



Children & Families
Commission of Orange County

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**Agenda Item No. 6
January 6, 2010 Meeting**

ORANGE COUNTY
BOARD OF SUPERVISORS

DATE: December 22, 2009

TO: Children and Families Commission of Orange County

FROM: Michael M. Ruane, Executive Director

SUBJECT: YMCA Santa Ana Project – Revised Proposal

SUMMARY:

In November 2007 the Children and Families Commission of Orange County approved an \$8.5 million funding partnership with the YMCA of Orange County for the construction of a new facility in Santa Ana and long-term services to support the health and physical fitness of young children and families in the adjacent communities. This item includes a revised proposal from the YMCA of Orange County to proceed with the aquatics complex and children's health and wellness center modular at the Santa Ana YMCA/Seegerstrom High School site.

YMCA Project Background

In May 2008 the agreement for construction of the new YMCA building in Santa Ana was approved. In January 2009 the Commission received a report that the construction had been delayed due to the decline in financial support that is largely a result of the economic downturn. In the interim, the YMCA developed a phased construction plan to include a modular unit for services and programs, parking and a soccer arena. The Santa Ana Unified School District (SAUSD) is continuing the process to build a pool on the Seegerstrom High School property. The 30-year agreement between the SAUSD and the YMCA of Orange County for joint use of the pool on the high school campus is complete. The YMCA anticipates securing funding within the next two-years and allowing one-year to complete the new facility. The terms of the Commission's agreement with the YMCA to provide health, nutrition, physical fitness, pool safety, and training do not preclude phased construction of facilities implementation, but still require that all programs be provided to satisfy the funding obligations.

YMCA Revised Project Proposal

In December 2009 the YMCA of Orange County presented a revised project proposal (Attachment 1) to complete a modified project in Santa Ana by September 2010. The revised proposal includes an aquatics complex and a modular facility that will satisfy the requirements of the original agreement however, the children's health and wellness center and space for auxiliary programs will be available in a modular unit and not a permanent building. The YMCA Orange County will begin the project this fiscal year and complete the aquatics complex no later than September 2010.

A long-term operations fund for children's health and wellness programs and another long-term operations fund for the aquatics program were established under the current agreement. The YMCA requests that the fund for health and wellness programs also support the aquatics center

and sports field. The appropriate and eligible expenses will be defined in a revised funding agreement between the Commission and the YMCA of Orange County that will also include a service payback plan. A comparison of the existing and proposed funds agreement (Attachment 1) and summary of the revised terms and conditions are attached (Attachment 2).

On balance, the revised plan addresses the goal of implementing the Commission sponsored programs at the new facility as a stand-alone project which is not dependent on completion of the full new campus. The revised funding agreement will maintain protections to ensure Prop 10 funding restrictions are in place and Commission funds are safeguarded.

STRATEGIC PLAN & FISCAL SUMMARY:

Funding for YMCA Santa Ana project was approved at the May 2008 Commission meeting. Additional funding is not required.

PRIOR COMMISSION ACTIONS:

- January 2009 – Project Update – Phasing Plan
- September 2008 – Authorized a maximum 10 percent contingency allocation for facility costs for a total final agreement not to exceed \$7,500,000 for the construction and services at the new YMCA of Santa Ana facility, and the allocation of up to \$400,000 from the Health and Fitness Fund managed by the Orange County Community Foundation if necessary to offset the construction costs of the aquatics center and related facilities.
- July 2008 – Approved redirecting \$2 million for the YMCA Health and Nutrition Fund to the YMCA construction project.
- May 2008 – Approved Agreement FC-YMCA-01 for the YMCA construction project

RECOMMENDED ACTIONS:

1. Approve the revised proposal and Terms & Conditions.
2. Authorize Executive Director or designee and Commission Counsel to prepare and negotiate Agreement FC-YMCA-02 with the YMCA of Orange County for a ten year period beginning on or about January 1, 2010 to construct the aquatics complex and erect a modular for the children's health and wellness center and auxiliary programs.
3. Adopt resolution (Attachment 3) authorizing the Executive Director or designee and Commission Counsel to prepare and negotiate Agreement FC-YMCA-02 with the YMCA of Orange County in an amount not to exceed \$7,500,000 to construct an aquatics complex including a children's health and wellness center and auxiliary programs based on the revised proposal (Attachment 1) and the revised terms & conditions (Attachment 2). Agreement FC-YMCA-02 in this Recommended Action replaces Agreement FC-YMCA-01 approved by the Commission on May 7, 2008.

ATTACHMENTS:

1. Comparison of Current and Proposed Agreement
2. Revised Terms & Conditions: YMCA Orange County
3. Resolution

Contact: Kelly Pijl

**YMCA Santa Ana Facility
Comparison of Current and Proposed Agreement**

	Current	Proposed
Aquatics Complex	<ul style="list-style-type: none"> • Full range of aquatic facilities to provide water safety, fitness and joint use programs through high school. 	No changes proposed
Children's Health & Wellness Center	<ul style="list-style-type: none"> • New building would include Wellness Center with programs to address childhood obesity and nutrition. 	<ul style="list-style-type: none"> • Modular facility to house Health and Wellness Center. • Can be relocated to permanent building.
Programmatic Space	<ul style="list-style-type: none"> • Current agreement allocates space in buildings for training and Commission sponsored programs. 	<ul style="list-style-type: none"> • New plan is not dependent on permanent buildings for initial operations. • Service pay back will be defined in funding agreement based on available space.
Funding	<p>\$8.5 million total:</p> <ul style="list-style-type: none"> • 3M MAA Funds • 2.5M loan/service payback • 2.0M Health and Nutrition Fund • 1.0M Health and Fitness Fund (already established at Orange County Community Foundation). 	<ul style="list-style-type: none"> • No change in overall funding proposed. • YMCA is requesting that health and nutrition and loan funds support entire development. • The approved eligible expenditures and funding restrictions will be included in funding agreement.
Matching Funds	<ul style="list-style-type: none"> • Current agreement contemplates larger development and required matching funds and priority on non-Commission funds for capital costs. 	<ul style="list-style-type: none"> • Not applicable to new development plan which funds primarily Commission related projects. • Cash match required for construction of sports field area.

<p>Loan Repayment/Service Payback</p>	<ul style="list-style-type: none"> • \$3M – MAA/TCM – not subject to promissory note but must be paid back in full in cash or services if project is not completed. • \$2.5M – Commission Loan – 30 year promissory note, to be paid back by hosting programs and space use (repayment credits). • \$2M - Health and Nutrition Fund - 5 year promissory note, to be used for program operational costs. Any funds used for construction must be repaid to the fund. • \$1M – Health and Fitness Fund – established at OCCF, to fund long-term operation of the aquatics facility and to leverage other donations. Up to \$400,000 may be utilized for initial construction. 	<p>YMCA will provide services to children 0-5 at the Aquatics Complex, Children’s health and Wellness Center, and Sports Complex for 10 years.</p> <p>YMCA will satisfy up to \$5.9M in construction funding as long as the 30-year Joint Maintenance and Operating Agreement remains in effect and the YMCA continues to provide services to children 0-5 for a payback period of 10 years.</p> <p>No change proposed in Health and Fitness Fund already established at OCCF.</p>
<p>Construction Schedule</p>	<ul style="list-style-type: none"> • Currently no specific schedule is required. 	<ul style="list-style-type: none"> • Construction to begin this fiscal year. • Completion of aquatics facilities by September, 2010.

UPDATED TERMS AND CONDITIONS

YMCA OF ORANGE COUNTY	
Designated Agency Fund – Orange County Community Foundation – \$1,000,000 (Funding Source: MAA Revenues)	
<ul style="list-style-type: none"> • YMCA Health and Fitness Fund established at the Orange County Community Foundation • \$400,000 from fund may be used for construction of the facilities • \$600,000 and any unused portion of the \$400,000 will be used to support aquatic operations at the project of other YMCA operated aquatic facilities in Santa Ana. 	
Planned Facilities - \$5,500,000 (Proposed Funding Source: \$2.5 million Proposition 10/\$3 million MAA Revenues)	
<ul style="list-style-type: none"> • Construction of a joint use aquatics center including a joint use pool at Segerstrom High School and recreational/training pools at YMCS/Santa Ana for safety/fitness programs. • Modular facilities to house Wellness Center • Programmatic space for auxiliary for classes and training 	
Program - \$2,000,000 (Funding Source: Proposition 10 Revenues)	
<ul style="list-style-type: none"> • YMCA programmatic operating endowment to include programs promoting health and nutrition and to support of operating costs related to services for children 0-5 at the Aquatic Complex, and Children's Health Club/Wellness Center and sports fields. (The allowable percentage of the fund for operations of the aquatics complex, and support of the sports field programs will be defined in the funding agreement). • Fund established at YMCA of Orange County or Commission approved third-party. 	
Terms of Funding:	
Facility Design & Development	Commission, Santa Ana Unified School District and the YMCA will have an established committee to oversee the design and construction of the joint use aquatics center.
Joint Use	The joint use agreement has been established between the Santa Ana Unified School District and the YMCA of Orange County for the Aquatics Complex and associated facilities. The agreement includes, but is not limited to issues such as frequency and eligibility of uses, maintenance, and safety responsibilities and will remain in effect for 30 years.
Recognition	Permanent recognition of the Commission's financial support will be included in the facility(ies). YMCA will also provide recognition of Orange County residents who have died serving the United States of America since September 11, 2001.*
Programmatic Space	Within the YMCA Santa Ana facility the Commission, or its designee, will have the following: <ul style="list-style-type: none"> • Up to 2,000 square feet of dedicated space to house a program focused on health programs, including obesity prevention and nutrition for families that have children ages 0-5. • Access to common areas to host meetings for Commission initiatives such as school nurse training. Use of space to host auxiliary programs targeted at the surrounding community such as family literacy and programs promoting fitness and nutrition. (Full utilization of programmatic space may be dependent on construction of permanent building(s)).
Governance of Designated Agency Fund	The Designated Agency Fund is held by the Orange County Community Foundation. There will be a governing committee established that reviews funding expenditures from the fund in accordance with the approved guidelines.
Construction Schedule	Construction of the revised project will commence this fiscal year 2009/10 and the aquatics complex will be complete no later than 2010.

*Amended language approved at Commission meeting of April 2, 2008.

CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY

RESOLUTION NO. ___-10-C&FC

January 6, 2010

A RESOLUTION OF THE CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY DIRECTING THE EXECUTIVE DIRECTOR OR DESIGNEE AND COMMISSION COUNSEL TO PREPARE AND NEGOTIATE THE FINAL FORM OF AGREEMENT FC-YMCA-02 WITH YMCA OF ORANGE COUNTY, AND, AUTHORIZING APPROVAL AND EXECUTION OF SUCH AGREEMENT ON BEHALF OF THE COMMISSION

WHEREAS, in order to facilitate the creation and implementation of an integrated, comprehensive, and collaborative system of information and services to enhance optimal early childhood development, the legislature adopted legislation set forth in the California Children and Families Act of 1998, Health and Safety Code Section 130100, *et seq.* (as amended, the "Act") implementing the Children and Families First Initiative passed by the California electorate in November, 1998 and establishing the California Children and Families Commission and County Children and Families Commissions, including this Children and Families Commission of Orange County ("Commission"); and

WHEREAS, Commission adopted its Strategic Plan to define how funds authorized under the Act and allocated to the Commission should best be used to meet the critical needs of Orange County's children prenatal to five years of age as codified in the Act; and

WHEREAS, the Executive Director and Commission Counsel have prepared a standard Master Agreement for Services ("Master Agreement") which was approved by the Commission; and

WHEREAS, Commission desires to authorize the Executive Director or designee and Commission Counsel to prepare and negotiate Agreement No. FC-YMCA-02; that replaces Agreement FC-YMCA-01 approved by the Commission on May 7, 2008, to construct an aquatics complex including a children's health and wellness center and auxiliary programs for Orange County's children 0 - 5, in an amount not to exceed \$7,500,000, as specified in the revised proposal (Attachment #1) and the revised terms & conditions (Attachment #2) to the staff report for this Agenda Item; and

WHEREAS, Commission has reviewed the staff report relating to the scope of services to be provided and hereby finds and determines that the proposed Agreement is in furtherance of and consistent with the Commission's Strategic Plan; and

WHEREAS, Commission desires to authorize the Commission Chair and Commission Clerk to enter into Agreement FC-YMCA-02; that replaces Agreement FC-YMCA-01 approved by the Commission on May 7, 2008, in an amount not to exceed \$7,500,000, as specified in the revised proposal (Attachment #1) and the revised terms & conditions (Attachment #2) to the staff report for this Agenda Item.

NOW, THEREFORE BE IT RESOLVED BY THE COMMISSIONERS OF THE CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY AS FOLLOWS:

Section 1 Commission finds and determines the foregoing Recitals are true and correct and are a substantive part of this Resolution.

Section 2 Commission authorizes the Executive Director to prepare and negotiate the terms, conditions and final form of Agreement FC-YMCA-02; that replaces Agreement FC-YMCA-01 approved by the Commission on May 7, 2008, as specified in the revised proposal (Attachment #1) and the revised terms & conditions (Attachment #2) to the staff report for this Agenda Item, to construct an aquatics complex including a children's health and wellness center and auxiliary programs for Orange County's children 0 – 5, in an amount not to exceed \$7,500,000, consistent with the staff report for this Agenda Item and scope of services referenced therein.

Section 3 The form of Agreement FC-YMCA-02 shall be substantially similar to the form of the standard Master Agreement, subject to minor, non-substantive revisions as reviewed and approved by the Executive Director, and/or Commission Counsel. The approval by the Executive Director of Agreement FC-YMCA-02 shall be conclusively evidenced by the execution and delivery of the Agreement by the Commission Chair to the Commission Clerk.

Section 4 Commission hereby approves Agreement FC-YMCA-02; replacing Agreement FC-YMCA-01 approved by the Commission on May 7, 2008, to construct an aquatics complex including a children's health and wellness center and auxiliary programs for Orange County's children 0 - 5 as specified in the January 6, 2010 staff report for this Agenda Item.

Section 5 The Commission Chair and the Clerk of the Commission are hereby authorized to execute and attest, respectively, the Agreement on behalf of the Commission.

Section 6 A copy of the final Agreement FC-YMCA-02, when executed by the Commission Chair and attested by the Clerk of the Commission shall be appended hereto as a part of Exhibit A to this Resolution. Exhibit A is hereby fully incorporated as a part of this Resolution by this reference and made a part hereof. The final executed Agreement shall be placed on file in the office of the Clerk of the Commission.

Section 7 In addition to the authorization of Section 2 above, the Executive Director (or his designee) is hereby authorized, on behalf of the Commission, (i) to sign all documents necessary and appropriate to carry out and implement the Agreement, (ii) to cause the issuance of warrants, (iii) to administer the Commission's obligations, responsibilities, and duties to be performed under such agreement, and (iv) during the term thereof to provide waivers, administrative interpretations, and minor modifications of the provisions of such agreement in the furtherance thereof.

Section 8 The Clerk of the Commission shall certify to the adoption of this Resolution.

The foregoing resolution was passed and adopted by the following vote of the Children and Families Commission of Orange County on January 6, 2010 to wit:

AYES Commissioners: _____

NOES: Commissioner(s): _____

EXCUSED: Commissioner(s): _____

ABSTAINED: Commissioner(s) _____

CHAIR

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

I, DARLENE J. BLOOM, Clerk of the Commission of Orange County, California, hereby certify that a copy of this document has been delivered to the Chair of the Commission and that the above and foregoing Resolution was duly and regularly adopted by the Children and Families Commission of Orange County.

IN WITNESS WHEREOF, I have hereto set my hand and seal.

DARLENE J. BLOOM
Clerk of the Commission, Children and Families Commission of
Orange County, County of Orange, State of California

Resolution No: ___-10--C&FC

Agenda Date: January 6, 2010

Item No.



I certify that the foregoing is a true and correct copy of the Resolution adopted by the

DARLENE J. BLOOM, Clerk of the Commission

By: _____
Deputy

EXHIBIT A TO RESOLUTION OF COMMISSION
(Attach copy of final executed Agreement FC-YMCA-02)