

# TOWN OF DAVIE

## TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Bette P. Stark, 797-1089

**SUBJECT:** Resolution

**TITLE OF AGENDA ITEM:** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO APPROVE AND EXECUTE THE AMENDED AGREEMENT WITH DINA SAGARESE FOR PRESCHOOL PROGRAM AT IVANHOE COMMUNITY CENTER AND SHENANDOAH PARK ACTIVITY ROOM

**REPORT IN BRIEF:** The Davie Parks and Recreation Department is desirous of amending the original agreement with Dina Sagarese. According to the original agreement which was approved by Council on January 3, 2001, Section 1. Terms: states: "...During any period of extension, all terms, conditions and specifications of the original agreement shall remain unchanged unless amended by written agreement by the parties adopted with the same formality as the original." The contractor requested changes in writing per agreement and the Town submitted revisions to the contract. The final agreement is attached as "Exhibit A". This agreement was reviewed and approved by the Procurement Manager, the Bid Spec Committee, Risk Management, and by the Town's Attorney. A brief description of the pre school program: The Instructor provides two different HRS licensed sites in the Town of Davie. This program is for children ages 3-5 and runs weekdays from 9:00 a.m. to 12 noon at Ivanhoe Community Center and Shenandoah Park. The agreement allows the Instructor to be paid seventy five (75) percent of the fee that is collected from the participant. The Town receives twenty five (25) percent of the fee, which compensates the Town for use of the facilities, overhead and advertising costs for the class. The Instructor collects the entire fee (the checks are made out to the Town) and submits them along with a roster to the Town, after the registration period. The Town then pays the Instructor, on a regular cycle, once the class has started. The expected payment to the Instructor is approximately \$75,000. The Instructor is providing the certificate of insurance with the Town included as "additional insured".

**PREVIOUS ACTIONS:** R-2001-8

**CONCURRENCES:** none

**FISCAL IMPACT:**

Has request been budgeted? yes

If yes, expected cost \$75,000.00

Account Name: Diversionary Preschool

What account will funds be appropriated from: 001-0813-572-0324

**Additional Comments:** Since the Town receives 100% of the funds, the Town pays 75% to the instructor. The fees generated from this program pay for the instructor, and have no financial impact to the Town's budget.

**RECOMMENDATION(S):** Motion to approve Resolution.

**Attachment(s):** Resolution and contract

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO APPROVE AND EXECUTE THE AMENDED AGREEMENT WITH DINA SAGARESE FOR PRESCHOOL PROGRAM AT IVANHOE COMMUNITY CENTER AND SHENANDOAH PARK ACTIVITY ROOM

WHEREAS, the Town is desirous of sponsoring recreational programs for children of all ages; and

WHEREAS, the Town wishes to continue providing a preschool program at Ivanhoe Community Center and Shenandoah Park Activity Room; and

WHEREAS, the instructor's fee is based upon the number of students that register and pay for the class; and

WHEREAS, The instructor will be compensated 75% of the class fee, not to exceed \$75,000.00; and

WHEREAS, after review, the Town Council wishes to authorize the Mayor to approve the attached agreement with the approved amendments with Dina Sagarese for pre-school program.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The Town Council of the Town of Davie hereby approves a contract and authorizes the appropriate Town official to enter into a contract attached as Exhibit "A" with Dina Sagarese for pre-school at Ivanhoe Community Room and Shenandoah Park throughout the year 2002.

SECTION 2. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2001

\_\_\_\_\_  
ATTEST:

MAYOR/COUNCILMEMBER

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2001.

**AGREEMENT BETWEEN THE TOWN OF DAVIE  
AND DINA SAGARESE RELATING TO  
JOINT RECREATIONAL PRESCHOOL PROGRAMMING**

THIS AGREEMENT, made and entered into this 5th day of December, 2001, by and between:

Town of Davie, Florida  
a municipal corporation  
6591 Orange Drive  
Davie, Florida, 33314  
(hereinafter referred to as "TOWN")

AND

Dina Sagarese  
4740 SW 12 Place  
Deerfield Beach, FL 33442  
(hereinafter referred to as "CONTRACTOR")

WITNESSETH

WHEREAS, the Town is desirous of extending the preschool program at the Ivanhoe Community Center and the Shenandoah Park Activity Room for an additional year with amendments which are included in this agreement; and

WHEREAS, according to the terms of the original agreement, the Contractor has submitted in writing changes which have been mutually agreed upon by the Contractor and the Town; and

WHEREAS, Dina Sagarese has been a Preschool Contractor for the Town since 1993; and

WHEREAS, the Contractor's fee is based upon the number of students that register and pay for the class; and

WHEREAS, due to the increased availability of locations on a Townwide basis and the popularity and quality of instruction, the Contractor will be compensated 75% of the class fee, not to exceed \$75,000 each year; and

WHEREAS, the Town has verified Dina Sagarese's qualifications, experience and capability to perform fully the requirements for such a program, and has determined that Dina Sagarese has the necessary staff with expertise, skills and capabilities to provide the required services; and

WHEREAS, this agreement has been reviewed by the Town Attorney; and

during this proposed preschool program.

IN CONSIDERATION of the mutual covenants and agreements as herein set forth, sufficiency of which consideration is hereby acknowledged, the parties agree as follows:

**1. TERM:**

1. The term of this agreement shall be for the period of one (1) year commencing on December 6, 2001 with the option to extend for three (3) additional one (1) year terms by mutual written agreement of both parties. During any period of extension, all terms, conditions and specifications of the original agreement shall remain unchanged unless amended by written agreement by the parties adopted with the same formality as the original.

**2. JOINT RECREATION PROGRAMS:**

2.1 Town and Contractor agree to offer a recreational preschool program for the following days, times, and location:

**Preschool Programs/School Year:**

Ivanhoe Community Center, 6101 SW 148 Avenue, Davie  
Monday through Friday 9:00 a.m. to 12 noon

Shenandoah Park Activity Room, 14452 Shenandoah Parkway  
Monday through Friday, 9:00 a.m. to 12 noon

Closed holidays and election days, if facility is being used for voting.

- Martin Luther King, Jr. Day, Monday, January 21, 2002
- Presidents' Day, Monday, February 18, 2002
- Spring Break, week 2002
- Memorial Day, Monday, May 27, 2002
- Independence Day, July 4, 2002
- Labor Day, Monday, September 2, 2002
- Columbus Day, October 14, 2002
- Thanksgiving Day, November 28, 2002
- Day after Thanksgiving, November 29, 2002
- Winter Break December 23, 2002 to January 3, 2003

**Preschool Program/Summer**

Ivanhoe Community Center, 6101 SW 148 Avenue, Davie  
Monday through Friday 9:00 a.m. to 12 noon

**3. DUTIES OF DINA SAGARESE, PRESCHOOL CONTRACTOR:**

**3.1 Development and Implementation of Recreational Preschool Programs:**

follows:

**3.1.1** Organize and supervise recreational preschool program as defined in Paragraph 2.1 of this Agreement. A minimum number of twelve (12) registered participants is required to commence program.

**3.1.2** Use Contractor's best efforts to promote the programs outlined in Section 2, and further endeavor to heighten public interest and an awareness of these activities through advertising.

**3.1.3** Select, hire and employ at Contractor's sole expense, all Contractors, assistants and staff necessary to provide recreational preschool instruction including duties and obligations under the terms of this Agreement provided, however, that all teaching staff shall be over the age of eighteen (18) years old. Subcontractors must be certified. None of the employees of Dina Sagarese shall be deemed employees or agents of the Town of Davie for any purposes whatsoever. The Contractor is acting as an independent Contractor with regard to this license and no agency relationship is created between the Contractor and the Town by virtue of this agreement.

**3.1.4** Manage, control and supervise all Contractors, assistants and staff employed by Dina Sagarese.

**3.1.5** Be fully responsible for the payment and maintenance of all insurance, taxes and other incidents of employment for those persons hired by Dina Sagarese to assist in the fulfillment and obligations under this Agreement.

**3.1.6** Allow Dina Sagarese's name to be used for the promotion of these programs in the Town of Davie, by the Town of Davie.

**3.1.7** Maintain records and accounts of all transactions that result from doing business pursuant to this Agreement for a period of three (3) years. Such records shall include daily attendance and enrollment records, as well as, financial records. Such records shall be kept so as to satisfy standard bookkeeping requirements. Such records shall be made available to the Town for inspection, review and auditing within ten (10) calendar days written notice from Town. Notwithstanding the provisions set forth in this paragraph, it is agreed that the Contractor will cooperate in all respects with the Town with regard to compliance with the public records law of the State of Florida.

**3.1.8** Maintain all necessary licenses and permits, including but not limited to HRS licenses, if applicable as required by law. Copy of license will be given to the Town of Davie.

**3.1.9** Contractor will provide the Florida protective services background check on HRS Form 1651 for all employees.

**3.1.11** The Town does not permit any signs or advertising at any Town facility unless specifically approved in writing by the Parks and Recreation Director.

**3.1.12** Perform all tasks which are reasonably necessary to be done in order to accomplish the work and objectives as otherwise provided for under this Agreement.

**3.1.13** Contractor shall provide all preschool program supplies, play equipment, crafts, games and materials.

**3.1.14** The Contractor shall sign out any Town of Davie equipment and shall return it in good condition.

**3.1.15** All dates, times and locations must be approved by the Parks and Recreation Director prior to Contractor commencing any activities under this Agreement.

**3.1.16** Notify the Parks and Recreation Director and all registered participants immediately if the Preschool Program is to be canceled in accordance with the provisions of this Agreement.

**3.1.17** Insure that all facilities are kept free of litter and debris during and immediately after their use under this Agreement. Failure to abide by this requirement will result in:

1. A written notification to the Contractor for the first occurrence.
2. A fee of \$25.00 will be charged to the Contractor for each additional occurrence thereafter.

**3.1.18** Contractor shall comply with the Drug Free Workplace Act.

**3.2 Dina Sagarese's Duty to Inspect and Make Safe:**

**3.2.1** The Contractor shall conduct a thorough examination and inspection of the premises and equipment to identify any unsafe condition or defect prior to the commencement of any of its duties, operations and services under this Agreement. The Contractor will inform the representatives at the Town of Davie of repairs needed at the facility and/or equipment that is in need of repairs. Repairs shall be completed by the Town of Davie within seven (7) or fewer days once notification by the Contractor is made. Notification may be verbal, but must be immediately followed up with a written notice.

**3.2.2** If, in the course of its use and/or operations, the Contractor or any agent, representative, employee or volunteer of the Contractor becomes aware or should become aware of any dangerous condition in or on the premises or equipment, the Contractor or its agents, representative, employee or volunteer shall immediately notify the Recreation Coordinator or other Town authorized designee of such dangerous condition and either immediately correct the dangerous condition, or

4.1 The Contractor shall handle the registration process, including the collection of fees. All participants are required to complete the Town of Davie Parks and Recreation registration form. The Contractor shall bring to the Parks and Recreation Department all completed registration applications and fees.

5. **FEES:**

5.1 The Preschool fees are as follows:

Monday, Wednesday, Friday \$180.00 per month

Tuesday, Thursday \$144.00 per month

Registration Fee \$50.00 (to be collected by Instructor and used for miscellaneous supplies)

Scholarships are provided based on financial need.

5.2 All checks shall be payable to the Town of Davie. The remuneration to the Town of Davie for the preschool program will be 25%.

5.3 The Contractor will issue registration applications, attendance sheets, and tuition for the month with an invoice summarizing the total number of participants attending each week on the first Friday of the new 4 week session.

5.4 Penalty for late payment. In the event the Contractor fails to submit registration fees to the Town as required in article 5.3, hereunder within five (5) days of the monthly due date, there shall be added to such payment a late charge of \$50, and interest at the highest rate allowed by law until the payment is brought up to date.

5.5 The Town will pay all invoices in accordance with the Florida Prompt Payment Act.

5.6 It will be the responsibility of the Contractor to collect any outstanding fees. If a check is returned for any reason, the participant MUST pay in cash for all future payments.

5.7 The Contractor will be required to provide one (1) scholarship per fifteen (15) registrations for any Davie children that meet the Federal Hot Lunch Program Guidelines and cannot afford the cost of the Preschool Program.

6. **ADVERTISING AND PROMOTION:**

6.1 The Contractor may use advertising in promoting the programs at the assigned Town facilities. The Contractor may specifically use the name of those Town facilities provided that when so doing they are identified as Town of Davie Parks and Recreation facilities. The cost of all advertising promulgated by the Contractor shall be paid by the Contractor and approved in writing by the Parks and

shall be allowed to use the Contractor's name and appropriate likeness in any such advertising or promotion without additional compensation to the Contractor. The cost of advertising for promotion promulgated by Town will be paid by Town and approved, in writing, by the Contractor before publication. The Town of Davie will advertise the preschool program in the Davie Update (sent to Davie residents).

**7. PREMISES:**

**7.1** All Town premises are provided in "as is" condition. Town disclaims all representations and warranties, express and implied, as to the condition of the premises and equipment or the use and occupancy authorized other than those contained in this agreement.

**8. TOWN FACILITIES:**

**8.1 DESCRIPTION OF TOWN FACILITIES:** The program will be held at Ivanhoe Community Center, 6101 SW 148 Avenue, Davie, Florida and Shenandoah Park Activity Room, 14452 Shenandoah Parkway, Davie, Florida.

**8.2 USE OF TOWN'S FACILITIES:**

Town agrees to allow the Contractor to use the facilities for activities upon the following terms and conditions:

(a) Each use shall be at mutually agreeable times and days with said agreement not unreasonably withheld. Agreement as to use shall be between Town's Parks and Recreation Director or his/her authorized designee and Dina Sagarese, Contractor, or his/her authorized designee. The Contractor shall execute the standard Town Facility Use Permit form prior to each use.

(b) Town shall provide lighting, air conditioning, heating, phone access and water for ordinary purposes, but for no other purposes. Town will also provide athletic fields for the various types of sports, based upon availability. The Town will provide one (1) kitchen cabinet and one storage closet for storage.

(c) Use of Town facilities for the Contractor's programming is specifically conditioned upon the Contractor providing a written designation of the authorized agent who shall be in charge of the activity and who shall supervise preschool participants and invites while on designated property. Said designation shall be delivered to the Parks and Recreation Director prior to any use.

(d) The Contractor shall require its Contractors, agents, students and invitees to follow all rules and regulations for the use of parks and park property as promulgated by Town and as set forth in Section 16.3 of Town's Municipal Code.

(e) As directed by the Public Works Director, the Public Works Department will select specific dates and times when they would make repairs to Ivanhoe

(f) The Town of Davie reserves the right to cancel a permit with a twenty four (24) hour notice to the permit holder with the exception of emergencies and/or acts of God.

### **8.3 DINA SAGARESE DUTY TO INSURE TOWN FACILITIES:**

**8.3.1** Dina Sagarese shall maintain for the full term of this Agreement, insurance which must include the following coverage and minimum limits of liability:

The Contractor shall furnish proof of: Worker's Compensation Insurance as required by law, Commercial General Liability Insurance, Automotive Liability Insurance and Professional Liability Insurance. Dina Sagarese shall carry in force at all times the insurance coverage with the Town added as an "additional insured". Insurance requirements are as follows:

#### **1. WORKERS' COMPENSATION & EMPLOYER'S LIABILITY INSURANCE**

Limits:	Workers' Compensation	-	Statutory
	Employer Liability	-	\$100,000 each accident
	Disease	-	\$500,000 policy limit
	Disease	-	\$100,000 each employee

**2. Commercial General Liability Insurance** - coverage shall provide minimum limits of liability of \$1,000,000 per occurrence Combined Single Limit for Bodily Injury and Property Damage. This shall include coverage for:

Premises/Operations  
Products/Completed Operations  
Contractual Liability  
Independent Contractors

**3. BUSINESS AUTO LIABILITY-** Coverage shall provide minimum limits of liability of \$1,000,000 per occurrence Combined Single Limit For Bodily Injury and Property Damage. This shall include coverage for: owned autos, hired autos, non-owned autos.

Insurance must be furnished to the Town's Purchasing Division and notification received of its approval by the Town's Risk Manager PRIOR TO THE COMMENCEMENT of any work. Failure to do so will result in the recommendation to terminate the contract immediately. The Town will be given fifteen (15) days written notice of any cancellation or material change in any policy.

**8.3.2** No operations under this Agreement shall be commenced until the required certificate of insurance naming the Town of Davie as additionally insured has been received and approved by the Human Resources Department.

shall be construed to affect in any way the Town's rights, privileges and immunities as set forth in Florida Statutes 768.28.

**9. PROTECTION OF PUBLIC SAFETY:**

**9.1** The Contractor shall exercise reasonable care and precaution at all times for the protection of persons and property on the premises provided under this Agreement. Safety provisions of all applicable laws and ordinances shall be strictly observed. Town reserves the right to expel any person from municipal property who is causing a disturbance, is conducting themselves in violation of Town rules, regulations, ordinances or whose conduct or activity presents a safety risk or public nuisance. Neither Town nor any of its officers, agents or employees shall be liable to the Contractor for any damages that may be sustained by the Contractor through exercise by Town of such right.

**10. TRAINING:**

**10.1** The Contractor represents that each staff member hired by the Contractor and working at and under the direction and supervision shall also have sufficient experience and/or education to provide proper supervision and instruction to persons of various ages and skill levels.

**11. TERMINATION:**

**11.1** The Town shall have the right to terminate this Agreement, without cause, by furnishing ninety (90) calendar days advance written notice to the other party.

**11.2** Each party to this Agreement shall have the right to terminate this Agreement, with cause, by furnishing ninety (90) calendar days advance written notice to the other party.

**12. MODIFICATION AND WAIVER:**

**12.1** This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. Modification to this Agreement can only be made in writing and by execution of both parties. Reference to the Agreement shall be deemed to include any duly executed modification or amendment. The failure of a party to insist on strict performance of any of the covenants of this Agreement shall not be construed as a waiver or relinquishment for the future of any covenant, term, condition or election but the same shall continue and remain in full force and effect.

**13. ASSIGNMENT:**

**13.1** This Agreement, or any interest herein, shall not be assigned, transferred, or

any rights to third parties as third party beneficiaries.

**14. PUBLIC ENTITY CRIMES INFORMATION:**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

**15. NOTICE:**

**15.1** Notices required by this Agreement shall be deemed delivered upon mailing by certified mail, return receipt requested, to the following persons and addresses:

AS TO TOWN: Dennis Andresky or representative  
Parks and Recreation Director  
6901 Orange Drive  
Davie, Florida 33314

AS TO CONTRACTOR:

Dina Sagarese  
4740 SW 12 Place  
Deerfield Beach, FL 33442

**16. GOVERNING LAW AND VENUE:**

**16.1** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida with venue for any litigation thereon to be found in the Seventeenth Judicial Circuit in and for Broward County, Florida.

**17. SEVERABILITY:**

**17.1** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be null and void insofar as it is found in conflict with the laws of the State of Florida, but the remainder of the Agreement shall be and remain in full force and effect.

**18. LICENSE NOT A LEASE:**

**18.1** This Agreement shall not be deemed to be a lease of any facilities, the use of which is permitted hereunder, but rather a license to use and occupy the respective

Disabilities Act regarding non-discrimination on the basis of disability in employment and the provision of services, and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation or disability.

**19.2** No persons, on the grounds of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation or disability shall be excluded from participation, be denied the benefits of, or be otherwise subjected to discrimination in the use of said materials or offering of services by the Contractor.

#### **Town's Municipal Code**

**Sec. 16-3. Damaging public property prohibited.**

**It shall be unlawful to wantonly, willfully or maliciously mar, deface, injure or mutilate any of the town buildings, vehicles, equipment, furniture, street signs, traffic signs, or traffic control equipment, or any other property of the town.**

**(Code 1964, § 10-8)**

AGREEMENT BETWEEN THE TOWN OF DAVIE  
AND DINA SAGARESE RELATING TO  
JOINT RECREATIONAL PRESCHOOL PROGRAMMING

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

DINA SAGARESE

TOWN OF DAVIE, FLORIDA

\_\_\_\_\_  
DINA SAGARESE

BY: \_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
TOWN CLERK

STATE OF FLORIDA     )  
                                  ) ss.  
COUNTY OF BROWARD)

DINA SAGARESE

BY: \_\_\_\_\_

STATE OF FLORIDA     )  
                                  ) ss.  
COUNTY OF BROWARD )

I HEREBY CERTIFY, that on the \_\_\_\_\_ day of \_\_\_\_\_, 2001, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgements, Dina Sagarese, signed this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

WITNESSETH my hand and official seal at \_\_\_\_\_, Broward County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

**My Commission Expires:**  
**NOTARY PUBLIC, State of Florida**