



**CITY OF VALDEZ**  
**TEMPORARY LAND USE PERMIT AGREEMENT**

**Permit No. 21-01**

This Temporary Land Use Permit Agreement (hereinafter referred to as Permit) is entered into this 18<sup>th</sup> day of February 2021 by and between the **CITY OF VALDEZ**, an Alaska municipal corporation (hereinafter referred to as “City” or “Valdez”), whose address is P.O. Box 307, Valdez, Alaska, 99686, and **VALDEZ MOTOR SPORTS CLUB, INC.** (hereinafter referred to as “Permittee”), whose address is P.O. Box 3689, Valdez, Alaska 99686.

WITNESSETH:

1. Permit. Valdez hereby grants to Permittee the right and privilege to be present upon the following described real property belonging to Valdez pursuant to the terms of this Permit Agreement:

A 2-Acre Portion of USS 439  
(See Exhibit “A”)

2. Term and Termination. Permittee may use the Property for the purposes set forth herein on **February 20, 2021, March 3, 2021, March 27, 2021, and April 3, 2021**. Permittee shall vacate the Property immediately after the expiration of this Permit.

3. Use. Permittee shall use the Property for staging for a track for the youth snowmobile races and for no other purposes. Specific buildings permitted include:

- a. Portable restrooms

Permittee may construct a snowmobile racing course on the Property. Upon expiration of the term of this Permit, Permittee shall either demolish any course constructed on the Property. Between dates allowed by this Permit, Permittee shall restrict access to the course by placing snow berms in the locations identified in Exhibit A, attached hereto.

All participants and/or competitors participating in snowmobile racing activities shall execute a waiver of liability form approved by the City.

Use of the Property under this Permit shall conform with existing City of Valdez zoning requirements and the City of Valdez comprehensive plan. Use of the Property under this Permit shall not adversely impact public access or Valdez operations.

All fuel petroleum and other toxic products maintained, stored or used at the Property shall be stored no less than 100 feet away from the nearest surface waterbody, and contained and confined in a manner which prevents any spillage from entering the Property, including without limitation any surface waters. In the event of a fuel or other toxic product spill, Permittee shall immediately notify the Valdez office of the Department of Environmental Conservation of the same. Permittee must maintain on hand at all times sorbent materials in sufficient quantity to handle operational spills for use in the event of a fuel or other toxic product spill.

No permanent structures shall be erected on the property; and no permanent alteration of the land shall occur.

4. Permittee Not a Lessee. No legal title or leasehold interest in the Property shall be deemed or construed to have been created or vested in Permittee by anything contained herein. The purpose of this permit is to convey a non-possession interest by the City of Valdez to Permittee in that certain property (not to exceed two acres) described in paragraph 1 above. The City of Valdez shall maintain all right, title, and interest in that Property as fee simple owner thereof, and Permittee by virtue of this Permit has only the right and privilege to be present upon the Property and to make use of it for the purpose set forth in paragraph 3 above.

5. Fee. In consideration for use of land owned by the City of Valdez, Permittee agrees to pay in advance a lump sum equal to a flat monthly fee of two hundred fifty dollars (\$250.00) per month of occupancy plus a pro-rated daily rate of nine dollars (\$9.00) per day for the number of days this permit is in effect other than a full month.

6. Insurance Requirement. The Permittee shall, at its own expense, purchase, maintain and otherwise keep in force the following insurance for the duration of this Agreement. The City shall be notified immediately prior to any termination, cancellation, or any other material change in such insurance. The Permittee shall provide the City a Certificate of Insurance prior to the commencement of any activity undertaken in connection with this Temporary Land Use Permit Agreement. Failure to provide adequate proof of insurance prior to the occupation of the Property will result in revocation of the Permit.

Event Liability Insurance: Covering the Permittee and the City for any and all claims for personal injury, bodily injury (including death) and property damage (including environmental degradation or contamination) arising from any activity occurring as a result of this Temporary Land Use Permit Agreement.

Minimum limits:        \$1,000,000 Each Occurrence  
                              \$100,000 Damage to Rented Premises  
                              \$5,000 Medical Payments  
                              \$1,000,000 Personal & Adv Injury  
                              \$2,000,000 General Aggregate  
                              \$2,000,000 Products and Completed Operations Aggregate

The City of Valdez shall be included as an Additional Insured.

7. Maintenance. Permittee agrees to maintain the property in a neat and orderly fashion. Upon termination of this Permit, Permittee agrees to leave the premises in a neat and clean condition.

8. Mechanic's Liens. Permittee shall pay all costs for construction done by it or caused to be done by it on the Property as permitted by this Permit. Permittee agrees not to construct any permanent structures on the property.

9. Utilities. Permittee shall be solely liable for and shall timely pay when due all expenses and fees for all utilities used or consumed with respect to the Property. The Permittee shall be required to provide and maintain sanitary facilities to include, but not be limited to, port-a-potties and garbage dumpsters.

10. Exculpation of Valdez. Valdez shall not be liable to Permittee for any damage to Permittee or Permittee's property from any cause. Permittee waives all claims against Valdez for damage to persons or property arising from any reason.

11. Indemnity. Permittee shall hold the City of Valdez harmless from and against any and all damages arising out of any damage to any persons or property occurring in, on, or about the Property.

12. Condemnation. If during the term of this Permit there is any taking by condemnation of the Property or any interest in this Permit, this Permit shall terminate on the date of taking. Any condemnation award shall belong to and be paid to The City of Valdez, and Permittee hereby assigns to the City of Valdez Permittee's interest therein.

13. No Encumbrance or Assignment Permitted. Permittee shall not voluntarily encumber its interest in this Permit or in the Property or attempt to assign all or any part of the Property, or allow any other person or entity, except its authorized representatives, to occupy or use all or any part of the Property.

14. Default. The occurrence of any of the following shall constitute a default under this Permit by Permittee:

(a) Failure to pay fees when due, if the failure continues for fifteen (15) days after written notice for payment;

(b) Any default in or failure to perform any term, covenant, or condition of this Permit.

(c) Failure of the Permittee to provide proof of insurance coverage as required in Section 6 of Permit.

(d) The making of any assignments for the benefit of creditors of Permittee, the appointment of a receiver for Permittee's business, the entry of an Order for Relief as to Permittee under the United States Bankruptcy Code as now in effect or hereafter amended, the insolvency of Permittee, or any similar situation.

15. Remedies. In the event of any default by Permittee under the provisions of paragraph 14 of this Permit, all of Permittee's rights hereunder shall immediately terminate; and the City of Valdez may, in addition to any rights and remedies that it may be given by statute, common law, express agreement, or otherwise, enter and take sole possession and control of the Property.

16. Valdez' Entry on Premises. The City of Valdez shall have the right to enter the Property at any time and, in view of the fact this Permit constitutes a license on real property rather than a lease, shall at all times remain in possession of the Property.

17. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by certified mail, return receipt requested, and shall be addressed to the other party at the address set forth in the introductory paragraph of this Permit. Either party may change its address by notifying the other party of the change of address. Such notices shall be deemed given when mailed irrespective of whether or not they are received.

18. Modification, Amendment, Waiver. No delay or omission in the exercise of any right or remedy of the City of Valdez on any default by Permittee shall impair such a right or remedy or be construed as a waiver. No modification, amendment, or waiver of any of the provisions of this Agreement shall be effective unless in writing, specifically referring hereto, and authorized by both parties.

19. Governing Law/Jurisdiction. This Permit shall be governed by, interpreted, and enforced in accordance with the laws of the State of Alaska and the laws of the United States, as applicable. The venue for all litigation arising out of or relating to this Agreement shall be Valdez, Alaska. The parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Alaska and waive any defense of *forum non conveniens*.

20. Miscellaneous. Time is of the essence with respect to each provision of the Permit, and it shall be binding upon and inure to the benefit of the parties, their heirs, assigns, and successors in interest. The enforceability, invalidity, or illegality of any provisions of this Permit

shall not render the other provisions of this Permit unenforceable, invalid, or illegal.

IN WITNESS WHEREOF the parties have caused this Permit to be executed by their duly authorized officers the day and year first above written.

CITY OF VALDEZ, ALASKA

VALDEZ MOTOR SPORTS CLUB, INC.

By: [Signature]  
Mark Detter, City Manager

By: [Signature]  
Ken Lares, President

Date: 2/18/2021

Date: 2/18/2021

ATTEST:

By: [Signature]  
Sheri L. Pierce, MMC, City Clerk



Approved as to Form:  
BRENA, BELL & WALKER, P.C.  
Attorneys for the City of Valdez

By: [Signature]  
Jake W. Staser

STATE OF ALASKA )  
) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this 18th day of February, 2021, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared **Ken Lares** known to me and to me known to be the individual named in and who executed the foregoing document and executed the foregoing document as free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and notarial seal the day and year first hereinabove written.



[Signature]  
Notary Public in and for Alaska  
My Commission Expires: 1-19-2022