



## Legislation Text

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**File #:** RES 20-0002, **Version:** 1

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**ITEM TITLE:**

#20-02 - Authorizing a Lease with Valdez Motor Sports Club, Inc. for a 10-Acre Portion of USS 439 (Pipeyard)

**SUBMITTED BY:** Nicole LeRoy, Planning Technician

**FISCAL NOTES:**

Expenditure Required: N/A

Unencumbered Balance: N/A

Funding Source: N/A

**RECOMMENDATION:**

Approve resolution #20-02 authorizing a lease with Valdez Motor Sports Club, Inc. for a 10-acre portion of USS 439 (Pipeyard) with the following conditions:

1. The new lease agreement contain a non-exclusive use clause allowing for similar compatible uses in the lease area and unrestricted access to other recreational users of the area.
2. The agreement states that the City has the right to use any portion of this 10-acre portion of USS 439 for Port Operations, or other uses as necessary.
3. The lease agreement prohibits the Motor Sports Club from enclosing or blocking off the area, moving any earth so as to create ramps, etc., or constructing or placing any structures on their lease site without written permission from the City.
4. The lease can be terminated within 30-days written notice to the lessee, with or without cause.
5. Access to Port storage buildings and facilities remain unrestricted and the area unenclosed.
6. Per VMC 17.08.170, no subleasing or assignment of the lease shall be permitted.

**SUMMARY STATEMENT:**

On December 10, 2019, the Planning Department received an application from the Valdez Motor Sports Club to lease a 10-acre portion of the Pipeyard at USS 439, Valdez Townsite for staging of motor sports activities.

The Valdez Motor Sports Club has leased a 10-acre portion of USS 439 for winter motor sports activities since an agreement was approved and executed in 2000. This original agreement was amended four times to extend the term through July 14, 2018 when the agreement expired. The Valdez Motor Sports Club has now applied to again lease this portion of USS 439 for five years, with two five-year extensions. The Valdez Motor Sports Club has detailed their request in the narrative attached with their application and indicated that they are applying to lease the property for staging of motor sports events and activities.

In addition to staging for motor sports activities, as part of their lease application, Valdez Motor Sports Club has requested permission to maintain a storage conex, control tower, portable restrooms, dumpsters, timing shack, search and rescue trailer, and various temporary vendor stands during events at the location. Attendees of their events will use the area for parking as well. The storage conex, control tower, and search and rescue trailer are permanent fixtures, while the restrooms, dumpsters, timing shack, and vendor stands would be on a temporary basis associated with events only. Any extension or deviation from this list will require City permission. Any changes to the use permitted under this recommendation will require a lease amendment and approval by City Council.

Per Valdez Municipal Code 4.08.060, “no application for lease shall be considered unless the land desired to be leased is zoned to permit the use to which the applicant intends to put the land.” The area the Valdez Motor Sports Club has applied for is zoned light industrial which includes open spaces for recreation as a permitted principal use as well as accessory buildings in connection with a permitted principal use.

It should be noted that the original agreement between the City and the Motor Sports Club was a “land use permit.” Land use permits were used in the past in place of leases for some agreements. Because this type of permit is not outlined in Valdez Municipal Code, staff is bringing forward this proposal using the standard lease process. Council approval of this application will allow staff to execute a new lease agreement with the Valdez Motor Sports Club.

In the past, the prior agreement contained a non-exclusive use clause, as well as a 10-day termination clause (see below). Staff recommends that the non-exclusive use clause and a 30-day termination clause allowing the City to cancel the agreement with or without cause be included in the new lease agreement as well, given the seasonal and intermittent nature of the lessee’s use to allow for other compatible uses of the property. The Pipeyard is Ports and Harbors property, designated as a laydown area. The Port needs to reserve the right to use the Pipeyard for Port operations as needed, including, but not limited to, storage and staging for military and shipping operations.

*“12. Non-exclusive Use. The use of the Real Property by the Valdez Motor Sports Club will not be an exclusive use and therefore others who request to use it for similar purposes may also be allowed by the City. The Valdez Motor Sports Club shall work cooperatively with other users of the facility. Failure to do so may be cause for termination of the Agreement.”*

*“10. Termination. This Agreement may be terminated by the City with or without cause or should the Valdez Motor Sports Club’s use interfere with the City’s use of the Real Property or upon the Valdez Motor Sports Club’s failure to perform or comply with any of the conditions or obligations contained in this Agreement. In such event, the City shall give ten (10) days prior written notice of the termination and the Valdez Motor Sports Club shall have (30) days to remove any of its equipment from the Real Property. This Agreement may be terminated by the Valdez Motor Sports Club upon thirty (30) days prior written notice of the termination and the Valdez Motor Sports Club shall then have thirty (30) days to remove its building from the Real Property.”*

Valdez Municipal Code defines fair rental value as 10 percent of appraised value for lease of City land. The cost of this appraisal is paid by the lessee per VMC 4.08.100. Valdez Motor Sports Club has indicated that they would like to lease this portion of the Pipeyard for no annual fee, as they have done in the past. Per VMC Section 4.08.030 - Fair rental value to be used for leases - Exceptions, "the city may lease city lands for less than the fair rental value to any state or federal agency or political subdivision, a public utility, a nonprofit organization, or to a new industry on terms advantageous to the public welfare of the city if the council, by motion passed by not less than six councilmen, determines the lease to be in the best interest of the public." Due to the requested discounted rent, the approval of this lease requires an affirmative vote of not less than six City Council members.

However, possessory interest requires that the Motor Sports Club be responsible for paying property taxes unless they are specifically exempted under Valdez Municipal Code Title 3.12 Property Taxes (see below.)

**3.12.050 Community purpose property exemption.**

*The property of an organization not organized for business or profit-making purposes and used exclusively for community purposes may be exempt from taxation under this chapter. That portion of the property regularly used for commercial purposes other than the organization's exempt purpose shall be subject to taxation by the city. In order to qualify for this exemption, the applicant must file a written application for the exemption no later than January 15th of each assessment year for which the exemption is sought. The application shall be on a form prescribed by the city and shall include all information determined necessary by the city to determine the character of the organization and the nature of the uses made of the property. An exemption granted under this section shall be only for the assessment year for which the exemption is sought.*

On December 16, 2019 the Ports and Harbors Commission voted to approve a recommendation to City Council to approve the Valdez Motor Sports Club's lease application with staff's recommendations.

On December 26, 2019 the Planning and Zoning Commission voted to approve a recommendation to City Council to approve the Valdez Motor Sports Club's lease application with staff recommendations.

Staff recommends the above listed conditions be included in the approval of this lease application.

Pending Council approval of this application, Planning Department staff will work with the City attorney and Valdez Motor Sports Club to execute a new lease agreement for five years, commencing July 15, 2018 and extending through July 14, 2023 with two five-year options to extend granting the Motor Sports Club use of the property to "operate, and maintain a motor sports staging area for their own use." The agreement will be retroactive from the date of expiration.