTAND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING IT, AND HAVE SIGNED IT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT, ASSURANCE OR GUARANTEE BEING MADE TO ME AND INTEND MY SIGNATURE TO BE A COMPLETE AND UNCONDITIONAL RELEASE OF ALL LIABILITY TO THE GREATEST EXTENT ALLOWED BY LAW.

### CAUTION THIS IS A RELEASE OF LEGAL RIGHTS - READ AND UNDERSTAND BEFORE SIGNING

ALL SECTIONS MUST BE COMPLETED

PRINT NAME HERE

SIGN NAME HERE

CAPA CITY [driver, pit crew, spectator, etc.]

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_
13. \_\_\_\_\_
14. \_\_\_\_\_
15. \_\_\_\_\_

\_\_\_\_\_  
Signature and Title of Witness

\_\_\_\_\_  
Address of Witness

\_\_\_\_\_  
Date Signature(s) witnessed

Honorable Mayor and Members  
of the Marina City Council

City Council Meeting  
of December 20, 2016

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2016- ,  
APPROVING AN AIRPORT USE PERMIT FOR MONTEREY BAY KARTERS  
TO CONDUCT NON-AVIATION RELATED MOTORSPORT ACTIVITY ON  
THE NORTH TARMAC AT THE MARINA MUNICIPAL AIRPORT AND  
AUTHORIZING CITY MANAGER TO EXECUTE THE CONDITIONAL  
AIRPORT USE PERMIT ON BEHALF OF CITY, SUBJECT TO FINAL  
REVIEW AND APPROVAL BY CITY ATTORNEY**

**REQUEST:**

It is requested that the City Council consider:

1. Adopting Resolution No. 2016- , approving a Conditional Airport Use Permit for Monterey Bay Karters to conduct non-aviation related motorsport activity on the north tarmac at the Marina Municipal Airport; and
2. Authorizing City Manager to execute the Conditional Airport Use Permit on behalf of City, subject to final review and approval by City Attorney.

**BACKGROUND:**

Monterey Bay Karters (MBK), a California 501(c)(7) nonprofit corporation, has utilized the Marina Municipal Airport since 1997 for non-aviation go-kart racing events under terms and conditions of Conditional Airport Use Permits issued by the City Council.

The area used for the MBK events is planned for aviation development in the 2008 Airport Layout Plan Map and is zoned Airport District (A-1).

The Marina Municipal Airport property was transferred to the City of Marina to be used for public airport purposes (County of Monterey County, Office of Recorder, Salinas, California, Reel 3272, page 693, 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.

The FAA is also 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.

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.

In letters dated August 16, 2012 and June 14, 2013, the FAA made requests of the City to discontinue and relocate the non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs because the activities are considered contrary to the use of Airport infrastructure and do not advance the public's investment in civil aviation.

The Airport realizes significant revenue generation through permitting non-aeronautical (non-aviation) activities on the tarmac areas. The City recognizes motorsports activities as positive recreational activity, supports their use within the City and values the contribution these activities and organizations provide to the community and region.

At the regular meeting of November 19, 2013, the City Council adopted Resolution No. 2013-170, approving a Conditional Airport Use Permit for Monterey Bay Karters for use of the north tarmac at the Marina Municipal Airport for non-aviation related activities.

At the regular meeting of December 2, 2014, the City Council adopted Resolution No. 2014-124, approving a Conditional Airport Use Permit for Monterey Bay Karters to conduct non-aviation related motorsport activity on the north tarmac at the Marina Municipal Airport.

FAA approved the Conditional Airport Use Permits for each year.

In a letter dated January 6, 2015, the FAA, in approving the Conditional Use Permit for 2015 Activity, determined that the City provide a corrective action plan to discontinue the non-aeronautical (motorsport) activities by the year ending December 31, 2015.

On May 16, 2015, airport staff submitted the FAA required Corrective Action Plan regarding non-aeronautical (motorsport) use of the south and north tarmac areas. The Corrective Action Plan:

- Acknowledged FAA's ongoing requests to discontinue and relocate the motorsport non-aeronautical activities.
- Affirmed the commitment to transition the south and north tarmac areas to aviation use with future demand by aeronautical users.
- Detailed the efforts and progress of the motorsport users to identify alternate off airport locations for their respective activities beyond December 31, 2015.
- Provided reasoning for and requested FAA consideration of an up to three (3) year extension for non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs.

Since submittal of the Corrective Action Plan to FAA, airport staff has continued dialog with FAA regarding a response.

At the September 2015, Association of California Airports conference, the Airport Services Manager met with FAA San Francisco Airport District Office Management to discuss the Corrective Action Plan and request for extension of non-aeronautical use of the south and north tarmacs. Based on this meeting, FAA indicated that consideration of a three (3) year extension would be reasonable but there needed to be further follow up internally within FAA before an official determination would be provided.

At the regular meeting of December 15, 2016, the City Council adopted Resolution No. 2015-141, approving a Conditional Airport Use Permit for Monterey Bay Karters to conduct non-aviation related motorsport activity on the north tarmac at the Marina Municipal Airport. The term of the one (1) year permit ends December 31, 2016.

In a letter dated January 7, 2016, FAA approved the continuance of permitting non-aeronautical (non-aviation) activities on the tarmacs areas Conditional Airport Use Permits for one year expiring on December 31, 2016 and committed to providing the City/Airport a response to the request for an up to three (3) year extension for conducting non-aviation related activities on the tarmac areas for the purpose of revenue generation in December 2016.

At the October 31, 2016 FAA Airport Capital Improvement Program meeting, there was further discussion of the request for an up to three (3) year extension for conducting non-aviation related activities on the tarmac areas for the purpose of revenue generation. In this discussion, FAA responded positively to further consideration of approving the request based on revenue generation, the ability of the Airport to be self sustainable and that the tarmacs are not currently in demand for aviation use.

**ANALYSIS:**

In anticipation of a positive determination by FAA for an up to three (3) year extension for non-aeronautical (motorsport) use of the south and north tarmacs, the proposed Conditional Airport Use Permit for MBK is being presented for City Council consideration (“**EXHIBIT A**”).

The Conditional Airport Use Permit allows for MBK’s use of the north tarmac for the period of January 1, 2017 through December 31, 2017 subject to the condition precedent for FAA approval prior to conducting events for 2017. The fee per day for MBK’s use of the north tarmac is proposed as \$450 per day which is consistent with the fee paid for 2016 activity.

All other aspects of the Conditional Airport Use Permit for MBK remain similar to the 2016 City Council approved Conditional Airport Use Permit and other tarmac users’ permits. For the events, MBK will be responsible for all permits, sanitary facilities, safety, medical personnel, and coordination of all safety issues with the Marina Municipal Airport, Police Department and Fire Department.

Staff has determined that the findings for approval of a Conditional Airport Use Permit can be made, in that the proposed project as conditioned will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working at the Marina Municipal Airport or be detrimental or injurious to property and improvements near the Marina Municipal Airport or to the general welfare of the City or be detrimental to or interfere with aviation activity at the Marina Municipal Airport.

**FISCAL IMPACT:**

Should the City Council approve this request, revenue for the one (1) year period of the Conditional Airport Use Permit will be recorded in the Airport Enterprise Fund, Lic & Permits, Account No. 555.000.000.5200.010.

**CONCLUSION:**

This request is submitted for City Council consideration and direction to staff.

Respectfully submitted,

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Jeff Crechriou  
Airport Services Manager  
City of Marina

**REVIEWED/CONCUR:**

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Layne Long  
City Manager  
City of Marina

RESOLUTION NO. 2016-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA  
APPROVING A CONDITIONAL AIRPORT USE PERMIT FOR MONTEREY BAY  
KARTERS TO CONDUCT NON-AVIATION RELATED MOTORSPORT ACTIVITY  
ON THE NORTH TARMAC AT THE MARINA MUNICIPAL AIRPORT AND  
AUTHORIZE CITY MANAGER TO EXECUTE THE CONDITIONAL AIRPORT USE  
PERMIT ON BEHALF OF CITY, SUBJECT TO FINAL REVIEW AND APPROVAL  
BY CITY ATTORNEY

WHEREAS, Monterey Bay Karters (MBK), a California 501(c)(7) nonprofit corporation, has utilized the Marina Municipal Airport since 1997 for non-aviation go-kart racing events under terms and conditions of Conditional Airport Use Permits issued by the City Council, and;

WHEREAS, the area used for the MBK events is planned for aviation development in the 2008 Airport Layout Plan Map and is zoned Airport District (A-1); and

WHEREAS, in letters dated August 16, 2012 and June 14, 2013, the Federal Aviation Administration (FAA) made of the City to discontinue and relocate the non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs because the activities are considered contrary to the use of Airport infrastructure and do not advance the public's investment in civil aviation; and

WHEREAS, the Airport realizes significant revenue generation through permitting non-aeronautical (non-aviation) activities on the tarmac areas. The City recognizes motorsports activities as positive recreational activity, supports their use within the City and values the contribution these activities and organizations provide to the community and region; and

WHEREAS, at the regular meeting of November 19, 2013, the City Council adopted Resolution No. 2013-170, approving a Conditional Airport Use Permit for Monterey Bay Karters for use of the north tarmac at the Marina Municipal Airport for non-aviation related activities; and

WHEREAS, at the regular meeting of December 2, 2014, the City Council adopted Resolution No. 2014-124, approving a Conditional Airport Use Permit for Monterey Bay Karters to conduct non-aviation related motorsport activity on the north tarmac at the Marina Municipal Airport; and

WHEREAS, FAA approved the Conditional Airport Use Permits for each year; and

WHEREAS, in a letter dated January 6, 2015, the FAA, in approving the Conditional Use Permit for 2015 Activity, determined that the City provide a corrective action plan to discontinue the non-aeronautical (motorsport) activities by the year ending December 31, 2015; and

WHEREAS, on May 16, 2015, airport staff submitted the FAA required Corrective Action Plan regarding non-aeronautical (motorsport) use of the south and north tarmac areas. The Corrective Action Plan:

- Acknowledged FAA's ongoing requests to discontinue and relocate the motorsport non-aeronautical activities.
- Affirmed the commitment to transition the south and north tarmac areas to aviation use with future demand by aeronautical users.
- Detailed the efforts and progress of the motorsport users to identify alternate off airport locations for their respective activities beyond December 31, 2015.

- Provided reasoning for and requested FAA consideration of an up to three (3) year extension for non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs; and

WHEREAS, since submittal of the Corrective Action Plan to FAA, airport staff has continued dialog with FAA regarding a response; and

WHEREAS, at the September 2015, Association of California Airports conference, the Airport Services Manager met with the FAA San Francisco Airport District Office Management to discuss the Corrective Action Plan and request for extension of non-aeronautical use of the south and north tarmacs. Based on this meeting, FAA indicated that consideration of a three (3) year extension would be reasonable but there needed to be further follow up internally within FAA before an official determination would be provided; and

WHEREAS, at the regular meeting of December 15, 2016, the City Council adopted Resolution No. 2015-141, approving a Conditional Airport Use Permit for Monterey Bay Karters to conduct non-aviation related motorsport activity on the north tarmac at the Marina Municipal Airport. The term of the one (1) year permit ends December 31, 2016; and

WHEREAS, in a letter dated January 7, 2016, FAA approved the continuance of permitting non-aeronautical (non-aviation) activities on the tarmacs areas Conditional Airport Use Permits for one year expiring on December 31, 2016 and committed to providing the City/Airport a response to the request for an up to three (3) year extension for conducting non-aviation related activities on the tarmac areas for the purpose of revenue generation in December 2016; and

WHEREAS, at the October 31, 2016 FAA Airport Capital Improvement Program meeting, there was further discussion of the request for an up to three (3) year extension for conducting non-aviation related activities on the tarmac areas for the purpose of revenue generation. In this discussion, FAA responded positively to further consideration of approving the request based on revenue generation, the ability of the Airport to be self sustainable and that the tarmacs are not currently in demand for aviation use; and

WHEREAS, in anticipation of a positive determination by FAA for an up to three (3) year extension for non-aeronautical (motorsport) use of the south and north tarmacs, the proposed Conditional Airport Use Permit for MBK is being presented for City Council consideration (“**EXHIBIT A**”); and

WHEREAS, the Conditional Airport Use Permit allows for MBK’s use of the north tarmac for the period of January 1, 2017 through December 31, 2017 subject to the condition precedent for FAA approval prior to conducting events for 2017. The fee per day for MBK’s use of the north tarmac is proposed as \$450 per day which is consistent with the fee paid for 2016 activity; and

WHEREAS, all other aspects of the Conditional Airport Use Permit for MBK remain similar to the 2016 City Council approved Conditional Airport Use Permit and other tarmac users’ permits. For the events, MBK will be responsible for all permits, sanitary facilities, safety, medical personnel, and coordination of all safety issues with the Marina Municipal Airport, Police Department and Fire Department; and

WHEREAS, staff has determined that the findings for approval of a Conditional Airport Use Permit can be made, in that the proposed project as conditioned will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working at the Marina Municipal Airport or be detrimental or injurious to property and improvements near the Marina Municipal Airport or to the general welfare of the City or be detrimental to or interfere with aviation activity at the Marina Municipal Airport; and

WHEREAS, revenue for the one (1) year period of the Conditional Airport Use Permit will be recorded in the Airport Enterprise Fund, Lic & Permits, Account No. 555.000.000.5200.010; and

WHEREAS, the Conditional Airport Use Permit is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15301 (Class 1 – operation, repair, maintenance, or minor alteration of existing structures or facilities not expanding existing uses).

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

1. Approve a Conditional Airport Use Permit for Monterey Bay Karters to conduct non-aviation related motorsport activity on the north tarmac at the Marina Municipal Airport; and
2. Authorize the City Manager to execute the Conditional Airport Use Permit on behalf of the City subject to final review and approval by City Attorney.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 20<sup>th</sup> day of December 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

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Bruce C. Delgado, Mayor

ATTEST:

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Anita Sharp, Deputy City Clerk

**MARINA MUNICIPAL AIRPORT  
CONDITIONAL AIRPORT USE PERMIT  
FOR THE NON-AERONAUTICAL USE OF THE NORTH TARMAC BY  
MONTEREY BAY KARTERS**

**THIS IS TO CERTIFY THAT**, the City of Marina City Council at a regular meeting held on December 20, 2016, considered the following request. The City Council at that meeting then approved this Conditional Airport Use Permit (“Permit) for the non-aeronautical use of the north tarmac at the Marina Municipal Airport (“Airport”) 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 Mr. Alan Freese on behalf of **MONTEREY BAY KARTERS, a California 501(c)(7) nonprofit corporation**, and any other entities under which the business shall do business as (“Permittee”) for permission to use the north tarmac at the Airport. Permittee has previously conducted motorized vehicle racing and operated automotive-related events and activities and utilized the north tarmac, including go-kart type activities. The Permit shall go into effect on January 1, 2017, and remain in effect for a twelve (12) month period ending on December 31, 2017.

**BACKGROUND:**

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:**

The City Council finds that, under strict conditions of approval:

1. Permittee’s automotive-related activities and Permittee’s use of the north tarmac 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 automotive-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 automotive-related activities, if conducted in accordance with the Conditions of this Permit, will be consistent with the California Environmental Quality Act Statutes

and Guidelines, the General Plan, the Airport Master Plan, the Airport Layout Plan, the Airport Operating Ordinance (Municipal Code 13.22) of the City of Marina. 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 automotive-related activities and the use of the north tarmac will not present or create a safety hazard to the normal operations of aircraft arriving or departing from the Airport.
5. Reasonable time periods can be and are herein designated for Permittee's automotive-related and related activities.
6. The charge established for the proposed use of the north tarmac is reasonable.
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. Any previous editions of these forms shall be modified to indicate the business name of the Permittee: Monterey Bay Karters.
8. Pursuant to Government Code Section 831.7, the City is immune from any liability to its entity and employees resulting from the proposed use for motorized vehicle racing is a hazardous recreational activity and the insurance requirements set forth in this Permit are appropriate for this use. 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:**

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. The City is responsible for obtaining FAA approval and Permittee shall fully cooperate with the City's efforts related thereto.

**TERM OF PERMIT:**

Twelve months, January 1, 2017 through December 31, 2017.

**CHARGE:**

The Permittee shall pay to the City a charge for the use of the north tarmac in the amount of \$450.00 per day in advance. The "days" include the days of activities and events, as well as any set up and breakdown days. Payment shall be made to the "City of Marina", 781 Neeson Road, Marina, California 93933, attention: Airport Services Manager.

Permittee acknowledges that late payment of the fee will cause the City to incur costs not contemplated by this Permit; the exact amount will be extremely difficult to ascertain.

Permittee's operations, including but not limited to autocross and automotive-related activities, must be suspended until such time as the entire payment due under this Permit is remitted to the City. Should any payment due under this Permit remain unpaid ten days after the due date of such payment, a penalty of ten percent shall be added to any payments past due and owing. City and Permittee agree that this late charge represents a fair and reasonable estimate of costs that the City will incur by reason of the late payment of the fee by the Permittee. Acceptance of any such late charge shall not constitute a waiver of Permittee's default with respect to the overdue amount, nor prevent the City from exercising any of the other rights and remedies available to it by reason of such default. Interest on any unpaid fees, charges and any penalty shall accrue at the rate of one and one-half percent per month thereafter until paid.

#### **BUSINESS LICENSE:**

Permittee shall obtain and keep current a business license issued by the City's Finance Department. Permit does not go into effect until the business license is obtained.

#### **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 shall be deemed sufficient cause for the suspension or termination of the Permit. Such suspension of the Permit shall be by the Airport Manager or his/her designee.

#### **I. Operational**

- A. Permittee's automotive-related activities shall be confined to the north tarmac, as designated by the City and shown in "**Exhibit A.**" Permittee, by its acceptance of this Permit, acknowledges and understands the area to be used on the north tarmac, as established by the City, is a temporary designation and that this Permit does not contain, and may not be construed to convey, any vested right in Permittee to use another area of the Airport in connection with Permittee's activities. The north tarmac is to be maintained by Permittee to Airport standards. Prior to conducting any operations, Permittee must examine the condition of the north tarmac to determine if it is in a safe condition to use. Permittee shall at all times cooperate and coordinate with the City prior to and in the possible maintenance of the north tarmac.
- B. Prior to conducting any activities on the north tarmac, Permittee shall provide and receive approval of a written schedule of its activity dates to the Airport Services Manager and shall keep the Airport Services Manager fully informed on a timely basis by providing prior written notice concerning any and all changes concerning usage dates. City will attempt to accommodate Permittee's requested usage dates for activities but reserves the right to cancel, in advance and with prior written notice, or to modify the location for any event if necessary. The "usage dates" include the activity and event dates, as well as any set up and breakdown dates. Prior to the effective date of this Permit, Permittee shall provide to the Airport Services Manager a current list of names and contact information for principal persons who are responsible for the conduct of the activities and who should be contacted in the event of an emergency.

- 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 Services Manager. Hours for other types of automotive-related events must be coordinated in advance with the Airport Services Manager. The City may require Permittee to temporarily cease its use of the north 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.
- D. An accurate plan of the location of all events and related activities must be prepared by Permittee and approved in advance by the Airport Services Manager. This plan should include, but is not limited to: safety setbacks, crowd lines and parking areas for visitors and participants. All event activities shall be set back at least 60 feet from Taxiway A. A traffic management plan showing the Airport gate 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 to the Airport Services Manager at least thirty (30) days before a scheduled event.
- E. Traffic entering or leaving the south tarmac 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 north tarmac, as shown on "**Exhibit B.**" Said personnel shall direct traffic across the southern extent of Taxiway A to the southern extent of the south tarmac to ensure vehicles do not inadvertently access Taxiway A.
- F. The traffic control personnel shall be equipped by Permittee to be able to communicate with Skydive Monterey Bay Inc. When skydiving activities are underway at the same time as go-kart type activities, said personnel will ensure traffic associated with go-kart type activities do not interfere or pose a hazard to parachute jumpers using the interim drop zone or the alternate interim drop zone.
- G. If required, Permittee shall coordinate with City Airport staff to file a NOTAM to the FAA at least 72 hours prior to an event. City Airport staff shall indicate when events are scheduled. The NOTAM will subsequently be published on the internet at the following address: [www.faa.gov/air\\_traffic/publications/notices/](http://www.faa.gov/air_traffic/publications/notices/).
- H. Set-up and break-down of equipment associated with any event may occur on the day of the event or on the day prior to and the day following an event. All equipment and materials must be removed from the tarmac areas used for an event by noon on the day following conclusion of an event 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.
- I. 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 any event.

- J. 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.
- K. In the event of any damages from the Permittee's activities, the responsible party(s) must pay for and repair all damages to Airport facilities in a timely manner. 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 shall be responsible for the cost of repairs to the damaged tarmac.
- L. If, in the sole determination of the Airport Services Manager, the event site requires sweeping for rocks and small debris following any 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 shall be assessed to Permittee and Permittee shall pay said charge at the time the regular per day charge is required to be paid. All sweeping must be completed as soon as possible of the day following an event.
- M. 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 any 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 5:00 p.m. of the day following any 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 with a two-hour minimum shall be assessed to Permittee and Permittee shall pay said charge at the time the regular per day charge is required to be paid.
- N. Adequate portable restrooms shall be provided for any 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.
- O. The City's Fire Department may perform a fire safety inspection prior to the commencement of any event. Any deficiencies identified by the fire safety inspection must be corrected prior to commencement of any event. Fire extinguishers fully charged and with tags affixed, shall be provided as required by the City's Fire Department. There shall be no open-air use of hazardous or flammable materials. All fuel shall be stored and dispensed properly from adequately vented containers. Use of a barbecue during an event shall require prior approval of the Airport Services Manager.

- P. First aid kits and supplies as approved in advance by the Airport Services Manager and the City's Police and Fire Departments shall be available on-site for the duration of any automotive racing activity.
- Q. Any accident requiring medical attention must be reported in writing to the Airport Services Manager within 24 hours from the time of the accident.
- R. Permittee by accepting this Permit acknowledges that it has received and shall 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.
- S. Permittee must, within 24-hours from the time of an accident or an incident or reportable event which violates Airport Rules and Regulations or this 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.**"
- T. If required by the Airport Services Manager or City's Police or Fire Departments, Permittee shall provide security personnel for an event.
- U. 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 an event.
- V. There shall 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. Any circumstances which arise during an 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.
- W. Permittee shall be responsible for, and must take all measures required to ensure that participants or spectators do not trespass onto leased premises at the Airport and do not access the Airport Operations area including Taxiway A.
- X. No persons shall possess or consume any alcoholic beverage or illegal drug in or around any areas of the tarmacs when Permittee's activities are taking place. No person employed by or providing services to Permittee shall possess, consume and/or have in their system any alcoholic beverage or illegal drug in or around any areas when Permittee's activities are taking place.
- Y. Permittee shall cooperate with the City in notifying pilots, users and tenants of the Airport about the Permittee's activities and explaining how these activities will affect the Airport and airport operations.
- Z. Permittee shall possess adequate insurance and assume full liability for its activities

**II. Release of Liability and Assumption of Risk Agreement, Insurance and Indemnification Required**

- A. Release of Liability and Assumption of Risk Agreement. Each participant in motorized vehicle racing, autocross or other automotive-related activities as determined by the Airport Manager and any passenger shall, prior to such participation, sign a Release of Liability and Assumption of Risk Agreement (“Release”), a copy of which is attached hereto as “**Exhibit D,**” and a copy of every such executed Release shall be provided to the Airport Manager upon request. All Releases shall be effective for a period of ONE CALENDAR YEAR ONLY. Each year a new Release must be obtained for all participants. Permittee must retain the original of all executed Releases in its files for a period of no less than three (3) years from their date of execution.
- B. Insurance. Permittee agree to provide insurance in accordance with the requirements set forth herein. Specifically, such insurance shall: (1) protect the City as an additional insured for commercial general and business auto liability; (2) provide City at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non payment of premium; and (3) be primary with respect to City’s insurance program. Permittee’s insurance is not expected to respond to claims that may arise from the acts or omissions of the City. 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’s shall 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.
- C. Cancellation, Reduction, Change. 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.
- D. Commercial General Liability/Umbrella Insurance. Primary insurance shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88 or a form approved in advance by the City’s Risk Manager. Total limits shall be no less than one million dollars per occurrence for all coverage’s and one million dollars 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 CG 20 1- 11 85. 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. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Umbrella Liability Insurance (over primary) 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.

- E. Business Auto. Primary coverage must be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto) or another form approved in advance by the City’s Risk Manager. Limits shall be no less than one million dollars per accident. Starting and ending dates shall be concurrent. If Permittee owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.
- F. Workers’ Compensation/Employers’ Liability. Workers’ Compensation and Employers’ Liability insurance 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 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.
- G. 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, attorneys 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 motorized vehicle racing, driver training, autocross or automotive-related 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 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.

Without affecting the rights of the City under any provision of law, this Permit or this section, Permittee 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 shall be all inclusive and City shall 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 under this or any other provision of this Permit shall not be limited by the provisions of any workers' compensation act or similar act. Permittee expressly waives its statutory immunity under such statutes or laws as to City, its Airport Council, boards and commissions, officers, employees, agents, and volunteers.

Permittee agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from any assignee, subcontractor 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 fail 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 and shall survive the termination of this Permit or this section.

H. Other Agreements re Insurance.

Permittee and City further agree as follows:

1. 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.
2. 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.

3. 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.
4. 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.
5. For purposes of insurance coverage only, this Permit shall 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.
6. All general or auto liability insurance coverage provided pursuant to this Permit shall not prohibit Permittee, Permittee's employees, or agents from waiving the right of subrogation prior to a loss. Permittee hereby waives all rights of subrogation against the City.
7. 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."
8. 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.
9. Permittee agrees 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 and umbrella liability policies using ISO form CG 20 10 11 85 Certificate(s) are to reflect that the insurer shall provide 30 days notice of any cancellation of coverage. Permittee 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. Contractor agrees to provide complete copies of policies to City upon request.
10. 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 shall be furnished at least two weeks prior to the expiration of the coverage's.

11. 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.
12. Permittee agrees to require all subcontractors or other parties hired for this project to provide general liability insurance naming as additional insured's all parties to this Permit. Permittee agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Permittee agrees to require that no contract used by any subcontractor, or contracts Permittee enters into on behalf of City, shall reserve the right to charge back to City the cost of insurance required by this Permit. Failure of City to request copies of such contracts shall not impose any liability on City, its Airport, Council, boards and commissions, officers, employees, agents and volunteers.
13. If any of Permittee's dba entities are or should become lawfully constituted as a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operation are insured's.
14. Permittee agrees to provide immediate notice to City of any claim or loss against Permittee that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

### **III. Enforcement, Suspension, and Termination**

- A. The conditions of this Permit may be enforced by any means and methods by which the City may secure compliance with the provisions of its Municipal Code. These include, but are not necessarily in order of or limited to the following: warning notices, administrative citations, civil or criminal enforcement or injunctive relief. Multiple enforcement remedies may be used to achieve compliance with respect to persons who commit continuing violations.
- B. In lieu of or in conjunction with enforcement remedies, 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 of suspension, 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 Services Manager. The notice shall set forth the specific violation for which the immediate suspension is imposed. Permittee agrees that, upon receipt of written notice of suspension from the Airport Services Manager it will immediately cease and suspend its use of the north tarmac.
- C. The Airport Services Manager agrees to cooperate with Permittee in its efforts to remedy or to address a cited violation or notice of violation for which this Permit has been suspended. If and when such violation has been addressed to the

satisfaction of the Airport Services Manager, immediate verbal notice of Permit reinstatement, followed within not more than 24-hours by a written notice of Permit reinstatement shall be given to Permittee.

- D. This Permit may be suspended by action of the Airport Manager and terminated by action of the City Council.
- E. 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 any 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 reasonable consulted by the attorneys for the prevailing party.
- F. In the event of a request or action by the FAA to cease or terminate the activities as set forth in this conditional use permit, such permit shall become immediately null and void without requirement of any further action by the City Council.

**IV. Non-Transferability, No Exclusive Right, No Right to Lease, No Long-Term Use Contemplated by the Parties**

- A. This Permit is non-transferable.
- B. 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.
- C. 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.

**V. Notice**

All notices and other communications required to be given under this Permit shall be in writing, and shall be delivered at the addresses set out herein. Notice may be given by personal delivery, recognized overnight courier, by United States mail, by facsimile transmission, or by e-mail, in the manner set forth below. Notice shall be deemed to have been duly given: (a) if by personal delivery, on the first to occur of the date of actual receipt or refusal of delivery by any person at the intended address; (b) if by overnight courier, on the first business day after being delivered to a recognized overnight courier; (c) if by mail, on the third business day after being deposited in the United States mail, certified or registered mail, return receipt requested, postage prepaid; (d) if by facsimile transmission, the next business day after being transmitted, as evidenced by the confirmation slip generated by the sender’s facsimile machine; or (e) if by e-mail, the business day after being transmitted, as evidenced by the confirmation generated by the sender’s e-mail, addressed as follows:

To the City of Marina:

Airport Services Manager  
City Hall  
211 Hillcrest Avenue  
Marina, California 93933

Phone: 831-884-1200  
Mobile: 831-241-8628  
Facsimile: 831-884-9654  
E-mail: [jcrechriou@ci.marina.ca.us](mailto:jcrechriou@ci.marina.ca.us)

With a copy to:

City Attorney – City of Marina  
Wellington Law Offices  
857 Cass Street, Suite D  
Monterey, California 93940

Phone: 831-373-8733  
Facsimile: 831-373-7106  
E-mail: [attys@wellingtonlaw.com](mailto:attys@wellingtonlaw.com)

To Monterey Bay Karters:

Mr. Alan Freese, President  
Monterey Bay Karters  
1350 Dayton Street  
Salinas, California 93901

Phone: 831-595-4702  
Facsimile: none  
E-mail: [alan.f@peninsulamoving.com](mailto:alan.f@peninsulamoving.com)  
[info@fastech-racing.com](mailto:info@fastech-racing.com)

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.

## **VI. Grant Agreement Covenants**

Permittee acknowledges that City is subject to Federal grant agreement obligations as a condition precedent to granting of funds for the improvement of the Airport, and, accordingly agrees to, and agrees to be bound by, the following covenants provided by the FAA as they may apply to Permittee:

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

public, a right for the passage or aircraft in the airspace above the surface of the Premises. The public right of flight shall include the right to cause in the airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking from, or operation on the Airport

Permittee for itself and its personal representatives, successors in interest, and assigns as part of the consideration hereto, does hereby covenant and agree 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 premises. (2) that in the construction of any improvement 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 participating 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 49 CFR Part 21 Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the City (through the City Manager) shall have the right to terminate this Permit, and to re-enter and repossess the premises and hold the same as if this Permit had never been made or issued.

City reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or views of Permittee, and without interference of hindrance. The City reserves the right, but shall not be obligated to 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 Permittee in this regard, The 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 Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises. This requires the submission of FAA Form 7460-1, Notice of Construction or Alteration to the FAA.

The Permittee by accepting this Permit expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or building nor permit object of natural growth or other obstruction on the land leased hereunder above a height as determined by the application of the requirements of Title 14 CFR Part 77 or above 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 hereunder and to remove the offending structure or object or cut the offending natural growth, all of which shall be at the expense of the Permittee.

The Permittee will furnish services on a reasonable and not unjustly discriminatory basis to all users, and charge 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 types of price reductions to volume purchasers. In the event of breach of the above covenant, the City (through the City Manager) shall have the right to terminate this Permit, and to re-enter and repossess the premises and hold the same as if this Permit had never been made or issued.

The Permit will conform to airport and Federal Aviation Administration safety and security rules and regulations regarding use of the Airport operations area including runways, taxiways, aircraft aprons by vehicles, employees, customers, visitors, etc. in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; will complete and pass airfield safe driving instruction program when offered or required by the Airport; and will be subject to penalties as prescribed by the airport for violations of the airport safety and security requirements.

This Permit is subordinate to the City's obligations to the federal government under existing and future agreements for federal aid for the development and maintenance of the Airport.

This Permit shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States, relative to the development, operation, or maintenance of the Airport. Failure of the Permittee to comply with the requirements of any existing or future agreement between the City and the United States, which failure shall continue after reasonable notice to make appropriate corrections, shall be cause for immediate termination of Permittee's rights hereunder.

**VII. Modifications for Granting FAA Funds**

In the event that the FAA requires, as a condition precedent to granting of funds for the improvement of the Airport, modifications or changes to this Permit, Permittee agrees to consent in writing upon the request of City to such reasonable amendments, modifications, revisions, supplements or deletions of any of the terms, conditions, or requirements of this Permit as may be reasonably required to enable the City to obtain FAA funds. A failure by Permittee to so consent shall constitute termination of this Permit.

**VIII. Authority**

If Permittee is a corporation, partnership or limited liability company, the individual executing this Permit on behalf of said entity represents and warrants that he or she is duly authorized to execute and deliver this Permit on behalf of said entity and that this Permit is binding upon said entity in accordance with its terms.

**THIS CERTIFICATE IS TO NOTIFY MONTEREY BAY KARTERS** that the above described Conditional Airport Use Permit was approved by the City of Marina City Council with their action and to become effective as specified in the Permit. However, requesters are notified that should any aggrieved party wish to appeal the decision of the City Council, a written appeal must be filed with the City Clerk no later than the end of the first work day which is at least ten calendar (10) days from the issuance of this Certificate, no later than 5:00 P.M. on Tuesday, January 3, 2017. Such appeal must set forth specifically the points at issue, the reasons for the appeal and describe why the person appealing the decision believes there was an error or abuse of discretion by the City Council. Should no appeal be filed within this time limit, this Certificate shall be valid as written. Any action for judicial review of this decision must be brought within the time limits specified in the California Code of Civil Procedure Section 1094.6.

Dated: December 20, 2016 at Marina, California

**APPROVED**

\_\_\_\_\_  
Layne Long  
City Manager  
City of Marina

\_\_\_\_\_  
Jeff Crechriou  
Airport Services Manager  
City of Marina

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

\_\_\_\_\_  
Alan Freese  
President  
Monterey Bay Karters

Dated: \_\_\_\_\_, 201\_\_

Attest: Pursuant to Resolution No. 2016-

\_\_\_\_\_  
Anita Sharp, Acting Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTACHMENTS:

- EXHIBIT A Site Plan of North Tarmac
- EXHIBIT B Access Route to Tarmac
- EXHIBIT C Incident Report Form
- EXHIBIT D Release of Liability/Assumption of Risk



## “EXHIBIT B” Access Route to Tarmac



**EXHIBIT B** Monterey Bay Karters Access Route to North Tarmac

**“EXHIBIT C”  
Incident report Form**

**INCIDENT REPORT FORM – FOR OFFICIAL USE ONLY**

Date of Incident \_\_\_\_\_ Pilot in Command \_\_\_\_\_

Total Passengers \_\_\_\_\_ Name of Ground Observer \_\_\_\_\_

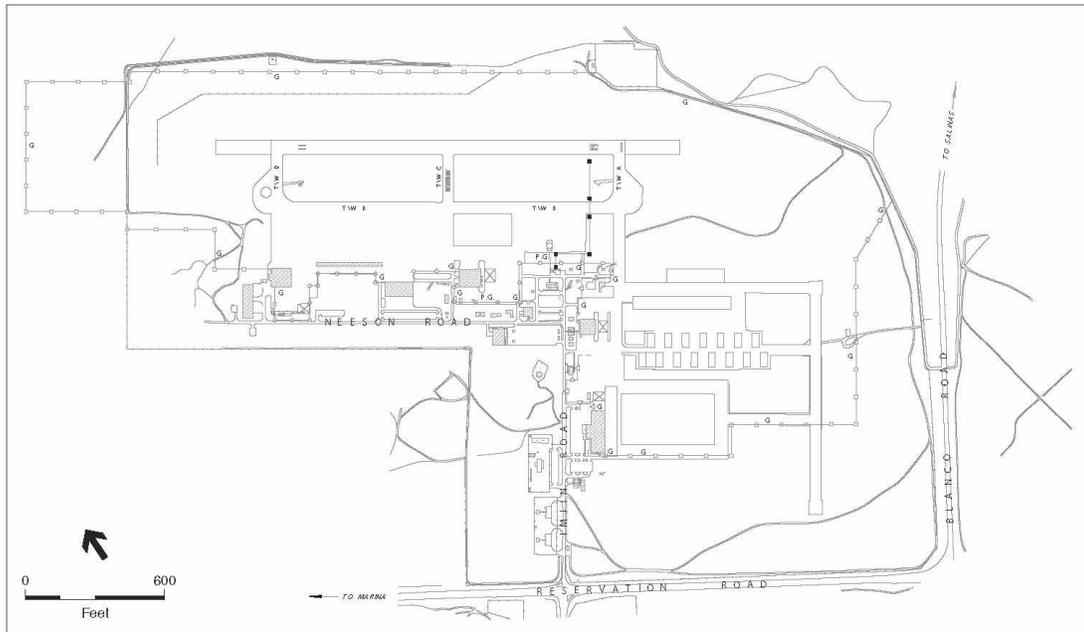
Name of Person(s) Involved: \_\_\_\_\_

Explanation: \_\_\_\_\_

Report Prepared by \_\_\_\_\_ Date \_\_\_\_\_

Received by \_\_\_\_\_ Date / Time \_\_\_\_\_

MARINA MUNICIPAL AIRPORT



# “EXHIBIT D”

## Release of Liability and Assumption of Risk Agreement

### MARINA MUNICIPAL AIRPORT RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK, AND INDEMNITY AGREEMENT

\_\_\_\_\_  
Description and Location of Scheduled Event

\_\_\_\_\_  
Date Release Signed

IN CONSIDERATION OF BEING PERMITTED TO compete, drive a motor vehicle, spectate, officiate, observe, work, or PARTICIPATE in any way IN THE ABOVE EVENT(S) OR BEING PERMITTED TO ENTER FOR ANY PURPOSE ANY RESTRICTED AREA (defined as requiring special authorization, credentials, or permission to enter, or any area to which admission by the general public is restricted or prohibited including but not limited to the competition area and any hot pit or paddock area), EACH OF THE UNDERSIGNED, FOR HIMSELF OR HERSELF, HIS OR HER PERSONAL REPRESENTATIVES, HEIRS, NEXT-OF-KIN:

1. ACKNOWLEDGES, AGREES AND REPRESENTS THAT HE OR SHE HAS OR WILL immediately upon entering any such Restricted Area, and will continuously thereafter, INSPECT THE RESTRICTED AREA which he or she enters, and he or she further agrees and warrants that, IF AT ANY TIME, he or she is in or about the Restricted Areas and HE OR SHE FEELS ANYTHING TO BE UNSAFE, HE OR SHE WILL IMMEDIATELY ADVISE THE OFFICIALS OF SUCH and if necessary will leave the Restricted Area AND REFUSE TO PARTICIPATE FURTHER IN THE EVENT(S).
2. HEREBY RELEASES, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES, DISCHARGES AND COVENANTS NOT TO SUE, the CITY OF MARINA and the Marina Municipal Airport, MONTEREY BAY KARTERS, INC., a California 501(c)(7) non profit corporation, the promoters, participants racing associations, sanctioning organizations, or any subdivision thereof, track operators, track owners, officials, competition vehicle owners, drivers, pit crews, rescue personnel, any persons in any Restricted Area, sponsors, advertisers, owners and lessees of premises used to conduct the Event(s), premises and event inspectors, surveyors, underwriters, consultants and others who give recommendations, directions or instructions or engage in risk evaluation or loss control activities regarding the premises or Event(s) and each of them, their councils, directors, officers, agents, and employees, all for the purposes HEREIN REFERRED TO AS “RELEASES,” FROM ALL LIABILITY TO THE UNDERSIGNED, HIS PERSONAL REPRESENTATIVES, ASSIGNS, HEIRS, AND NEXT-OF-KIN FOR ALL LOSS OR DAMAGE, AND ANY CLAIM OR DEMANDS THEREFOR ON ACCOUNT OF INJURY TO THE PERSON OR PROPERTY OR RESULTING IN DEATH OF THE UNDERSIGNED ARISING OUT OF OR RELATED TO THE EVENT(S) WHETHER CAUSED BY THE NEGLIGENCE OF THE RELEASES OR OTHERWISE.
3. HEREBY AGREES TO INDEMNIFY AND SAVE AND HOLD HARMLESS THE RELEASES AND EACH OF THEM FROM ANY LOSS, LIABILITY, DAMAGE, OR COST they may incur arising out of or RELATED TO THE UNDERSIGNED’S INJURY OR DEATH WHETHER CAUSED BY THE NEGLIGENCE OF THE RELEASES OR OTHERWISE.
4. HEREBY ASSUMES FULL RESPONSIBILITY FOR ANY RISK, KNOWN AND UNKNOWN, OF BODILY INJURY, PERMANENT DISABILITY, arising out of or related to the Event(s), INCLUDING MEDICAL OR HOSPITAL BILLS, DEATH OR PROPERTY DAMAGE arising out of or related to the Event(s) whether CAUSED BY THE NEGLIGENCE OF RELEASES or otherwise.
5. HEREBY ACKNOWLEDGES THAT THE ACTIVITIES OF THE EVENT(S) ARE VERY DANGEROUS and involve the risk of serious injury and/or death and/or property damage. Each of THE UNDERSIGNED, ALSO EXPRESSLY ACKNOWLEDGES THAT INJURIES RECEIVED MAY BE COMPOUNDED OR INCREASED BY NEGLIGENT RESCUE OPERATIONS OR PROCEDURES OF THE RELEASES.
6. HEREBY AGREES THAT THIS RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK, AND INDEMNITY AGREEMENT EXTENDS TO ALL ACTS OF NEGLIGENCE BY THE RELEASES, INCLUDING NEGLIGENT RESCUE OPERATIONS and is intended to be as broad and inclusive as is permitted by the laws of the State of California and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.

I HAVE READ THIS RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK, AND INDEMNITY AGREEMENT, UNDERSTAND ITS TERMS, UNDERSTAND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING IT, AND HAVE SIGNED IT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT, ASSURANCE OR GUARANTEE BEING MADE TO ME AND INTEND MY SIGNATURE TO BE A COMPLETE AND UNCONDITIONAL RELEASE OF ALL LIABILITY TO THE GREATEST EXTENT ALLOWED BY LAW.

### CAUTION THIS IS A RELEASE OF LEGAL RIGHTS - READ AND UNDERSTAND BEFORE SIGNING

#### ALL SECTIONS MUST BE COMPLETED

PRINT NAME HERE	SIGN NAME HERE	CAPACITY [driver, pit crew, spectator, etc.]
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____
11. _____	_____	_____
12. _____	_____	_____
13. _____	_____	_____
14. _____	_____	_____
15. _____	_____	_____

\_\_\_\_\_  
Signature and Title of Witness

\_\_\_\_\_  
Address of Witness

\_\_\_\_\_  
Date Signature(s) witnessed

Honorable Mayor and Members  
of the Marina City Council

City Council Meeting  
of December 20, 2016

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2016-,  
APPROVING A CONDITIONAL AIRPORT USE PERMIT FOR MARINA  
MOTORSPORTS, INC. TO CONDUCT NON-AVIATION RELATED  
MOTORSPORT ACTIVITY ON THE SOUTH TARMAC AT THE MARINA  
MUNICIPAL AIRPORT AND AUTHORIZING CITY MANAGER TO EXECUTE  
THE CONDITIONAL AIRPORT USE PERMIT ON BEHALF OF CITY,  
SUBJECT TO FINAL REVIEW AND APPROVAL BY CITY ATTORNEY**

**REQUEST:**

It is requested that the City Council consider:

1. Adopting Resolution No. 2016- , approving a Conditional Airport Use Permit for Marina Motorsports, Inc. to conduct non-aviation related motorsport activity on the south tarmac at the Marina Municipal Airport; and
2. Authorizing City Manager to execute the Conditional Airport Use Permit on behalf of City, subject to final review and approval by City Attorney.

**BACKGROUND:**

Marina Motorsports, Inc., (MMS), a California 501(c)(3) nonprofit corporation, has utilized the Marina Municipal Airport for non-aviation motorsport events since 1995. The mission of MMS is to promote automotive hobby and sports and to provide family-oriented activities while benefiting local service clubs, non-profit groups, and the City of Marina. MMS events held on the tarmac include auto racing and automotive swap meets.

The area used for the MMS events is planned for aviation development in the 2008 Airport Layout Plan Map and is zoned Airport District (A-1).

The Marina Municipal Airport property was transferred to the City of Marina to be used for public airport purposes (County of Monterey County, Office of Recorder, Salinas, California, Reel 3272, page 693, 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.

The FAA is also 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.

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.

In letters dated February 13, 2013 and June 14, 2013, the FAA made requests of the City to discontinue and relocate the non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs because the activities are considered contrary to the use of Airport infrastructure and do not advance the public's investment in civil aviation.

The Airport realizes significant revenue generation through permitting non-aeronautical (non-aviation) activities on the tarmac areas. The City recognizes motorsports activities as positive recreational activity, supports their use within the City and values the contribution these activities and organizations provide to the community and region.

At the regular meeting of December 3, 2013, the Marina City Council adopted Resolution No. 2013-177, approving a Conditional Airport Use Permit for Marina Motorsports, Inc. to conduct non-aviation related motor sport activities on the south tarmac at the Marina Municipal Airport.

At the regular meeting of December 2, 2014, the City Council adopted Resolution No. 2014-123, approving a Conditional Airport Use Permit for Marina Motorsports, Inc. to conduct non-aviation related motorsport activities on the south tarmac at the Marina Municipal Airport.

FAA approved the Conditional Airport Use Permits for each year.

In a letter dated January 6, 2015, the FAA, in approving the Conditional Use Permit for 2015 Activity, determined that the City provide a corrective action plan to discontinue the non-aeronautical (motorsport) activities by the year ending December 31, 2015.

On May 16, 2015, airport staff submitted the FAA required Corrective Action Plan regarding non-aeronautical (motorsport) use of the south and north tarmac areas. The Corrective Action Plan:

- Acknowledged FAA's ongoing requests to discontinue and relocate the motorsport non-aeronautical activities.
- Affirmed the commitment to transition the south and north tarmac areas to aviation use with future demand by aeronautical users.
- Detailed the efforts and progress of the motorsport users to identify alternate off airport locations for their respective activities beyond December 31, 2015.
- Provided reasoning for and requested FAA consideration of an up to three (3) year extension for non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs.

Since submittal of the Corrective Action Plan to FAA, airport staff has continued dialog with FAA regarding a response.

At the September 2015, Association of California Airports conference, the Airport Services Manager met with the FAA San Francisco Airport District Office Management to discuss the Corrective Action Plan and request for extension of non-aeronautical use of the south and north tarmacs. Based on this meeting, FAA indicated that consideration of a three (3) year extension would be reasonable but there needed to be further follow up internally within FAA before an official determination would be provided.

At the regular meeting of December 15, 2016, the City Council adopted Resolution No. 2015-142, approving a Conditional Airport Use Permit for Marina Motorsports, Inc. to conduct non-aviation related motorsport activity on the south tarmac at the Marina Municipal Airport. The term of the one (1) year permit ends December 31, 2016.

In a letter dated January 7, 2016, FAA approved the continuance of permitting non-aeronautical (non-aviation) activities on the tarmacs areas Conditional Airport Use Permits for one year expiring on December 31, 2016 and committed to providing the City/Airport a response to the request for an up to three (3) year extension for conducting non-aviation related activities on the tarmac areas for the purpose of revenue generation in December 2016.

At the October 31, 2016 FAA Airport Capital Improvement Program meeting, there was further discussion of the request for an up to three (3) year extension for conducting non-aviation related activities on the tarmac areas for the purpose of revenue generation. In this discussion, FAA responded positively to further consideration of approving the request based on revenue generation, the ability of the Airport to be self sustainable and that the tarmacs are not currently in demand for aviation use.

**ANALYSIS:**

In anticipation of a positive determination by FAA for an up to three (3) year extension for non-aeronautical (motorsport) use of the south and north tarmacs, the proposed Conditional Airport Use Permit for MMS is being presented for City Council consideration (“**EXHIBIT A**”).

The Conditional Airport Use Permit allows for MMS’s use of the south tarmac for the period of January 1, 2017 through December 31, 2017 subject to the condition precedent for FAA approval prior to conducting events for 2017. The fee per day for MMS’s use of the south tarmac is proposed as \$600 per day which is consistent with the fee paid for 2016 activity.

All other aspects of the Conditional Airport Use Permit for MMS remain similar to the 2016 City Council approved Conditional Airport Use Permit and other tarmac users’ permits. For the events, MMS will be responsible for all permits, sanitary facilities, safety, medical personnel, and coordination of all safety issues with the Marina Municipal Airport, Police Department and Fire Department.

Staff has determined that the findings for approval of a Conditional Airport Use Permit can be made, in that the proposed project as conditioned will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working at the Marina Municipal Airport or be detrimental or injurious to property and improvements near the Marina Municipal Airport or to the general welfare of the City or be detrimental to or interfere with aviation activity at the Marina Municipal Airport.

**FISCAL IMPACT:**

Should the City Council approve this request, revenue for the one (1) year period of the Conditional Airport Use Permit will be recorded in the Airport Enterprise Fund, Lic & Permits, Account No. 555.000.000.5200.010.

**CONCLUSION:**

This request is submitted for City Council consideration and direction to staff.

Respectfully submitted,

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Jeff Crechriou  
Airport Services Manager  
City of Marina

**REVIEWED/CONCUR:**

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Layne Long  
City Manager  
City of Marina

RESOLUTION NO. 2016-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA  
APPROVING A CONDITIONAL AIRPORT USE PERMIT FOR MARINA  
MOTORSPORTS, INC. TO CONDUCT NON-AVIATION RELATED MOTORSPORT  
ACTIVITY ON THE SOUTH TARMAC AT THE MARINA MUNICIPAL AIRPORT  
AND AUTHORIZE CITY MANAGER TO EXECUTE THE CONDITIONAL  
AIRPORT USE PERMIT ON BEHALF OF CITY, SUBJECT TO FINAL REVIEW  
AND APPROVAL BY CITY ATTORNEY

WHEREAS, Marina Motorsports, Inc., (MMS), a California 501(c)(3) nonprofit corporation, has utilized the Marina Municipal Airport for non-aviation motorsport events since 1995. The mission of MMS is to promote automotive hobby and sports and to provide family-oriented activities while benefiting local service clubs, non-profit groups, and the City of Marina. MMS events held on the tarmac include auto racing and automotive swap meets; and

WHEREAS, the area used for the MMS events is planned for aviation development in the 2008 Airport Layout Plan Map and is zoned Airport District (A-1); and

WHEREAS, in letters dated February 13, 2013 and June 14, 2013, the Federal Aviation Administration (FAA) made requests of the City to discontinue and relocate the non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs because the activities are considered contrary to the use of Airport infrastructure and do not advance the public's investment in civil aviation; and

WHEREAS, the Airport realizes significant revenue generation through permitting non-aeronautical (non-aviation) activities on the tarmac areas. The City recognizes motorsports activities as positive recreational activity, supports their use within the City and values the contribution these activities and organizations provide to the community and region; and

WHEREAS, at the regular meeting of December 3, 2013, the Marina City Council adopted Resolution No. 2013-177, approving a Conditional Airport Use Permit for Marina Motorsports, Inc. to conduct non-aviation related motor sport activities on the south tarmac at the Marina Municipal Airport; and

WHEREAS, at the regular meeting of December 2, 2014, the City Council adopted Resolution No. 2014-123, approving a Conditional Airport Use Permit for Marina Motorsports, Inc. to conduct non-aviation related motorsport activities on the south tarmac at the Marina Municipal Airport; and

WHEREAS, FAA approved the Conditional Airport Use Permits for each year; and

WHEREAS, in a letter dated January 6, 2015, the FAA, in approving the Conditional Use Permit for 2015 Activity, determined that the City provide a corrective action plan to discontinue the non-aeronautical (motorsport) activities by the year ending December 31, 2015; and

WHEREAS, on May 16, 2015, airport staff submitted the FAA required Corrective Action Plan regarding non-aeronautical (motorsport) use of the south and north tarmac areas. The Corrective Action Plan:

- Acknowledged FAA's ongoing requests to discontinue and relocate the motorsport non-aeronautical activities.
- Affirmed the commitment to transition the south and north tarmac areas to aviation use with future demand by aeronautical users.

- Detailed the efforts and progress of the motorsport users to identify alternate off airport locations for their respective activities beyond December 31, 2015.
- Provided reasoning for and requested FAA consideration of an up to three (3) year extension for non-aeronautical (non-aviation) motorsport activities at the north and south tarmacs; and

WHEREAS, since submittal of the Corrective Action Plan to FAA, airport staff has continued dialog with FAA regarding a response; and

WHEREAS, at the September 2015, Association of California Airports conference, the Airport Services Manager met with the FAA San Francisco Airport District Office Management to discuss the Corrective Action Plan and request for extension of non-aeronautical use of the south and north tarmacs. Based on this meeting, FAA indicated that consideration of a three (3) year extension would be reasonable but there needed to be further follow up internally within FAA before an official determination would be provided; and

WHEREAS, at the regular meeting of December 15, 2016, the City Council adopted Resolution No. 2015-142, approving a Conditional Airport Use Permit for Marina Motorsports, Inc. to conduct non-aviation related motorsport activity on the south tarmac at the Marina Municipal Airport. The term of the one (1) year permit ends December 31, 2016; and

WHEREAS, in a letter dated January 7, 2016, FAA approved the continuance of permitting non-aeronautical (non-aviation) activities on the tarmacs areas Conditional Airport Use Permits for one year expiring on December 31, 2016 and committed to providing the City/Airport a response to the request for an up to three (3) year extension for conducting non-aviation related activities on the tarmac areas for the purpose of revenue generation in December 2016; and

WHEREAS, at the October 31, 2016 FAA Airport Capital Improvement Program meeting, there was further discussion of the request for an up to three (3) year extension for conducting non-aviation related activities on the tarmac areas for the purpose of revenue generation. In this discussion, FAA responded positively to further consideration of approving the request based on revenue generation, the ability of the Airport to be self sustainable and that the tarmacs are not currently in demand for aviation use; and

WHEREAS, in anticipation of a positive determination by FAA for an up to three (3) year extension for non-aeronautical (motorsport) use of the south and north tarmacs, the proposed Conditional Airport Use Permit for MMS is being presented for City Council consideration (“**EXHIBIT A**”); and

WHEREAS, the Conditional Airport Use Permit allows for MMS’s use of the south tarmac for the period of January 1, 2017 through December 31, 2017 subject to the condition precedent for FAA approval prior to conducting events for 2017. The fee per day for MMS’s use of the south tarmac is proposed as \$600 per day which is consistent with the fee paid for 2016 activity; and

WHEREAS, all other aspects of the Conditional Airport Use Permit for MMS remain similar to the 2016 City Council approved Conditional Airport Use Permit and other tarmac users’ permits. For the events, MMS will be responsible for all permits, sanitary facilities, safety, medical personnel, and coordination of all safety issues with the Marina Municipal Airport, Police Department and Fire Department; and

WHEREAS, staff has determined that the findings for approval of a Conditional Airport Use Permit can be made, in that the proposed project as conditioned will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working at the Marina Municipal Airport or be detrimental or injurious to property and improvements near the Marina Municipal Airport or to the general welfare of the City or be detrimental to or interfere with aviation activity at the Marina Municipal Airport; and

WHEREAS, revenue for the one (1) year period of the Conditional Airport Use Permit will be recorded in the Airport Enterprise Fund, Lic & Permits, Account No. 555.000.000.5200.010; and

WHEREAS, the Conditional Airport Use Permit is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15301 (Class 1 – operation, repair, maintenance, or minor alteration of existing structures or facilities not expanding existing uses).

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

1. Approve a Conditional Airport Use Permit for Marina Motorsports, Inc. to conduct non-aviation related motorsport activity on the north tarmac at the Marina Municipal Airport; and
2. Authorize the City Manager to execute the Conditional Airport Use Permit on behalf of the City subject to final review and approval by City Attorney.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 20<sup>th</sup> day of December 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

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Bruce C. Delgado, Mayor

ATTEST:

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Anita Sharp, Deputy City Clerk

**MARINA MUNICIPAL AIRPORT  
CONDITIONAL AIRPORT USE PERMIT  
FOR THE NON-AERONAUTICAL USE OF THE SOUTH TARMAC BY  
MARINA MOTORSPORTS, INC.**

**THIS IS TO CERTIFY THAT**, the City of Marina City Council at a regular meeting held on December 20, 2016, considered the following request. The City Council at that meeting then approved this Conditional Airport Use Permit (“Permit) for the use of the south tarmac at the Marina Municipal Airport (“Airport”) 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 Mr. John Moulton on behalf of **MARINA MOTORSPORTS, INC., a California 501(c)(3) nonprofit corporation**, and any other entities under which the business shall do business as (“Permittee”) for permission to use the south tarmac at the Marina Municipal Airport for motorized vehicle racing and related events. Permittee has previously operated automotive-related events and activities and utilized the south tarmac, including autocross competitions; swap meets, and sales of equipment and food items. The Permit shall go into effect on January 1, 2017, and remain in effect for a twelve (12) month period ending on December 31, 2017.

**BACKGROUND:**

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:**

The City Council finds that, under strict conditions of approval:

1. Permittee’s automotive-related activities and Permittee’s use of the south tarmac 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 automotive-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 automotive-related activities, if conducted in accordance with the Conditions of this Permit, will be consistent with the California Environmental Quality Act Statutes

and Guidelines, the General Plan, the Airport Master Plan, the Airport Layout Plan, the Airport Operating Ordinance (Municipal Code 13.22) of the City of Marina. 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 automotive-related activities and the use of the south tarmac will not present or create a safety hazard to the normal operations of aircraft arriving or departing from the Airport.
5. Reasonable time periods can be and are herein designated for Permittee's automotive-related and related activities.
6. The charge established for the proposed use of the south tarmac is reasonable.
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. Any previous editions of these forms shall be modified to indicate the business name of the Permittee: Marina Motorsports, Inc.
8. Pursuant to Government Code Section 831.7, the City is immune from any liability to its entity and employees resulting from the proposed use for motorized vehicle racing is a hazardous recreational activity and the insurance requirements set forth in this Permit are appropriate for this use. 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:**

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. The City is responsible for obtaining FAA approval and Permittee shall fully cooperate with the City's efforts related thereto.

**TERM OF PERMIT:**

Twelve months, January 1, 2017 through December 31, 2017.

**CHARGE:**

The Permittee shall pay to the City a charge for the use of the south tarmac in the amount of \$600.00 per day in advance. The "days" include the days of activities and events, as well as any set up and breakdown days. Payment shall be made to the "City of Marina", 781 Neeson Road, Marina, California 93933, Attention: Airport Services Manager.

Permittee acknowledges that late payment of the fee will cause the City to incur costs not contemplated by this Permit; the exact amount will be extremely difficult to ascertain.

Permittee's operations, including but not limited to autocross and automotive-related activities, must be suspended until such time as the entire payment due under this Permit is remitted to the City. Should any payment due under this Permit remain unpaid ten days after the due date of such payment, a penalty of ten percent shall be added to any payments past due and owing. City and Permittee agree that this late charge represents a fair and reasonable estimate of costs that the City will incur by reason of the late payment of the fee by the Permittee. Acceptance of any such late charge shall not constitute a waiver of Permittee's default with respect to the overdue amount, nor prevent the City from exercising any of the other rights and remedies available to it by reason of such default. Interest on any unpaid fees, charges and any penalty shall accrue at the rate of one and one-half percent per month thereafter until paid.

#### **BUSINESS LICENSE:**

Permittee shall obtain and keep current a business license issued by the City's Finance Department. Permit does not go into effect until the business license is obtained.

#### **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 shall be deemed sufficient cause for the suspension or termination of the Permit. Such suspension of the Permit shall be by the Airport Manager or his/her designee.

#### **I. Operational**

- A. Permittee's automotive-related activities shall be confined to the south tarmac, as designated by the City and shown in "**Exhibit A.**" Permittee, by its acceptance of this Permit, acknowledges and understands the area to be used on the south tarmac, as established by the City, is a temporary designation and that this Permit does not contain, and may not be construed to convey, any vested right in Permittee to use another area of the Airport in connection with Permittee's activities. The south tarmac is to be maintained by Permittee to Airport standards, and at all times free of any structures, vehicles (except for the motorsports and related vehicles), debris, trash, fencing, etc. Prior to conducting any operations, Permittee must examine the condition of the south tarmac to determine if it is in a safe condition to use. Permittee shall at all times cooperate and coordinate with the City prior to and in the possible maintenance of the south tarmac.
- B. Prior to conducting any activities on the south tarmac, Permittee shall provide and receive approval of a written schedule of its activity dates to the Airport Services Manager and shall keep the Airport Services Manager fully informed on a timely basis by providing prior written notice concerning any and all changes concerning usage dates. City will attempt to accommodate Permittee's requested usage dates for activities but reserves the right to cancel, in advance and with prior written notice, or to modify the location for any event if necessary. The "usage dates" include the activity and event dates, as well as any set up and breakdown dates. Prior to the effective date of this Permit, Permittee shall provide to the Airport Services Manager a current list of names and contact information for principal

persons who are responsible for the conduct of the activities and who should be contacted in the event of an emergency.

- 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 Services 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.
- D. An accurate plan of the location of all events and related activities must be prepared by Permittee and approved in advance by the Airport Services Manager. This plan should include, but is not limited to: safety setbacks, crowd lines, parking areas for visitors and participants, and the operation area for racing activities. All event activities shall be set back at least 60 feet from Taxiway A. A traffic management plan showing the Airport gate and route to be used for ingress and egress to the event site, and the location of directional signs, security fencing and barricades, if needed, shall be submitted to the Airport Services Manager at least thirty (30) days before a scheduled event.
- E. Traffic entering or leaving the south tarmac 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 south tarmac, as shown on "**Exhibit B.**" Said personnel shall direct traffic across the southern extent of Taxiway A to the southern extent of the south tarmac to ensure vehicles do not inadvertently access Taxiway A.
- F. If required, Permittee shall coordinate with the City Airport staff to file a NOTAM with the FAA at least 72 hours prior to an event. The City Airport staff shall indicate when events are scheduled. The NOTAM will subsequently be published on the internet at the following address: [www.faa.gov/air\\_traffic/publications/notices/](http://www.faa.gov/air_traffic/publications/notices/).
- G. Set-up and break-down of equipment associated with any event may occur on the day of the event or on the day prior to and the day following an event. All equipment and materials must be removed from the tarmac areas used for an event by noon on the day following conclusion of an event 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.
- H. Permittee shall be 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 any event. Permittee shall be also responsible for installing or implementing any additional security measures requested by the FAA.

- I. Permittee must, within 24 hours of a written notice, take down north-south security fencing paralleling Taxiway A for any aviation use.
- J. 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.
- K. In the event of any damages from the Permittee's activities, the responsible party(s) must pay for and repair all damages to Airport facilities in a timely manner. 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 shall be responsible for the cost of repairs to the damaged tarmac.
- L. If, in the sole determination of the Airport Services Manager, the event site requires sweeping for rocks and small debris following any 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 shall be assessed to Permittee and Permittee shall pay said charge at the time the regular per day charge is required to be paid. All sweeping must be completed no later than 5:00 p.m. on the day following an event.
- M. 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 any 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 5:00 p.m. of the day following any 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 with a two-hour minimum shall be assessed to Permittee and Permittee shall pay said charge at the time the regular per day charge is required to be paid.
- N. Adequate portable restrooms shall be provided for any 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.
- O. The City's Fire Department may perform a fire safety inspection prior to the commencement of any event. Any deficiencies identified by the fire safety inspection must be corrected prior to commencement of any event. Fire extinguishers fully charged and with tags affixed, shall be provided as required by the City's Fire Department. There shall be no open-air use of hazardous or flammable materials. All fuel shall be stored and dispensed properly from adequately vented containers. Use of a barbecue during an event shall require prior approval of the Airport Services Manager.

- P. First aid kits and supplies as approved in advance by the Airport Services Manager and the City's Fire Department shall be available on-site for the duration of any automotive racing activity.
- Q. Any accident requiring medical attention must be reported in writing to the Airport Services Manager within 24-hours from the time of the accident.
- R. Permittee by accepting this Permit acknowledges that it has received and shall 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.
- S. Permittee must, within 24-hours from the time of an accident or an incident or reportable event which violates Airport Rules and Regulations or this 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.**"
- T. If required by the Airport Services Manager or City's Police or Fire Departments, Permittee shall provide security personnel for an event.
- U. 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 an event.
- V. There shall 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. Any circumstances which arise during an 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.
- W. Permittee shall be responsible for, and must take all measures required to ensure that participants or spectators do not trespass onto leased premises at the Airport and do not access the Airport Operations area including Taxiway A.
- X. No persons shall possess or consume any alcoholic beverage or illegal drug in or around any areas of the tarmacs when Permittee's activities are taking place. No person employed by or providing services to Permittee shall possess, consume and/or have in their system any alcoholic beverage or illegal drug in or around any areas when Permittee's activities are taking place.
- Y. Permittee shall cooperate with the City in notifying pilots, users and tenants of the Airport about the Permittee's activities and explaining how these activities will affect the Airport and airport operations.
- Z. Permittee shall possess adequate insurance and assume full liability for its activities

**II. Release of Liability and Assumption of Risk Agreement, Insurance and Indemnification Required**

- A. Release of Liability and Assumption of Risk Agreement. Each participant in motorized vehicle racing, autocross or other automotive-related activities as determined by the Airport Manager and any passenger shall, prior to such participation, sign a Release of Liability and Assumption of Risk Agreement (“Release”), a copy of which is attached hereto as “**Exhibit D**,” and a copy of every such executed Release shall be provided to the Airport Manager upon request. All Releases shall be effective for a period of ONE CALENDAR YEAR ONLY. Each year a new Release must be obtained for all participants. Permittee must retain the original of all executed Releases in its files for a period of no less than three (3) years from their date of execution.
- B. Insurance. Permittee agrees to provide insurance in accordance with the requirements set forth herein. Specifically, such insurance shall: (1) protect the City as an additional insured for commercial general and business auto liability; (2) provide City at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for nonpayment of premium; and (3) be primary with respect to City’s insurance program. Permittee’s insurance is not expected to respond to claims that may arise from the acts or omissions of the City. If Permittee uses 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’s shall 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.
- C. Cancellation, Reduction, Change. 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.
- D. Commercial General Liability/Umbrella Insurance. Primary insurance shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88 or a form approved in advance by the City’s Risk Manager. Total limits shall be no less than one million dollars per occurrence for all coverage’s and one million dollars 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 CG 20 1- 11. 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. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Umbrella Liability Insurance (over primary) 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.

- E. Business Auto. Primary coverage must be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto) or another form approved in advance by the City’s Risk Manager. Limits shall be no less than one million dollars per accident. Starting and ending dates shall be concurrent. If Permittee owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.
- F. Workers’ Compensation/Employers’ Liability. Workers’ Compensation and Employers’ Liability insurance 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 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.
- G. 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, attorneys 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 motorized vehicle racing, driver training, autocross or automotive-related 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 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.

Without affecting the rights of the City under any provision of law, this Permit or this section, Permittee 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 shall be all inclusive and City shall 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 under this or any other provision of this Permit shall not be limited by the provisions of any workers' compensation act or similar act. Permittee expressly waives its statutory immunity under such statutes or laws as to City, its Airport Council, boards and commissions, officers, employees, agents, and volunteers.

Permittee agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from any assignee, subcontractor 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 fail 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 and shall survive the termination of this Permit or this section.

#### H. Other Agreements re Insurance.

Permittee and City further agree as follows:

1. 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.
2. 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.

3. 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.
4. 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.
5. For purposes of insurance coverage only, this Permit shall 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.
6. All general or auto liability insurance coverage provided pursuant to this Permit shall not prohibit Permittee, Permittee's employees, or agents from waiving the right of subrogation prior to a loss. Permittee hereby waives all rights of subrogation against the City.
7. 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."
8. 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.
9. Permittee agrees 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 and umbrella liability policies using ISO form CG 20 10 11 85 Certificate(s) are to reflect that the insurer shall provide 30 days notice of any cancellation of coverage. Permittee 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. Contractor agrees to provide complete copies of policies to City upon request.
10. 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 shall be furnished at least two weeks prior to the expiration of the coverage's.

11. 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.
12. Permittee agrees to require all subcontractors or other parties hired for this project to provide general liability insurance naming as additional insured's all parties to this Permit. Permittee agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Permittee agrees to require that no contract used by any subcontractor, or contracts Permittee enters into on behalf of City, shall reserve the right to charge back to City the cost of insurance required by this Permit. Failure of City to request copies of such contracts shall not impose any liability on City, its Airport, Council, boards and commissions, officers, employees, agents and volunteers.
13. If any of Permittee's dba entities are or should become lawfully constituted as a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operation are insured's.
14. Permittee agrees to provide immediate notice to City of any claim or loss against Permittee that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

### **III. Enforcement, Suspension, and Termination**

- A. The conditions of this Permit may be enforced by any means and methods by which the City may secure compliance with the provisions of its Municipal Code. These include, but are not necessarily in order of or limited to the following:

Warning notices, administrative citations, civil or criminal enforcement or injunctive relief. Multiple enforcement remedies may be used to achieve compliance with respect to persons who commit continuing violations.

- B. In lieu of or in conjunction with enforcement remedies, 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 of suspension, 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 Services Manager. The notice shall set forth the specific violation for which the immediate suspension is imposed. Permittee agrees that, upon receipt of written notice of suspension from the Airport Services Manager it

will immediately cease and suspend its use of the south tarmac.

- C. The Airport Services Manager agrees to cooperate with Permittee in its efforts to remedy or to address a cited violation or notice of violation for which this Permit has been suspended. If and when such violation has been addressed to the satisfaction of the Airport Services Manager, immediate verbal notice of Permit reinstatement, followed within not more than 24-hours by a written notice of Permit reinstatement shall be given to Permittee.
- D. This Permit may be suspended by action of the Airport Manager and terminated by action of the City Council.
- E. 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 any 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 reasonable consulted by the attorneys for the prevailing party.
- F. In the event of a request or action by the FAA to cease or terminate the activities as set forth in this conditional use permit, such permit shall become immediately null and void without requirement of any further action by the City Council.

**IV. Non-Transferability, No Exclusive Right, No Right to Lease, No Long-Term Use Contemplated by the Parties**

- A. This Permit is non-transferable.
- B. 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.
- C. 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.
- D. In the event of a request or action by the FAA to cease or terminate the activities as set forth in this Permit, such permit shall become immediately null and void without requirement of any further action by the City Council.
- E. This Permit may be amended only by a writing signed by the authorized representatives of both the City and Permittee.

**V. Notice**

All notices and other communications required to be given under this Permit shall be in writing, and shall be delivered at the addresses set out herein. Notice may be given by personal delivery, recognized overnight courier, by United States mail, by facsimile transmission, or by e-mail, in the manner set forth below. Notice shall be deemed to have

been duly given: (a) if by personal delivery, on the first to occur of the date of actual receipt or refusal of delivery by any person at the intended address; (b) if by overnight courier, on the first business day after being delivered to a recognized overnight courier; (c) if by mail, on the third business day after being deposited in the United States mail, certified or registered mail, return receipt requested, postage prepaid; (d) if by facsimile transmission, the next business day after being transmitted, as evidenced by the confirmation slip generated by the sender's facsimile machine; or (e) if by e-mail, the business day after being transmitted, as evidenced by the confirmation generated by the sender's e-mail, addressed as follows:

To the City of Marina:

Airport Services Manager  
City Hall  
211 Hillcrest Avenue  
Marina, California 93933

Phone: 831-582-0102  
Mobile: 831-241-8628  
Facsimile: 831-582-0104  
E-mail: jrechriou@ci.marina.ca.us

With a copy to:

City Attorney – City of Marina  
Wellington Law Offices  
857 Cass Street, Suite D  
Monterey, California 93940

Phone: 831-373-8733  
Facsimile: 831-373-7106  
E-mail: attys@wellingtonlaw.com

To Marina Motorsports, Inc.:

Mr. John Moulton  
Marina Motorsports, Inc.  
P.O. Box 1200  
Marina, California 93933

Phone: 831-484-1966  
Facsimile: none  
E-mail: jam@redshift.com

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.

## **VI. Grant Agreement Covenants**

Permittee acknowledges that City is subject to Federal grant agreement obligations as a condition precedent to granting of funds for the improvement of the Airport, and, accordingly agrees to, and agrees to be bound by, the following covenants provided by the FAA as they may apply to Permittee:

Permittee, by accepting this Permit expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft from Marina Municipal Airport or otherwise constitutes a hazard. In the event this covenant is breached, City reserves the right to enter upon the premises and cause the abatement of such interference at the expense of Permittee. There is hereby reserved to City, its successors and assigns, for the use and benefit of the public, a right for the passage of aircraft in the airspace above the surface of the Premises. The public right of flight shall include the right to cause in the airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking from, or operation on the Airport

Permittee for itself and its personal representatives, successors in interest, and assigns as part of the consideration hereto, does hereby covenant and agree 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 premises. (2) that in the construction of any improvement 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 participating 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 49 CFR Part 21 Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the City (through the City Manager) shall have the right to terminate this Permit, and to re-enter and repossess the premises and hold the same as if this Permit had never been made or issued.

City reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or views of Permittee, and without interference of hindrance. The City reserves the right, but shall not be obligated to 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 Permittee in this regard, The 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 Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises. This requires the submission of FAA Form 7460-1, Notice of Construction or Alteration to the FAA.

The Permittee by accepting this Permit expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or building nor permit object of natural growth or other obstruction on the land leased hereunder above a height as determined by the application of the requirements of Title 14 CFR Part 77 or above

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 hereunder and to remove the offending structure or object or cut the offending natural growth, all of which shall be at the expense of the Permittee.

The Permittee will furnish services on a reasonable and not unjustly discriminatory basis to all users, and charge 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 types of price reductions to volume purchasers. In the event of breach of the above covenant, the City (through the City Manager) shall have the right to terminate this Permit, and to re-enter and repossess the premises and hold the same as if this Permit had never been made or issued.

The Permit will conform to airport and Federal Aviation Administration safety and security rules and regulations regarding use of the Airport operations area including runways, taxiways, aircraft aprons by vehicles, employees, customers, visitors, etc. in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; will complete and pass airfield safe driving instruction program when offered or required by the Airport; and will be subject to penalties as prescribed by the airport for violations of the airport safety and security requirements.

This Permit is subordinate to the City's obligations to the federal government under existing and future agreements for federal aid for the development and maintenance of the Airport.

This Permit shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States, relative to the development, operation, or maintenance of the Airport. Failure of the Permittee to comply with the requirements of any existing or future agreement between the City and the United States, which failure shall continue after reasonable notice to make appropriate corrections, shall be cause for immediate termination of Permittee's rights hereunder.

## **VII. Modifications for Granting FAA Funds**

In the event that the FAA requires, as a condition precedent to granting of funds for the improvement of the Airport, modifications or changes to this Permit, Permittee agrees to consent in writing upon the request of City to such reasonable amendments, modifications, revisions, supplements or deletions of any of the terms, conditions, or requirements of this Permit as may be reasonably required to enable the City to obtain FAA funds. A failure by Permittee to so consent shall constitute termination of this Permit.

## **VIII. Authority**

If Permittee is a corporation, partnership or limited liability company, the individual executing this Permit on behalf of said entity represents and warrants that he or she is duly authorized to execute and deliver this Permit on behalf of said entity and that this Permit is binding upon said entity in accordance with its terms.

**THIS CERTIFICATE IS TO NOTIFY MARINA MOTORSPORTS, INC.** that the above described Conditional Airport Use Permit was approved by the City of Marina City Council with their action and to become effective as specified in the Permit. However, requesters are notified that should any aggrieved party wish to appeal the decision of the City Council, a written appeal must be filed with the City Clerk no later than the end of the first work day which is at least ten calendar (10) days from the issuance of this Certificate, no later than 5:00 P.M. on Tuesday, January 3, 2017. Such appeal must set forth specifically the points at issue, the reasons for the appeal and describe why the person appealing the decision believes there was an error or abuse of discretion by the City Council. Should no appeal be filed within this time limit, this Certificate shall be valid as written. Any action for judicial review of this decision must be brought within the time limits specified in the California Code of Civil Procedure Section 1094.6.

Dated: December 20, 2016 at Marina, California

**APPROVED**

\_\_\_\_\_  
Layne Long  
City Manager  
City of Marina

\_\_\_\_\_  
Jeff Crechriou  
Airport Services Manager  
City of Marina

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

\_\_\_\_\_  
John Moulton  
Marina Motorsports, Inc.

Dated: \_\_\_\_\_, 201\_\_

Attest: Pursuant to Resolution No. 2016-

\_\_\_\_\_  
Anita Sharp, Acting Deputy City Clerk

APPROVED AS TO FORM:

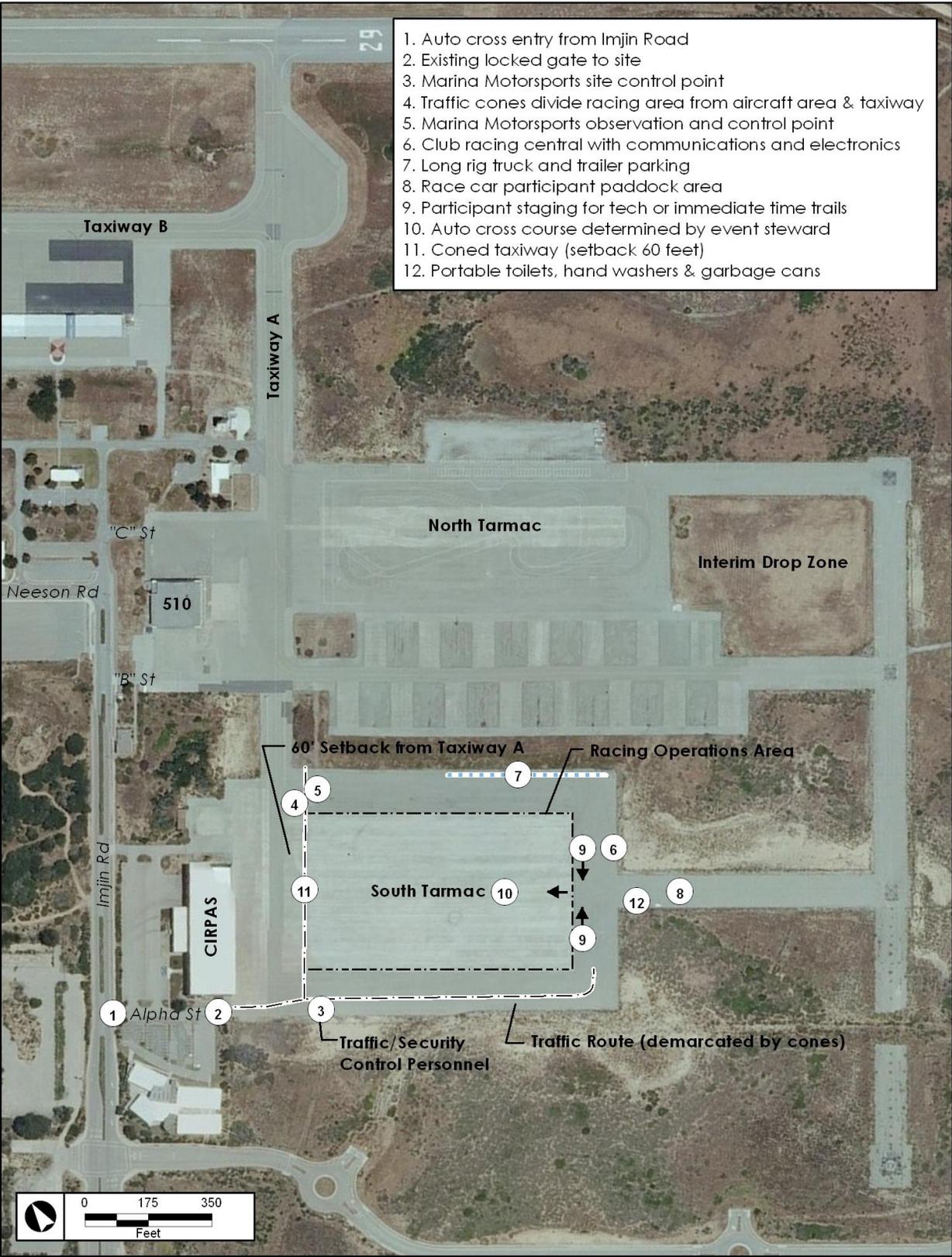
\_\_\_\_\_  
City Attorney

ATTACHMENTS:

- EXHIBIT A Site Plan of South Tarmac
- EXHIBIT B Access Route to Tarmac
- EXHIBIT C Incident Report Form
- EXHIBIT D Release of Liability/Assumption of Risk



**“EXHIBIT B”  
Access Route to South Tarmac**



**“EXHIBIT C”  
Incident Report Form**

**INCIDENT REPORT FORM – FOR OFFICIAL USE ONLY**

Date of Incident \_\_\_\_\_ Pilot in Command \_\_\_\_\_

Total Passengers \_\_\_\_\_ Name of Ground Observer \_\_\_\_\_

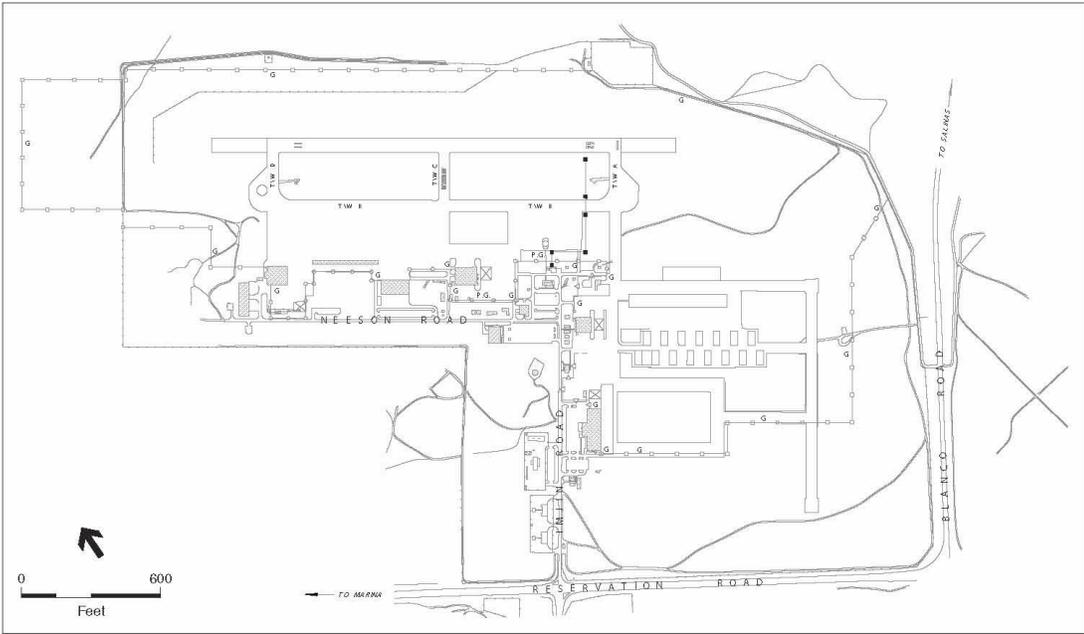
Name of Person(s) Involved: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Report Prepared by \_\_\_\_\_ Date \_\_\_\_\_

Received by \_\_\_\_\_ Date / Time \_\_\_\_\_

MARINA MUNICIPAL AIRPORT



# “EXHIBIT D”

## Release of Liability and Assumption of Risk Agreement

Description and Location of Scheduled Event	Date Release Signed
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IN CONSIDERATION OF BEING PERMITTED TO compete, drive a motor vehicle, spectate, officiate, observe, work, or PARTICIPATE in any way IN THE ABOVE EVENT(S) OR BEING PERMITTED TO ENTER FOR ANY PURPOSE ANY RESTRICTED AREA (defined as requiring special authorization, credentials, or permission to enter, or any area to which admission by the general public is restricted or prohibited including but not limited to the competition area and any hot pit or paddock area), EACH OF THE UNDERSIGNED, FOR HIMSELF OR HERSELF, HIS OR HER PERSONAL REPRESENTATIVES, HEIRS, NEXT-OF-KIN:

1. ACKNOWLEDGES, AGREES AND REPRESENTS THAT HE OR SHE HAS OR WILL immediately upon entering any such Restricted Area, and will continuously thereafter, INSPECT THE RESTRICTED AREA which he or she enters, and he or she further agrees and warrants that, IF AT ANY TIME, he or she is in or about the Restricted Areas and HE OR SHE FEELS ANYTHING TO BE UNSAFE, HE OR SHE WILL IMMEDIATELY ADVISE THE OFFICIALS OF SUCH and if necessary will leave the Restricted Area AND REFUSE TO PARTICIPATE FURTHER IN THE EVENT(S).
2. HEREBY RELEASES, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES, DISCHARGES AND COVENANTS NOT TO SUE, the CITY OF MARINA and the Marina Municipal Airport, MARINA MOTORSPORTS, INC., the U.S. Navy, the U.S. Naval Postgraduate School and the Center for Interdisciplinary Remotely-Piloted Aircraft Studies, the promoters, participants racing associations, sanctioning organizations, or any subdivision thereof, track operators, track owners, officials, competition vehicle owners, drivers, pit crews, rescue personnel, any persons in any Restricted Area, sponsors, advertisers, owners and lessees of premises used to conduct the Event(s), premises and event inspectors, surveyors, underwriters, consultants and others who give recommendations, directions or instructions or engage in risk evaluation or loss control activities regarding the premises or Event(s) and each of them, their councils, directors, officers, agents, employees, and volunteers all for the purposes HEREIN REFERRED TO AS “RELEASEES,” FROM ALL LIABILITY TO THE UNDERSIGNED, HIS PERSONAL REPRESENTATIVES, ASSIGNS, HEIRS, AND NEXT-OF-KIN FOR ALL LOSS OR DAMAGE, AND ANY CLAIM OR DEMANDS THEREFOR ON ACCOUNT OF INJURY TO THE PERSON OR PROPERTY OR RESULTING IN DEATH OF THE UNDERSIGNED ARISING OUT OF OR RELATED TO THE EVENT(S) WHETHER CAUSED BY THE NEGLIGENCE OF THE RELEASEES OR OTHERWISE.
3. HEREBY AGREES TO INDEMNIFY AND SAVE AND HOLD HARMLESS THE RELEASEES AND EACH OF THEM FROM ANY LOSS, LIABILITY, DAMAGE, OR COST they may incur arising out of or RELATED TO THE UNDERSIGNED’S INJURY OR DEATH WHETHER CAUSED BY THE NEGLIGENCE OF THE RELEASEES OR OTHERWISE.
4. HEREBY ASSUMES FULL RESPONSIBILITY FOR ANY RISK, KNOWN AND UNKNOWN, OF BODILY INJURY, PERMANENT DISABILITY, arising out of or related to the Event(s), INCLUDING MEDICAL OR HOSPITAL BILLS, DEATH OR PROPERTY DAMAGE arising out of or related to the Event(s) whether CAUSED BY THE NEGLIGENCE OF RELEASEES or otherwise.
5. HEREBY ACKNOWLEDGES THAT THE ACTIVITIES OF THE EVENT(S) ARE VERY DANGEROUS and involve the risk of serious injury and/or death and/or property damage. Each of THE UNDERSIGNED, ALSO EXPRESSLY ACKNOWLEDGES THAT INJURIES RECEIVED MAY BE COMPOUNDED OR INCREASED BY NEGLIGENT RESCUE OPERATIONS OR PROCEDURES OF THE RELEASEES.
6. HEREBY AGREES THAT THIS RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK, AND INDEMNITY AGREEMENT EXTENDS TO ALL ACTS OF NEGLIGENCE BY THE RELEASEES, INCLUDING NEGLIGENT RESCUE OPERATIONS and is intended to be as broad and inclusive as is permitted by the laws of the State of California and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.

I HAVE READ THIS RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK, AND INDEMNITY AGREEMENT, UNDERSTAND ITS TERMS, UNDERSTAND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING IT, AND HAVE SIGNED IT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT, ASSURANCE OR GUARANTEE BEING MADE TO ME AND INTEND MY SIGNATURE TO BE A COMPLETE AND UNCONDITIONAL RELEASE OF ALL LIABILITY TO THE GREATEST EXTENT ALLOWED BY LAW.

**CAUTION THIS IS A RELEASE OF LEGAL RIGHTS -READ AND UNDERSTAND BEFORE SIGNING**

**ALL SECTIONS MUST BE COMPLETED**

#	PRINT NAME HERE	SIGN NAME HERE	CAPACITY [driver, spectator]
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			

Signature and Title of Witness	Address of Witness	Date Signature(s) witnessed
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Honorable Mayor and Members  
of the Marina City Council

City Council Meeting  
of December 20, 2016

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2016-,  
APPROVING A CONDITIONAL AIRPORT USE PERMIT FOR SKYDIVE  
MONTEREY BAY INC. TO USE AN INTERIM PARACHUTE LANDING  
ZONE AT THE MARINA MUNICIPAL AIRPORT; AND AUTHORIZE  
THE CITY MANAGER TO EXECUTE THE CONDITIONAL AIRPORT  
USE PERMIT ON BEHALF OF THE CITY, SUBJECT TO FINAL REVIEW  
AND APPROVAL BY THE CITY ATTORNEY**

**REQUEST:**

It is requested that the City Council:

1. Consider adopting Resolution No. 2014-, approving a Conditional Airport Use Permit for Skydive Monterey Bay Inc. to use an interim parachute landing zone at the Marina Municipal Airport; and
2. Authorize the City Manager to execute the Conditional Airport Use Permit on behalf of the City, subject to final review and approval by the City Attorney.

**BACKGROUND:**

Skydive Monterey Bay Inc. (SMBI) has operated under a Conditional Use Permit at Marina Municipal Airport since June 1996 and has utilized the eastern portion of the Airport (near the northeast tarmac) for parachute landings.

In April of 2013 SMBI submitted an application for a Conditional Airport Use Permit Amendment requesting that the City Council consider relocating the interim parachute drop zone to vacant land north of the northeast tarmac.

Also in 2013, the City received a \$300,000 grant from the Federal Aviation Administration (FAA) to update the Marina Municipal Airport Master Plan. The evaluation of relocation options for the interim parachute drop zone is one of seven main goals in the scope of services for the Airport Master Plan Update and will be conducted pursuant to FAA safety guidelines for drop zones.

At a regular meeting of June 17, 2014, the City Council adopted Resolution No. 2014-64, approving a Conditional Airport Use Permit for Skydive Monterey Bay Inc. to use an interim parachute landing zone at the Marina Municipal Airport from April 1, 2014 through March 31, 2016.

**ANALYSIS:**

Staff and City Attorney's Office have reviewed and updated the Conditional Airport Use Permit ("**EXHIBIT A**"). The purpose of the permit requirements is to ensure that skydiving operations are consistent with existing and proposed future airport operations as well as in accordance with appropriate local, state and federal policies and regulations pertaining to aviation as it relates to skydiving (parachuting) activities.

New to this permit is the addition of an alternate interim parachute drop zone located East of Taxiway A and North of the Northeast Tarmac (see EXHIBIT A of the Permit) to be utilized for parachute landings. This alternate location has been identified and designated in the Airport Master Plan as the long-term location for use as a parachute drop zone. This location is consistent with SMBI's 2013 request for consideration of relocating the interim parachute drop zone.

Further, the current interim parachute drop zone area is contemplated as part of the future Airport Business Park, therefore the addition of the alternate parachute drop zone allows for this transition.

The term of the permit will go into effect retroactively as of April 1, 2016, and remain in effect during the period ending on December 31, 2018. The monthly charge for use of the interim parachute drop zones remains at \$1,040.

**FISCAL IMPACT:**

Should the City Council approve this request, revenue for the period of the Conditional Airport Use Permit will be recorded in the Airport Enterprise Fund, Lic & Permits, Account No. 555.000.000.5200.010.

**CONCLUSION:**

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

Respectfully submitted,

---

Jeff Crechriou  
Airport Services Manager  
City of Marina

**REVIEWED/CONCUR:**

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Layne Long  
City Manager  
City of Marina

RESOLUTION NO. 2016-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA  
APPROVING CONDITIONAL AIRPORT USE PERMIT FOR SKYDIVE  
MONTEREY BAY INC. TO USE AN INTERIM PARACHUTE LANDING  
ZONE AT MARINA MUNICIPAL AIRPORT; AND AUTHORIZE THE CITY  
MANAGER TO EXECUTE THE CONDITIONAL AIRPORT USE PERMIT  
ON BEHALF OF CITY, SUBJECT TO FINAL REVIEW AND APPROVAL BY  
THE CITY ATTORNEY

WHEREAS, Skydive Monterey Bay Inc., a California C-corporation, has utilized an interim parachute landing zone at the Marina Municipal Airport in the past; and

WHEREAS, having Skydive Monterey Bay Inc. at the Marina Municipal Airport is desirable and generates revenue for the airport; and

WHEREAS, at a regular meeting of June 17, 2014, the City Council adopted Resolution No. 2014-64, approving a Conditional Airport Use Permit for Skydive Monterey Bay Inc. to use an interim parachute landing zone at the Marina Municipal Airport from April 1, 2014 through March 31, 2016; and

WHEREAS, staff and City Attorney's Office have reviewed and updated the Conditional Airport Use Permit ("**EXHIBIT A**"). The purpose of the permit requirements is to ensure that skydiving operations are consistent with existing and proposed future airport operations as well as in accordance with appropriate local, state and federal policies and regulations pertaining to aviation as it relates to skydiving (parachuting) activities; and

WHEREAS, Skydive Monterey Bay Inc. will be responsible for all permits, sanitary facilities, safety, medical personnel, and coordination of all safety issues with the Airport and the Marina Police and Fire Departments; and

WHEREAS, new to this permit is the addition of an alternate interim parachute drop zone located East of Taxiway A and North of the Northeast Tarmac (see EXHIBIT A of the Permit) to be utilized for parachute landings. This alternate location has been identified and designated in the Airport Master Plan as the long-term location for use as a parachute drop zone; and

WHEREAS, the term of the permit will go into effect retroactively as of April 1, 2016, and remain in effect during the period ending on December 31, 2018. The monthly charge for use of the interim parachute drop zones remains at \$1,040; and

WHEREAS, staff has determined that the findings for approval of a Conditional Airport Use Permit can be made, in that the proposed project as conditioned will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working at the Marina Municipal Airport or be detrimental or injurious to property and improvements near the Marina Municipal Airport or to the general welfare of the City or be detrimental to or interfere with other aviation activity at the Marina Municipal Airport; and

WHEREAS, revenue for the period of the Conditional Airport Use Permit will be recorded in the Airport Enterprise Fund, Lic & Permits, Account No. 555.000.000.5200.010; and

WHEREAS, the City Council finds that the Conditional Airport Use Permit is consistent with the goals, policies and programs of the Marina General Plan, in that the Conditional Airport Use Permit is necessary to further economic development and activity at the Marina Municipal Airport and within the Marina community; and

WHEREAS, the Conditional Airport Use Permit is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines, section 15301, Existing Facilities.

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

1. Approve Conditional Airport Use Permit for Skydive Monterey Bay Inc. to use an interim parachute landing zone at the Marina Municipal Airport, and;
2. Authorize the City Manager to execute the Conditional Airport Use Permit on behalf of the City, subject to final review and approval by the City Attorney.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 20<sup>th</sup> day of December 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

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Bruce C. Delgado, Mayor

ATTEST:

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Anita Sharp, Deputy City Clerk

**MARINA MUNICIPAL AIRPORT  
CONDITIONAL AIRPORT USE PERMIT  
FOR THE USE OF THE INTERIM PARACHUTE DROP ZONE  
AND ALTERNATE INTERIM PARACHUTE DROP ZONE BY  
SKYDIVE MONTEREY BAY INC**

**THIS IS TO CERTIFY THAT**, the City of Marina (“City”) City Council at a regular meeting held on December 20, 2016, considered the following request. The City Council at that meeting then approved this Conditional Airport Use Permit (“Permit) for the use of the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone at the Marina Municipal Airport (“Airport”) under authority provided by the Airport Operating Ordinance Number 96-01, dated March 7, 1996 and subject to the following conditions and restrictions.

**REQUEST:**

Request by Mr. Greg Nardi on behalf of **SKYDIVE MONTEREY BAY INC a California Corporation (CA Entity Number C3503196)** and any other entities under which the business shall do business as (“Permittee”) for permission to use the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone at the Airport. Permittee has previously operated the commercial parachuting business at the Airport, including skydiving lessons (skydiving, parachute jumping or parachuting are terms that are identical in meaning for purposes of this Permit), parachute jumps, equipment sales, ground school, equipment storage, maintenance, and the operation of Permittee’s administrative office. This new Permit will go into effect retroactively as of April 1, 2016, and remain in effect during the period ending on December 31, 2018.

**BACKGROUND:**

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:**

The City Council finds that, under strict conditions of approval:

1. Parachute jumping activities and Permittee’ use of the Interim Parachute Drop Zone and the Alternate Interim Parachute Drop Zone will not be detrimental to health, safety, peace or general welfare of the City, the Airport, the surrounding properties or the community-at-large.

2. Parachute jumping is an aeronautical use which will not be detrimental or injurious to the efficiency and utility of the Airport or to Airport property and improvements.
3. Parachute jumping 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 of Marina. The use of the Alternate Interim Parachute Drop Zone is identified and designated in the Airport Master Plan as the long-term location for use as a parachute drop zone.
4. Parachute jumping activities and the use of the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone will not present or create a safety hazard to the normal operations of aircraft arriving or departing from the Airport.
5. The Interim Parachute Drop Zone and the Alternate Interim Parachute Drop Zone can be safely maintained within the boundaries of the Airport.
6. Reasonable time periods can be and are herein designated for parachute jumping and related activities.
7. The charge established for the proposed use of the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone is reasonable.
8. The Release of Liability and Assumption of Risk Agreements to be obtained from the parachute jumpers and 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. Any previous editions of these forms shall be modified to indicate the business name of the Permittee: Skydive Monterey Bay Inc.
9. Pursuant to Government Code Section 831.7, the City is immune from any liability resulting from the proposed use for skydiving and sport parachuting are hazardous recreational activities and that third party liability insurance for the act of parachute jumping is not available and that, therefore, the insurance requirements set forth in this Conditional Use Permit are appropriate for this use. 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.

**TERM OF PERMIT:**

From **April 1, 2016 to December 31, 2018.**

**CHARGE:**

The Permittee shall pay to the City a monthly charge for the use of the Interim Parachute Drop Zone and/or Alternate Interim Parachute Drop Zone in the amount of \$1,040.00 per month. This

amount shall be paid on or before the first day of every month during the term of this Permit at the City's Finance Office, located at City Hall, 211 Hillcrest Avenue, Marina, California 93933.

Permittee acknowledges that late payment of the charges will cause the City to incur costs not contemplated by this Permit; the exact amount will be extremely difficult to ascertain. Permittee's operations, including but not limited to parachute jumping activities, must be suspended until such time as the entire payment due under this Permit is remitted to the City. Should any payment due under this Permit remain unpaid ten days after the due date of such payment, a penalty of 10% shall be added to any payments past due and owing. City and Permittee agree that this late charge represents a fair and reasonable estimate of costs that the City will incur by reason of the late payment of rent by the Permittee. Acceptance of any such late charge shall not constitute a waiver of Permittee's default with respect to the overdue amount, nor prevent the City from exercising any of the other rights and remedies available to it by reason of such default. Interest on any unpaid rents, charges and any penalty shall accrue at the rate of 1.5% per month thereafter until paid.

#### **BUSINESS LICENSE:**

Permittee shall obtain and keep current a business license issued by the City's Finance Department. Permit does not go into effect until the business license is obtained.

#### **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 shall be deemed sufficient cause for the suspension or termination of the Permit. Such suspension of the Permit shall be by the Airport Manager or his/her designee.

#### **I. Operational**

- A. Skydiving shall be confined to the Interim Parachute Drop Zone and/or Alternate Interim Parachute Drop Zone designated by the City and shown in "**Exhibit A**". Permittee, by its acceptance of this Permit, acknowledge and understand the Interim Parachute Drop Zone as established by the City is a temporary designation and that this Permit does not contain and may not be construed to convey any vested right in Permittee to use another area of the Airport as a drop zone in connection with parachute jumping activities should the City, in its sole discretion, decide to abolish or to move the Interim Parachute Drop Zone off of the Airport premises. The Interim Parachute Drop Zone and the Alternate Interim Parachute Drop Zone are designated areas that are to be maintained by Permittee to Airport standards, and at all times free of any structures, vehicles (except for shuttle vehicles then in use to transport skydivers), debris and trash. The Interim Parachute Drop Zone contains a radius of 200 meters +/- and the Alternate Interim Parachute Drop Zone contains a minimum radius of 100 meters +/- . Prior to conducting any parachute jumping operations, Permittee must examine the condition of the Interim Parachute Drop Zone and/or Alternate Interim Parachute Drop Zone to determine if it is in a safe condition to use as a landing site. Permittee will at all times cooperate and coordinate with the City prior to and

in the possible maintenance of the Interim Parachute Drop Zone and/or Alternate Interim Parachute Drop Zone.

- B. A Lease between the Permittee and the City for premises located within Building/Hangar 533 at the Airport is on file with the City and has been approved by the City. The Lease provides terms and conditions for Permittee’s continued use of areas of Building/Hangar 533 and such other parts of the areas around Building/Hangar 533, including the assignment of parking spaces for use by Permittee and its customers, and premises as set forth in the Lease.
- C. Permittee shall adhere to any applicable FAA regulations and conduct all parachute operations in accordance with the following:
- United States Parachute Association (USPA) Basic Safety Requirements;
  - *USPA Skydiver’s Information Manual*;
  - *USPA Skydiving Aircraft Operations Manual*;
  - Federal Aviation Regulation (FAR) Part 61 – *Certification: Pilots, Flight Instructors, and Ground Instructors*;
  - FAR Part 65 – *Certification: Airmen other than Flight Crewmembers*;
  - FAR Part 91 – *General Operating and Flight Rules*;
  - FAR Part 105 – *Parachute Operations*;
  - FAR Part 119 – *Certification: Air Carriers and Commercial Operators*;
  - Advisory Circular (AC) 90-66A – *Recommended Standard Traffic Patterns and Practices for Aeronautical Operations at Airports without Operating Control Towers*;
  - AC 91-45C, *Waivers: Aviation Events* – Chapter 6: *Waiver Provisions*;
  - AC 105-2E – *Sport Parachuting*;
  - 49 Code of Federal Regulations (CFR) Part 830, *National Transportation Safety Board, Notification and Reporting of Aircraft Accidents or Incidents and Overdue Aircraft, and Preservation of Aircraft Wreckage, mail, Cargo, and Records*;
  - Letter of Agreement with FAA control tower staff (“**Exhibit B**”); and
  - City of Marina Municipal Code Chapter 13.22 (Ordinance No. 96-01), “Operating Ordinance for Marina Municipal Airport.”

Permittee will also adhere to any subsequent FAA regulations or USPA guidance that may be promulgated during the period in which the permit is in force.

- D. Skydiving operations shall be conducted only from sunrise to sunset, seven (7) or fewer days a week, subject to wind and weather conditions. With prior written permission of the Airport Services Manager, or his/her designee (hereinafter AMD), Permittee may conduct a test of the suitability of the Airport for night parachute jumping activities.

The City will require Permittee to temporarily cease its use of the Interim Parachute Drop Zone and/or Alternate 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.

- E. Permittee shall not allow anyone to travel across the runway, taxiways or ramps without proper flag and radio equipment, powered up and tuned to frequency 122.7 or such frequency as the FAA or AMD shall designate in writing.
- F. Shuttle vehicles shall operate only within the landside and airside routes identified by “**Exhibit C**”. When using the landside route, all shuttles shall maintain posted speed limits and applicable traffic laws.

All shuttle vehicles used for Permittee operations within the Aircraft Operations Area (AOA) shall be identified and legally licensed, insured, and registered or leased to Permittee. Shuttle vehicles shall be marked as required and flagged in accordance FAA requirements.

Shuttle drivers must be appropriately licensed, in accordance with the requirements of the State of California, for operation of the motor vehicle being operated as a shuttle vehicle.

When traveling on the airside route, shuttles shall travel no faster than 15 mph and cooperate with and maintain safe vehicle driving practices with any other user of airport tarmac. All gates used to access the AOA shall be closed and securely latched or locked after entering or exiting.

- G. Permittee shall prepare and submit an event plan to the Airport Services Manager for controlling spectators, participants and parking of vehicles and aircraft associated, directly or indirectly with its operations. Neither spectators nor their personal vehicles shall be permitted beyond the approved shuttle loading area at Building/Hangar 533. Permittee may shuttle spectators to the utilized drop zone. Permittee shall be responsible for and in control of spectators at all times when spectators are within the Airport Operations Area.
- H. Each event shall be attended by one ground observer who has been trained to serve as a safety officer and is an employee of Permittee. The observer shall be equipped with an operable aviation radio and shall monitor Airport and parachute frequencies at all times when parachute jumping is occurring, binoculars and a

cellular telephone. This ground observer will be responsible for the safety of all persons in the Interim Parachute Drop Zone and/or Alternate Interim Parachute Drop Zone and will attempt to stop any parachute jump from taking place if the ground observer determines that conditions are unsafe. The jumpmaster or pilot-in-command will receive verbal confirmation from the ground observer that the Interim Parachute Drop Zone and/or Alternate Interim Parachute Drop Zone is not free of hazards or adverse weather conditions occur. The pilot-in-command will be responsible for in-flight parachute jumping operations.

I. The loading of skydivers shall take place in areas shown on “**Exhibit C**”. Four options are provided:

- Option A provides shuttle and aircraft routes associated with the pick-up area adjacent to the Interim Parachute Drop Zone and/or Alternate Interim Parachute Drop Zone.
- Option B provides shuttle and aircraft routes adjacent to and south of Hangar 510. This route shall be used in the event of concurrent operations or during events on the northeast tarmac area at the direction of the AMD.
- Option C provides shuttle and aircraft routes associated with the Runway 29 Run-up Area. This option shall be used at the discretion of the Permittee or when Taxiway A is unavailable and/or during events on the northeast tarmac area.
- Option D provides shuttle and aircraft routes that would travel between the northeast and southeast tarmac areas. Aircraft would taxi over to Runway 29 Run-up area and shuttles would run between this area and the area identified as Option D. If Permittee elects to follow the path identified as Option D, Permittee will be responsible for any sweeping and landscaping maintenance required to use this portion of the tarmac. In the event that City personnel perform sweeping or landscape maintenance in this area, a charge of \$150.00 per hour with a two-hour minimum will be assessed to Permittee.

Access to the aircraft boarding area shall be restricted only to experienced skydivers and student skydivers. All student skydivers are to be under the direct supervision of their jumpmasters. All boarding skydivers must approach the aircraft from behind the wing. Permittee shall review these boarding procedures with all skydivers on a regular basis.

J. Radio equipment and use requirements shall be consistent with the USPA Skydiver’s Information Manual and FAA Regulations. The frequency used should comply with the frequency identified in the LOA with NORCAL TRACON. Frequency 122.7 will be used for all ground and air activities associated with parachute operations.

K. Parking spaces for vehicles shall be as set forth in the Lease. There shall be no overnight parking or camping in any vehicle on Airport property per Municipal

Code 10.40.150. All vehicles associated with Permittee's activities including customers, visitors, employees, owners shall be parked in approved parking areas as specified in Permittee's lease with the City. Any vehicles parked in non-approved areas may be removed.

- L. No persons shall possess or consume any alcoholic beverage or illegal drug in or around any areas when parachute jumping activities are taking place. No person employed by or providing services to Permittee shall possess, consume and/or have in their system any alcoholic beverage or illegal drug in or around any areas when Permittee's activities are taking place. This includes the Interim Parachute Drop Zone site, the Alternate Interim Parachute Drop Zone site, the aircraft boarding area, ground school area, on board any aircraft or motor vehicles, and Permittee's office and commercial sales areas. No person shall act or attempt to act as a crew member of a civil aircraft:
1. Within 8 hours after the consumption of any alcoholic beverage;
  2. While under the influence of alcohol;
  3. While using any drugs that affects the person's faculties in any way contrary to safety; or
  4. While having an alcohol concentration of 0.04 or greater in the blood or breath specimen. (Alcohol concentration means grams of alcohol/deciliter of blood, or grams of alcohol/210 liters of breath).

Except in an emergency, no pilot of a civil aircraft may allow a person who appears to be intoxicated or who demonstrates any manner or physical indication that the individual is under the influence of drugs to be carried in that aircraft.

- M. If Permittee operates fuel servicing equipment, that equipment must fully meet safety requirements as determined by the City's Risk Manager, Fire Department and AMD and must be clearly labeled as to the type of fuel contained. Fuel servicing equipment will be withdrawn from use and removed from the Airport during any period of deficiency. Surfaces upon which fuel servicing equipment is parked, in accordance with the Airport Master Plan and AMD, any adjacent areas must be kept clear of accumulation of oil, grease, fuel and debris which are potential fire and safety hazards. Equipment used for fueling of aircraft shall be insured to the satisfaction of the City's Risk Manager; insurance may include but is not necessarily limited to liability for sudden and accidental pollution and coverage for property damage and bodily injury arising out of the operation of the fuel equipment. Any equipment used for fueling of aircraft shall be inspected by the City's Fire Department and the Airport's fuel provider prior to being brought onto the Airport by Permittee.
- N. Operational-related notifications of a non-emergency nature, which do not constitute reportable events (as set forth below), should be made to the Airport administrative staff, either in person or by telephone (831-582-0102 and 831-241-8628). For occasions when the Airport administrative staff may not be available and the matter requires immediate attention, the Police Department Watch Commander may be contacted (831-384-7575).

## **II. Reportable Events**

- A. Permittee, within 24-hours from the time of an accident, incident or reportable event which violates the items identified in Section I, paragraph 3 of this Conditional Airport Use Permit, shall provide a written report of the incident to the City using the attached Incident Report Form (“**Exhibit D**”). AMD shall acknowledge receipt of the form including the date and time received and shall provide a response to Permittee within 72 hours of receipt. AMD shall provide written notice to Permittee of an accident or incident or reportable event. Permittee shall acknowledge receipt of the form including the date and time received and shall provide a response to AMD within 72 hours of receipt.
- B. A landing by a parachute jumper outside of the Interim Parachute Drop Zone and/or Alternate Interim Parachute Drop Zone is defined as a reportable event under this Permit.
- C. Any incident reportable under USPA guidance must be reported to the AMD. Any accident requiring medical transport or medical emergency services shall also be reported in the manner set forth at Paragraph 1 above.
- D. Permittee must immediately, and no later than one hour, by phone or in person, contact the AMD or Police or Fire Department duty officers to report any accident as required by the provisions of 49 CFR 830, and a copy of any written report shall be provided to the City. Any situation observed that might constitute a hazard to parachute jumpers or aircraft or is not in the interest of good safety practice at the Airport must be reported immediately to a City official or officer, as described above, by telephone, in person, or using the Incident Report Form.

## **III. Release of Liability and Assumptions of Risk Agreement, Insurance and Indemnification Required**

- A. Release of Liability. Each parachute jumper and any aircraft passenger shall, prior to being listed on the aircraft’s manifest and boarding the aircraft, sign a Release of Liability and Assumption of Risk Agreement (“**Release**”), a copy of which is attached hereto as “**Exhibit E**”, and a copy of every such executed Release shall be provided to the AMD upon request. Each calendar year a new Release must be obtained for all parachute jumpers. The current release on file for any jumper must not be more than twelve months old. Permittee must retain the original of all executed Releases in its files for a period of no less than three (3) years from their date of execution. Permittee shall create an aircraft manifest, on a form approved by the City, listing the first and last name and capacity of every person on board any flight on which parachute jumping operations are conducted and which originates from the Airport.

Permittee will provide the AMD with a copy of all flight manifests on a monthly basis, which must be signed by an employee of the Permittee certifying their accuracy (“**Exhibit F**”). All data in the manifest must be fully legible. Permittee will allow the AMD to inspect, audit or to copy any release or manifest upon prior receipt of reasonable notice.

- B. Proof of Coverage. Permittee agrees to provide insurance in accordance with the requirements set forth herein. Proof of insurance coverage shall be provided to the City upon request. If Permittee uses 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's will be provided by Permittee, Skydive Monterey Bay Inc, and any other entities under which the corporation shall do business, 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.
- **Aircraft/Premises Liability.** For any aircraft owned, used, leased to or under the control of Permittee and used in connection with parachute jumping activities on or from the Airport, Permittee shall provide evidence of insurance coverage, satisfactory to the Risk Manager of the City and consistent with the requirements of the Monterey Bay Area Self Insurance Authority, in the minimum amount of one million dollars, single limit, excluding passengers and occupants bodily injury combined each occurrence. The City of Marina shall be added as an additional insured using an additional insured endorsement form approved by the City.
  - **Auto Insurance.** Primary coverage must include vehicles used to shuttle parachute jumpers on the Airport and shall be written on a commercial or business auto coverage form approved by the City including hired auto liability for bodily injury and property damage. Limits shall be no less than one million dollars per accident. Starting and ending dates shall be concurrent. The City of Marina shall be added as an additional insured using an additional insured endorsement form approved by the City.
  - **Workers' Compensation/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 per accident or disease and shall add the City of Marina as an additional insured employer. 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.
- C. Cancellation, Reduction, or Change. 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.
- D. 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, attorneys 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 parachute jumping 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 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.

Without affecting the rights of the City under any provision of law, this Permit or this section, Permittee 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 written 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 are 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 shall have 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 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 expressly waives its statutory immunity under such statutes or laws as to City, its Airport Council, boards and commissions, officers, employees, agents, and volunteers.

Permittee agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from any assignee, subcontractor 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 and shall survive the termination of this Permit or this section.

E. Other Agreements re Insurance.

Permittee and City further agree as follows:

1. 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.
2. 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.
3. 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.
4. 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.
5. For purposes of insurance coverage only, this Permit shall 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.
6. All general or auto liability insurance coverage provided pursuant to this Permit shall not prohibit Permittee, Permittee's employees, or agents from waiving the right of subrogation prior to a loss. Permittee hereby waives all rights of subrogation against the City.
7. 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".

8. 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.
9. Permittee agrees 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 and umbrella liability policies using ISO form CG 20 10 11 85 Certificate(s) are to reflect that the insurer shall provide 30 days notice of any cancellation of coverage. Permittee 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. Contractor agrees to provide complete copies of policies to City upon request.
10. 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 shall be furnished at least two weeks prior to the expiration of the coverage's.
11. 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.
12. Permittee agrees to require all subcontractors or other parties hired for this project to provide general liability insurance naming as additional insured's all parties to this Permit. Permittee agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Permittee agrees to require that no contract used by any subcontractor, or contracts Permittee enters into on behalf of City, shall reserve the right to charge back to City the cost of insurance required by this Permit. Failure of City to request copies of such contracts shall not impose any liability on City, its Airport, Council, boards and commissions, officers, employees, agents and volunteers.
13. If any of Permittee's dba entities are or should become lawfully constituted as a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operation are insured's.
14. Permittee agrees to provide immediate notice to City of any claim or loss against Permittee that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

**IV. Enforcement, Suspension, or Termination**

- A. The conditions of this Permit may be enforced by any means and methods by which the City may secure compliance with the provisions of its Municipal Code. These include, but are not necessarily in order of or limited to the following: warning notices, administrative citations, civil or criminal enforcement or injunctive relief. Multiple enforcement remedies may be used to achieve compliance with respect to persons who commit continuing violations.
- B. In lieu of or in conjunction with enforcement remedies, this Permit for parachute jumping activities may be immediately suspended at any time for a violation of any of the conditions of approval as set forth herein. Written notice of suspension shall be given to Permittee, or that person then in-charge of conducting Permittee activities on the Airport, by the AMD. The notice shall set forth the specific violation for which the immediate suspension is imposed. Permittee agrees that, upon receipt of written notice of suspension from the AMD, it will immediately cease and suspend its use of the Interim Parachute Drop Zone and/or Alternate Interim Parachute Drop Zone.
- C. AMD agrees to cooperate with Permittee in its efforts to remedy or to address a cited violation or notice of violation for which this Permit has been suspended. If and when such violation has been addressed to the satisfaction of the AMD, a written notice of Permit reinstatement shall be given to Permittee.
- D. This Permit may be terminated by action of the Council, after notice and a public hearing.
- E. 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 any 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 reasonable consulted by the attorneys for the prevailing party.

**V. Non-Transferability, No Exclusive Right, No Right to Lease**

- A. This Permit is non-transferable.
- B. 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.
- C. This Permit is not a may not be construed as a lease of any City property, nor does it convey any right to such a lease.

## VI. Notice

All notices and other communications required to be given under this Permit shall be in writing, and shall be delivered at the addresses set out herein. Notice may be given by personal delivery, recognized overnight courier, by United States mail, by facsimile transmission, or by e-mail, in the manner set forth below. Notice shall be deemed to have been duly given: (a) if by personal delivery, on the first to occur of the date of actual receipt or refusal of delivery by any person at the intended address; (b) if by overnight courier, on the first business day after being delivered to a recognized overnight courier; (c) if by mail, on the third business day after being deposited in the United States mail, certified or registered mail, return receipt requested, postage prepaid; (d) if by facsimile transmission, the next business day after being transmitted, as evidenced by the confirmation slip generated by the sender's facsimile machine; or (e) if by e-mail, the business day after being transmitted, as evidenced by the confirmation generated by the sender's e-mail, addressed as follows:

To the City of Marina:

Airport Services Manager  
City Hall  
211 Hillcrest Avenue  
Marina, California 93933

Phone: 831-582-0102  
Mobile: 831-241-8628  
Facsimile: 831-582-0104  
E-mail: [jrechriou@ci.marina.ca.us](mailto:jrechriou@ci.marina.ca.us)

With a copy to:

City Attorney – City of Marina  
Wellington Law Offices  
857 Cass Street, Suite D  
Monterey, California 93940

Phone: 831-373-8733  
Facsimile: 831-373-7106  
E-mail: [attys@wellingtonlaw.com](mailto:attys@wellingtonlaw.com)

To Sky Dive Monterey Inc.:

Jackie Behrick, Manager  
Sky Dive Monterey Inc.  
721 Neeson Road  
Marina, California 93933

Phone: 831-384-3483  
Facsimile: 831-384-7522  
E-mail: [jackie.smbi@yahoo.com](mailto:jackie.smbi@yahoo.com)

With a copy to:

Greg Nardi  
Sky Dive Space Center  
476 North Williams Avenue  
Titusville, Florida 32796

Phone: 800-823-0016  
Facsimile: 321-267-1311  
E-mail: [gpnardi@hotmail.com](mailto:gpnardi@hotmail.com)

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 Grant Agreement Covenants**

Permittee acknowledges that City is subject to Federal grant agreement obligations as a condition precedent to granting of funds for the improvement of the Airport, and, accordingly agrees to, and agrees to be bound by, the following covenants provided by the FAA as they may apply to Permittee:

Permittee, by accepting this Permit expressly agrees for itself, its successors and assigns that it will not make use of the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone in any manner which might interfere with the landing and taking off of aircraft from Marina Municipal Airport or otherwise constitutes a hazard. In the event this covenant is breached, City reserves the right to enter upon the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone and cause the abatement of such interference at the expense of Permittee. There is hereby reserved to City, its successors and assigns, for the use and benefit of the public, a right for the passage of aircraft in the airspace above the surface of the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone. The public right of flight shall include the right to cause in the airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking from, or operation on the Airport

Permittee for itself and its personal representatives, successors in interest, and assigns as part of the consideration hereto, does hereby covenant and agree 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 Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone; (2) that in the construction of any improvement 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 participating in, denied the benefits of, or otherwise be subject to discrimination; (3) that the Permittee shall use the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21 Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the City (through the City Manager) shall have the right to terminate this Permit, and to enter and repossess

the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone and hold the same as if this Permit had never been made or issued.

City reserves the right to further develop or improve the landing area of the Airport and Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone as it sees fit, regardless of the desires or views of Permittee, and without interference or hindrance. The City reserves the right, but shall not be obligated to 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 Permittee in this regard,

The Permittee will furnish services on a reasonable and not unjustly discriminatory basis to all users, and charge 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 types of price reductions to volume purchasers. In the event of breach of the above covenant, the City (through the City Manager) shall have the right to terminate this Permit, and to enter and repossess the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone and hold the same as if this Permit had never been made or issued.

The Permit will conform to Airport and Federal Aviation Administration safety and security rules and regulations regarding use of the Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone, the Airport operations area including runways, taxiways, aircraft aprons by vehicles, employees, customers, visitors, etc. in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; will complete and pass airfield safe driving instruction program when offered or required by the Airport; and will be subject to penalties as prescribed by the airport for violations of the airport safety and security requirements.

This Permit is subordinate to the City's obligations to the federal government under existing and future agreements for federal aid for the development and maintenance of the Airport.

This Permit shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States, relative to the development, operation, or maintenance of the Airport. Failure of the Permittee to comply with the requirements of any existing or future agreement between the City and the United States, which failure shall continue after reasonable notice to make appropriate corrections, shall be cause for immediate termination of Permittee's rights hereunder.

#### **VIII. Modifications for Granting FAA Funds**

In the event that the FAA requires, as a condition precedent to granting of funds for the improvement of the Airport, modifications or changes to this Permit, Permittee agrees to consent in writing upon the request of City to such reasonable amendments, modifications, revisions, supplements or deletions of any of the terms, conditions, or requirements of this Permit as may be reasonably required to enable the City to obtain FAA funds, provided that in no event shall such changes materially impair the rights of Permittee hereunder. A failure by Permittee to so consent shall constitute termination of this Permit.

**IX. Authority**

Greg Nardi, Chief Executive Officer and President, Skydive Monterey Bay Inc, in executing this Permit on behalf of said entity represents and warrants that he or she is duly authorized to execute and deliver this Permit on behalf of said entity and that this Permit is binding upon said entity in accordance with its terms.

**THIS CERTIFICATE IS TO NOTIFY SKY DIVE MONTEREY INC.** that the above described Conditional Airport Use Permit was approved by the City of Marina City Council with their action and to become effective as specified in the Permit. However, requesters are notified that should any aggrieved party wish to appeal the decision of the City Council, a written appeal must be filed with the City Clerk no later than the end of the first work day which is at least ten calendar (10) days from the issuance of this Certificate, no later than 5:00 P.M. on Tuesday, January 3, 2017. Such appeal must set forth specifically the points at issue, the reasons for the appeal and describe why the person appealing the decision believes there was an error or abuse of discretion by the City Council. Should no appeal be filed within this time limit, this Certificate shall be valid as written. Any action for judicial review of this decision must be brought within the time limits specified in the California Code of Civil Procedure Section 1094.6.

Dated: December 20, 2016 at Marina, California

**APPROVED**

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Layne Long  
City Manager  
City of Marina

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Jeff Crehriou  
Airport Services Manager  
City of Marina

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

---

Greg Nardi, Chief Executive Officer - President  
Sky Dive Monterey Inc.

Attest: Pursuant to Resolution No. 2016-\_\_\_\_

---

Anita Shepherd-Sharp, Deputy City Clerk

APPROVED AS TO FORM:

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City Attorney

**ATTACHMENTS:**

- EXHIBIT A** Site Plan of Interim Parachute Drop Zone and Alternate Interim Parachute Drop Zone
- EXHIBIT B** Letter of Agreement with FAA Tower Staff
- EXHIBIT C** Aircraft and Shuttle Vehicle Routes and Loading Areas
- EXHIBIT D** Incident Report Form
- EXHIBIT E** Release of Liability and Assumption of Risk Agreement
- EXHIBIT F** Manifest

**“EXHIBIT A”**  
**Site Plan - Interim Parachute Drop Zone &  
 Alternate Interim Parachute Drop Zone**



**Letter of Agreement with FAA Tower Staff**

Northern California Terminal Radar Approach Control (TRACON) and Skydive Monterey Bay

**LETTER OF AGREEMENT**

EFFECTIVE: August 18, 2003

SUBJECT: Coordination and Communication Procedures for Parachute Jumps at the Marina Municipal Airport

1. **PURPOSE:** This letter of agreement (LOA) establishes procedures concerning communications and coordination for parachute jumps at or below 7,000 feet at the Marina Municipal Airport (OAR) drop zone and the alternate BLM drop zone, between Northern California TRACON; and Skydive Monterey Bay. This LOA is established to simplify and standardize coordination between the jump aircraft pilot, and Northern California TRACON, and is supplemental to procedures and regulations contained in 14 Code of Federal Regulations (CFR) Part 91, General Operating and Flight Rules; 14 CFR Part 105, Parachute Jumping; Federal Aviation Administration (FAA) Order 7110.65, Air Traffic Control; and FAA Order 7210.3, Facility Operation and Administration.

**2. RESPONSIBILITIES:**

- a. Skydive Monterey Bay shall ensure that pilots in their employ are familiar with and comply with the procedures and provisions of this LOA.
- b. Skydive Monterey Bay shall ensure that the jump aircraft is equipped with an operable coded radar beacon transponder having Mode 3/A 4096 code capability.
- c. This agreement is applicable only when the Monterey Class C airspace is in effect; at other times Skydive Monterey Bay shall be responsible for coordination with all affected facilities.
- d. Northern California TRACON may cancel or modify this agreement at any time.

3. **BACKGROUND:** OAR is below the Monterey Class C airspace. Jumps through Class C airspace are regulated and authorized by the FAA. Skydive Monterey Bay has requested this LOA to facilitate the operation of a drop zone at OAR by standardizing procedures for both the pilots and controllers involved.

**4. DEFINITIONS:**

- a. OAR Drop Zone: A 1 nautical mile (NM) radius around OAR. OAR is located on the Salinas (SNS) VORTAC 259 degree radial at 7.6 NM.
- b. BLM Drop Zone: A 1 NM radius around the SNS VORTAC 210 degree radial at 6 NM.

**5. PROCEDURES:**

a. Prior to the beginning of each day's parachute activity, Skydive Monterey Bay shall notify the Operations Manager at Northern California TRACON by telephone, (916-366-4019) of the scheduled beginning time of jump activity and request either flight path Plan Alpha or Bravo. The Operations Manager may state that Plan Charlie shall be used due to special circumstances.

b. All jump aircraft shall remain clear of Salinas Class D airspace, and south of a line bearing 070-250 degrees from the Salinas River mouth (VFR landmark), remaining onshore for both climb to altitude and descent. Jump runs will depend upon winds aloft. Plan Bravo will be utilized when winds are easterly; Plan Alpha will be utilized for all other conditions except when special activities in Monterey ATCT airspace occur, at which time Plan Charlie may be used.

(1) Plan Alpha jump run and climb to altitude shall be south of the aforementioned line through the Salinas River mouth, proceed direct SNS VORTAC, then execute a jump run from the east to the west terminating over the drop zone.

(2) Plan Bravo jump run and climb to altitude shall be south of the aforementioned line through the Salinas River mouth, proceed direct SNS VORTAC, then execute a left pattern to the airport and initiate a jump run from the west to the east terminating over the drop zone.

(3) Plan Charlie climb to altitude shall be south of the aforementioned line through the Salinas River mouth, north of OAR and at least 2 NM east of the shoreline. Once ready to commence jump run, the downwind, base and final turns shall be at least 6 NM away from the Salinas Airport.

c. All jump aircraft shall remain clear of Monterey Class C airspace and remain below 5,000 feet mean sea level (MSL) until radar/radio contact has been established with Northern California TRACON, on frequency 133.0.

d. Skydive Monterey Bay shall:

(1) Ensure jump aircraft contact Northern California TRACON on departure.

**NOTE-**

*if the control position is saturated to the point that communications cannot be established, the pilot shall remain below 5,000 feet until communications are established.*

(2) Ensure pilots provide the Northern California TRACON controller with the following information on initial contact:

- (a) Aircraft identification and type.
- (b) Requested jump altitudes(s).
- (c) Number of passes over drop zone.

**NOTE-**

*Due to the proximity of overflight traffic on V230, IFR departures from the Salinas Airport, Monterey Airport's arrival and departure corridors, and the additional coordination involved, parachute jumps above 5,000 feet MSL are subject to longer delays.*

- (3) Ensure that the jumpers remain within the depicted jump zone airspace (see attachment) from time of aircraft release to time of landing.
- (4) Ensure jump aircraft contact Northern California TRACON between 1 and 3 minutes before the jump for approval to penetrate Class C airspace. Northern California TRACON will either approve penetration of Class C airspace or issue the number of minutes to expect to jump.

**PHRASEOLOGY-**

*...(ACID) request jump in (number of minutes) minutes.*

**PHRASEOLOGY-**

*...jumpers away, on descent.*

- (5) Inform Northern California TRACON when jumpers have descended below 1,500 feet MSL or in the event of an unintentional high opening (7,000 feet MSL).
  - (6) Telephone Northern California TRACON and advise of jumpers below 1,500 feet MSL or in the event of an unintentional high opening (7,000 feet MSL) if the pilot is unable to give the report airborne prior to entering the OAR pattern.
  - (7) Ensure that if the jump aircraft intends to make more than one pass, the jump aircraft shall advise Northern California TRACON on initial contact.
  - (8) Restrict operations to at or below 7,000 feet MSL.
- e. Northern California TRACON shall:
- (1) Assign a beacon code and radar identify the jump aircraft.
  - (2) Provide traffic advisories to the jump aircraft on all known or observed traffic that will transit the airspace within which the jump will be conducted.

(3) Separate aircraft, other than the jump aircraft, from the authorized airspace, which is also within Monterey Class C airspace.

(4) Upon receipt of the 1-minute warning, either approve or deny the jump. If unable to approve the jump the controller shall issue an expected time of delay as soon as available.

**PHRASEOLOGY-**

...jump approved, report jumpers away.

...unable, expect (number of minutes) minute delay.

**NOTE-**

The standard free-fall rate and exit altitude dictate that the jumpers will be below 5,000 feet MSL within 1 minute from the pilot's call: "Jumpers away, on descent."

**NOTE-**

Northern California TRACON is not in communication with all aircraft (traffic) that could be or become a factor for the jump participants. Also, Northern California TRACON due to equipment limitations and workload, is not aware of all traffic that could be or become a factor.

7. **ATTACHMENT:** A chart is attached depicting Monterey Class C airspace, Salinas Class D airspace, OAR, the Skydive Monterey Bay drop zone, the BLM drop zone and the Climb to Altitude Patterns.

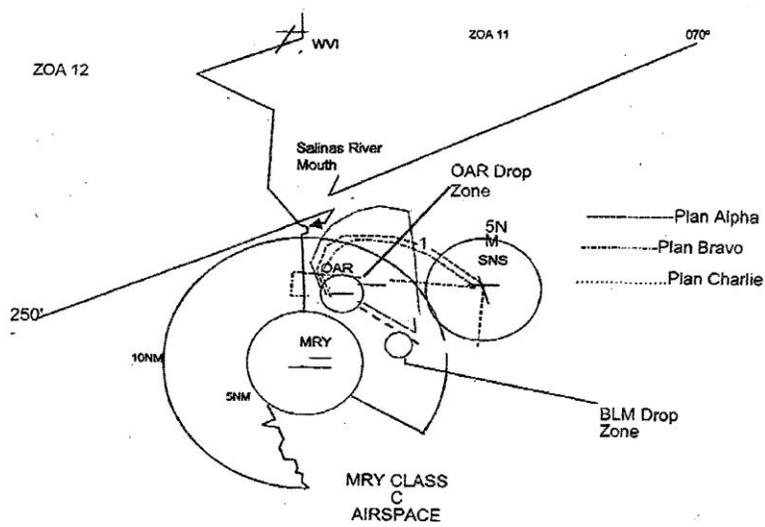
*Original Signed By:*

Dawna J. Vicars  
Air Traffic Manager  
Northern California TRACON

*Original Signed By:*

Jess Rodriguez  
President  
Skydive Monterey Bay

Northern California TRACON and Skydive Monterey Bay LOA Attachment 1  
Subject: Coordination and Communication Procedures EFFECTIVE: August 18, 2003  
for Parachute Jumps at the Marina Municipal Airport



**“EXHIBIT C”**

**Aircraft and Shuttle Vehicle Routes and Loading Areas**

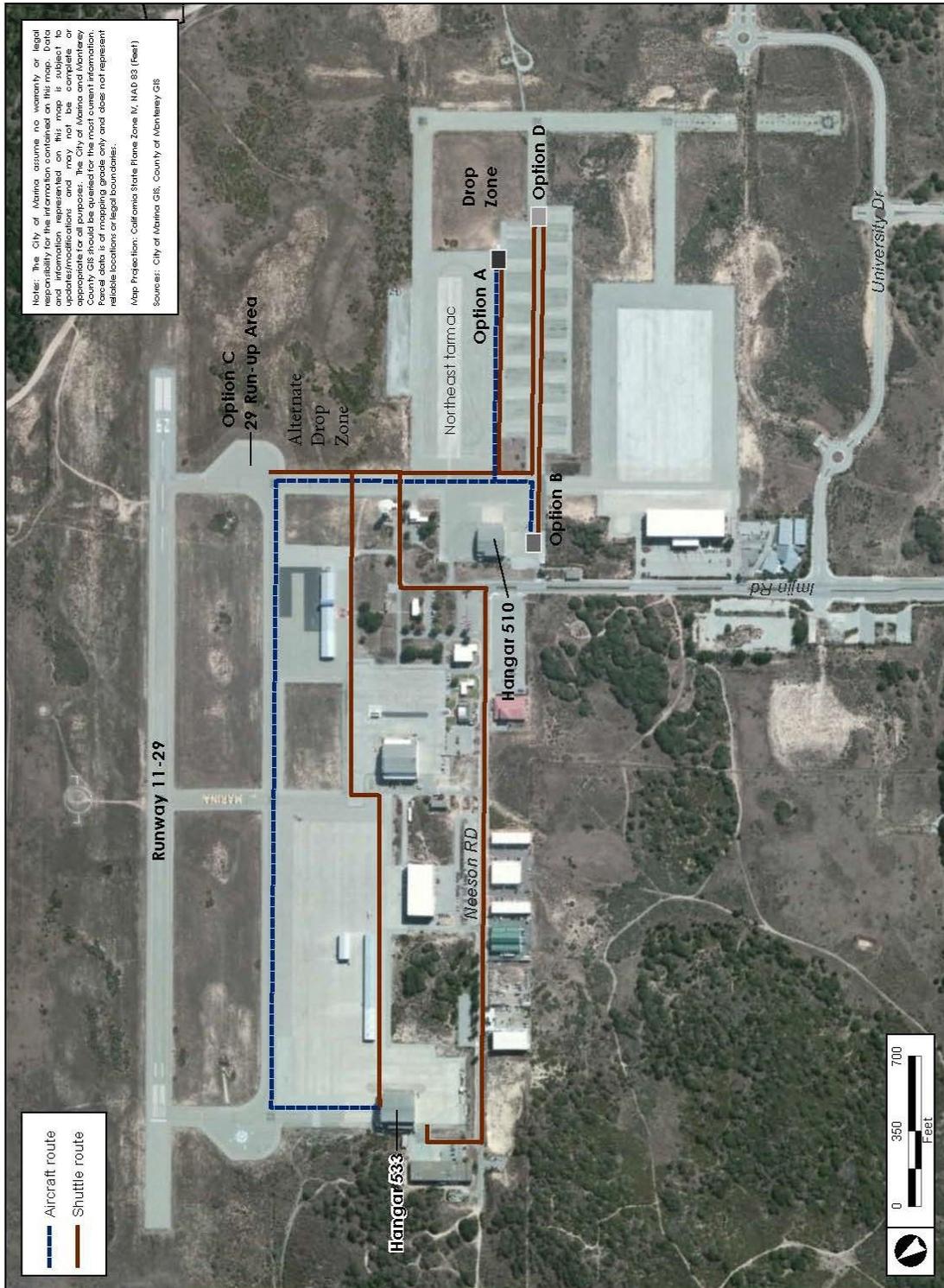


EXHIBIT C Aircraft and Shuttle Vehicle Routes and Loading Areas

**“EXHIBIT D”  
Incident Report Form**

**INCIDENT REPORT FORM – FOR OFFICIAL USE ONLY**

Date of Incident \_\_\_\_\_ Pilot in Command \_\_\_\_\_

Total Passengers \_\_\_\_\_ Name of Ground Observer \_\_\_\_\_

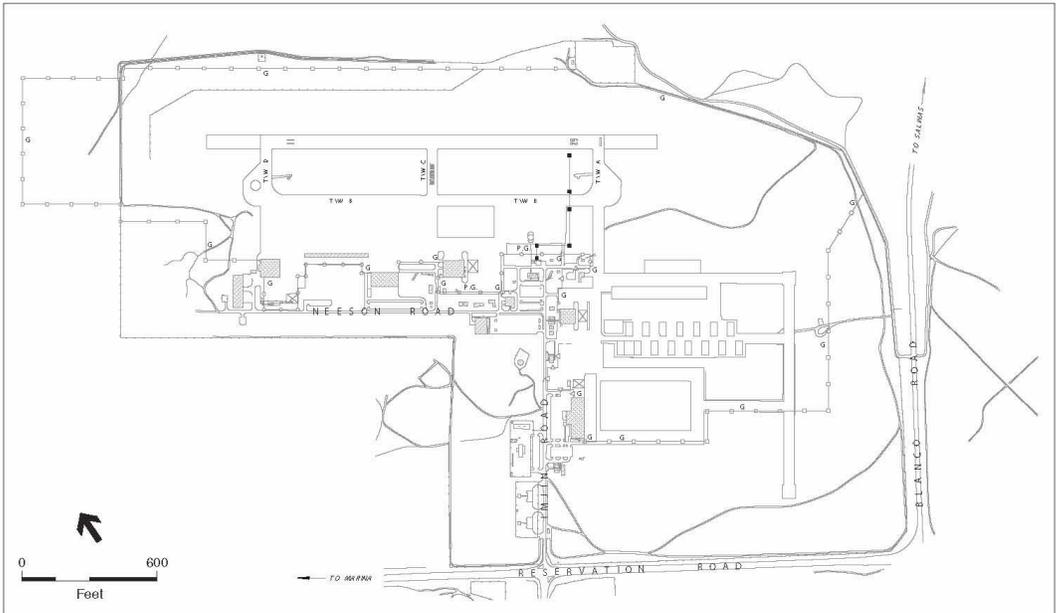
Name of Person(s) Involved: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Report Prepared by \_\_\_\_\_ Date \_\_\_\_\_

Received by \_\_\_\_\_ Date / Time \_\_\_\_\_

MARINA MUNICIPAL AIRPORT



**Release of Liability and Assumption of Risk Form**

OFFICE USE ONLY: (TDM 10 15 18 REG STUDENT MILITARY) (VIDEO REG ICAM) FJC REF OBS LEVEL \_\_\_  
PAID BY: \_\_\_ V/MC \_\_\_ CSH \_\_\_ TRVLCHK TOTAL PAID \$ \_\_\_\_\_

**PLEASE FILL IN THE FOLLOWING INFORMATION**

**\* PLEASE PRINT CLEARLY\***

DATE \_\_\_/\_\_\_/\_\_\_

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Occupation \_\_\_\_\_ Employer \_\_\_\_\_

Home Phone ( ) \_\_\_\_\_ Work Phone ( ) \_\_\_\_\_

Address \_\_\_\_\_ Apt # \_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Country \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Date of Birth \_\_\_/\_\_\_/\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_

Emergency Contact Person \_\_\_\_\_ Relationship \_\_\_\_\_

Phone ( ) \_\_\_\_\_

How did you hear about us? \_\_\_\_\_

Were you referred to us? Yes / No If yes, by whom? \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_/\_\_\_/\_\_\_

**EXPERIENCED JUMPERS ONLY:**

USPA # & EXPIRATION DATE \_\_\_\_\_ EX \_\_\_\_\_

LICENSE# \_\_\_\_\_ # OF JUMPS \_\_\_\_\_

RATINGS \_\_\_\_\_ DATE OF LAST JUMP \_\_\_/\_\_\_/\_\_\_

NEXT RESERVE REPACK DUE DATE \_\_\_/\_\_\_/\_\_\_

**WARNING! WARNING! WARNING!**

**SKYDIVE MONTEREY BAY INC. INFORMS YOU THAT:**

SKYDIVING, PARACHUTING, FLYING AND ALL OF ITS RELATED ACTIVITIES ARE DANGEROUS AND THERE ARE RISKS INVOLVED IN YOUR PARTICIPATION. **YOU CAN BE SERIOUSLY AND PERMANENTLY INJURED OR EVEN KILLED AS A RESULT OF YOU PARTICIPATION IN SKYDIVING, PARACHUTING, FLYING OR ALL OF ITS RELATED ACTIVITIES.** EACH INDIVIDUAL PARTICIPANT, REGARDLESS OF EXPERIENCE, HAS FINAL RESPONSIBILITY FOR HIS/HER OWN SAFETY.

**"I UNDERSTAND THE RISKS AND DANGERS INVOLVED TO MY PHYSICAL PERSON. I HAVE BEEN ADEQUATELY INFORMED ABOUT THESE DANGERS AND RISKS AND I AM SUFFICIENTLY INFORMED TO SIGN AGREEMENTS WITH WHICH I WILLINGLY GIVE UP IMPORTANT LEGAL RIGHTS."**

"I the informed participant, represent and warrant that I have no physical infirmities, am not under treatment for any physical infirmity or chronic ailment or injury of any kind or nature; and have never been treated for, diagnosed or had any symptoms of the following: psychological disorder, cardiac or pulmonary conditions or diseases, diabetes, fainting spells or convulsions, nervous disorders, kidney or related diseases, high or low blood pressure, current pregnancy, alcoholism, back injury, neck injury, drug addiction, or use or any other disability which might in any way affect my ability to participate fully in skydiving, parachuting, flying or related activities."

"I have read the attached Agreement, Release of Liability and Assumption of Risk; I understand what it says and how it relates to the listed activities. I intend to be bound by the Agreement, Release of Liability and Assumption of Risk. I know that when I sign the Agreement, Release of Liability and Assumption of Risk, that I give up important legal rights.

"Being properly informed and warned about the risks and the loss on important legal rights, I wish to participate in the activities of skydiving, parachuting, flying and all of its related activities."

**COPY THE FOLLOWING STATEMENT TO SIGNIFY UNDERSTANDING**

**I realize that skydiving, parachuting, flying, are inherently dangerous activities which may result in my serious injury or even death."**

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**AIRPORT RULES**

I have read, understand and shall comply with the Marina Municipal Airport rules and regulations.

INITIAL \_\_\_\_\_

**PAYMENT AND RAIN CHECK INFORMATION**

I understand that all sales are final and that Jump tickets or "Rain Checks" are issued for rescheduling in the event that a jump is cancelled. Jump Tickets or "Rain Checks" are non-refundable and I will be required to bring my Jump Ticket or "Rain Check" with me if I need to return to make my jump.

INITIAL \_\_\_\_\_

\*\*\*\*\*

**AGREEMENT, RELEASE OF LIABILITY & ASSUMPTION OF RISK**

In consideration of being permitted to utilize the facilities and equipment at **Skydive Monterey Bay Inc.**, at the Marina Airport, and the City of Marina to engage in parachute activities (including but not limited to, interaction, ground instruction and training, flying and related activities, parachuting, skydiving, freefall, Tandem jumping, Relative Work, CRW,) hereinafter collectively referred to as "parachuting activities," **I HEREBY AGREE AS FOLLOWS:**

(1) I understand and agree that "parachuting activities" are inherently dangerous and may result in injury or death. I also understand and agree that due to the close proximity of the equipment to certain parts of my body, that I may be touched by another person on or near certain parts of my body during equipment adjustments and/or safety checks that might not be appropriate under other circumstances, but that are necessary and appropriate for the equipment check, for the safety purpose and/or the sport of parachuting. I further understand and agree that the unforeseen may happen and that it is not possible for any person or entity to eliminate all the risks or possibilities of error that can occur while engaging in "parachuting activities." Therefore, I specifically include in this Release and injury resulting from any occurrence, whether foreseen or unforeseen, whether mental, physical, psychological, emotional or otherwise, and whether contemplated or not contemplated. **INITIAL** \_\_\_\_\_

(2) **PARTIES RELEASED FROM LIABILITIES:** It is my understanding and intent that this Agreement, Release of Liability & Assumption of Risk, specifically include the following as those parties whom I fully release from all liability: **(A)** Skydive Monterey Bay Inc. ( a California Corporation, and associated entities), Marina Airport, and the City of Marina, and their or its officers, directors, shareholders, agents, representatives, servants, employees, volunteers, pilots, instructors, jumpmasters, owners of aircraft, and associated entities; **(B)** The owner of record of any land utilized for "parachuting

activities," including the beneficiaries of any California Land Trust or intervivos Trust: (C) The United States Parachute Association, its officers, directors and its members, (D) All vendors and/or suppliers of materials or equipment for "parachute activities" including but not limited to the manufactures of the equipment, its officers, directors, share holders, and all associated entities, including their officers, directors, shareholders, partners, employees, and all other persons in any way associated with any entity mentioned in the body of this document: (E) any other party or entity mentioned in the body of this document by name or by category: (F) And anyone involved in any manner in my "parachuting activities" (such activities specifically includes but is not limited to; Tandem or Experimental Test Parachute Jumping.) All parties enumerated in this paragraph shall hereinafter be collectively referred to in this **Agreement, Release of Liability & Assumption of Risk** as "**Skydive Monterey Bay Inc.**" shall be constituted as incorporating by reference all of the parties enumerated in this paragraph as if their individual names had been set forth in full. INITIAL\_\_\_\_\_

**(3) RISKS CONTEMPLATED:** This **Agreement, Release of Liability & Assumption of Risk** is made on contemplation of all "parachuting activities," including the foreseen and unforeseen which shall include, but is not limited to, parachute jumping (Tandem or Experimental Test Jumping or otherwise,) ground instructions, flying and related activities, any aircraft ground operations, the exit from the plane, skydiving, freefall, time under the canopy the landing, any rescue operations or attempts by "**Skydive Monterey Bay Inc.**" INITIAL\_\_\_\_\_

**(4) RELEASE FROM LIABILITY:** I hereby Release and Discharge "**Skydive Monterey Bay Inc.**" from any and all liability, claims, demands or causes of action (at law or equity) that I may hereafter have for injuries or damages arising out of my participation in "parachuting activities," even if caused by the negligence, in any degree, or fault of "**Skydive Monterey Bay Inc.**" INITIAL\_\_\_\_\_

**(5) COVENANT NOT TO SUE:** I hereby agree that I will not sue or make any claim of any nature whatsoever against "Skydive Monterey Bay Inc." for personal injuries or other damages or losses sustained by me as a result of my "parachuting activities" even if such injuries or other damages or losses sustained by me as a result of my "parachuting activities" are caused by the negligence, in any degree, or other fault of "**Skydive Monterey Bay Inc.**" INITIAL\_\_\_\_\_

**(6) INDEMNIFICATION AND HOLD HARMLESS:** I hereby agree to Indemnify and forever Save and Hold "**SKYDIVE MONTEREY BAY INC.**" Harmless from all Claims, Judgments and Costs (including but not limited to "**SKYDIVE MONTEREY BAY INC.**" attorney's fees) and to reimburse "**Skydive Monterey Bay, Inc.**" for any expenses whatsoever incurred in connection with any action brought by myself or brought on my behalf or brought by the representatives of my estate. INITIAL\_\_\_\_\_

injury, damages, or death. INITIAL\_\_\_\_\_

(12) I hereby agree to waive any and all duty of care, whether by omission or commission, or any other duty which may be owed to me by "SKYDIVE MONTEREY BAY INC." INITIAL\_\_\_\_\_

(13) It is my intention and agreement with "SKYDIVE MONTEREY BAY INC." that this document be broadly and liberally construed in favor of "SKYDIVE MONTEREY BAY INC." and against me (or anyone purporting to act on my behalf or any representative of my Estate) and that all ambiguities be resolved in favor of "SKYDIVE MONTEREY BAY INC." INITIAL\_\_\_\_\_

(14) I HEREBY AUTHORIZE "SKYDIVE MONTEREY BAY INC." or its assignee to take photographs and video's as they may deem appropriate of myself or of my party and to use those photographs in such a manner as they may deem appropriate. I specifically waive any interest, proprietary or otherwise, I may have in such photographs and videos. INITIAL\_\_\_\_\_

(15) I hereby agree to pay for any and all damages to any and all equipment, parachutes, aircraft, grounds or airport properties which may occur during my "parachuting activities," that is caused by my actions or me. INITIAL\_\_\_\_\_

(16) **ASSIGNMENT OF PROCEEDS:** In the event that I ( or anyone on my behalf or any representative of my Estate ) file a lawsuit against "SKYDIVE MONTEREY BAY INC." and funds ( or any tangible objects or assets ) are in fact collected, then I hereby irrevocably agree to pay 100% of such funds ( or tangible objects or assets ) to a nominee, to be selected by "SKYDIVE MONTEREY BAY INC." with the understanding that such funds ( or tangible objects or assets ) be distributed amongst the entities that constitute " SKYDIVE MONTEREY BAY INC." including but not limited to the person or entity against whom a judgment was obtained and funds ( or tangible objects or assets ) were collected. I Further agree that in the event that I (or anyone on my behalf or any representative of my Estate) hire an attorney to pursue any lawsuit against "SKYDIVE MONTEREY BAY INC." That I or (such person or entity on my behalf or such representative of my Estate.) Will be solely and personally responsible to pay an attorney hired by me (or any attorney hired by anyone on my behalf or any attorney hired by the representative of my Estate.) In no case shall any attorney hired by me (or any attorney hired by anyone purporting to act on my behalf or any attorney acting on behalf of my Estate) be permitted to seek to collect their fees from "SKYDIVE MONTEREY BAY INC." and no attorney fees shall be deducted from any sum (or tangible objects or assets) to be paid by "SKYDIVE MONTEREY BAY INC." INITIAL\_\_\_\_\_

**(7) ASSUMPTION OF RISK:** I understand and acknowledge that "parachuting activities" are inherently dangerous and that I hereby **EXPRESSLY AND VOLUNTARILY ASSUME ALL RISK OF DEATH OR PERSONAL INJURY SUSTAINED WHILE PARTICIPATING IN "PARACHUTING ACTIVITIES" WHETHER SUCH RISK IS FORESEEN OR UNFORESEEN, CONTEMPLATED OR NOT CONTEMPLATED AND WHETHER OR NOT CAUSED BY THE NEGLIGENCE, IN ANY DEGREE, OR OTHER FAULT OF "SKYDIVE MONTEREY BAY INC."** including but not limited to, equipment malfunction from whatever cause, inadequate training, any deficiencies in the landing area, rescue attempts, bad landings, or any other injury I may sustain even if caused by the negligence, in any degree, or other fault of **"SKYDIVE MONTEREY BAY INC."** INITIAL \_\_\_\_\_

**(8) PARTIES BOUND BY THIS AGREEMENT:** It is my understanding and intention that this **Agreement, Release of Liability & Assumption of Risk** be binding not only upon anyone or any equity (including but not limited to my Estate, heirs and assigns) or who may be able to or does sue because of my injuries, damages or death, It is my further understanding and agreement that this Agreement, Release of Liability foreseen and unforeseen, contemplated and not contemplated, of any nature whatsoever arising in any way from my participation in "parachuting activities" even if caused by the negligence, in any degree, or other fault of **"SKYDIVE MONTEREY BAY INC."** INITIAL \_\_\_\_\_

**(9) LIMITATION OF WARRANTY:** **"SKYDIVE MONTEREY BAY INC."** hereby warrants the equipment provided by **"SKYDIVE MONTEREY BAY INC."** has been previously used for "parachuting activities." This warranty is the only warranty made to me by **"SKYDIVE MONTEREY BAY INC."** And is made in lieu of any other warranties (expressed or implied) including but not limited to warranty of merchantability of fitness for a particular purpose. INITIAL \_\_\_\_\_

**(10) DURATION OF RELEASE:** It is my understanding and intention that this Release and Agreement be effective not only for my first jump but is intended to include any and all subsequent jumps or activities at any time in any way associated with **"SKYDIVE MONTEREY BAY INC."** from and since the date I execute this Agreement and Release. INITIAL \_\_\_\_\_

**(11) ENFORCEABILITY:** I agree that if any portion of this **Agreement, Release of Liability & Assumption of Risk** is found to be unenforceable or against public policy, that only that portion shall be deleted, but I **HEREBY SPECIFICALLY WAIVE** any unenforceability or any public argument that I may make or that may be made on my behalf of my Estate or by any other person or entity that would sue because of my

(17) It is my understanding and intent that this assignment is irrevocable and will supersede any subsequent assignment of funds or fee agreement, which I or anyone may enter into on my behalf with any attorney or law firm. I further agree that this paragraph is separate and apart from the indemnification for attorney fees I have signed which is part of this Agreement. I further agree and understand that in addition to paying the proceeds ( in whatever form that takes ) that I ( or anyone on my behalf or any representative of my Estate ) will be totally and wholly responsible for any and all attorney fees charged or billed by any attorney or law firm representing me ( or my Estate ) INITIAL\_\_\_\_\_

(18) **LACK OF INSURANCE:** I have been advised and recognize that while engaging in "parachuting activities," I am not covered by any accident or general liability insurance policy issued to "SKYDIVE MONTEREY BAY INC." INITIAL\_\_\_\_\_

(19) **NON-MODIFIABLE:** I have been advised and I understand and agree that this **AGREEMENT, RELEASE OF LIABILITY & ASSUMPTION OF RISK** and its contents may not be modified except in writing, and if modified in writing, the modifications shall be enforceable only against that person or entity whose signature appears thereon. I further state no oral representations, promises or warranties have been made to me, other than what appears in this document. And further that I am not relying on any oral statements, representations, promises or warranties have been made to me, other than what appears in this document and further that I am not relying on any oral statements, representations or warranties made outside of this agreement. INITIAL\_\_\_\_\_

***UNDERSTANDING OF AGREEMENT:** I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND THE CONTENTS OF THIS MULTIPLE PAGE AGREEMENT, RELEASE OF LIABILITY & ASSUMPTION OF RISK DOCUMENT AND THE WARNING FROM "SKYDIVE MONTEREY BAY INC. AND THAT I INTEND TO BE BOUND BY THESE TERMS AND CONDITIONS. I HEREBY STATE THAT I HAVE SIGNED A SEPARATE ACKNOWLEDGMENT OF UNDERSTANDING OF RISKS AND RESPONSIBILITIES OF SKYDIVING AND I FURTHER STATE THAT I FULLY UNDERSTAND THAT BY SIGNING THESE DOCUMENTS I INTEND TO FOREVER GIVE UP IMPORTANT LEGAL RIGHTS FOR MYSELF AND/OR MY ESTATE AND HEIRS.*

I have read and affixed my initials to each of the preceding nineteen (19) paragraphs of this document on this day of \_\_\_\_/\_\_\_\_/\_\_\_\_

Executed at Marina, California.

Date; \_\_\_\_\_ Signature; \_\_\_\_\_

Staff Member Witness: \_\_\_\_\_

**“EXHIBIT F”**  
**Manifest**

(SAMPLE)

Skydive Monterey Bay Inc  
Manifest

Date: \_\_\_\_\_ Aircraft: N- \_\_\_\_\_

**Jump #1** – Time of Jump: \_\_\_\_\_ AM/PM Landing Zone: \_\_\_\_\_

Name:	Description/Item	Price	USPA License	Comment
-------	------------------	-------	--------------	---------

- 1.
- 2.
- 3.
- 4.
- 5.

**Jump #2** – Time of Jump: \_\_\_\_\_ AM/PM Landing Zone: \_\_\_\_\_

Name:	Description/Item	Price	USPA License	Comment
-------	------------------	-------	--------------	---------

- 1.
- 2.
- 3.
- 4.
- 5.

Load Total: \_\_\_\_\_ \$ \_\_\_\_\_

Plane Total: \_\_\_\_\_ \$ \_\_\_\_\_

Grand Total: \_\_\_\_\_ \$ \_\_\_\_\_

Honorable Mayor and Members  
of the Marina City Council

City Council Meeting  
of December 20, 2016

**RECOMMENDATION TO CONSIDER ADOPTING RESOLUTION NO. 2016-, ACCEPTING RESPONSES TO 2015-2016 FINAL REPORT – MONTEREY COUNTY GRAND JURY FOR THE CITY OF MARINA AND DIRECTING THAT THE RESPONSES BE FORWARDED TO THE PRESIDING JUDGE OF THE SUPERIOR COURT**

**RECOMMENDATION:**

It is recommended that the City Council:

1. Consider adopting Resolution No. 2016-, accepting responses to the 2016 Final Report – Monterey County Grand Jury for the City of Marina, and;
2. Direct that the responses be forwarded to the Presiding Judge of the Superior Court.

**BACKGROUND:**

On June 15, 2016, the City received a copy of the 2015-2016 Final Report – Monterey County Grand Jury entitled “The Slowly Expanding Use of Body-Worn Video Cameras by Law Enforcement Agencies in Monterey County”. The report requires the City of Marina to respond to Finding Numbers F1-F6, F21; and Recommendation Numbers R20-24.

Pursuant to California Penal Code Section 933(c), the City of Marina is required to prepare written responses to these findings and submit written responses to the Presiding Judge of the Superior Court.

**ANALYSIS:**

Staff has prepared written responses to the areas of concerns set forth in the 2015-2016 Final Report (“**EXHIBIT A**”).

It is appropriate to note that all of the incorporated cities on the Monterey Peninsula as well as the County of Monterey were required to respond to the 2015-2016 Final Report – Monterey County Grand Jury entitled “The Slowly Expanding Use of Body-Worn Video Cameras by Law Enforcement Agencies in Monterey County” (“**EXHIBIT B**”).

Staff is providing these written responses for City Council consideration in order to allow for appropriate input and any further direction.

**FISCAL IMPACT:**

None

**CONCLUSION:**

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

Respectfully submitted,

---

Richard J. Janicki, Jr.  
Police Department Management Analyst  
City of Marina

**REVIEWED/CONCUR:**

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Edmundo Rodriguez  
Chief of Police  
City of Marina

---

Layne Long  
City Manager  
City of Marina

RESOLUTION NO. 2016-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA  
ACCEPTING RESPONSES TO 2015-2016 FINAL REPORT – MONTEREY  
COUNTY GRAND JURY FOR THE CITY OF MARINA AND DIRECTING  
THAT THE RESPONSES BE FORWARDED TO THE PRESIDING JUDGE OF  
THE SUPERIOR COURT

WHEREAS, the City received a copy of the 2015-2016 Final Report – Monterey County Grand Jury entitled “The Slowly Expanding Use of Body-Worn Video Cameras by Law Enforcement Agencies in Monterey County” (“EXHIBIT B”) for the City of Marina, and;

WHEREAS, the Final Report requires the City of Marina to respond to Finding Numbers F1-F6, F21; and Recommendation Numbers R20-24, and;

WHEREAS, staff prepared written responses to the areas of concerns set forth in the 2015-2016 Final Report (“EXHIBIT A”)

WHEREAS, Pursuant to California Penal Code Section 933(c), the City of Marina is required to prepare written responses to the findings and submit these written responses to the Presiding Judge of the Superior Court.

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

1. Accepts responses to the 2015-2016 Final Report – Monterey County Grand Jury for the City of Marina (“EXHIBIT A”), and;
2. Direct that the responses be forwarded to the Presiding Judge of the Superior Court.

PASSED AND ADOPTED by the City Council of the City of Marina at a special meeting duly held on the 20<sup>th</sup> of December 2016 by the following vote:

AYES, COUNCIL MEMBERS:

NOES, COUNCIL MEMBERS:

ABSENT, COUNCIL MEMBERS:

ABSTAIN, COUNCIL MEMBERS:

ATTEST:

\_\_\_\_\_  
Bruce Delgado, Mayor

\_\_\_\_\_  
Anita Sharp, Deputy City Clerk

## City of Marina Response to Findings & Recommendations 2015-2016 FINAL REPORT – MONTEREY COUNTY GRAND JURY

The Marina City Council responds as follows:

### FINDINGS:

- F1. **“The use of BWCs responds to public demands for greater law enforcement transparency.”**

Response F1: The respondent agrees with the finding.

- F2. **“BWCs, when recording lawful police conduct, provide positive risk management benefits.”**

Response F2: The respondent disagrees partially with the finding. The recording of work related police conduct, whether lawful or not, provides positive risk management benefits.

- F3. **“BWC recordings can serve as a valuable officer training resource.”**

Response F3: The respondent agrees with the finding.

- F4. **“Law enforcement best practices now include law enforcement’s use of BWCs when funds have been made available for their purchase and that of required data storage capacity.”**

Response F4: The respondent disagrees partially with the finding. The finding should also include law enforcement’s ability to appropriately respond to and comply with Public Record Requests related to the recordings of BWCs.

- F5. **“At a minimum in California, written department policies must comply with the requirements of Penal Code Section 832.18 (Appendix 3).”**

Response F5: The respondent agrees with the finding.

- F6. **“In the absence of other sources of funding, each City Council must make sufficient funds available to its police department before the department can purchase BWCs for its officers and a secure storage system for resulting BWC recordings.”**

Response F6: The respondent disagrees partially with the finding. The finding should also include sufficient funds to appropriately respond to and comply with Public Record Requests related to the recordings of BWCs.

- F21. **“The Marina Police Department does not provide BWCs for its officers' use, but the department favors their use and plans to acquire them.”**

Response F30: The respondent disagrees partially with the finding. The finding does not identify why the Department does not provide BWCs. The City of Marina strongly supports the proper implementation of a BWC program. In the recent past, the City of Marina did not provide BWCs for its officer’s use due to a lack of necessary funding necessary to: purchase, properly implement a BWC system and mitigate the on-going costs of data storage.

## RECOMMENDATIONS:

- R47. **“As part of the Marina Police Department’s next annual budget request (or before) the Department shall apply to the Marina City Council for funds sufficient to purchase body-worn cameras of the Department’s choosing for each officer, and for a secure data storage system with adequate capacity to store the data recorded by those cameras.”**

Response R47: The recommendation will be implemented. The City Manager incorporated funding to begin a BWC program into the current budget, which was approved by the City Council.

- R48. **“As part of the Marina Police Department’s next annual budget request (or before) the Department shall apply to the Marina City Council for funds sufficient to purchase body-worn cameras of the Department’s choosing for each officer, and for a secure data storage system with adequate capacity to store the data recorded by those cameras.”**

Response R48: The recommendation will be implemented. The City Manager incorporated funding to begin a BWC program into the current budget, which was approved by the City Council.

- R49. **“The Marina Police Department shall adopt a written body-worn camera policy, which at a minimum includes the “best practices” set forth in California Penal Code 832.18.”**

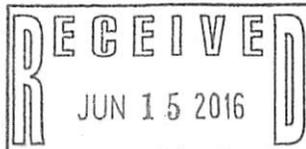
Response R49: The recommendation requires further analysis. California Penal Code 832.18(b) only requires agencies, departments, or entities to “consider” the best practices regarding the downloading and storage of body-worn camera data. It does not require it. As there are many unexplored and yet to be determined areas pertaining to the use, storage and release of BWCs and the data obtained, the Legislature incorporated language that provides latitude for the subject matter experts to determine which practice(s) will or will not be incorporated. The respondent will implement the best-practices it determines to be appropriate for its agency and community, in accordance with a recommendation from its subject matter expert and legal requirements, at the time of implementation.

- R50. **“The chief of the Marina Police Department shall meet with the department’s legal counsel to review the legal sufficiency of the department’s proposed body-worn camera policy before it is adopted by the department.”**

Response R50: The recommendation has not been implemented, but will be implemented in the future, prior to the policy being adopted by the department.

- R51. **“The chief of the Marina Police Department shall meet with the department’s legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.**

Response R51: The recommendation has been implemented. The Marina Police Department utilizes Lexipol for the development and legal review of all of its’ policies. Ongoing legal review is included in the contract for services with Lexipol.



# MONTEREY COUNTY



OFFICE OF THE COUNTY COUNSEL  
168 WEST ALISAL STREET, 3<sup>RD</sup> FLOOR, SALINAS, CALIFORNIA 93901-2439  
(831) 755-5045 FAX: (831) 755-5283

CHARLES J. McKEE  
COUNTY COUNSEL

Leslie J. Girard  
Chief Assistant County Counsel

### IMMEDIATE ATTENTION REQUIRED

June 13, 2016

*Via Hand Delivery*  
Marina City Council  
Attention: Bruce Carlos Delgado, Mayor  
211 Hillcrest Avenue  
Marina, CA 93933

Re: 2015-2016 Monterey County Civil Grand Jury Final Report – “The Slowly Expanding Use of Body-Worn Video Cameras by Law Enforcement Agencies in Monterey County”

Dear Marina City Council:

On behalf of the 2015-2016 Monterey County Civil Grand Jury, and pursuant to Penal Code section 933.05(f), I am enclosing for your review the Grand Jury’s Final Report entitled “The Slowly Expanding Use of Body-Worn Video Cameras by Law Enforcement Agencies in Monterey County”, which has been approved for publication. The Grand Jury intends to publish the report to the public no sooner than 48 hours following delivery of the report to you.

This report constitutes a Final Report for purposes of Penal Code section 933. Pursuant to that section, you must submit comments on the report to the Honorable, Mark E. Hood, Presiding Judge of the Superior Court, 240 Church Street, Salinas, CA 93901, within ninety (90) days following its transmittal. You are responsible for Finding Nos. F1-F6, F21, and Recommendation Nos. R20-R24. With respect to each finding, the Council shall indicate one of the following:

- 1) That the City Council agrees with the finding; or
- 2) That the City Council disagrees wholly or partially with the finding, in which case the City Council must specify the portion of the finding that is disputed and shall include in the response an explanation of the reasons for the disagreement.

With respect to each recommendation, the City Council must report one of the following actions:

- 1) That the recommendation has been implemented, with a summary regarding the implemented action;
- 2) That the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation; or

Marina City Council

June 13, 2016

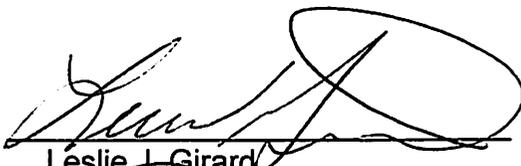
Re: The Slowly Expanding Use of Body-Worn Video Cameras  
by Law Enforcement Agencies in Monterey County

Page 2

- 3) That the recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the City Council (this timeframe not to exceed six months from the date of publication).
- 4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

Thank you for your attention to these matters; the Civil Grand Jury looks forward to your response.

Sincerely,

By:   
Leslie J. Girard  
Chief Assistant County Counsel

LJG:so

Enclosure

cc: Grand Jury

Hon. Mark E. Hood, Presiding Judge  
Edmundo Rodriguez, Chief of Police

**THE SLOWLY EXPANDING USE OF BODY-WORN VIDEO CAMERAS  
BY LAW ENFORCEMENT AGENCIES IN MONTEREY COUNTY**



Photo courtesy of The Safariland Group. [www.viewu.com](http://www.viewu.com)

# **THE SLOWLY EXPANDING USE OF BODY-WORN VIDEO CAMERAS BY LAW ENFORCEMENT AGENCIES IN MONTEREY COUNTY**

## **SUMMARY**

Citizens often take cell phone video recordings of police officers who are involved in a public confrontation with one or more individuals. In response, many law enforcement agencies are using officer body-worn cameras (BWCs) in order to help explain activities from the officer's perspective. In adopting the use of BWCs, it's of critical importance that law enforcement agencies also adopt clearly stated written policies directing their officers on how to use their BWCs, how to download and store recorded videos, and how to maintain the integrity of all recorded information at all times. Many "best practice" models have been published for use in guiding the creation of agency policies, although there are significant differences among those models. The California legislature recently enacted a new Penal Code section, which outlines the types of provisions that must, at a minimum, be included in any state or local agency BWC policy.

This report begins with a brief introduction to BWC technology. While all BWCs perform the same basic function, there are important differences in performance features among available BWC models. There is also continuing debate regarding certain controversial policy issues, which we briefly discuss. We also discuss various police attitudes and cautionary considerations regarding BWC use. Finally, this report presents its findings and recommendations regarding the extent to which BWCs are currently in use by Monterey County law enforcement agencies, specifically identifying those agencies that use BWCs, those that do not, and those who plan to use them at some future date.

We found that six of the fifteen local law enforcement agencies surveyed have obtained and use BWCs on a daily basis. These six agencies have adopted written policies to guide their officers on appropriate BWC use. None of those written policies, however, complies with the recently enacted California law pertaining to required BWC policy provisions.

Two local police departments are in the process of purchasing BWCs and implementing BWC programs for their departments. Seven law enforcement agencies are not using BWCs; however, six of them favor their use and plan to purchase and employ BWCs at some future date. Only one agency remains uncommitted to their eventual use.

## **BACKGROUND**

The widespread use of cell phones in the United States has made it possible for ordinary citizens to routinely video record police conduct. In recent years there has been widely publicized reporting of bystander recordings that depict, or appear to depict, improper or even criminal conduct by law enforcement personnel.

Citizen videos of questionable police activities have varying quality and evidentiary value. In some cases, the evidentiary value of the recording is high, leaving little if any doubt as to what actually occurred. In other cases the poor quality or other features of the recording result in significant uncertainty and dispute regarding the exact nature or significance of the disputed citizen-officer interaction.

In response to the above uncertainties and resulting concerns, there has been growing interest, both by the public and by law enforcement agencies, in making BWCs (cameras that record both video and audio information) available for use by all law enforcement field personnel on a mandatory basis. BWCs, when appropriately used, respond to public demands for greater law enforcement transparency. They also provide recordings that are of potentially different durations and scope when compared with citizen cell phone recording of the same event. In addition, they are taken from the visual perspective of the officer or officers whose conduct has been called into question. Requiring law enforcement officers to use BWCs also serves as a risk management tool by causing officers to be more conscious of their conduct. Both the American Civil Liberties Union (ACLU) and law enforcement agencies have, in general, agreed that police use of BWCs, with appropriate safeguards, is a positive development.

The primary purpose of this investigation has been to explore the extent to which BWCs have been put into field use by each city and county law enforcement agency within Monterey County. We have also examined the extent to which each agency has adopted written policies and procedures to direct field officers in the appropriate use of their BWCs, including how to preserve and ensure the integrity of all BWC recordings. In addition, we have reviewed locally adopted policies and procedures in light of applicable California law and other “best practices” policy provisions suggested by various national organizations and by large law enforcement agencies elsewhere in our state.

## **METHODOLOGY**

We conducted sixteen interviews including one or more high-level officials of the Monterey County Sheriff’s Department and of every city police department within the County. We reviewed department policy documents and correspondence, news articles, video transcripts, camera manufacturer literature, model policy documents, and topical publications from many sources. In addition, we studied independently published “white papers”, journal articles, and applicable California law.

## **DISCUSSION**

Before discussing the extent of local BWC use and related department policies, we first consider if and when it is lawful for a citizen to video police officers during law enforcement actions. Then, we discuss various BWC models, compare selected BWC features, and review policy considerations. Finally, we present local department use decisions and practices.

### **A. CITIZEN’S RIGHT TO VIDEO POLICE AND LEGALLY PROHIBITED POLICE RESPONSES**

Several federal appellate courts have ruled that “Recording governmental officers engaged in public duties is a form of speech through which private individuals may gather and disseminate information of public concern, including the conduct of law

enforcement officers.”<sup>1</sup> Furthermore, section 148 of the California Penal Code provides in pertinent part that:<sup>2</sup>

148. (a)(1) Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(g) The fact that a person takes a photograph or makes an audio or video recording of a public officer or peace officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, does not constitute, in and of itself, a violation of subdivision (a), nor does it constitute reasonable suspicion to detain the person or probable cause to arrest the person.

Thus, California citizens have the right to video record police conduct, subject to Penal Code 148 (a) limitations and the usual “reasonable time, place, and manner” restrictions that are placed on acts protected by the First Amendment to the U.S. Constitution. For example, you cannot record police officers if you are knowingly trespassing on private property (as opposed to recording police in a public place); and you must comply with a police order to step back or record from a reasonable distance under circumstances where a suspect might have a gun or dangerous weapon; and you can’t impede police officers in the performance of their duties. Police officers violate the due process clause

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<sup>1</sup> Gilk v. Cunniffe, 655 F.3d 78, 82 (1st Cir. 2011)

<sup>2</sup> California Penal Code, section 148

of the Fourteenth Amendment when they deprive individuals of their device and its recordings without first providing notice and an opportunity to object.<sup>3</sup>

In accordance with the law, many law enforcement agencies have adopted written policies that advise their officers that citizens have the right to video record police activity subject to the allowed limitations on that right.

#### **B. THE BASICS OF BODY-WORN VIDEO CAMERAS**

BWCs are small lightweight video cameras that law enforcement officers attach to their uniform in order to record their enforcement activities. The BWCs recording function must first be turned on before any event can be recorded. In most cases, once a recording is made, it cannot be edited or deleted in the field by the officer. At the end of an officer's shift, the camera's recordings are downloaded to a computer, a server, or the "cloud" and preserved for later viewing. There are over a dozen BWC manufacturers. Their cameras have many common features and performance functions; however, there are also a number of differences.

#### **C. MANUFACTURE MAKES AND MODELS: THEY'RE NOT ALL THE SAME**

Law enforcement agencies in Monterey County that currently provide BWCs for their officers use one of three BWC models, each manufactured by a different company.<sup>4</sup>

1. The "AXON" camera, manufactured by TASAR International, Inc.
2. The "LE3" camera, manufactured by VIEVU, LLC.
3. The "BODYCAM" camera, manufactured by Pro-Vision Systems.

Since each camera performs the same basic functions of video and audio recording, we compare only a few of the more interesting features as shown in **FIGURE 1**.

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<sup>3</sup> In *Riley v. California*, 134 S. Ct. 2473, 189 L. Ed. 2d 430 (2014) the United States Supreme Court held that an arresting police officer may not conduct a warrantless search of an arrestee's cell phone contents. Doing so constitutes a violation of the Fourth Amendment to the U.S. Constitution.

<sup>4</sup> Two departments report that they are in the process of purchasing WatchGuard BWCs for future use.

**FIGURE 1  
BODY-WORN CAMERA MODEL COMPARISON**

Feature	Axon <sup>a</sup>	LE3 <sup>b</sup>	BodyCam <sup>c</sup>
			
Weight	3.5 oz.	2.8 oz.	1.6 oz.
Dimensions	2.6x3.3x0.8 in	3x2.1x0.85 in.	2.5x2x1 in.
Field of View	130 degrees	68 deg.	170 deg.
Pre-record buffering	Max 30 sec.	No	No
Charging Time	6 hrs.	3 hrs.	3 hrs.
Recording Time with Normal Use	6-12 hrs.	6-12 hrs.	3-18 hrs.
Low Light Recording	Yes	Yes	Yes
Proprietary Mgmt. Software	Yes, optional	Yes, required	Yes, optional
Still Photos	No	No	Yes
Display Screen	No	No	Yes
Field Access to delete?	No	No	Yes, unless configured to prevent. Also, memory card is removable
BWC Cost ( excluding storage)	\$400.00	\$1,000.00	\$580.00

<sup>a</sup> AXON body™ Camera Specifications, 10/7/13

<sup>b</sup> LE3 Detailed Specification Sheet

<sup>c</sup> BODYCAM, HD Body Camera User Guide, undated.

**D. LAW ENFORCEMENT BWC POLICIES AND PROCEDURES**

There is widespread agreement among state and federal law enforcement agencies that to ensure transparency and increase public trust, it is critically important to have specific

BWC policies and procedures in place with strict enforcement by each agency. These policies must clearly spell out the specific circumstances under which a BWC recording should be made, necessary methods for video data storage for legally required periods of time, and procedures for maintaining data integrity at all times. However, the specific methods by which these goals can be achieved are in certain respects debated and remain unsettled. A few of these key issues are briefly identified in this report, but an in-depth discussion of competing opinions can be found in the list of recommended further reading set forth on **APPENDIX 1**.

### **1. California's Legislated Policy Requirements**

In 2015, the California legislature enacted Assembly Bill 69, which added Section 832.18 to the Penal Code. The terms of that section require law enforcement agencies to implement various "best practices" when establishing policies and procedures for the use of body-worn cameras, including the downloading and storage of BWC video and audio recordings. The required policies and procedures must also prohibit the unauthorized use, duplication, or distribution of the recordings, and establish storage periods for downloaded evidentiary and non-evidentiary recorded data, as explained in the section.

Specifically, there is a listing of eight requirements to be addressed:

1) Identifying the person (or persons) who will be responsible for taking custody of and downloading the recorded data, 2) establishing when data should be downloaded and the cameras maintained for ongoing use and the tagging and categorizing of the downloaded data, 3) establishing specific measures to prevent tampering, deleting, and copying, including prohibiting unauthorized use, copying or distribution of any data, 4) categorizing and tagging the downloaded data according to the type of event recorded, 5) stating the length of time the data is to be stored, 6) stating where the recorded data is to be stored, 7) specifying requirements and safeguards if a 3<sup>rd</sup> party vendor will be managing the data storage system, and 8) requiring that recorded data be the property of the recording enforcement agency and shall not be accessed or released for any unauthorized purposes.

Section 832.18 (5) distinguishes between the storage of evidentiary and non-evidentiary content. Section 832.18 (c)(1) defines “evidentiary data” as recorded content of an incident or encounter that could prove useful for investigative purposes of a crime, arrest, detention, search, use of force, or a confrontational encounter with a member of the public. By contrast, Section 832.18 (c)(2) defines “non-evidentiary data” as recorded content without value to aid in an investigation such as the recording of an incident or encounter that does not lead to an arrest or citation, or of general activities that the officer might perform while on duty.

Subparagraph (b)(5)(A) in 832.18 requires that non-evidentiary recordings should be held for a minimum of 60 days, while subparagraph (B) requires that evidentiary recordings be stored for a minimum of 2 years if the recorded incident involves the use of force, involves an officer shooting, leads to the detention or arrest of an individual, or relates to a citizen complaint. If relevant to a criminal prosecution, in addition to the 2-year period, subparagraphs (b)(5)(C) and (b)(5)(D) require that the recording be retained for the same time as required by law for other evidence relevant to a criminal prosecution. There is a further requirement that each enforcement agency work with its legal counsel to ensure that storage policies and practices comply with all laws and preserve the evidentiary chain-of-custody. Subparagraph (b)(5)(E) requires that records or logs of any access to or deletion of recordings be retained permanently. Lastly, Section 832.18 (d) states that nothing in section 832.18 shall be interpreted to limit the public’s right to access cell phone or other electronically recorded information under the California Public Records Act.<sup>5</sup>

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<sup>5</sup> California Public Records Act. Gov. Code, § 6250 et seq.

## **2. Controversial BWC Issues**

While Penal Code Section 832.18 may at first glance seem comprehensive, there are ongoing debates regarding a variety of issues. Three frequently publicized examples are summarized below. One key debate concerns whether or not an officer on duty should have his or her BWC continuously recording throughout the officer's shift, recording both evidentiary and non-evidentiary events alike.

In 2013, the ACLU, the leading group supporting civil liberties in the U.S., advocated that BWCs be turned on during an officer's entire shift. That policy would guarantee that an officer could not evade detection while engaging in abuse. Subsequently, a number of objections were raised by groups like the Police Executive Research Forum (PERF), which argue that there are certain situations, in which not recording is a reasonable decision. An agency's body-worn camera policy should expressly describe these situations and provide solid guidance for officers when they exercise discretion not to record.

For example, officer discretion is needed in sensitive situations, such as encounters with crime victims or witnesses who are concerned about retaliation if they are seen as cooperating with the police. In other cases, officer discretion is needed for routine or casual situations—such as officers on foot or bike patrol who wish to chat with neighborhood residents—and turning on a video camera could make the encounter disquieting and seems officious.

Many law enforcement agencies give officers discretion regarding whether to record interviews with victims of rape, abuse, or other sensitive crimes. Some departments also extend this discretion to recording victims of other crimes.

Influenced by these objections, the ACLU modified its position on this issue in 2015. The new policy recommends that BWC policies require an officer to activate his or her camera when responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a police officer and a member of the

public. That would include stops, frisks, searches, arrests, consensual interviews and searches, enforcement actions of all kinds, and any encounter that becomes in any way hostile or confrontational.

A second debate concerns whether or not an officer who records an event should be able to review the contents of the recording before writing his or her report of the event. Some civil libertarian groups contend that reviewing the recording before writing a report prevents the public from testing the credibility of the officer's written report (and the officer). For example, when an Oakland Police officer's BWC videoed a fatal shooting, trial attorneys and the ACLU questioned the policy stating that officers who shoot suspects should have access to such a video because that would give the officer "an opportunity to change [his] report to match the video."

On the other hand, law enforcement agencies argue that officers should be permitted to review video footage of an incident in which they were involved, prior to making a statement about the incident since "reviewing footage will help officers remember the incident more clearly, which leads to more accurate documentation of events. The goal is to find the truth, which is facilitated by letting officers have all possible evidence of the event."

Lastly, a third debate concerns the degree to which the public should have access to BWC recordings. Some agencies argue that a recording is akin to an officer's written notes and, as such, should not be available to members of the public not involved in a related criminal prosecution. On the opposite extreme, it is argued that such BWC recordings should always be available to the public at large as a matter of transparency.

According to news reports, these and other subjects were deliberately not addressed in Section 832.18 in order to reach a compromise on the legislation.

#### **E. MODEL "BEST PRACTICES" POLICIES AND PROCEDURES**

Apart from the California legislature's listing of minimum "best practices", several organizations have published their own, more comprehensive, "best practices" model

policies that in comparison reveal significant differences in policy perspectives. Such publications are too many and too lengthy to summarize in this report, but a representative few are briefly mentioned below. References for further reading on these and related BWC subjects are listed in **APPENDIX 1**.

### **1. Office of Community Oriented Policing Services (COPS)**

COPS describes itself as the component of the U.S. Department of Justice “responsible for advancing the practice of community policing by the nation's state, local, territorial, and tribal law agencies through information and grant resources.”<sup>6</sup> It publishes materials for law enforcement and community stakeholders to use in collaboratively addressing crime. Its free publications are intended to provide those agencies “with best practice approaches” and “access to collective knowledge from the field.”<sup>7</sup> In 2014, COPS published a report entitled “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned”.<sup>8</sup> Appendix A of that report contains a matrix summary of the COPS policy recommendations. Among many other provisions, the template contains the following recommendations:

- The policy should specifically define the circumstances when a user should record an event and when the user has the discretion to record or not to record.
- The camera should be switched on when a recording might support professional observations or would corroborate what would be written in a pocket book
- The decision to record or not record any incident remains with the user.
- Users should not indiscriminately record entire duties or patrols.
- Any recorded image must not be deleted by the user and must be retained as required by the procedures. Any breach of the procedures may render the user liable to disciplinary action or adverse comment in criminal proceedings.
- Officers should be permitted to review video footage of an incident in which they were involved, prior to making a statement about the incident.

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<sup>6</sup> <http://www.cops.usdoj.gov/about>

<sup>7</sup> <http://www.cops.usdoj.gov/COPSPublications>

<sup>8</sup> Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum. 2014. “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned”. Washington, DC: Office of Community Oriented Policing Services (COPS). ISBN: 978-1-934485-26-2,” n.d.

- Written policies should clearly describe the circumstances in which supervisors will be authorized to review an officer's BWC footage.
- Agencies should have clear and consistent protocols for releasing BWC recordings to the public and the news media (a.k.a. public disclosure policies). Each agency's policy must comply with the agency's state public disclosure laws (often known as public records acts).
- Agencies should conduct periodic reviews of their BWC policies and protocols.

## **2. American Civil Liberties Union**

The ACLU believes that cameras have the potential to be a win-win, helping protect the public against police misconduct, and at the same time helping protect police against false accusations of abuse. As mentioned above, the ACLU also agrees that because of privacy concerns, BWC policies should only require an officer to activate the BWC when responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a police officer and a member of the public. However, in those situations, recording should not be discretionary; it should be required in order to "preserve the core purpose of detecting police misconduct."

In addition to officer privacy concerns expressed by the ACLU, there are potential problems raised by recording activities protected by the First Amendment, by mass surveillance in crowded cities, and by facial recognition efforts. In addition, people recorded by BWCs should have access to, and the right to make copies of, those recordings, for however long the government maintains copies of them. That should also apply to disclosure to a third party if the subject consents, or to criminal defense lawyers seeking relevant evidence. In summary:

- For the ACLU, the challenge of a BWC is the tension between their potential to invade privacy and their strong benefit in promoting police accountability.
- It is vital that any deployment of these cameras be accompanied by good privacy policies, so that the benefits of the technology are not outweighed by invasions of privacy.

### 3. Lexipol

Lexipol is a commercial subscription service intended for use by law enforcement agencies. It describes itself as a “provider of risk management policies and resources,”<sup>9</sup> including state-specific policy manuals and police updates based on federal and state statutes, case law, regulations and best practices. Several local law enforcement agencies rely on the Lexipol service for the creation of their written policies and policy-driven procedures. The Lexipol policies are basic templates, which can be edited and supplemented by the subscribing local agency to reflect local decision-making. Since the Civil Grand Jury is not a Lexipol subscriber, we can only examine those Lexipol publications that have been adopted by several local agencies as part of their policies and procedures manuals. These will be examined in detail later in this report for Lexipol’s position on key issues. An example of a Lexipol BWC policy is found in **APPENDIX 2.**

### 4. Conflicting California Agency Provisions

To illustrate the lack of policy uniformity among specific law enforcement agencies within the state, consider the following examples:

- Los Angeles Police Department’s Policy L.A.’s officers are required to review BWC recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.
- Santa Clara Police Department’s Policy. In the case of an officer involved shooting or serious use-of-force incident, an involved officer will be required to give an initial account of events before being permitted to view the BWC video and give additional statements.<sup>10</sup>

### F. CAUTIONARY FACTORS TO CONSIDER WHEN INTERPRETING BWC RECORDINGS

PoliceOne.com is an online resource for law enforcement. Its stated mission is “to provide officers with information and resources that make them better able to protect

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<sup>9</sup> <http://www.lexipol.com>

<sup>10</sup> “Santa Clara Outfits Officers With Body-Worn Cameras”, San Jose Mercury News, 11/25/2015, <http://www.mercurynews.com>,

their communities and stay safer on the streets.” In September 2014, *Police One* published an article by The Force Science Institute entitled “10 Limitations of Body Cams You Need to Know for Your Protection”.<sup>11</sup> The suggested limitations are presented here in brief, without the explanations that accompanied each point.

1. A camera doesn't follow your eyes or see what or how they see.
2. Some important danger cues can't be recorded. For example, a suspect suddenly tenses while an officer holds the suspect's arm.
3. Camera speed differs from the speed of life.
4. A camera may see better than you do in low light.
5. Depending on location and angle, a picture may be blocked by your own body parts, from your nose to your hands.
6. A camera only records in 2-D.
7. The absence of time-stamping in seconds or fractions of seconds may prove critical.
8. One camera may not be enough to eliminate uncertainties.
9. A camera encourages second-guessing by the public.
10. A camera can never replace a thorough investigation.

#### **G. POLICE OFFICER POINTS OF VIEW**

In November 2014, PoliceOne polled 1500 police officers to explore officer experiences, thoughts and concerns regarding body cameras.<sup>12</sup> Some results were:

- Only 21.9 percent did not have body cameras or did not anticipate getting them in the near future.
- 33.7 percent said their biggest concern was “A lack of privacy of officers wearing them”.
- 28.7 percent said their biggest concern was that cameras could “pose a physical liability”.

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<sup>11</sup> Institute, Force Science. "10 Limitations of Body Cams You Need to Know for Your Protection". *PoliceOne*, September 2014.

<sup>12</sup> Staff Writers. "Poll Results: Cops Speak Out About Body Cameras." *PoliceOne*. November 12, 2014. <http://www.PoliceOne.com>.

- An unspecified percentage was concerned about an invasion of privacy for people who call the police to their home.
- A second unspecified percentage was concerned about the “ability for public to ‘arm-chair quarterback’ decisions officers have to make in the heat of the moment.”
- A third unspecified percentage worried about becoming too concerned with camera activation, taking away from officer safety.
- A fourth unspecified percentage pointed out that what a camera records does not equate to the totality of what an officer perceives.
- Others, however, felt that such recordings made their department more transparent and would eliminate 90% of unfounded citizen complaints. Stated differently by some: “Video footage is much more likely to get a cop out of trouble than in trouble.”
- In addition, of those who had misgivings, 67.7 percent would want their department equipped with BWCs despite their concerns.

## **THE USE OF BODY-WORN CAMERAS BY MONTEREY COUNTY LAW ENFORCEMENT AGENCIES**

The following are necessarily brief summaries regarding each of the fifteen law enforcement agencies in Monterey County.

### **A. CALIFORNIA HIGHWAY PATROL**

The California Highway Patrol (CHP) does not currently employ BWCs. However, in June of 2015, Governor Brown signed Senate Bill 85, Section 1 of which requires the CHP to develop a plan for implementing a BWC pilot program on or before January 1, 2016. The budget to develop the pilot program is \$1 million. The implementation plan must include, among other things, the minimum specifications for BWCs to be used in a BWC program; the “best practices” for officer review of BWC recordings; and “best practices” for sharing BWC recordings internally and externally. A plan has been drafted and is currently awaiting final approval.

**B. CARMEL-BY-THE-SEA POLICE DEPARTMENT**

The Carmel-by-the-Sea (Carmel) Police Department does not provide BWCs for its officers, even though the Department's position is that such cameras are a "great tool" and that there is a very positive attitude regarding their use. It is the department's position, however, that the department's purchase and use of BWCs at this time would be premature. Management wants to see how available cameras perform in the field, and whether conflicting views relating to BWC policies and procedures become settled among police forces. Management also expects Lexipol to develop standardized policies and procedures as part of its subscription service. Management believes that its preconditions to BWC use will be resolved in the next 1-2 years. At that time, the department will purchase 15 cameras (Carmel has 15 sworn officers) with associated data management software and any additional storage capability that may be needed.

**C. DEL REY OAKS POLICE DEPARTMENT**

The Del Rey Oaks Police Department does not yet use BWCs, but is in the process of ordering six of them. The specific camera chosen is the Vista camera manufactured by WatchGuard. That selection was based on the reputation of the manufacturer. Five full-time officers plus the chief (total 6 officers) will be assigned the new cameras. BWCs will not be provided to the department's 18 reserve officers. The department does not yet have any written policy or procedures for using the cameras. After the BWCs have been delivered, the department will review policies published by others and adopt a policy for the department.

**D. GONZALES POLICE DEPARTMENT**

The Gonzales Police Department began using BWCs in August 2015. The camera selected is the BODYCAM by Pro-Vision. Although the department consists of only nine police officers, an animal control officer and the chief, 25 cameras were purchased so that each patrol officer could have a backup camera and there would be additional cameras for personnel expansion. The department has adopted a written policy related to video recording. It is the Lexipol policy entitled "Portable Audio/ Visual Recorders", which the department has labeled as Policy 465 in its own policy manual. Policy 465 provides guidelines for the use of various types of recording devices, including BWCs.

**E. GREENFIELD POLICE DEPARTMENT**

The Greenfield Police Department provides BWCs for their officers. The Department currently has 15 BWCs, with five more expected as personnel is added to the force. The camera selected is the LE3 manufactured by VIEVU. Downloaded recordings are stored on a local server. Greenfield also adopted a Lexipol policy entitled "Portable Audio/Video Recorders", which provides guidelines for using portable audio/video recording devices, including BWCs, by members of the department while performing their duties. Greenfield's BWC policy indicates that it was adopted in November 2014 and has been internally numbered as Policy 450.

**F. KING CITY POLICE DEPARTMENT**

The department recently appointed an interim chief, but prior to his appointment; the department had already acquired 32 BWCs for use by its 16 officers (one to be assigned and one as a backup). All officers were trained and the BWCs were put into daily use in January 2016. The BWC selected by the department is the BODYCAM model manufactured by Pro-Vision, and the department officials are very impressed by its clear sound and images. The King City department has adopted a version of the Lexipol Policy entitled "Portable Audio/Video Recorders", which provides guidelines for the use of portable audio/video recording devices, specifically including BWCs.

**G. MARINA POLICE DEPARTMENT**

The Marina Police Department does not use BWCs, but the department intends to do so and has assigned a department commander to research available choices, their cost, their recording storage requirements, and whether or not they can be integrated with the department's currently used in-car dashboard camera system. The department's storage capacity will probably have to be increased, but the department plan is to have BWCs available for routine use by the end of July 2016, the end of its fiscal year. If the cost of the cameras and storage system is more than can be covered within the department's current budget, the department will seek the necessary funding from the city council. When funded, the department expects to purchase 24-26 LE3 cameras, which are made by the same manufacturer that makes the department's in-car camera system. No written policies or procedures have yet been developed for BWC use, but

when developed they will reflect “best practices” provisions. For example, they will contain a provision allowing officers to review their recordings before writing up an incident report and will allow public access in accordance with the California Public Records Act.

**H. CITY OF MONTEREY POLICE DEPARTMENT**

In May 2016 this department announced the planned purchase of WatchGuard BWCs for use by its police officers. The Watchguard BWCs are manufactured by the same company that manufactures the department’s in-car camera system, and the two systems will be closely integrated. The BWCs are expected to become available and ready to use in early 2017.

**I. MONTEREY COUNTY SHERIFF’S DEPARTMENT**

The Monterey County Sheriff’s Department does not provide BWCs for its deputies. The Department is considering future BWC use but is not currently committed to their use. Management would first need to find funding for the cameras and related storage capacity; go through the camera and vendor selection processes; develop a “best practices” policy; and work through the issues with the police union before that could happen. It’s estimated that the department might obtain BWCs within 2-5 years.

**J. MONTEREY REGIONAL AIRPORT POLICE DEPARTMENT**

In 2012, the Airport Police Department became the first law enforcement agency in Monterey County to put BWCs into daily use. Five officers currently use the VIEVU camera and, like several other law enforcement agencies, the department has adopted a version of Lexipol Policy 450 relating to the use of audio/video recorders.

**K. PACIFIC GROVE POLICE DEPARTMENT**

This department does not provide BWCs for its officers, although past and present department officials are in favor of BWC use by the department. Lack of funding prevents the implementation of a BWC program during the current fiscal year. Initial review of various BWC choices and storage options is now in progress.

**L. SALINAS POLICE DEPARTMENT**

In mid-2015, the Salinas Police Department adopted and put into daily use the most sophisticated BWC program in Monterey County. It employs the Axon camera manufactured by TASAR International, Inc. and proprietary software,<sup>13</sup> which enables the BWC to automatically download its recorded data to a third party cloud storage facility. The recordings are transferred at the same time that the camera is recharging in its charging station. The cameras are routinely worn by all patrol officers and sergeants, as well as supervisors when they are “on the street” in uniform. There are 110 BWCs, including those that are assigned to officers plus three extras. The cost of each camera was \$400, but averaging in monthly off-site video storage charges brings the monthly total cost of a camera and its storage charges to \$93.00.

As is commonly the case locally, the department has adopted a modified Lexipol policy, internally labeled as Policy 447 in the department’s policy manual. As with many law enforcement agencies, the policy allows for officer review of a recording before writing the corresponding incident report, and the policy only requires event recording under specified circumstances rather than continuously. This department’s BWC policy is more detailed than those of the other local departments’ written policies.

**M. SAND CITY POLICE DEPARTMENT**

This department does not provide BWCs for its officers. Although the use of BWCs is favored, lack of funding has to date prevented the implementation of a BWC program.

**N. SEASIDE POLICE DEPARTMENT**

This department does not provide BWCs for its officers. Although the use of BWCs is favored, lack of funding has prevented the implementation of a BWC program to date.

**O. SOLEDAD POLICE DEPARTMENT**

The department purchased BODYCAM units for its officers in December 2014. However, the BWCs have not been put into daily use due to prolonged technical difficulties in obtaining and properly configuring the necessary video storage capability.

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<sup>13</sup> Evidence.com™

In February 2016, the department terminated its reliance on the previously-hired technical service company and hired another in anticipation of correcting the existing technical problems in the near future. As of late May 2016 the technical video storage issues had not yet been resolved.

**P. SUMMARY OF LOCAL LAW ENFORCEMENT’S BWC USE**

A comparative summary of BWC use by the fifteen local law enforcement agencies in Monterey County is shown in **FIGURE 2**, along with selected features of the BWCs in use. Six agencies have BWCs and have put them into daily use by their officers. Two other agencies (City of Monterey and Del Rey Oaks) are currently moving forward with planned BWC acquisition and use. Six of the seven remaining agencies favor their use but are not yet moving forward because of a lack of funding or other considerations. One agency is currently not committed to the future use of BWCs. All six agencies using BWCs have adopted Lexipol-based written BWC policies.

**LOCAL BWC POLICIES AND CALIFORNIA’S LEGAL REQUIREMENTS**

As demonstrated in **FIGURE 3**, none of the local BWC policies meets current California legal requirements. However, prior to the adoption of Penal Code Section 832.18 in October 2015, law enforcement agencies in California were without guidance as to what might eventually be legally required for BWC usage in California. Each department structured its policy based on varying degrees of policy research. In addition, since the new Penal Code provisions did not become effective until January 1, 2016, it is possible that local policy revisions are now being considered by those agencies using BWCs.

**THE EXTENT TO WHICH BODY WORN CAMERAS ARE CURRENTLY IN USE BY  
MONTEREY COUNTY LAW ENFORCEMENT AGENCIES**

LAW ENFORCEMENT DEPARTMENT	BODY-WORN CAMERAS CURRENTLY USED?	DEPTS PLANNING FUTURE BWC PROGRAM	CAMERA MAKE & MODEL	WRITTEN POLICY CONCERNING BWC USE AND DATA STORAGE	DATA RETENTION PERIOD	EXTENT OF OFFICER ACCESS TO RECORDED DATA IN FIELD
CALIFORNIA HIGHWAY PATROL	NO	YES - PILOT PROGRAM TO START IN 2016	NONE SPECIFIED	Not Applicable (N/A)	N/A	N/A
CARMEL-BY-THE-SEA	NO	YES - IN 2-6 YEARS	NOT APPLICABLE	N/A	N/A	N/A
DEL REY OAKS	NO	YES -CAMERAS ON ORDER	"VISTA" BY WATCH GUARD	NO	UNSPECIFIED	NONE
GREENFIELD	YES	N/A	"LES" BY VIEWU	YES	1-2 YRS.	NONE
GONZALES	YES	N/A	"BODYCAM" BY PRO-VISION	YES	MINIMUM OF 180 DAYS	ABLE TO REVIEW. CAN ALSO DELETE UNLESS CONFIGURED TO PREVENT
KING CITY	YES	IMPLEMENTED IN JANUARY 2016	"BODYCAM" BY PRO-VISION	YES	6 YEARS	ABLE TO REVIEW. CAN ALSO DELETE UNLESS CONFIGURED TO PREVENT
MARINA	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
MONTEREY (CITY)	NO	CURRENTLY PURCHASING BWCs FOR OFFICER USE BEGINNING IN EARLY 2017	"VISTA HD WI-FI" BY WATCHGUARD	N/A	N/A	NONE
MONTEREY (SHERIFF)	NO	INDEFINITELY CONSIDERING, BUT NOT COMMITTED TO THEIR USE.	N/A	N/A	N/A	N/A
MO. REGIONAL AIRPORT	YES	N/A	"LES" BY VIEWU	YES	NO POLICY	NONE
PACIFIC GROVE	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
SALINAS	YES	N/A	AXON BY TASAR	YES	UNTIL "MATTER RESOLVED" OR REQUIRED BY LAW.	NONE
SAND CITY	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
SEASIDE	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
SOLEDAD	YES	N/A	"BODYCAM" BY PRO-VISION	YES	MINIMUM OF 180 DAYS	CAN REVIEW. CAN ALSO DELETE UNLESS CONFIGURED TO PREVENT

**FIGURE 2**

<b>FIGURE 3</b> <b>Department Written Policy Compliance With California Penal Code Section 832.18 "Best Practices" Policy Requirements</b>							
Item	Legal Requirements	Gonzales L450	Greenfield L450	King City L450	Monterey Airport L450	Salinas L447	Soledad L450
1	Designates a person For Downloading	No	No	No	No		
2	Supervisor to take immediate custody & downloads if serious incident recorded	No	No		No	No	No
3	Establishes When Data To Be Timely Downloaded to Ensure Cameras to be Properly Maintained, ready for next use, and for tagging and catagorizing data	No	No	No	No		
4	Establishes measures to prevent data tampering, deleting, copying, unauthorized use or distribution	Partially	Partially	Partially	Partially	Partially	Partially
5	Downloaded recordings to be catagorized, tagged and classified as to type at time of downloading	No	No	No	No	No	No
6	State specific times to store recordings. Store for a minimum of 60 days before delete, destroy or recycle.	Partially	Partially	Partially	Partially	Partially	Partially
7	Store for 2 years if incident involves use of force, police shooting, detention, arrest of individual, or relevant to citizen complaint plus any additional time required by law if relevant to a criminal proceeding.	No	No	No	No	Partially	No
8	Work with agency legal counsel to ensure storage times, policies and practices complies with all relevant laws and preserves evidence chain of custody.	Not regarding current law					
9	Permanently retain all logs or records of access to and deletion of data.	No	No	No	No	No	No
10	State specifically where data is to be stored, including, for example, if data to be stored on in house server managed locally or on-line data base managed by third party vendor.	No	No	No	No	Yes	No
11	If using a third party vendor, must consider listed factors to insure security and integrity of data	No Vendor	No Vendor	No Vendor	No Vendor	Yes	No Vendor
12	Include sanctions for unauthorized access or release of recorded data	No	No	No	No	Partially	No
13	Explicitely prohibits agency personnel from accessing recorded data for personal use, including uploading onto public or social web sites.	Yes	Yes	Yes	Yes	Yes	Yes

## **FINDINGS**

- F1. The use of BWCs responds to public demands for greater law enforcement transparency.**
- F2. BWCs, when recording lawful police conduct, provide positive risk management benefits.**
- F3. BWC recordings can serve as a valuable officer training resource.**
- F4. Law enforcement best practices now include law enforcement's use of BWCs when funds have been made available for their purchase and that of required data storage capacity.**
- F5. At a minimum in California, written department policies must comply with the requirements of Penal Code Section 832.18. (Appendix 3)**
- F6. In the absence of other sources of funding, each City Council must make sufficient funds available to its police department before the department can purchase BWCs for its officers and a secure storage system for resulting BWC recordings.**
- F7. In the absence of other sources of funding, the county Board of Supervisors must make sufficient funds available to its Sheriff's department before the department can purchase BWCs for its deputies and a secure storage system for resulting BWC recordings**
- F8. The BODYCAM<sup>®</sup> BWC described in this report stores recordings on a removable Micro-SD memory card.**
- F9. The BODYCAM<sup>®</sup> BWC described in this report enables any user to delete one or all recorded videos unless those camera functions are disabled by an appropriately trained BODYCAM<sup>®</sup> administrator or a manufacturer's representative.**
- F10. Because the BODYCAM<sup>®</sup> BWC allows the Micro-SD card to be removed from the camera, it is possible for an officer to remove and read the card on an unauthorized computer and to delete or modify recorded data, contrary to the specific prohibitions of Penal Code section 832.18.**

- F11. The Carmel Police Department does not provide BWCs for its officers' use although the department favors their use.
- F12. The Del Rey Oaks Police Department is in the process of ordering BWCs for its officers' use
- F13. The Greenfield Police Department provides BWCs for its officers' use in accordance with a written department policy.
- F14. The Greenfield Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F15. The Gonzales Police Department provides BWCs for its officers' use in accordance with a written department policy regarding their use.
- .F16. The Gonzales Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F17. The Gonzales Police Department uses the BODYCAM<sup>®</sup> BWC.
- F18. The King City Police Department provides BWCs for its officers' use in accordance with a written department policy regarding their use.
- F19. The King City Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F20. The King City Police Department uses the BODYCAM<sup>®</sup> BWC.
- F21. The Marina Police Department does not provide BWCs for its officers' use, but the department favors their use and plans to acquire them.
- F22. The City of Monterey Police Department is currently in the process of ordering BWCs for its officers' use.
- F23 The Monterey County Sheriff's Department does not provide BWCs for its deputies' use.
- F24. The Monterey Regional Airport Police Department provides BWCs for its officers' use in accordance with an official, but only oral, department policy regarding their use.
- F25. The Monterey Regional Airport Police Department's BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F26. The Pacific Grove Police Department does not provide BWCs for its officers' use.

- F27. The Salinas Police Department provides BWCs for its officers' use in accordance with a written department policy regarding their use.
- F28. The Salinas Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F29. The Sand City Police Department does not provide BWCs for its officers' use, although the department favors their use.
- F30. The Seaside Police Department does not provide BWCs for its officers' use, although the department favors their use.
- F31. The Soledad Police Department provides BWCs for its officers' use.
- F32. The Soledad Police Department's draft written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F33. The Soledad Police Department uses the BODYCAM<sup>®</sup> BWC.

#### **RECOMMENDATIONS**

- R1. As part of the Carmel-by-the-Sea Police Department's next annual budget request (or before) the Department shall apply to the Carmel-by-the-Sea City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R2. As part of the Carmel-by-the-Sea Police Department's next annual budget allocation (or before) the Carmel-By-The-Sea City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R3. The Carmel-by-the-Sea Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R4. The chief of the Carmel-by-the-Sea Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.

- R5. The chief of the Carmel-by-the-Sea Police Department shall meet with the department's legal counsel at least annually to review the then current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws
- R6. The Del Rey Oaks Police Department shall provide body-worn cameras for each of its officers promptly after they receive the cameras they have ordered.
- R7. The Del Rey Oaks Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R8. The chief of the Del Rey Oaks Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R9. The chief of the Del Rey Oaks Police Department shall meet with the department's legal counsel at least annually to review the then current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R10. The chief of the Greenfield Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.
- R11. The chief of the Greenfield Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R12. The chief of the Gonzales Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.

- R13. The chief of the Gonzales Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R14. The chief of the Gonzales Police Department shall take all steps necessary to ensure that each BODYCAM camera's settings are adjusted by an appropriately trained senior officer to prevent all officers using the BODYCAM® cameras from deleting or in any way altering the BWC video recordings at any time before the recordings are downloaded to the system's secure server.
- R15. The chief of the Gonzales Police Department shall take all steps necessary to ensure that the Department's written body-worn camera policy specifically prohibits officers using the BODYCAM cameras from removing the flash memory card from the camera at any time before the recordings are downloaded to the system's secure server.
- R16. The chief of the King City Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.
- R17. The chief of the King City Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R18. The chief of the King City Police Department shall take all steps necessary to ensure that each BODYCAM camera's settings are adjusted by an appropriately trained senior officer to prevent all officers using the BODYCAM cameras from deleting or in any way altering video recordings at any time before the recordings are downloaded to the system's secure server.
- R19. The chief of the King City Police Department shall take all steps necessary to ensure that the Department's written body-worn camera policy specifically prohibits officers using the BODYCAM cameras from removing the flash memory

card from the camera at any time before the recordings are downloaded to the system's secure server.

- R20. As part of the Marina Police Department's next annual budget request (or before) the Department shall apply to the Marina City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R21. As part of the Marina Police Department's next annual budget allocation (or before) the Marina City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R22. The Marina Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R23. The chief of the Marina Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R24. The chief of the Marina Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws
- R25. The City of Monterey Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R26. The chief of the City of Monterey Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R27. The chief of the City of Monterey Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws

relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws

- R28. As part of the Sheriff's Department's next annual budget request (or before) the Sheriff's Department shall apply to the County Board of Supervisors for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R29. As part of the Sheriff's next annual budget allocation ( or before) the County Board of Supervisors shall provide funds sufficient to enable the Sheriff's Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R30. The Sheriff's Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R31. The Sheriff of Monterey County shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R32. The Sheriff shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R33. The chief of the Airport Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy, to revise the policy to include, at a minimum, the "best practices" of set forth in California Penal Code 832.18, and to convert the policy to written form.
- R34. The chief of the Airport Police Department shall meet with the department's legal counsel at least annually to review the state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.

- R35. As part of the Pacific Grove Police Department's next annual budget request (or before) the Department shall apply to the Pacific Grove City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R36. As part of the Pacific Grove Police Department's next annual budget allocation (or before) the City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R37. The Pacific Grove Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R38. The chief of the Pacific Grove Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R39. The chief of the Pacific Grove Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R40. The chief of the Salinas Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.
- R41. The chief of the Salinas Police Department shall meet with the department's legal counsel at least annually to review the then current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R42. As part of the Sand City Police Department's next annual budget request (or before) the Department shall apply to the Sand City City Council for funds

sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.

- R43. As part of the Sand City Police Department's next annual budget allocation ( or before) the Sand City City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R44. The Sand City Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R45. The chief of the Sand City Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R46. The chief of the Sand City Police Department shall meet with the department's legal counsel at least annually to review the then current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R47. As part of the Seaside Police Department's next annual budget request (or before) the Department shall apply to the Seaside City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R48. As part of the Seaside Police Department's next annual budget allocation (or before) the Seaside City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R49. The Seaside Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.

- R50. The chief of the Seaside Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R51. The chief of the Seaside Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R52. The chief of the Soledad Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" of set forth in California Penal Code 832.18.
- R53. The chief of the Soledad Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R54. The chief of the Soledad Police Department shall take all steps necessary to ensure that each BODYCAM camera's settings are adjusted by an appropriately trained senior officer to prevent all officers using the BODYCAM cameras from deleting or in any way altering video recordings at any time before the recordings are downloaded to the system's secure server.
- R55. The chief of the Soledad Police Department shall takes all steps necessary to ensure that the Department's written body-worn camera policy specifically prohibits officers using the BODYCAM cameras from removing the flash memory card from the camera at any time before the recordings are downloaded to the system's secure server.
- R56. The chief of the Soledad police department, the Soledad City Council and the Soledad City Manager shall designate as a priority matter the proper completion of the BWC video storage system so that the existing BWCs can be put into daily use by the Soledad police officers on or before August 15, 2016.

## **REQUIRED RESPONSES**

Pursuant to Penal Code Section 933.05, the Civil Grand Jury requests a response as indicated below from the following law enforcement officials and governing bodies:

**[Note: Where a hyphen appears between two Findings (F) or two Recommendations (R) you are to respond to the complete indicated range of Findings or Recommendations.]**

1. **Carmel-by-the-Sea Police Chief**  
Findings: F1- F6, F11  
Recommendations: R1-R5
  
2. **Carmel-by-the-Sea City Council**  
Findings: F1- F6, F11  
Recommendations: R1-R5
  
3. **Del Rey Oaks Police Chief**  
Findings: F1 - F6, F12  
Recommendations: R6-R9
  
4. **Del Rey Oaks City Council**  
Findings: F1- F6, F12  
Recommendations: R6-R9
  
5. **Greenfield Police Chief**  
Findings: F5, F13, F14  
Recommendations: R10, R11
  
6. **Greenfield City Council**  
Findings: F5, F13, F14  
Recommendations: R10, R11

7. Gonzales Police Department  
Findings: F5, F8-F10, F15- F17  
Recommendations: R12-R15
  
8. Gonzales City Council  
Findings: F5, F8-F10, F15-F17  
Recommendations: R12-R15
  
9. King City Police Chief  
Findings: F5, F8-F10, F18-F20  
Recommendations: R16-R19
  
10. King City City Council  
Findings: F5, F8-F10, F18-R20,  
Recommendations: R16-R19
  
11. Marina Police Chief  
Findings: F1 - F6, F21  
Recommendations: R20-R24
  
12. Marina City Council  
Findings: F1 - F6, F21  
Recommendations: R20-R24
  
13. City of Monterey Police Chief  
Findings: F5, F22  
Recommendations: R25-R27
  
14. City of Monterey City Council  
Findings: F5, F22  
Recommendations: R25-R27

15. Sheriff of Monterey County  
Findings: F1 - F5, F7, F23  
Recommendations: R28–R32
  
16. Monterey County Board of Supervisors  
Findings: F1 – F5, F7, F23  
Recommendations: R28-R32
  
17. Monterey Regional Airport District Police Chief  
Findings: F5, F24-F25  
Recommendations: R33, R34
  
18. Monterey Regional Airport District  
Findings: F1 - F5, F24-F25  
Recommendations: R33, R34
  
19. Pacific Grove Police Chief  
Findings: F1 - F6, F26  
Recommendations: R35- R39
  
20. Pacific Grove City Council  
Findings: F1 - F6, F26  
Recommendations: R35-R39
  
21. Salinas Police Chief  
Findings: F1 - F5, F27, F28  
Recommendations: R40, R41
  
22. Salinas City Council  
Findings: F5, F27, F28  
Recommendations: R40, R41

23. Sand City Police Chief  
Findings: F1 - F6, F29  
Recommendations: R42-R46
  
24. Sand City City Council  
Findings: F1 - F6, F29  
Recommendations: R42-R46
  
25. Seaside Police Chief  
Findings: F1 - F6, F30  
Recommendations: R47-R51
  
26. Seaside City Council  
Findings: F1 - F6, F30  
Recommendations: R47-R51
  
27. Soledad Police Chief  
Findings: F5, F8-F10, F31-F33  
Recommendations: R52-R56
  
28. Soledad City Council  
Findings: F5, F8-F10, F31-F33  
Recommendations: R52-R56

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## APPENDIX 1

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## Portable Audio/Video Recorders

### 450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes or to mobile audio/video recordings (see the Investigation and Prosecution and Mobile Audio/Video policies).

### 450.2 POLICY

The Greenfield Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

### 450.3 MEMBER PRIVACY EXPECTATION

All recordings made by members acting in their official capacity shall remain the property of the Department regardless of whether those recordings were made with department-issued or personally owned recorders. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 450.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever possible.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever possible.

When using a portable recorder, the assigned member shall record his/her name, GPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

#### **450.5 ACTIVATION OF THE PORTABLE RECORDER**

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify Monterey County Department of Emergency Communications
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as practicable.

##### **450.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER**

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

##### **450.5.2 CESSATION OF RECORDING**

Once activated, the portable recorder should remain on continuously until the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

### **450.5.3 EXPLOSIVE DEVICE**

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

### **450.6 PROHIBITED USE OF PORTABLE RECORDERS**

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

### **450.7 RETENTION OF RECORDINGS**

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and transfer the file in accordance with current procedure for storing digital files and document the existence of the recording in the related case report. Transfers should occur at the end of the member's shift, or any time the storage capacity is nearing its limit.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

#### **450.7.1 RETENTION REQUIREMENTS**

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

### **450.8 REVIEW OF RECORDINGS**

When preparing written reports, members should review their recordings as a resource. However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

## ***Portable Audio/Video Recorders***

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Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Release and Security Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Release and Security Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.



## APPENDIX 3

### Assembly Bill No. 69

#### CHAPTER 461

An act to add Section 832.18 to the Penal Code, relating to peace officers.

[ Approved by Governor October 03, 2015. Filed with Secretary of State  
October 03, 2015. ]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 69, Rodriguez. Peace officers: body-worn cameras.

Existing law makes it a crime to intentionally record a confidential communication without the consent of all parties to the communication. Existing law exempts specified peace officers from that provision if they are acting within the scope of their authority.

This bill would require law enforcement agencies to consider specified best practices when establishing policies and procedures for downloading and storing data from body-worn cameras, including, among other things, prohibiting the unauthorized use, duplication, or distribution of the data, and establishing storage periods for evidentiary and nonevidentiary data, as defined.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

#### THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 832.18 is added to the Penal Code, to read:

**832.18.** (a) It is the intent of the Legislature to establish policies and procedures to address issues related to the downloading and storage data recorded by a body-worn camera worn by a peace officer. These policies and procedures shall be based on best practices.

(b) When establishing policies and procedures for the implementation and operation of a body-worn camera system, law enforcement agencies, departments, or entities shall consider the following best practices regarding the downloading and storage of body-worn camera data:

(1) Designate the person responsible for downloading the recorded data from the body-worn camera. If the storage system does not have automatic downloading capability, the officer's supervisor should take immediate physical custody of the camera and should be responsible for downloading the data in the case of an incident involving the use of force by an officer, an officer-involved shooting, or other serious incident.

(2) Establish when data should be downloaded to ensure the data is entered into the system in a timely manner, the cameras are properly maintained and ready for the next use, and for purposes of tagging and categorizing the data.

(3) Establish specific measures to prevent data tampering, deleting, and copying, including prohibiting the unauthorized use, duplication, or distribution of body-worn camera data.

(4) Categorize and tag body-worn camera video at the time the data is downloaded and classified according to the type of event or incident captured in the data.

(5) Specifically state the length of time that recorded data is to be stored.

(A) Unless subparagraph (B) or (C) applies, nonevidentiary data including video and audio recorded by a body-worn camera should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled. An agency may keep data for more than 60 days to have it available in case of a citizen complaint and to preserve transparency.

(B) Evidentiary data including video and audio recorded by a body-worn camera under this section should be retained for a minimum of two years under any of the following circumstances:

(i) The recording is of an incident involving the use of force by a peace officer or an officer-involved shooting.

(ii) The recording is of an incident that leads to the detention or arrest of an individual.

(iii) The recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency.

(C) If evidence that may be relevant to a criminal prosecution is obtained from a recording made by a body-worn camera under this section, the law enforcement agency should retain the recording for any time in addition to that specified in paragraphs (A) and (B), and in the same manner as is required by law for other evidence that may be relevant to a criminal prosecution.

(D) In determining a retention schedule, the agency should work with its legal counsel to determine a retention schedule to ensure that storage policies and practices are in compliance with all relevant laws and adequately preserve evidentiary chains of custody.

(E) Records or logs of access and deletion of data from body-worn cameras should be retained permanently.

(6) State where the body-worn camera data will be stored, including, for example, an in-house server which is managed internally, or an online cloud database which is managed by a third-party vendor.

(7) If using a third-party vendor to manage the data storage system, the following factors should be considered to protect the security and integrity of the data:

(A) Using an experienced and reputable third-party vendor.

(B) Entering into contracts that govern the vendor relationship and protect the agency's data.

(C) Using a system that has a built-in audit trail to prevent data tampering and unauthorized access.

(D) Using a system that has a reliable method for automatically backing up data for storage.

(E) Consulting with internal legal counsel to ensure the method of data storage meets legal requirements for chain-of-custody concerns.

(F) Using a system that includes technical assistance capabilities.

(8) Require that all recorded data from body-worn cameras are property of their respective law enforcement agency and shall not be accessed or released for any unauthorized purpose, explicitly prohibit agency personnel from accessing recorded data for personal use and from uploading recorded data onto public and social media Internet Web sites, and include sanctions for violations of this prohibition.

(c) (1) For purposes of this section, "evidentiary data" refers to data of an incident or encounter that could prove useful for investigative purposes, including, but not limited to, a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. The retention period for evidentiary data are subject to state evidentiary laws.

(2) For purposes of this section, "nonevidentiary data" refers to data that does not necessarily have value to aid in an investigation or prosecution, such as data of an incident or encounter that does not lead to an arrest or citation, or data of general activities the officer might perform while on duty.

(d) Nothing in this section shall be interpreted to limit the public's right to access recorded data under the

California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

December 8, 2016

Item No: **8j(2)**

Honorable Mayor and Members  
of the Marina City Council

City Council Meeting  
of December 20, 2016

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2016-,  
RECEIVING AND FILING THE 2017 INFORMATION REPORT ON THE  
ADJUSTMENT OF THE MITIGATION FEES FOR NEW  
DEVELOPMENT.**

**REQUEST:**

It is requested that City Council consider:

1. Adopting Resolution No. 2016-, receiving and filing the 2017 Information Report on the adjustment of mitigation fees for new development.

**BACKGROUND:**

At the regular meeting of August 7, 2007, the City Council passed and adopted Ordinance No. 2007-10, amending Chapter 3.26 of the Marina Municipal Code allowing the mitigation fees for new development to be increased/decrease on January 1 of each calendar year based on the percentage change in the Construction Cost Index (CCI) estimate approach that is typically used by public agencies as an estimated measure of the costs of construction of public infrastructure. The added provision states:

**Section 3.26.055 Indexing.**

“The City Council directs that the fee levels established by Section 3.26.050 shall be reviewed prior to January 1 of each year by the director. The fee levels shall be compared to the Engineering News Record (“ENR”) Construction Cost Index. The fee levels may be changed in accordance with the percentage change in the ENR index from November 1 to November 1 of each preceding year, but in no case shall the indexing percentage increase or decrease in fees allowed by this section exceed that shown in the ENR index. When calculating the fee level to be charged for the coming calendar year, increments of less than one dollar shall be rounded to the nearest dollar. Before January 1 of each year, the director shall prepare an informational report to the city council containing the calculations required by this section. If any index adjustments and fee changes are appropriate, the same shall be effective on January 1.”

At the regular City Council meeting of July 19, 2016, the City Council passed and adopted Ordinance No. 2016-04, amending Chapter 3.26 of the Marina Municipal Code updating developer impact mitigation fees which are charged for new development. This update was a major update of all the capital improvement master plans and a major update of impact fees.

Prior to the 2016 update of the developer impact mitigation fees, impact fees had not be indexed annually according to the Engineering News Record Construction Cost Index, even though the City’s Municipal Code provided the ability to do this.

Impact mitigation fees for the University Villages (currently referred to as “The Dunes”) were established per the Development Agreement between the City of Marina and Marina Community Partners, LLC approved on May 31, 2005 by Resolution 2005-135 and executed on July 8, 2005. This agreement provides for the adjustment of impact fees per the Construction Cost Index. The impact mitigation fees established per the Development Agreement differ from the fees established at the July 19, 2016 City Council Meeting and, therefore, require a separate calculation for increases.

**ANALYSIS:**

Staff has completed the review of the Engineering News Record (“ENR”) Construction Cost Index Value for November 2015 through November 2016. The November 2015 value was 10128.32 and the value for November 2016 was 10442.61 which is an increase of 3.1 percent. The Municipal Code requires that this informational report be provided to the City Council before January 1 which shows the new fee calculations. Unless directed otherwise by the City Council, these indexed adjustments and fee changes become effective January 1, 2017. The attached (“**EXHIBIT A**”) shows the current and proposed new Development Public Facilities Impact Fees effective January 1, 2017. These fees are applied to all new development, unless there is a previously approved Development Agreement.

**Dunes Development Agreement**

The Dunes Development Agreement approved in 2005 established city impact and other development fees and monetary exactions specific for their project. Exhibit D of this agreement states these fees are, “**subject to increase only for escalation in accordance with the construction cost index, identified in the City’s fee adoption ordinances**”.

The City has not adjusted any development impact fees for the Dunes Development since they were initially established on July 8, 2005. After consulting with the City Attorney’s Office, the appropriate way to establish the new adjusted impact fee is to take the Engineering News Record (“ENR”) Construction Cost Index Value for July 2005 which was 7422 and the Value for November 2016 was 10442.61. This represents an increase of 40.7 percent. The attached (“**EXHIBIT B**”) shows the current and the new impact mitigation fees for the University Villages effective January 1, 2017.

**Marina Heights Development Agreement**

The Marina Heights Development Agreement also established development impact fees, however, it does not provide a mechanism to increase these fees.

**FISCAL IMPACT:**

The increased development Public Facilities Impact Fees will result in increased revenues for the various development impact fee fund accounts. These will be used for development of new parks, public facilities, public safety facilities, and transportation system improvements.

**CONCLUSION:**

This report is submitted to City Council for information.

Respectfully submitted,

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Brian McMinn, P.E., P.L.S.  
Public Works Director/City Engineer  
City of Marina

**REVIEWED/CONCUR:**

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Layne P. Long  
City Manager  
City of Marina

RESOLUTION NO. 2016-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA  
RECEIVING AND FILING THE 2017 INFORMATION REPORT ON THE ADJUSTMENT  
OF THE MITIGATION FEES FOR NEW DEVELOPMENT.

WHEREAS, on August 7, 2007, the City Council adopted Ordinance No. 2007-10, increasing the City's Public Facilities Impact Fees and adding a provision for indexing the fees each January 1, and;

WHEREAS, the Engineering News Record ("ENR") Construction Cost Index Value for November 2015 was 10128.32 and the Value for November 2016 was 10442.61 which is an increase of 3.1 percent, and;

WHEREAS, the attached "Exhibit A" shows the new Public Facilities Impact Fees effective January 1, 2017, and;

WHEREAS, Impact mitigation fees for the University Villages (currently referred to as "the Dunes) were established per the Development Agreement between the City of Marina and Marina Community Partners, LLC approved on May 31, 2005 by Resolution 2005-135 and executed on July 8, 2005, and;

WHEREAS, the Development Agreement provides for the adjustment of impact fees per the Construction Cost Index, and;

WHEREAS, the Engineering News Record ("ENR") Construction Cost Index Value for July 2005 was 7422 and the Value for November 2016 was 10442.61 which is an increase of 40.7 percent, and;

WHEREAS, the attached "Exhibit B" shows the new University Villages Impact Fees effective January 1, 2017, and;

WHEREAS, the indexed Public Facilities Impact Fees will result in increased revenues to the City's Public Facilities Impact Fees Fund.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina does hereby receive and file the 2017 City of Marina Public Facilities Impact Fees Adjustment Index Report.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 20<sup>th</sup> day of December 2016, by the following vote:

AYES, COUNCIL MEMBERS:

NOES, COUNCIL MEMBERS:

ABSENT, COUNCIL MEMBERS:

ABSTAIN, COUNCIL MEMBERS:

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Bruce C. Delgado, Mayor

ATTEST:

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Anita Sharp, Deputy City Clerk

EXHIBIT A

Public Facilities Impact Fee Summary Indexed for 2017

Land Use	(a) 2016 Public Buildings Fee		(b) 2017 Public Buildings Fee		(c) 2016 Public Safety Fee		(d) 2017 Public Safety Fee		(e) 2016 Roadways Fee		(f) 2017 Roadways Fee		(g) 2016 Intersections Fee	(h) 2017 Intersections Fee	(i) 2016 Parks Fee	(j) 2017 Parks Fee	2016 Total Fee <sup>1</sup> (a+c+e+g+i)	2017 Total Fee <sup>1</sup> (b+d+f+h+j)							
	<b>Residential</b>																								
Single Family Dwelling Units	\$	3,702	\$	<b>3,817</b>	\$	797	\$	<b>822</b>	\$	6,981	\$	<b>7,197</b>	\$	1,692	\$	<b>1,744</b>	\$	8,017	\$	<b>8,266</b>	\$	21,189	\$	<b>21,846</b>	
Senior Homes	\$	2,468	\$	<b>2,545</b>	\$	531	\$	<b>547</b>	\$	2,698	\$	<b>2,782</b>	\$	654	\$	<b>674</b>	\$	5,345	\$	<b>5,511</b>	\$	11,697	\$	<b>12,059</b>	
Assisted Living - Senior	\$	1,371	\$	<b>1,414</b>	\$	295	\$	<b>304</b>	\$	1,936	\$	<b>1,996</b>	\$	469	\$	<b>484</b>	\$	2,969	\$	<b>3,061</b>	\$	7,041	\$	<b>7,259</b>	
Multi-Family Dwellings	\$	3,428	\$	<b>3,534</b>	\$	738	\$	<b>761</b>	\$	4,876	\$	<b>5,027</b>	\$	1,182	\$	<b>1,219</b>	\$	7,423	\$	<b>7,653</b>	\$	17,647	\$	<b>18,194</b>	
Mobile Home Park	\$	3,428	\$	<b>3,534</b>	\$	738	\$	<b>761</b>	\$	3,659	\$	<b>3,772</b>	\$	887	\$	<b>914</b>	\$	7,423	\$	<b>7,653</b>	\$	16,135	\$	<b>16,634</b>	
Campground/RV Park	\$	3,428	\$	<b>3,534</b>	\$	738	\$	<b>761</b>	\$	1,980	\$	<b>2,041</b>	\$	480	\$	<b>495</b>	\$	7,423	\$	<b>7,653</b>	\$	14,049	\$	<b>14,484</b>	
<b>Non-residential</b>																									
Office/Research	\$	263	\$	<b>271</b>	\$	492	\$	<b>507</b>	\$	8,088	\$	<b>8,339</b>	\$	1,960	\$	<b>2,021</b>	\$	-	\$	-	\$	10,803	\$	<b>11,138</b>	
Retail/Service	\$	158	\$	<b>163</b>	\$	295	\$	<b>304</b>	\$	13,593	\$	<b>14,014</b>	\$	3,295	\$	<b>3,397</b>	\$	-	\$	-	\$	17,340	\$	<b>17,878</b>	
Industrial	\$	53	\$	<b>55</b>	\$	98	\$	<b>101</b>	\$	5,111	\$	<b>5,269</b>	\$	1,239	\$	<b>1,277</b>	\$	-	\$	-	\$	6,501	\$	<b>6,702</b>	
Hotel	\$	71	\$	<b>73</b>	\$	133	\$	<b>137</b>	\$	5,991	\$	<b>6,177</b>	\$	1,452	\$	<b>1,497</b>	\$	-	\$	-	\$	7,647	\$	<b>7,884</b>	
Church	\$	53	\$	<b>55</b>	\$	98	\$	<b>101</b>	\$	6,680	\$	<b>6,887</b>	\$	1,619	\$	<b>1,669</b>	\$	-	\$	-	\$	8,450	\$	<b>8,712</b>	
Day Care Center	\$	210	\$	<b>217</b>	\$	394	\$	<b>406</b>	\$	54,306	\$	<b>55,989</b>	\$	13,163	\$	<b>13,571</b>	\$	-	\$	-	\$	68,072	\$	<b>70,183</b>	
Animal Hospital/Veterinary Clinic	\$	315	\$	<b>325</b>	\$	590	\$	<b>608</b>	\$	34,610	\$	<b>35,683</b>	\$	8,389	\$	<b>8,649</b>	\$	-	\$	-	\$	43,905	\$	<b>45,265</b>	
Medical/Dental Office Building	\$	315	\$	<b>325</b>	\$	590	\$	<b>608</b>	\$	26,493	\$	<b>27,314</b>	\$	6,421	\$	<b>6,620</b>	\$	-	\$	-	\$	33,820	\$	<b>34,867</b>	
Casino/Video Lottery	\$	315	\$	<b>325</b>	\$	590	\$	<b>608</b>	\$	98,478	\$	<b>101,531</b>	\$	23,869	\$	<b>24,609</b>	\$	-	\$	-	\$	*	\$	*	
Casino	\$	315	\$	<b>325</b>	\$	590	\$	<b>608</b>	\$	28,913	\$	<b>29,809</b>	\$	7,008	\$	<b>7,225</b>	\$	-	\$	-	\$	*	\$	*	
Notes:																									
<sup>1</sup> Fee in this table refers to "fee per dwelling unit or mobile home park/campground/RV space," "fee per 1,000 square feet of building space or gaming space," and "fee per hotel room."																									
* Specifically for the Casino uses, the fees for Public Buildings, Public Safety, and Parks are based on the 1,000 square feet of gaming area, while Roadways and Intersection fees are based on 1,000 square feet of building space, excluding hotel uses.																									
Construction Cost Index CCI estimate approach was used for calculation of revised fees. November 2015 Index Value = 10128.32; November 2016 Index Value = 10442.61; % change Year = +3.1, <i>Engineering News Record, The McGraw-Hill Companies, Inc.</i>																									

EXHIBIT B

University Villages (the Dunes) Impact Fees Summary Indexed for 2017

Land Use	(a) 2005 DA	(b) 2017	(c) 2005 DA	(d) 2017	(e) 2005 DA	(f) 2017	(g) 2005 DA	(h) 2017	(i) 2005 DA	(j) 2017	2005 DA Total	2017 Total Fee
	Traffic Intersections	Traffic Intersections	Roadways	Roadways	Parks	Parks	Facilities	Facilities	Public Safety	Public Safety	Fee (a+c+e+g+i)	(b+d+f++h+j)
<b>Residential</b>												
Single Family Dwelling Units	\$ 2,067.38	\$ <b>2,909.80</b>	\$ 3,322.31	\$ <b>4,674.49</b>	\$ 6,365.58	\$ <b>8,956.37</b>	\$ 1,394.73	\$ <b>1,962.39</b>	\$ 580.02	\$ <b>816.09</b>	\$ 13,730.02	\$ <b>19,319.14</b>
Town Homes	\$ 1,266.23	\$ <b>1,781.59</b>	\$ 2,034.86	\$ <b>2,863.05</b>	\$ 5,894.06	\$ <b>8,292.94</b>	\$ 1,394.73	\$ <b>1,962.39</b>	\$ 580.02	\$ <b>816.09</b>	\$ 11,169.90	\$ <b>15,716.06</b>
Senior	\$ 648.07	\$ <b>911.83</b>	\$ 1,041.46	\$ <b>1,465.33</b>	\$ 3,772.20	\$ <b>5,307.49</b>	\$ 1,394.73	\$ <b>1,962.39</b>	\$ 580.02	\$ <b>816.09</b>	\$ 7,436.48	\$ <b>10,463.13</b>
Multi-Family Dwellings	\$ 1,452.16	\$ <b>2,043.19</b>	\$ 2,333.65	\$ <b>3,283.45</b>	\$ 5,894.06	\$ <b>8,292.94</b>	\$ 1,394.73	\$ <b>1,962.39</b>	\$ 580.02	\$ <b>816.09</b>	\$ 11,654.61	\$ <b>16,398.06</b>
<b>Non-residential</b>												
Office (per building sq. ft.)	\$ 2.19	\$ <b>3.08</b>	\$ 3.52	\$ <b>4.95</b>	\$ -	\$ -	\$ 1.09	\$ <b>1.53</b>	\$ 0.93	\$ <b>1.31</b>	\$ 7.74	\$ <b>10.87</b>
Hotels (room)	\$ 1,626.17	\$ <b>2,288.02</b>	\$ 2,613.28	\$ <b>3,676.88</b>	\$ -	\$ -	\$ 1,162.27	\$ <b>1,635.31</b>	\$ 473.29	\$ <b>665.92</b>	\$ 5,875.00	\$ <b>8,266.13</b>
Commercial/Retail (per building sq. ft.)	\$ 8.82	\$ <b>12.41</b>	\$ 14.18	\$ <b>19.95</b>	\$ -	\$ -	\$ 0.66	\$ <b>0.93</b>	\$ 0.56	\$ <b>0.79</b>	\$ 24.21	\$ <b>34.08</b>
Industrial (per building sq. ft.)	\$ 1.39	\$ <b>1.96</b>	\$ 2.23	\$ <b>3.14</b>	\$ -	\$ -	\$ 0.22	\$ <b>0.31</b>	\$ 0.19	\$ <b>0.27</b>	\$ 4.02	\$ <b>5.68</b>
Construction Cost Index CCI estimate approach was used for calculation of revised fees. July 2005 Index Value = 7422; November 2016 Index Value = 10442.61; % change = +40.7, Engineering News Record. The McGraw-Hill Companies, Inc.												