



City of San Gabriel
STAFF REPORT

DATE: January 7, 2020

TO: Honorable Mayor and City Council

FROM: Mark Lazzaretto, City Manager *ml*

BY: Rebecca Perez, Community Services Director
Christina Alatorre, Recreation Supervisor

SUBJECT: **Agreement for Use of Smith Park Pool by San Gabriel Sea Gulls**

SUMMARY

This report includes an updated Agreement for Fiscal Year 2019-20 between the City of San Gabriel and the San Gabriel Sea Gulls for the use of Smith Park Pool. Staff recommends that the City Council approve the Agreement.

ANALYSIS

The San Gabriel Sea Gulls (SGSG) and Gabrielino High School use Smith Park Pool for their swim team use. Both teams contribute to the cost of the pool operation during the school year. SGSG also covers a portion of the pool cost for their use of the pool during the summer months.

As part of the Fiscal Year 2019-2020 Budget, the fee for SGSG pool use was set at \$57.64 per hour, which includes the hourly cost of one Lifeguard, and a portion of utilities and maintenance of the pool. With the potential rate increase of staff and change in rates for utilities, this hourly fee may change for FY 2020-21. As such, this agreement is proposed to end on June 30, 2020.

RECOMMENDATION

Staff recommends approval of the attached agreement for SGSG's use of Smith Park Pool to be effective immediately and ending June 30, 2020.

ATTACHMENTS

Exhibit A Use Agreement

**SWIMMING POOL USE AGREEMENT BETWEEN
THE SAN GABRIEL SEAGULLS SWIM TEAM
AND THE CITY OF SAN GABRIEL**

This swimming pool use agreement ("Use Agreement") is made and entered into as of the 7th day of January 2020, by and between the SAN GABRIEL SEAGULLS SWIM TEAM (the "SGSG") and CITY OF SAN GABRIEL, a California municipal corporation (the "City") for the use of the Swimming Pool located at Smith Park (the "Pool").

WHEREAS, the City operates and maintains a certain swimming pool and locker facilities on the grounds of Smith Park; and

WHEREAS, SGSG desires to use said swimming pool and locker facilities to conduct swim team workouts and summer racing camp in conjunction with swim meets; and

WHEREAS, City and SGSG have found that it will be in the public interest economically and practically for City to allow SGSG to utilize said swimming pool and locker facilities;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter contained, said parties, and each of them do agree as follows:

1. Use.

The City agrees to allow the SGSG to use the Pool during the Term of this Use Agreement on those dates and times agreed as set forth below (which may change from time to time by mutual consent of both parties). SGSG shall have full and exclusive use of said pool, locker facilities and other appurtenant facilities and city-owned equipment located within the premises of the Pool. This use shall be restricted to swimming programs and other related SGSG activities and that said facility shall not be made available by SGSG for non-swim team representative groups. The hours of said exclusive use shall be during days and times that have been indicated on the Smith Park Pool Multiple Usage Form commencing on January 7, 2020. It is further agreed that the City and SGSG shall cooperate in order to permit the use of the pool facility by other groups during this period.

2. Term.

Subject to the terms and conditions of this Use Agreement, the use granted in Section 1 above has commenced on January 7, 2020. ("Commencement Date") and shall continue until and expire on the date, which is June 30, 2020 (the "Termination Date") unless sooner terminated as provided herein. Both City and SGSG agree that each party has the unrestricted right to terminate, revoke or otherwise cancel this Use Agreement upon ninety (90) days prior written notice of such intent.

3. City Services.

City shall maintain the premises in a clean condition for use by SGSG. City shall provide the most cost effective and reliable source for chemical delivery services. City shall have no obligation to furnish locker attendants, towels or swimming apparel. The City will provide certified lifeguard staff trained to administer first aid and CPR during SGSG practices and swim meets.

4. Fees.

SGSG shall reimburse City at \$57.64 per hour, pursuant to Resolution No. 18-30. All fees required under the Use Agreement shall be paid to the City by SGSG of the facilities on the allocated dates. SGSG must provide at least 72 hours notice for a cancellation to the Recreation Supervisor via email. If SGSG cancels in less than 72 hours, the hours of nonuse will be billed. City will invoice SGSG on a bi-annual basis. Fees shall be paid within 30 days of receiving an invoice from the City.

5. SGSG Obligations.

SGSG will maintain membership as an USA Swimming club and follow the USA Swimming Rules and Regulations. SGSG shall ensure that it follows all applicable safety procedures during its use of the Pool including, but not limited to, directly hiring and employing qualified coaches and certified lifeguards, providing safety equipment, and enforcing the occupancy of the Pool and the entire facility. All SGSG coaches must be registered as USA Swimming coaches. SGSG will repair, or cause to be repaired or will reimburse City for the cost of repairing damage done to said facilities during the period of use by SGSG, including teams or clubs competing meets hosted by SGSG, other than those repairs considered necessary to ordinary and reasonable use.

6. Private Lessons.

Requests for private lessons in addition to regular swim team practice hours must be submitted on a Smith Park Pool Usage Request form and a city lifeguard must be on duty. Lifeguard services provided under this section shall be reimbursed pursuant to Section 4 above.

7. Use of Pool in June.

City programs will have first priority for pool use during the summer months. SGSG will continue to request time using the Smith Park Pool Multiple Usage Form.

8. Indemnities.

SGSG shall indemnify, defend and hold harmless the City of San Gabriel and its officers, employees, agents, successors and assigns from and against any and all suits, claims, liabilities, damages, judgments, order, decrees, actions, proceedings, fines, penalties, damages, losses, costs

and expenses, including but not limited to reasonable attorneys' fees, (collectively, "Claims") to the extent arising during the term of this Use Agreement and in any way relating to the Uses in Paragraph 1 or any other use of the Pool.

City shall indemnify, defend and hold harmless the SGSG and its officers, employees, agents, successors and assigns from and against any and all suits, claims, liabilities, damages, judgments, order, decrees, actions, proceedings, fines, penalties, damages, losses, costs and expenses, including but not limited to reasonable attorneys' fees arising during the term of this Use Agreement resulting from any action or omission of the City, its officers, agents or employees, resulting in any condition that meets the definition of a "dangerous condition of public property" under section 835 of the Government Code.

The provisions of this Paragraph 8 shall survive the termination of this Use Agreement to the extent that any Claims arise or accrue from the Commencement Date to and through the Termination Date.

9. Insurance.

SGSG shall maintain a policy of general liability insurance to insure against all claims for injuries to persons attending or participating in the SGSG sponsored aquatic programs occurring in or around the Pool. Said liability policy shall have limits of not less than One Million Dollars (\$1,000,000) for injuries per person and Five Million Dollars (\$5,000,000) per occurrence. The policy must include the City of San Gabriel, its officers, employees, agents, successors and assigns as additional insureds.

10. Termination.

This agreement may be terminated at any time by either party upon ninety (90) days written notice to the other party.

11. Renewal.

This agreement is renewable upon mutual agreement of the parties hereto on a yearly basis.

12. Applicable Law.

This Use Agreement shall be governed by the laws of the State of California, and any questions arising hereunder shall be construed and determined according to such laws.

13. Entire Agreement.

This Use Agreement is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements between the parties with respect to the

matter contained in this Agreement. Any waiver, modification, consent or acquiescence with respect to any provision of the Agreement shall be set forth in writing and duly executed by both parties. No waiver by any party or any breach hereunder shall be deemed a waiver of any other subsequent breach.

14. Assignment.

SGSG shall have no right to assign, sublicense or otherwise transfer its rights hereunder.

15. Notices.

All notices that may be or are required to be given by either party to the other hereunder shall be in writing. All notices hereunder shall be sufficiently given, made or delivered if served personally or by certified or registered mail, postage prepaid, addressed as follows:

For SGSG:
Attn: George Young
P.O. Box 2556
San Gabriel, CA 91778

For City of San Gabriel:
Attn: Rebecca Perez
Community Services Director
425 S. Mission Drive
San Gabriel, CA 91776

IN WITNESS WHEREOF, the parties have executed this Use Agreement as of the day and year first above written.

SAN GABRIEL SEA GULLS

By: _____

George Young

Date: _____

CITY OF SAN GABRIEL

By: _____

Mark Lazzaretto
City Manager, City of San Gabriel

Date: _____