

RESOLUTION NO. 2018-149

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 DROP 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. (SMB) has operated at Marina Municipal Airport since June 1996 and has utilized the eastern portion of the Airport (near the north tarmac) for parachute landings under terms and conditions of Conditional Airport Use Permits (CAUP); and

WHEREAS, having SMB at the Marina Municipal Airport is desirable and generates revenue for the airport; and

WHEREAS, at a regular meeting of December 20, 2016, the City Council adopted Resolution No. 2016-162, approving a CAUP for Skydive Monterey Bay, Inc. to use an interim parachute drop zone at the Marina Municipal Airport from April 1, 2016 through December 31, 2018; and

WHEREAS, the 2016 permit provided for an alternate interim parachute drop zone in the requested area north of the north tarmac and east of Taxiway A. To date, this drop zone location has been working effectively to reduce conflicts with the non-aeronautical activities being conducted on the north and south tarmacs, while improving the turnaround times between jumps; and

WHEREAS, the CAUP to utilize an interim parachute drop zone is presented for City Council consideration (“**EXHIBIT A**”); and

WHEREAS, the alternate interim parachute drop zone located north of the north tarmac and east of taxiway A (see EXHIBIT A of the Permit) has been identified and designated in the Airport Master Plan as the long-term location for use as an interim parachute drop zone; and

WHEREAS, the CAUP allows for SMB’s use of the alternate and/or interim parachute drop zones for the period of January 1, 2019 through December 31, 2020. The monthly charge for SMB’s use of an interim parachute drop zone is proposed at \$1,040 which is consistent with the charge paid during the term of the expiring CAUP; and

WHEREAS, 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, SMB will be responsible for all permits, sanitary facilities, safety, medical personnel, and coordination of all safety and operational issues with the Airport and the Marina Police and Fire Departments; and

WHEREAS, staff has determined that the findings for approval of a CAUP can be made, in that the proposed activity 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, further findings for approval of the CAUP include that SMB business draws people to the City and Airport and that the use of the interim parachute drop zone on the Airport generates revenue to benefit and support the Airport; and

WHEREAS, revenue for the period of the Conditional Airport Use Permit will be recorded in the Airport Enterprise Fund 555, 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, 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 drop 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 4th day of December 2018, by the following vote:

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

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

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 4, 2018, 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 C-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. The Permit shall go into effect on January 1, 2019 and remain in effect for a twenty-four (24) month period ending on December 31, 2020.

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:

January 1, 2019 to December 31, 2020.

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 herein. 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: 831-384-2901
Mobile: 831-241-8628
Facsimile: 831-384-9148

E-mail: jcrechriou@cityofmarina.org

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 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

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

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, December 18, 2018. 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 4, 2018 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:

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

Attest: Pursuant to Resolution No. 2018-____

Anita Sharp, Deputy City Clerk

APPROVED AS TO FORM:

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



EXHIBIT A Interim Parachute Drop Zone Location

"EXHIBIT B"
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

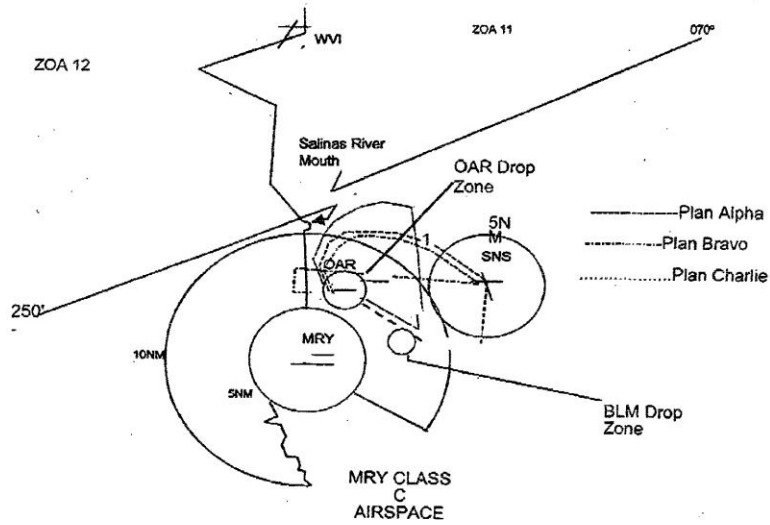
Original Signed By:

Jess Rodriguez
President
Skydive Monterey Bay

Northern California TRACON and Skydive Monterey Bay LOA
Subject: Coordination and Communication Procedures
for Parachute Jumps at the Marina Municipal Airport

Attachment 1

EFFECTIVE: August 18, 2003



“EXHIBIT C” Aircraft and Shuttle Vehicle Routes and Loading Areas

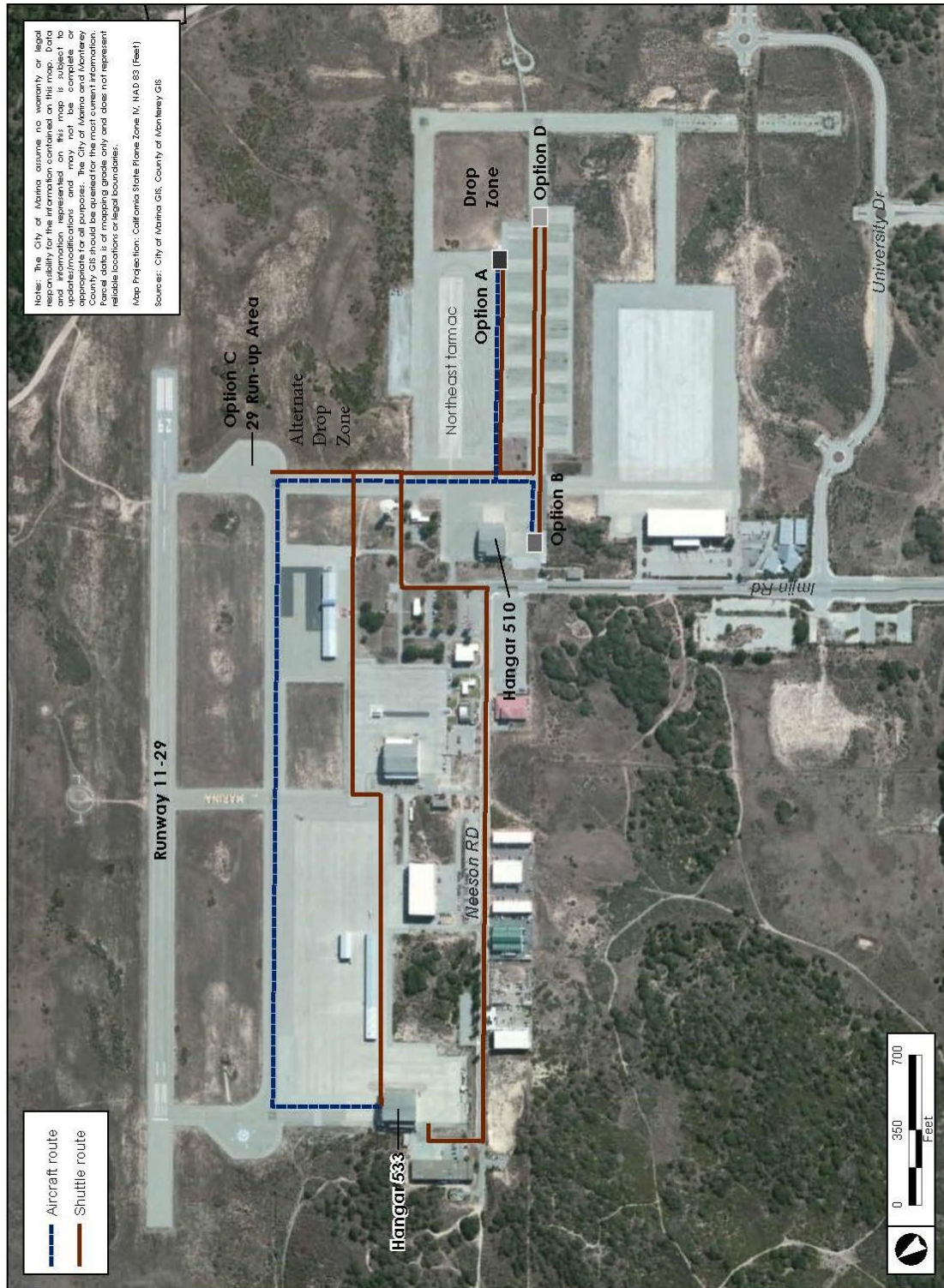


EXHIBIT C Aircraft and Shuttle Vehicle Routes and Loading Areas

“EXHIBIT D”
Incident Report Form

INCIDENT REPORT FORM – FOR OFFICIAL USE ONLY

Date of Incident _____ Pilot in Command _____

Total Passengers _____ Name of Ground Observer _____

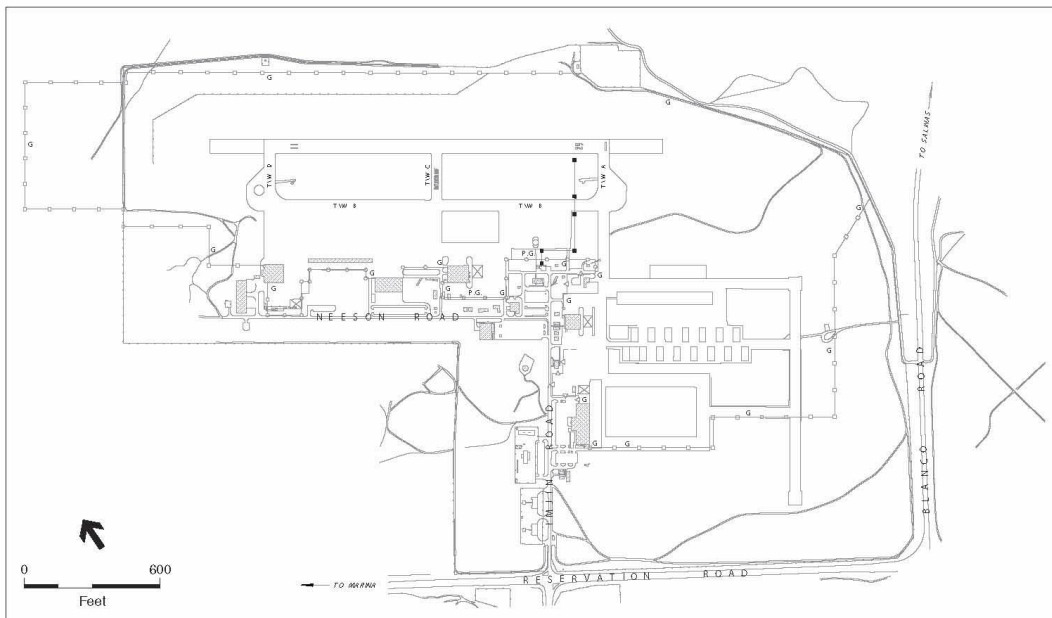
Name of Person(s) Involved: _____

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 YOUR 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."

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 intervius 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

Day and Date: _____

Aircraft: N- _____

Jump #1
Time of Jump:_____AM/PM
Name of Jumper:

Jump #2
Time of Jump:_____AM/PM
Name of Jumper:

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

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

Jump #3
Time of Jump:_____AM/PM
Name of Jumper:

Jump #4
Time of Jump:_____AM/PM
Name of Jumper:

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

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

Jump #5
Time of Jump:_____AM/PM
Name of Jumper:

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

Jump #6
Time of Jump:_____AM/PM
Name of Jumper:

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

Jump #7
Time of Jump:_____AM/PM
Name of Jumper:

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

Jump #8
Time of Jump:_____AM/PM
Name of Jumper:

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

Grand Total: _____ **Number of Jumps:** _____

Signature: _____ Date: _____

THIS FORM MUST BE COMPLETED WEEKLY (MONDAY THRU SUNDAY) TO AIRPORT OPERATIONS BY 5:00PM ON THE FOLLOWING MONDAY. IF THERE IS NO ACTIVITY FOR ANY WEEK, A MANIFEST SHOWING "NILL" SHALL BE PROVIDED FOR THOSE DAYS.

November 30, 2018

Item No. **8g(6)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of December 4, 2018

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2018-,
APPROVING A CONDITIONAL AIRPORT USE PERMIT FOR SKYDIVE
MONTEREY BAY, INC. TO USE AN INTERIM PARACHUTE DROP 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 consider:

1. Adopting Resolution No. 2018-, approving a Conditional Airport Use Permit for Skydive Monterey Bay, Inc. to use an interim parachute drop 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. (SMB) has operated at Marina Municipal Airport since June 1996 and has utilized the eastern portion of the Airport (near the north tarmac) for parachute landings under terms and conditions of Conditional Airport Use Permits (CAUP).

In April of 2013 SMB submitted an application for a CAUP Amendment requesting that the City Council consider relocating the interim parachute drop zone to vacant land north of the north tarmac.

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 December 20, 2016, the City Council adopted Resolution No. 2016-162, approving a CAUP for Skydive Monterey Bay, Inc. to use an interim parachute drop zone at the Marina Municipal Airport from April 1, 2016 through December 31, 2018.

The 2016 permit provided for an alternate interim parachute drop zone in the requested area north of the north tarmac and east of Taxiway A. To date, this drop zone location has been working effectively to reduce conflicts with the non-aeronautical activities being conducted on the north and south tarmacs, while improving the turnaround times between jumps.

ANALYSIS:

The CAUP to utilize an interim parachute drop zone is presented for City Council consideration (“EXHIBIT A”).

The alternate interim parachute drop zone located north of the north tarmac and east of taxiway A (see EXHIBIT A of the Permit) has been identified and designated in the Airport Master Plan as the long-term location for use as an interim parachute drop zone.

The CAUP allows for SMB's use of the alternate and/or interim parachute drop zones for the period of January 1, 2019 through December 31, 2020. The monthly charge for SMB's use of an interim parachute drop zone is proposed at \$1,040 which is consistent with the charge paid during the term of the expiring CAUP.

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.

Staff has determined that the findings for approval of a CAUP can be made, in that the proposed activity 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.

Further findings for approval of the CAUP include that SMB business draws people to the City and Airport and that the use of the interim parachute drop zone on the Airport generates revenue to benefit and support the Airport

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 555, 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:

Layne Long
City Manager
City of Marina