



**Resolution No. 99-843**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO COMPLETE AN AMENDED OPERATING AGREEMENT FOR THE OPERATION OF THE CITY'S RECREATIONAL FACILITY, AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Resolution No. 96-669, passed on December 10, 1997, authorized an operating agreement between the City and the Young Men's Christian Association (YMCA); and

**WHEREAS**, members of the Sherwood Operating Committee have reviewed the 1996 operating agreement and have suggested changes which are listed as Exhibit A to this document; and

**WHEREAS**, the City wishes to continue to contract with an outside agency for the operation of the City-owned recreational facility,

**NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:**

Section 1: The City Manager is hereby authorized to complete an amended operating agreement with the changes recommended in Exhibit A.

Section 2: This Resolution supercedes the operating agreement established by Resolution 96-669 and shall be effective upon its approval and adoption.

Duly passed by the City Council this 14<sup>th</sup> day of December, 1999.

A handwritten signature in black ink that reads "Walt Hitchcock". The signature is written in a cursive style and is positioned above a horizontal line.

Walt Hitchcock, Mayor

ATTEST:

A handwritten signature in blue ink that reads "C.L. Wiley". The signature is written in a cursive style and is positioned above a horizontal line.

C.L. Wiley, City Recorder

Sherwood Operating Agreement-----Proposed changes

October 23, 1999  
Revised November 16, 1999

**Current provisions**

***Section 7. Community Involvement/Dispute Resolution***

“The Facility is to be operated with its own staff of employees. A board of managers or committee is to be constituted by Operator to function as an advisory committee of the Operator’s Corporate Board of Directors and branch Executive Director for the operation of Operator’s services in the Facility. Such board is to be constituted of eight members, four appointed by the Westside Family YMCA’s board and four appointed by the City of Sherwood. Two members of the Board of Managers shall act as an Executive Committee, one appointed by the Westside Y and one by the City, to promptly address member complaints and operational issues, making recommendations to the Westside Y. Any disagreements between the City and Operator arising out of or relating to this Agreement which are not resolved by negotiations, will first be mediated by an impartial third party. If mediations is unsuccessful, then any and all disputes arising out of or relating to this Agreement shall be resolved by binding arbitration utilizing the American Arbitration Association or the Arbitration Service of Portland, Inc., whichever body is selected by the filing party. The award of the arbitrator may be enforced in any court of competent jurisdiction.”

**Why are changes desirable?**

To better serve the Sherwood community the YMCA of Columbia-Willamette proposes to make Sherwood a separate branch of the Y and not part of the Westside Branch. This will allow for the establishment of a fully operating board of managers focusing on the Sherwood community and its needs. More Sherwood residents and facility members will be able to participate in the oversight of the facility. The Y believes that more community programs will result and more money will be raised to help those who are in financial need.

**PROPOSED LANGUAGE IN SECTION 7 ( new language is in italics)**

The Facility is to be operated with its own staff of employees. *A board of managers is to be constituted by Operator to function as an advisory board of the Operator’s Corporate Board of Trustees and branch Executive Director for the operation of Operator’s services in the Facility. Such board will have the same responsibilities and rights as another YMCA branch board of management. Such board is to constituted by residents of the City of Sherwood, members of the facility who may not be City residents*

*and City of Sherwood appointees. The minimum number is 21 and the maximum is 36. The City of Sherwood can appoint four members. ( all board members need to be supportive of the City/YMCA partnership and the YMCA mission.) At least 75% of the board members will be residents of Sherwood. The four members appointed by the City of Sherwood will be included in this total. The Executive committee, the size of which will be determined by the Board of Management, will include two of the four City of Sherwood appointees. The Executive Committee will make recommendations to the full board and act on behalf of the board when and as directed by the board of management. Any disagreements between the City and ;;;;;;;;;;;;;;;( the rest of the paragraph remains intact.)*

### **Section 3. Financial**

Currently section (b) states, "Included in the Facility's annual budget for operating expenses will be 8% of annual adjusted gross income payable to YMCA of Columbia-Willamette and 7% to Westside Family YMCA for their management services;;;"

### **Background**

The operating agreement contains provision for the repayment of about 1.5 million dollars as rent expense paid by the YMCA and included the Sherwood annual operating budget.

The facility opened in October of 1998. As reported at the September 1999 meeting of the Operations Committee the net loss through June 30, 1999 was \$210,033. This included about \$309,000 in start up expenses. It did not contain any YMCA Association overhead. It did contain part of the Westside Executive Director's position.

### **Why are changes desirable?**

Obviously the reference to the Westside Branch of the YMCA, given the change to Section 7, is no longer relevant or appropriate. The "management services" provided by the Westside Branch will now be provided the Corporate Office of the YMCA.

The contract doesn't stipulate what the "management services" entail. In actual terms, the Westside Branch provides two key functions;

- 1) coordination and supervision of the volunteer structure including the maintenance of the City of Sherwood contract and,
- 2) direct supervision of Sherwood facility staff. The Westside Executive Director hired and supervised the branch facility director. Currently the selection of a new Executive Director for Sherwood is being managed by the Corporate Office and not the Westside Branch. This supervision includes personnel management, financial and program development, marketing, quality assurance and fiscal oversight.

All of these “management services” will now be provided by the Corporate Office of the YMCA of Columbia-Willamette. Additionally, the Corporate Office provides membership billing and accounting, legal, audit, payroll, Human Resource management, financial management and MIS support for all the branches of the YMCA. None of the membership billing and maintenance is done at the branch level. In the case of Sherwood it is part of the 15% amount for “management services” that the contract allows. In other words, if these services were provided at the Sherwood site it would probably increase staff by two positions. The cost associated with this expense would be built into the payroll line and not part of the 15% amount. Where we could locate more staff in the Sherwood facility is problem.

**What is the basis for the 15% figure?**

Again, the contract doesn't establish a rationale for the 15%. It was simply agreed to by both parties as a fair charge to cover YMCA administrative overhead for operating the Sherwood facility.

**For informational purposes we offer the following rationale.**

The YMCA allocates overhead to branches based on an average of three (3) factors which measure business activity which in turn represents expense. It is our simple cost accounting method. We average the following in assigning overhead expense;

- branch as a percent of revenue.
- branch as a percent of total staff
- branch as a percent of the Business Service Department

For this fiscal year the following overhead charges are applicable;

Child Care branch	44.3%
Central branch	30%
Sherwood branch	17%
all other branches	8.7%
Total	100%

The 17% of our overhead attributable to Sherwood approximates the rate of 15% of adjusted gross revenue for “management services” the contact stipulates. But even if it didn't and the YMCA fell short of full recovery we are, by agreement, limited to a total of 15%. As the YMCA continues to grow each branch's share of overhead will decrease. In future years it is possible that Sherwood's percent share will be around 12% of total YMCA overhead in contrast to the current rate of 17%. This would probably represent less money than the 15% of adjusted gross income amount. The YMCA is willing to stipulate that the Sherwood agreement be written so that the “management services”

percent is **the lower** of 1)15% of adjusted gross revenue as it is now written or 2) the branch's share of YMCA overhead.

**PROPOSED CHANGE TO SECTION 3 (B)**

Included in the Facility's annual budget for operating expenses will be the lower of 1) 15% of annual adjusted gross income or 2) the branch's share of YMCA overhead as calculated by the YMCA, payable to the YMCA of Columbia-Willamette for management services. (The rest of the paragraph remains intact.)