



# Town Council Agenda Report

**SUBJECT:** Resolution

**CONTACT PERSON/NUMBER:** Bette Stark, Recreation Supervisor 797-1089

**TITLE OF AGENDA ITEM:**

A resolution of the Town of Davie, Florida, authorizing the Mayor to execute a contract with West Broward YMCA to operate after school, school days off, winter break and spring break daycare programs.

**REPORT IN BRIEF:** To provide more recreational daycare programs for our residents, the Town has elected to contract out services. The Town has verified the YMCA's qualifications, experience and capability to perform fully the requirements for such a joint recreation program, and has determined that the YMCA has the necessary staff with expertise, skills and capabilities to provide the required services. The West Broward YMCA will provide after school daycare programs at Pine Island Park Community Center and Shenandoah Park Activity Room.

**PREVIOUS ACTIONS:** Our two year contract with the West Broward YMCA expired this year. The West Broward YMCA has successfully conducted an after school program at Pine Island Park Community Center. This program has been extremely successful and after completing the competitive bid process, the YMCA was the only provider responding to our request for proposal. After reviewing their credentials, we feel that the YMCA would be the best providers for the Pine Island Park Community Center and Shenandoah Park Activity Room after school, school days off, winter and spring break daycare programs.

**CONCURRENCES:** Resolution R-98-347, Original agreement

**FISCAL IMPACT:**

Has request been budgeted? yes

If yes, expected cost: No cost to Town, except for utilities at Pine Island Park Community Center and Shenandoah Park Activity Room.

Additional Comments: Per contract agreement, we estimate the Town will receive approximately \$12,000 for use of Pine Island Park Community Center and Shenandoah Park Activity Room.

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

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

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH WEST BROWARD YMCA TO OPERATE AFTER SCHOOL, SCHOOL DAYS OFF, WINTER BREAK AND SPRING BREAK DAYCARE PROGRAMS

WHEREAS, the Town desires to offer after school, school days off, winter break and spring break daycare programs at Pine Island Community Center and Shenandoah Park Activity Room; and

WHEREAS, the Town's Selection Committee authorized the Parks and Recreation Department to negotiate the terms of the agreement with the YMCA; and

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

WHEREAS, it is in the Town's best interest to execute a contract for these services; and

WHEREAS, after review, the Town Council wishes to authorize the Mayor to execute a contract with YMCA of Broward County, West Broward Family YMCA.

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 authorizes the Mayor to execute a contract with YMCA of Broward County, West Broward Family YMCA to operate after school, school days off, winter break and spring break daycare programs.

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

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2000.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

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

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2000.

AGREEMENT BETWEEN THE TOWN OF DAVIE  
AND YMCA OF BROWARD RELATING TO  
JOINT RECREATIONAL PROGRAMMING

THIS AGREEMENT, made and entered into this 15th day of August, 2000, by and between:

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

AND

YMCA of BROWARD COUNTY, INC.  
West Broward Family YMCA  
11366 State Rd 84  
Davie, Florida, 33325  
(hereinafter referred to as "YMCA")

WITNESSETH

WHEREAS, Town and YMCA, as part of their recreational programs, provide additional indoor and outdoor activities for Town citizens; and

WHEREAS, Town and YMCA believe that a joint recreational program would avoid a duplication of services that currently take place in youth activities and would also create an efficient and cost effective recreation operation for the Town's citizens; and

WHEREAS, Town has facilities throughout town with areas suitable for use by both Town and YMCA in conducting a joint recreation program for the citizens of Town of Davie; and

WHEREAS, the Town has verified the YMCA's qualifications, experience and capability to perform fully the requirements for such a joint recreation program, and has determined that the YMCA has the necessary staff with expertise, skills and capabilities to provide the required services as approved by the Davie Town Council on August 16, 2000; and

WHEREAS, Town and YMCA wish to enter into this Agreement to outline the parties' responsibilities for the use of the Town's facilities during this proposed joint recreational program; now therefore

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 commencing on August 28,

specifications of the original agreement shall remain unless amended by written agreement by the parties adopted with the same formality as the original.

## **2. JOINT RECREATION PROGRAMS:**

2.1 Town and YMCA agree to offer a joint recreational program which will include, but not be limited, to the following activity:

### **After-School Program and Early Release Days**

2.1A After-School Program consists of after-school recreational activities for boys and girls first through fifth grade.

The after-school program will be conducted from 2:00 p.m. - 6:00 p.m. on school days and from 12:30 p.m. - 6:00 p.m. on early release school days.

YMCA after school program provides creative recreational and educational opportunities through challenging activities in small and large group settings.

A nutritious snack and drink will be offered daily to all participants.

Some of the activities include arts and crafts, games, sports, nature, cultural enhancements, movies and swimming, etc.

### **The School Days Off, Winter Break and Spring Break Programs**

2.1B The school days off, winter break and spring break programs consists of after-school recreational activities for boys and girls first through fifth grade.

The school days off, winter break and spring break programs will be conducted from 7:30 a.m. - 6:00 p.m.

YMCA school days off, winter break and spring break programs provides creative recreational and educational opportunities through challenging activities in small and large group settings.

A nutritious snack and drink will be offered daily to all participants.

Some of the activities include arts and crafts, games, sports, nature, cultural enhancements, movies and swimming, etc.

## **3. DUTIES OF YMCA:**

### **3.1 Development and Implementation of After-School, Early Release Days, School Days Off, Winter Break and Spring Break Programs:**

YMCA shall formulate, implement, direct, manage and control a complete and full service recreation program for school age children and special populations. The duties of the YMCA pertaining to these programs are as follows:

3.1.1 Organize and supervise After-School Program as defined in Paragraph 2.1A of this Agreement and School Days Off, Winter Break and Spring Break Programs as defined in Paragraph 2.1B of this Agreement. A minimum number of thirty (30) registered participants is required to commence program.

3.1.3 Select, hire and employ at YMCA's sole expense, all instructors, assistants and staff necessary to YMCA's performance of 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. None of the employees of the YMCA shall be deemed employees or agents of the Town of Davie for any purposes whatsoever. The YMCA is acting as an independent contractor with regard to this license and no agency relationship is created between the YMCA and the Town by virtue of this agreement. YMCA staff will be identified by a T-shirt and/or ID badge.

3.1.4 Manage, control and supervise all instructors, assistants and staff employed by YMCA.

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 YMCA to assist in the fulfillment of YMCA obligations under this Agreement.

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

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 YMCA 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.

3.1.9 Supervise and be responsible and legally liable for the safety and conduct of all participants at any event or activity conducted by YMCA and its agents, volunteers or employees engaged in the performance of YMCA duties under this Agreement. Copy of license will be given to the Town of Davie.

3.1.10 Not permit any signs or advertising at any Town facility unless specifically approved in writing by the Parks and Recreation Director.

3.1.11 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.

3.1.12 YMCA shall sign out any Town of Davie equipment and shall return it in good condition.

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

after their use under this Agreement.

**3.2 YMCA's Duty to Inspect and Make Safe:**

3.2.1 The YMCA 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 West Broward YMCA 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 YMCA 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, YMCA or any agent, representative, employee or volunteer of YMCA becomes aware or should become aware of any dangerous condition in or on the premises or equipment, YMCA or its agents, representative, employee or volunteer shall immediately notify the Facility Manager or other Town authorized designee of such dangerous condition and either immediately correct the dangerous condition, or cease operations so as not to endanger persons or property in the vicinity of the premises or equipment.

**4. REGISTRATION:**

4.1 The YMCA of Broward County, Inc. shall handle the registration process through the West Broward YMCA, including the collection of fees. Both mail-in registration and walk-in registration will be conducted at the West Broward YMCA Office. For the convenience of working families, a special preregistration will be held at the Pine Island Community Center. Registration after preregistration will take place at the respective Community Centers with the YMCA Site Director, during regular program hours.

**5. FEES:**

5.1 The After-School Program fee will be \$32.00 weekly at Pine Island Community Center and Shenandoah Park. An additional fee of \$1.60 per hour is charged on early release days. The base rate for full day care on holidays and teacher workdays is \$22.00 daily. This is based on a 10 1/2 hour day. Scholarships are provided based on financial need. Provide a 10% discount for additional children enrolled from the same family.

5.2 Current utility bills are required for proof of residency (a drivers license is not acceptable). The remuneration to the Town of Davie for the after-school program will be based on a per daily unit of registered participants which the YMCA will remunerate \$0.50. The enumeration for early release days will be \$0.75 per unit of registered participants and on full day care for holidays, teacher workdays is \$1.25 per unit of registered participants per day.

5.3 Penalty for late payment. In the event the YMCA fails to pay any rental payment due hereunder within five (5) days of the due date, there shall be added to such payment a late charge of \$50.00, and interest at the highest rate allowed by law until the payment is brought up to date.

5.4 The YMCA of Broward County will issue attendance sheets for the month with an invoice summarizing the total number of participants attending each week by the 15th of the following month.

5.7 The YMCA will be required to provide one (1) scholarship per twenty-five (25) registrations for any Davie children that meet the Federal Hot Lunch Program Guidelines and cannot afford the cost of the After School Daycare Programs.

**6. ADVERTISING AND PROMOTION:**

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

6.2 Town also reserves the right to advertise and promote the programs provided for under this Agreement and the services of YMCA as described herein. Town shall be allowed to use YMCA's name and appropriate likeness in any such advertising or promotion without additional compensation to YMCA. The cost of advertising for promotion promulgated by Town will be paid by Town and approved, in writing, by YMCA Executive Director before publication. The Town of Davie will advertise the after-school, school days off, winter break and spring break programs in the following manner: 1. Davie Update (sent to Davie residents). 2. The Town of Davie will send the YMCA flyers to all the day camp participants that have been enrolled in the Town's Summer Daze Drop-In programs for the past summer.

**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 Pine Island Community Center, 3800 SW 92 Avenue, Davie, Florida and Shenandoah Park, 14601 SW 14 Street, Davie, Florida.

8.2 **USE OF TOWN'S FACILITIES:** Town agrees to allow YMCA 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 the Director of YMCA or his/her authorized designee. YMCA shall execute the standard Town Facility Use Permit form prior to each use.

(b) Town shall provide lighting, air conditioning, heating 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 for storage and the YMCA will provide one (1) storage cabinet for the above named programs.

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

set forth in Section 16.3 of Town's Municipal Code.

(e) Town and its officers, agents and employees engaged in the operation, maintenance and repair of Town's facilities designated herein shall have the right, at any time, to enter upon and have free access to any and all parts of the premises used pursuant to this Agreement.

(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 YMCA DUTY TO INSURE TOWN FACILITIES:**

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

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

1. Worker's Compensation & Employer's Liability Insurance

Limits: Worker's Compensation	Statutory
Employer Liability	\$100,000 each accident
Disease	\$500,000 (policy limit)
Disease	\$100,000 (each employee)

2. Professional Liability - \$1,000,000

3. 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

4. Business Automobile 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 owned autos, hired autos and 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 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 Administrative Services Department.

8.4 **INDEMNITY/HOLD HARMLESS AGREEMENT:** The YMCA agrees to protect,

Without limiting the foregoing, any and all such claims, suits, or other actions, relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder, excluding any gross negligence or intentional act of the Town of Davie. Notwithstanding the provisions herein, the Town of Davie does not waive any rights to sovereign immunity provided by law.

**9. PROTECTION OF PUBLIC SAFETY:**

9.1 YMCA 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 YMCA for any damages that may be sustained by YMCA through exercise by Town of such right.

**10. TRAINING:**

10.1 YMCA represents that each staff member hired by YMCA 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 Each party to this Agreement 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 five (5) 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 otherwise encumbered, under any circumstance without prior written consent from the other contracting party.

13.2 This agreement is for the benefit of the executing parties and is not to provide any rights to third parties as third party beneficiaries.

AS TO CITY: Sharon Kent  
Parks and Recreation Director  
6901 Orange Drive  
Davie, Florida 33314

AS TO YMCA:  
YMCA of Broward County  
West Broward Family YMCA  
11366 State Rd 84  
Davie, Florida 33325

**15. GOVERNING LAW AND VENUE:**

15.1 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.

**16. SEVERABILITY:**

16.1 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.

**17. LICENSE NOT A LEASE:**

17.1 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 premises under the terms and conditions stated herein. No leasehold interest in either Town premises or YMCA's premises is confined to the using party under the provisions hereof.

**18. NON-DISCRIMINATION:**

18.1 No persons, on the grounds of race, color, national origin or sex 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 YMCA.

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

YMCA OF BROWARD COUNTY, INC. TOWN OF DAVIE, FLORIDA

BY: \_\_\_\_\_  
WEST BROWARD FAMILY YMCA

\_\_\_\_\_  
MAYOR

ATTEST:

TOWN CLERK

STATE OF FLORIDA     )  
  ) ss.  
COUNTY OF BROWARD)

YMCA OF BROWARD COUNTY FLORIDA, INC.,

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

STATE OF FLORIDA     )  
  ) ss.  
COUNTY OF BROWARD )

I HEREBY CERTIFY, that on the \_\_\_\_\_ day of \_\_\_\_\_  
2000, personally appeared before me, an officer duly authorized to administer oaths  
and take acknowledgements, CEO of the YMCA of Broward County, Inc., signed this  
Agreement by and through YMCA of Broward County, Inc. and authorized to  
execute the same by YMCA of Broward County, Inc. on the \_\_\_\_\_ day of\_\_\_\_,  
2000.

WITNESSETH my hand and official seal at \_\_\_\_\_,  
Broward County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

My Commission Expires:  
NOTARY PUBLIC, State of Florida