

**LICENSE AGREEMENT BETWEEN  
CITY OF HAMPTON AND HAMPTON BMX ATHLETIC LLC**

**THIS LICENSE AGREEMENT** (“Agreement”) made and entered into this 29 day of July, 2020 by and between THE CITY OF HAMPTON, VIRGINIA, a municipal corporation of the Commonwealth of Virginia, ( the “City” or “Licensor”), and HAMPTON BMX ATHLETIC LLC, a Virginia corporation (the “Association” or “Licensee”).

**WHEREAS**, Licensee is organized to support bicycle motocross racing within the City of Hampton;

**WHEREAS**, the City owns a parcel of land commonly known as Gosnold’s Hope Park;

**WHEREAS**, Licensee has utilized a portion of Gosnold’s Hope Park consisting of approximately 2.6 acres for its bicycle motocross racing activities pursuant to a license agreement the term of which, has expired;

**WHEREAS**, Licensee desires to continue to utilize the aforesaid portion of Gosnold’s Hope Park for its bicycle motocross racing on the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the premises, covenants, promises and other valuable consideration, the parties hereto agree as follows:

1. Licensor hereby grants a revocable license to Licensee to utilize that portion of Gosnold’s Hope Park consisting of approximately 2.6 acres of real property (“Licensed Premises”) as shown on **Exhibit “A”** attached hereto and made a part hereof.
2. The Licensed Premises shall be used solely for bicycle motocross racing events. All other uses are strictly prohibited unless otherwise authorized by the prior written consent of the Director of Parks and Recreation.

3. The term of this Agreement shall be for three (3) years commencing on the 3rd day of September, 2020 and terminating on the 3rd day of September, 2023 (the "Term"). Subject to the terms and conditions of this Agreement, Licensee shall have the right to extend this Agreement for one additional two (2) year term ("Renewal Term") by giving written notice to the City of Licensee's election to renew at least ninety (90) days prior to the expiration of this Agreement. However, the City Council has authorized the City Manager to revoke the license granted under this Agreement, at any time, for any reason or no reason, upon giving sixty (60) days written notice of revocation to Licensee.

4. Licensee shall not install any structures or fixtures in or upon the Licensed Premises without the prior written consent of the Director of Parks, Recreation and Leisure Services.

5. Licensor shall not be liable for any loss, injury, death, or damage to any person or property which at any time may be suffered or sustained by Licensee or any person regardless of whether such loss, injury, death or damage is caused by or in any way results from or arises out of any act, omission, or negligence of the Licensee or any occupant, subtenant, visitor or user of any portion of the Licensed Premises or results from or is caused by any other matter or thing whether of the same kind as or of a different kind than the matters or things set forth above and Licensee shall fully indemnify and hold harmless Licensor from any and all claims, liabilities, loss, injury, damage or whatsoever on account of such loss, injury, death, or damage. Licensee hereby waives all claims against Licensor for damages (i) to any structures that Licensee may have placed within the Licensed Premises pursuant to this Agreement or a prior agreement, (ii) to the property of Licensee, or (iii) for injuries to person or property in or about the Licensed Premises arising from any cause at any time.

6. During all practice, race or other activities sponsored by the Licensee, a Parent/Guardian Release Statement shall be required for all participants and it shall be the Licensee's responsibility to obtain such releases.

7. Licensee acknowledges and accepts any risk of damage to its facilities which are located within the Licensed Premises which may be caused from the construction or maintenance activities of the City, any of its contractors or any of the franchised utility companies who may install any utility facilities on the Licensed Premises under a City Utility Permit.

8. At its sole cost and expense, Licensee shall secure and maintain in full force and effect throughout the Term of this Agreement and any Renewal Term, liability insurance covering all structures, improvements and activities within the Licensed Premises in the amount of One Million and No/100 Dollars (\$1,000,000.00) per occurrence and Three Million and No/100 Dollars (\$3,000,000.00) aggregate. Such insurance shall be issued by a company licensed to conduct the business of insurance Virginia and shall name the City as an additional insured. Any deductible provision of said insurance shall be subject to the approval of the City Attorney's Office. Such insurance shall specifically insure Licensee against all liability assumed by it under the terms of this Agreement as well as any liability imposed by law and shall insure both Licensor and Licensee but shall be so endorsed as to create the same liability on the part of the insurer as if separate policies had been written for Licensor and Licensee. Licensee shall provide Licensor with a copy of the certificate of insurance in a form satisfactory to Licensor and the City Attorney's Office and shall carry the provision that the insurance will not be cancelled or materially modified without 30 days prior written notice to the City. During any Renewal Term, Licensee shall provide Licensor a copy of the certificate of insurance annually without demand.



9. Licensee shall pay all applicable (1) real property taxes and stormwater fees applicable to the Leased Premises; (2) personal property taxes on any equipment, fixtures, or furnishings that Licensee owns or uses on the Leased Premises; and (3) any other taxes related to Licensee's use of the Leased Premises, including but not limited to, retail sales and use taxes, admissions taxes, and food and beverage taxes, and any penalty, interest, and/or fees assessed thereon. The EDA shall not be responsible for payment of any such taxes, fees, penalties, or interest.

10. Licensee may not sublet or assign the rights granted by this Agreement without the prior written consent of Licensor which consent shall not be unreasonably withheld.

11. Nothing herein shall be construed to in anyway require the City or the Department of Recreation and Leisure Services ("Parks") to be responsible for maintenance, vandalism, accident, injury, death or destruction resulting from the use of the Licensed Premises by individuals in association with scheduled or non-scheduled activities.

12. Maintenance:

A. Licensee will assume complete enhancement and maintenance costs for the existing motocross facility and associated parking area in the Licensed Premises. Grounds, facilities, structures, light fixtures, and apparatuses shall at all times be maintained in a manner consistent with public safety and of consistent quality to be in a park setting. This will include, but not be limited to, mowing, dust control, noise control, litter collection and normal repair and restoration of the facilities. The Licensed Premises shall be subject to inspection by the Police Department, health, fire, and code enforcement officials and Parks representatives with or without notice to Licensee.

B. Should activities be scheduled by another group (which has obtained permission from Parks and coordinated with Licensee), such other group shall be required to assume full responsibility for clean-up, maintenance and restoration. Should the motocross facility within the Licensed Premises be rendered unusable, inconvenient or unsafe as a result of its use by a group with or without the permission of Parks, Parks assumes no responsibility therefore and reserves the right to close the facility for the protection of life, limb and property and reasons of public safety.

C. Should the motocross facility be vandalized or any way rendered unsafe or unusable, Licensee must either restore the area to its original condition or repair the facility for future use. The choice shall be Licensee's; however, if no action is taken within 60 days after Licensee has been requested to restore or repair the Licensed Premises or any portion thereof, then the City, acting through Parks, may close the area off and this Agreement shall automatically be revoked.

D. Licensee agrees to provide safety devices deemed necessary by the City and to provide proper security of the area, including signs if required.

E. Licensee will assume complete maintenance responsibility for the electrical service installed to support the track location. All service connections, permits, and electrical consumption billing will be the responsibility of Licensee.

13. Licensee shall operate the motocross facility in accordance with the rules set forth by the USA BMX in the Rules of Competition and shall comply with all applicable federal, state, and local laws, statutes, ordinances and regulations. All race activities shall be conducted in such a manner within the Licensed Premises as to avoid creating any loud or disturbing noise. Licensee will operate the starting gate and public address system in such a manner that it will not

create any unreasonable noise to neighbors in the vicinity. All noise levels must comply with City ordinances.

14. Licensee shall limit the use of the track lights to 15 times per year. All events scheduled by Licensee will end at or before 10:30 p.m. and the Licensed Premises will be cleared by 11:00 p.m. Other than prior approval for lock-ins.

15. The City retains the right to sponsor or co-sponsor events at the motocross facility in the future through a cooperative scheduling or agreement with Licensee.

16. Concessions shall be allowed only by written permission of the Director of Parks.

17. All notices, demands, or other writings in this Agreement provided to be given or made or sent, or which may be given or made or sent by either party hereto or to the other shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States Mail and addressed to the following:

To Licensor:

Hampton Parks, Recreation and Leisure Services Department  
City Hall  
22 Lincoln Street  
Hampton, VA 23669

With copy to:

City Attorney  
City Hall  
22 Lincoln Street  
Hampton, VA 23669

To Licensee:

Hampton BMX Athletic LLC  
c/o Bobby Powell  
5749 Ottawa Rd.  
Virginia Beach, VA 23462



18. At the expiration or sooner termination of this Agreement, Licensee shall peaceably and quietly quit and surrender to the Licensor the Licensed Premises and the rights subject to this Agreement. Licensee shall remove any improvements constructed within the Licensed Premises upon written request of the City Manager to Licensee after the expiration or termination of this Agreement. In the event Licensee has not removed any such structures, improvements or property within sixty (60) days of the date the City Manager mailed the written request to remove, all structures, improvements and property within or upon the Licensed Premises shall become the property of Licensor, with Licensor reserving the right to remove the aforesaid improvements, the expense of said removal to be paid by Licensee. The waiver by Licensor or the failure of Licensor to take action with respect to any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or subsequent breach of the same or of any term covenant or condition herein contained.

19. The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators and assigns of all parties hereto.

20. Licensee covenants and agrees that it does not and during the Term of this Agreement or any Renewal Term, will not discriminate on the basis of race, religion, color, sex, national origin, age or disability in its membership or attendance at its functions.

20. This Agreement shall be deemed to be a Virginia contract and shall be governed by the laws of the Commonwealth of Virginia, and the parties hereto designate the Circuit Court of the City of Hampton, Virginia as the proper venue for all litigation of issues relating to this Agreement.

21. This Agreement contains the final and entire agreement between the parties hereto and contains all the terms and conditions agreed upon and no other agreements, oral or otherwise required in the subject matter of this Agreement shall be deemed exist or to bind the parties hereto. The parties hereto, by the undersigned authorized officers or agents; do hereby agree to abide by the terms, conditions, and obligations of the Agreement.

WITNESS, the following signatures

THE CITY OF HAMPTON, VIRGINIA

By: \_\_\_\_\_  
City Manager/ Authorized Designee

ATTEST:

\_\_\_\_\_  
Clerk of Council

Approved as to Content:

Approved as to Form & Legal Sufficiency:

\_\_\_\_\_  
Parks, Recreation and Leisure Services

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

HAMPTON BMX ATHLETIC LLC

By: Bobby Powell TO 7/29/2020  
Bobby Powell  
Title: President/Owner