

**FACILITY USE AGREEMENT BETWEEN THE
CITY OF COLLINSVILLE, ILLINOIS
AND THE GATORS SWIM CLUB**

THIS FACILITY USE AGREEMENT ("Agreement") is entered into this 22nd day of April, 2025, by and between the **City of Collinsville**, an Illinois home-rule municipal corporation (hereinafter the "City"), the **Gators Swim Club**, an Illinois nonprofit corporation (hereinafter Gators), of Maryville, Illinois, on the terms and conditions provided for herein.

RECITALS

WHEREAS, the CITY owns and operates an aquatic complex, also known as the Collinsville Aqua Park, located at 10 Gateway Drive, Collinsville, Illinois (hereinafter the "Facility"), part of which includes a swimming pool (hereafter the "Pool");

WHEREAS, the Gators is an organization devoted to the development of a youth competitive swimming program;

WHEREAS, Gators desires to utilize the Lap Pool at the Facility for its swim program, including practices and special events;

WHEREAS, the CITY objective is to provide swimming and aquatic recreational programs to meet a variety of community needs;

WHEREAS, the CITY desires to generate revenue for Facility's maintenance, repair, operation and programs;

WHEREAS, the parties mutually desire to work toward effective and cooperative use of the Pool; and

WHEREAS, the CITY desires to schedule pool time for Gators and its swimmers subject to certain payments, terms, and provisions.

NOW, THEREFORE, the parties hereto agree as follows:

AGREEMENT

1. Premises

The CITY agrees to allow Gators to use the Pool at the Facility on the terms and conditions provided for herein.

2. Term

The term of this Agreement ("Term") shall be from May 27, 2025 through August 1, 2025.

3. Pool and Facility Use

- a. Gators shall use the Pool only for swim practices.
- b. Gators shall have use of one Activity Center room at the Facility for the purpose of registration of swimmers at a date and time to be agreed to by the City.
- c. Gators members must have previously proven a proficiency in all skills of the American Red Cross Learn to Swim Program Level V to be eligible for the team.
- d. Gators may teach private competitive stroke lessons to a Gators member at the main or medium Pool based on availability (non-peak times) but only with written permission from the Pool Manager. Gators agree to pay the CITY at the hourly rate of ten dollars (\$10.00) per lane per hour for "private" use of a lane or any part of a lane. Gators' insurance policy through USA Swimming shall name the CITY and its officials, officers, employees, agents, and volunteers as additional insureds for this additional use. Such arrangements will be made only between Gators and the CITY.
- e. Gators members will not be permitted to use the Pool without a Gators coach on site. A CITY lifeguard must also be present at the Pool while Gators swimmers are utilizing the facilities, including but not limited to practices, or special events. If a lifeguard is not available then the Gators shall cease use of the Pool until such time one is made present. It is the responsibility of the Gators to ensure all of its Club members or participants have exited the facility at the conclusion of Gators use prior to the last coach leaving the Pool.
- f. Gators shall not assign or transfer this Agreement, or right or interest granted by this Agreement. The use of the Pool pursuant to the terms of this Agreement is specifically restricted to members of the Gators and Gators staff. Gators shall not allow non-members of its group/organization to utilize the Pool under the auspices of the Gators unless the non-members are specifically being evaluated for membership in the Gators. All Gators non-members shall sign individual waivers and releases in a form provided by the CITY prior to using the Pool.
- g. Gators shall comply with the rules and regulations of USA Swimming and shall abide by all rules

and regulations of CITY pertaining to the safe and responsible use of the Pool.

- h. Gators coaches (volunteer or paid) must be Active Coach Members with USA Swimming; have current certifications in CPR, First Aid, and Safety Training for Swim Coaches; and successfully complete a Background Check with USA Swimming every two years to conduct practices at the Pool. A current copy of all Gators coaches' USA Swimming cards must be on file with the CITY.
- i. The CITY does not ensure the security of any items of Gators or its members and their families at the Pool.
- j. Gators shall provide adequate adult supervision of all children not participating in the Club's activities that are part of this Agreement, including keeping such children out of other Facility and Pool areas that are not under lifeguard watch.

4. Pool Schedule

- a. Gators use of the Pool under this Agreement shall be from 7:15 am through 10:15 am on Monday through Friday during the Term.
- b. Gators acknowledges and agrees that occasional modifications to the schedule may be required due to special uses/circumstances (such as Water Safety Instruction, Lifeguard Training, Staff Training, weather, maintenance, etc.) or due to the scheduled times for other users of the pool or special events at the pool. Gators further acknowledges and agrees that CITY programs and events have priority use of the Pool, that the projected pool use schedule may occasionally change from time to time as a result of this priority, and that the CITY reserves the right to cancel any scheduled use by Gators upon written notification one (1) week in advance if possible.

5. Use Fees

On or before June 6, 2025, Gators shall pay to CITY \$120.00 per participating families on their roster who are not already season pass holders of the Collinsville Aqua Park. Participating families that are season pass holders shall not have any additional fees owed to the City under this Agreement. The roster of participating families shall be provided by the Gators to the City on or before June 6, 2025.

6. Indemnification

To the fullest extent permitted by law, Gators shall indemnify, defend (with legal counsel reasonably acceptable to City), and hold harmless the CITY and its officers, officials, agents, employees and volunteers from all claims, loss, cost, damage, injury (including, without limitation, injury or death), expense and liability of every kind, nature and description (including, without limitation, fines, penalties, incidental and consequential damages, reasonable court costs and attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith, and costs of investigation) arising out of or in any way connected with the performance of this Agreement by the

Gators, or Gators officials, employees, agents, its independent contractors or volunteers except to the extent arising from the CITY'S sole negligence or willful misconduct. Termination of this Agreement shall not release Gators from its obligations under this Section, as long as the event giving rise to the claim, loss, cost, damage, injury, expense or liability occurred prior to the effective date of any such termination.

7. Insurance

a. During the entire term of this Agreement, Gators shall, at its sole expense, maintain in full force and effect a policy or policies of commercial general liability insurance, including property damage, written by one or more responsible insurance companies licensed to do business in Illinois with a Best's rating of no less than an A-:VII.

b. The CITY and its officials, officers, employees, agents and volunteers shall be named as additional insureds. Gators shall provide City with an additional insured certificate for each such insurance coverage. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officers, officials, employees, agents or volunteers. The Gators insurance coverage shall be primary insurance with respect to the CITY, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents or volunteers, shall be excess of the Gators insurance and shall not contribute with it. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the CITY, its officers, officials, employees, agents or volunteers. Moreover, the Gators insurance shall apply separately to each insured against whom any claim or claims are made or suit is brought, except with respect to the limits of the insurer's liability.

c. The policy limits of such insurance shall not be less than \$1,000,000 per occurrence and \$3,000,000 aggregate, as approved by the CITY. Each such policy shall be subject to approval by CITY as to form and as to insurance and risk management companies.

d. Gators shall maintain and keep in force a products liability endorsement, which shall be included in the aforementioned comprehensive liability insurance policy or policies.

e. Worker's Compensation insurance and employer's liability insurance for all employees of the Gators shall also be provided and kept in force.

f. Any policy of insurance required of the Gators shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to CITY of any pending change in the limits of liability, or of any cancellation or modification of the policy.

8. Termination of Agreement

This Agreement may be terminated by either party:

a. upon a default of any covenant, condition, or term hereof by the other party, which default is not cured within 30 days of receipt of written notice of default; or

b. at its discretion, provided such party delivers the other party written notice 60 calendar days prior to termination.

9. Disclaimer

It is understood and agreed that the CITY shall in no event be construed or held to be a partner, associate or joint venturer with Gators in the use of the pool, nor shall the CITY be held liable for any debts incurred by Gators in any way connected with the use of the POOL, and that the relationship of the parties is and at all times shall remain that of CITY being owner and Gators having use of the Pool.

10. Force Majeure

If performance of this Agreement is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking the provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages, or other labor disputes, or supplier failures. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed with the reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents or affiliates.

11. Payment and Notices

Any payment, demand or notice which either party shall be required, or may desire, to make upon or give to the other party, shall be in writing and shall be delivered in person, electronic mail, or by prepaid certified United States mail, return receipt requested, or in the alternative may be given by personal service to an authorized representative of the party to be served, addressed to the respective parties as follows:

City: Mayor
City of Collinsville
125 South Center Street

Collinsville, Illinois 62234

Gators: President
Gators Swim Club
1902 Pinehurst Ct
Collinsville, IL 62234

Any party may, at any time, change the address to which notice shall be given by giving a written notice thereof to the other party as above provided. Notice or demand by prepaid registered mail addressed as aforesaid shall be deemed to be fully communicated upon three (3) business days after time of mailing.

12. Compliance with Laws

Gators shall comply with all applicable laws, including all public health and safety codes and regulations pertaining to their use of the pool. In addition, Gators shall not allow any nuisance to be committed at the Pool, including any nuisance caused by noise.

13. Severability

If any provision of the Contract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed and enforced as so limited.

14. Governing Law and Venue

This Agreement shall be construed in accordance with the laws of the State of Illinois and the venue for any litigation between the parties shall be in the Circuit Court of Madison County, Illinois.

15. Entire Agreement; Amendments

This Agreement, including all exhibits, and documents expressly incorporated by reference contain the entire agreement between the parties regarding the use of the Pool and shall supersede any and all prior agreements, oral or written between the parties regarding the use of the Pool. This Agreement may only be modified or amended in writing by mutual agreement between the parties, if the writing is signed by the party obligated under the amendment.

IN WITNESS WHEREOF, the parties hereby agree to the terms and conditions of this Agreement:

CITY OF COLLINSVILLE

GATORS SWIM CLUB:

By: _____
Mayor

By: Michelle L. Berger
President

Michelle L. Berger