



CITY OF WAUKESHA

Administration

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Common Council Item Number: ID#20-0412	Date: 4/9/2020
Submitted By: Ron Grall, Director of Parks, Recreation & Forestry Mary Berg, Recreation Services Manager	City Administrator Approval: Kevin Lahner, City Administrator KL
Finance Department Review: Rich Abbott, Finance Director RA	City Attorney's Office Review: Brian Running, City Attorney BR
Subject: Approval and authorization of contract between City of Waukesha Parks, Recreation & Forestry Department and YMCA of Greater Waukesha County, Inc. for Waukesha Springs Park usage.	

Details:
Waukesha Parks, Recreation & Forestry Department (WPRF) is working collaboratively with the YMCA of Greater Waukesha County, Inc. to provide recreation services and facilities for the Waukesha community. The YMCA will be allowed to utilize specifically identified areas of Springs Park and Springs Park parking lot at no charge during the spring, summer & fall seasons, while following all conditions outlined in the contract. This contract identifies WPRF receiving recognition for this partnership, clarifies snow/ice removal procedures, and allows for specific parking lot spaces to be open for public use and receipt of an annual contribution to WPRF for future Springs Park improvements.

Options & Alternatives:
WPRF and the YMCA implemented this contract in 2016. Staffs' recommendation is to continue to work cooperatively together in 2020 to maximize usage of Springs Park and provide great services to the Waukesha community.

Financial Remarks:
This agreement includes a \$3,500 contribution by the YMCA dedicated toward future Springs Park improvements. Will utilize Fund 0420-5553-48410 private donations for the revenue and 0420-5553-68290 for related expenditures.

Executive Action:
Recommend approval of the contract between City of Waukesha and YMCA of Greater Waukesha County, Inc. and authorize the Mayor to enter into this contract.



Springs Park Usage Contract

City of Waukesha – Young Men’s Christian Association of Greater Waukesha County, Inc.

This Contract is entered into by and between the City of Waukesha and its Parks, Recreation and Forestry Department, 1900 Aviation Drive, Waukesha, Wisconsin 53188, referred to herein as the City; and Young Men’s Christian Association of Greater Waukesha County, Inc., 320 East Broadway, Waukesha, Wisconsin 53186, referred to herein as YMCA. City and YMCA together are referred to herein as the Parties.

Recitals

YMCA wishes to use portions of Springs Park, a City park administered by the City’s Department of Parks, Recreation and Forestry, and to reserve those portions of the park for its use over an entire season. The City is willing to allow YMCA to do so, provided YMCA agrees to certain terms and conditions.

Therefore, the Parties agree and contract as follows:

1. Reservation of Space. City shall reserve space for YMCA in Springs Park according to the following schedule:

a. Sports.

Spring Session – One Open Field Space*

Thursdays, April 30 - June 11, 2020; 4:30-7:00 pm

Saturdays, April 4 - June 6, 2020; 8:30 am-12:00 pm

Summer Session – One Open Field Space*, Use of Diamond on

Mondays, June 8 – August 10, 2020; 5:00-8:00 pm, Softball Diamond

Wednesdays, June 10– August 12, 2020; 5:00-8:00 pm, Softball Diamond

Monday through Thursdays, June 22 – June 25, 2020; 1:00-4:00 pm, Softball Diamond

Fall Session – One Open Field Space

Thursdays, September 10– October 22, 2020; 4:30-7:00 pm

Saturday, August 29 - November 7, 2020; 8:30 am-12:00 pm

b. Summer Camp.

One open field space

Camper drop-off and pick-up in parking lot

June 15 – August 28, 2020

Monday through Friday, 9:00 am-4:00 pm

Camper drop-off: 7:00-8:30 am; Camper pick up: 4:00-6:00 pm

2. Exclusive Use. YMCA shall have the exclusive occupation and use of the areas identified in section 1 at the times listed in section 1. YMCA shall not have exclusive use or occupation of any other areas of Springs Park, or at any other times. If any persons who are not participants in YMCA activities are in the reserved areas during reserved times and refuse to leave, YMCA will not attempt to remove them and will notify the Waukesha Police Department instead.

3. **Permission Is Not Assignable.** YMCA may not assign its rights under this Contract to any other entity.

4. **YMCA Duties.**

- a. **Staffing, Equipping and Supervision of Activities.** All activities in the reserved areas during the reserved times shall be supervised by YMCA employees. City shall have no responsibility for conducting or supervising any activities. YMCA shall be solely responsible for providing all equipment, staffing, volunteers and programming for the conduct of YMCA activities. **Certify through an affidavit that employment eligibility and screening safety measures are being conducted.**
- b. **Safety and Security.** YMCA shall be responsible for the safety of all participants in its activities, and for the security of all equipment and other personal property used by it at Springs Park. City shall not be responsible for any personal injury, loss or damage to YMCA equipment or personal property.
- c. **Cleaning and Waste Collection.** YMCA shall provide, at its own expense, adequate containers for solid waste and recyclables collection at YMCA-conducted activities in Springs Park, and shall be responsible for disposal of collected materials according to law and at YMCA's sole expense. YMCA shall ensure that the reserved areas in Springs Park are kept clean, and returned to a clean condition when activities are complete.
- d. **Damage to City Property.** YMCA shall be responsible for any damage to the City property equipment caused by YMCA's employees, volunteers, participants in its activities, or invitees to its activities, occurring during its activities. YMCA shall replace or repair all damaged items, at its sole expense.
- e. **Athletic Facilities Use Permit.** YMCA shall submit an Athletic Facilities Use Application to the Parks, Recreation and Forestry Facilities Coordinator for all activities in Springs Park, at least 60 days prior to the activities. YMCA shall abide by all policies in the City's Athletic Facilities and Rental Handbook.
- f. **Snow and Ice Removal.** YMCA shall be responsible, at its sole expense, for removing snow and ice from the Springs Park parking lot such that it is in a safe and usable condition at all times. No snow may be stockpiled or stored on Springs Park property, including the parking lot.
- g. **Equipment and Materials.** YMCA shall provide all equipment and materials needed for the conduct of its activities, at its sole expense, and City shall have no responsibility to provide any equipment or materials.
- h. **Financial Contribution.** YMCA shall make a contribution of \$3,500.00 to the City, to be used for improvements to Springs Park. The improvements shall be determined in the sole discretion of the City, however, the City will consider in good faith YMCA's requests and suggestions. YMCA acknowledges that any improvements to the park shall be available for use by the general public and shall not be exclusively for use by YMCA or its members. **The City will receive the YMCA contribution by September 30, 2018.**
- i. **Promotional Materials.** YMCA shall prominently recognize the City of Waukesha Department of Parks, Recreation and Forestry as a community partner in all materials promoting YMCA activities in Springs Park, including the use of the department's logo. City shall provide the logo to YMCA in a format usable by YMCA in its promotional materials. YMCA shall provide copies of all such promotional materials to City each season.
- j. **Statistics.** YMCA shall compile statistics of participation in YMCA activities at Springs Park, including the number of overall participants and the number that are City of Waukesha residents.

5. **YMCA Permitted Activities.**

- a. **Lining of Fields.** YMCA may line soccer fields, using only materials and equipment approved by the City.

- b. **Use of Parking Lot.** YMCA may place barricades across a portion of the Springs Park parking lot, to block traffic for safe passage of participants from the YMCA building to Springs Park. The barricades may be in place between 6:45 a.m. and 6:00 p.m. each day. At least six parking spaces, three on each side at the western end of the lot, shall remain open for public use.
 - c. **Tent Placement.** YMCA may erect one 20-foot by 20-foot open-sided tent within the area used for summer camp, and leave it in place until summer camp is ended. The tent may be put up no sooner than 5 days before the start of summer camp, and taken down no later than 5 days after the end of summer camp. The location of the tent is subject to City approval. A tent permit must be obtained and hot lining procedures must be followed.
 - d. **Permitted Uses.** YMCA shall use the reserved areas in Springs Park exclusively to provide the activities described in section 1. No other activities may be conducted by YMCA in those areas without the City's prior, express, written approval.
6. **Term.** The term of this Contract commences on its execution and terminates December 31, 2019.
7. **City Control of Park.** The City shall at all times retain the authority to relocate YMCA's activities in Springs Park or to close the Park entirely and direct YMCA and all participants in activities to vacate the Park, if reasonably necessary for the protection and security of persons or property within the Park, or for the protection or security of any City property.
8. **Prohibited Bases of Discrimination.** YMCA shall not discriminate against any persons for participation in its activities in Springs Park on the basis of sex, race, color, creed, disability, sexual orientation, national origin or ancestry.
9. **Compliance with Laws; Permits and Licenses.** YMCA shall be solely responsible for compliance with all laws applicable to its activities. YMCA shall be responsible, at its sole expense, for obtaining all licenses and permits required for its activities.
10. **Indemnification.** YMCA shall indemnify and hold the City harmless from any and all third-party claims, demands, causes of action, lawsuits, judgments, penalties, and other liabilities of any kind, including court costs and actual attorney fees, arising out of, or connected in any way with:
- a. YMCA's conduct of its activities in Springs Park, including, but not limited to, damages for personal injury, death, or casualty loss to personal property.
 - b. YMCA's breach of any provision of this Contract.
 - c. YMCA's violations of any laws.
11. **Insurance.** YMCA shall maintain insurance of the following kinds and for not less than the following limits, at YMCA's sole expense, at all times during the term of this Contract. Policies shall be occurrence, and not claims-made, policies. YMCA shall obtain an endorsement making the City an additional insured and loss payee, and YMCA's insurance shall be primary, not excess, and non-contributory. All policies shall be from insurers licensed to issue such policies in Wisconsin. Upon the execution of this Contract, YMCA shall deliver a certificate of insurance to City showing that all requirements of this section are met.
- a. Commercial general liability, including products-completed operations, \$1,000,000 per occurrence, \$2,000,000 aggregate.
 - b. Automobile liability, \$1,000,000 bodily injury, \$1,000,000 property damage.
 - c. Umbrella, \$1,000,000.

12. **Record Keeping.** YMCA shall keep all documents and records generated in its conduct of activities for no less than 7 years after completion of the Services, and shall make them available to the City at the City's request. YMCA acknowledges that such documents and records may be subject to Wisconsin's Open Records Law.

13. **Parties Are Independent Contractors.** Nothing in this Contract shall be construed to create any relationship between the Parties other than independent contractors. Unless specifically provided in this Contract, the Parties are not agents for one another, have no authority to bind the other to contracts, and have no vicarious liability for the other's acts or omissions. City shall have no obligations with regard to YMCA's activities other than those specifically assumed by the City in this Contract. YMCA is responsible, at its sole expense, for the conduct of its activities.

14. **Governmental Immunities and Notice Requirement Preserved.** Nothing in this Contract shall be construed to be a waiver or modification of the governmental immunities or notice requirements imposed by Wis. Stats. §893.80, §895.52, or any other law.

15. **Costs of Enforcement.** The Parties agree that in the event legal action is necessary to enforce any term or condition of this Contract, then the breaching Party will pay the non-breaching Party's costs incurred in such legal action, including actual attorney fees. If a judgment is taken, then costs of enforcement will be added to the judgment.

16. **Governing Law and Jurisdiction.** This Contract will be construed and enforced according to the laws of Wisconsin. If a lawsuit arises out of this Contract, it shall be filed in the state Circuit Court for Waukesha County, Wisconsin. The Parties consent to personal and subject-matter jurisdiction in Wisconsin, and waive all jurisdictional defenses.

City of Waukesha

 By Shawn N. Reilly, Mayor
 Date: _____

 Attested by Gina L. Kozlik, City Clerk
 Date: _____

Young Men's Christian Association of Greater Waukesha County, Inc.

 [print name]
 Title: _____
 Date: _____