AGENDA ITEM HISTORY SHEET

ITEM TITLE	**AGENDA NO.** 7 & 8
Resolution 2024-55 & Ordinance 2024-25	**AGENDA DATE:** 12/17/2024

FUNDING CERTIFICATION (Finance Director) (Signature, if applicable)

MANAGEMENT STAFF REVIEW (Signature)

MAYOR (Signature)

ITEM HISTORY (Previous Council reviews, action related to this item, and other pertinent history)

This is the same agreement we have entered into in years prior.

ITEM COMMENTARY (Background discussion, key points, recommendations, etc.) Please identify any or all impacts this proposed action would have on the City budget, personnel resources, and/or residents.

(This section to be completed by the Mayor)

ACTION PROPOSED (Motion for Consideration)

Motion to approve

RESOLUTION NO. 2024 -____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A PROGRAM AGREEMENT WITH THE BRYANT YOUTH ASSOCIATION INC., AND FOR OTHER PURPOSES

WHEREAS, The City of Bryant owns property at Bishop Park on Boone Road in Bryant, Arkansas;

WHEREAS, The City of Bryant provides recreational facilities in Bryant for the City's youth;

WHEREAS, The Bryant Youth Association provides program administration and operation of a youth program in Bryant;

WHEREAS, Providing recreational activities and services for the youth of the City of Bryant is an appropriate governmental function;

WHEREAS, the Bryant Youth Association access to the recreational facilities at Bishop Park on Boone Road to provide youth services on behalf of the City of Bryant is an appropriate and beneficial use of that space and facilities to further the City's youth programs;

WHEREAS, the Bryant Youth Association and the City's utilization and maximization of the space described in the attached Program Agreement (see Exhibit "A" attached hereto) benefits the City by maximizing youth access and youth activities with the least economic costs to the City.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF BRYANT, ARKANSAS THAT:

Section 1. The Mayor and City Clerk are hereby authorized by the City Council for the City of Bryant, Arkansas to execute the attached Program Agreement for the Bryant Boys and Girls Club, (see Exhibit "A") for the purposes stated in such agreement.

Section 2. In the event any title, section, paragraph, item, sentence, clause, phrase, or word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of the resolution which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of the resolution.

Section 3. All resolutions and other matters in conflict with this resolution are hereby repealed to the extent of any inconsistency.

PASSED AND APPROVED this ____ day of _____, 2024.

APPROVED:

_____
Chris Treat, Mayor

ATTEST:

_____
Mark Smith, City Clerk

Bryant Parks and Recreation Department
2025 Program Agreement

THIS AGREEMENT made and entered into on the _____ day of _____, 2024 by and between the City of Bryant Parks and Recreation Department, a department of the City of Bryant doing business at 210 S.W. 3rd Street, Bryant, Arkansas (hereinafter called "THE CITY"), and Bryant Youth Association, P.O. Box 129, Bryant, Arkansas (hereinafter called "BYA").

WITNESSETH

WHEREAS, THE CITY owns property at Bishop Park on Boone Road in Bryant, Arkansas, and;

WHEREAS, The use of said property for the purpose of a youth program has been considered the best use of this property for recreational purpose to better service the citizens of Bryant, Arkansas; the property is the 12,000 square feet on the first and second floor of the North Section of the Community Center and #2 & #3 basketball courts in the Center Gymnasium.

WHEREAS, THE CITY provides and maintains certain recreational programs, facilities and parks in Bryant, and;

WHEREAS, BYA provides program administration and operations of the youth program in Bryant;

NOW, THEREFORE, in consideration of mutual covenants and promises set forth herein, the parties agree as follows:

THE CITY agrees to grant use of certain areas of the Bryant Community Center as outlined herein to BYA for the operation of youth programming beginning on January 1, 2025 and ending on December 31, 2025. The named property will be used by BYA for programs and events provided to the City and its youth.

1. For a period not to exceed fifty years, BYA shall be permitted to use, upon payment of an annual fee of $1.00 which also covers the cost of monthly utilities (i.e. electricity and water/sewer expense), said facilities in sole consideration for the programs and services BYA provides to the City's youth and to provide programs and services for its members. Such Programs and services shall be operated in accordance with such guidelines as BYA shall determine to be appropriate. THE CITY will provide maintenance of the facilities in like manner and consistent with the support extended to other associations operating on City property and for performance of programs and services, including building maintenance for normal wear and tear to the area of the Community Center utilized by BYA, the City agrees to allow BYA use of specified areas of the Community Center at Bishop Park, including utilities associated with said usage. Building maintenance by the City does not include repairs for property damage caused by BYA or its members.

2. Notwithstanding the foregoing, however, the annual use of the premises shall continue until notification as provided in Section 15 below is given to end the terms of this agreement.

3. BYA agrees to furnish the City with an annual report when requested illustrating the activities of the BYA on behalf of the City, no later than December 31, 2025. This report will illustrate and demonstrate how THE CITY funds have been utilized in furtherance of the programs of BYA.

4. BYA agrees to furnish the City with its annual audited financial statement within 30 days of the annual financial statement's completion, per fiscal year this agreement is in place.

5. Notices and reports required or permitted herein shall be in writing to the Mayor or City Council and shall be deemed delivered when actually received by the parties at the addresses described below:

   A. Mayor, City of Bryant, 210 S.W.3rd Street, Bryant, AR 72022;
   B. Executive Director, Bryant Youth Association, P.O. Box 129, Bryant, AR 72089.

6. BYA shall maintain insurance in amounts required by federal or state laws and hereby agrees to indemnify and hold harmless the City from any claims, lawsuits, judgments, or settlements brought as a result of the performance of this Agreement or BYA's provision of services hereunder.

7. The parties agree that THE CITY shall have no authority to direct the day-to-day activities of any BYA's employees, shall have no authority over BYA's personnel decision, or the conduct of the services and programs provided to the youth of Bryant.

8. It is agreed that THE CITY has no financial interest in the business of BYA and shall not be liable for any debts or obligations incurred by the BYA, nor shall THE CITY be deemed or construed to be a partner, joint venture or otherwise interested in the assets of the BYA, or profits earned or derived by the BYA, nor shall BYA at any time or times use the name or credit of THE CITY in purchasing or attempting to purchase any equipment, supplies, or other thing or things whatsoever.

9. BYA, in the performance of its operation and obligations hereunder, shall be deemed to be an independent contractor in every respect and shall take all steps at its own expense as THE CITY may from time to time request to indicate that BYA is an independent contractor. THE CITY does not and will not assume any responsibility for the means by which or manner in which service by BYA shall be wholly responsible therefore.

10. In the event any clause, phrase, provision, sentence, or part of this Contract or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Use Agreement as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional.

11. In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

The general conditions of this program agreement will be:

1. BYA will operate programs in accordance to nondiscrimination requirements of *Title VI* of the 1964 Civil Rights Act.
2. It is agreed that the program for which this agreement is written must be made available to the general public to join and participate in. It is also agreed that the party sponsoring any community recreation program will furnish and supply all expendable materials necessary for conducting the program.
3. It is further agreed that program personnel must adhere to all provisions of the Americans with Disabilities Act (ADA) that apply to a particular program.
4. Program personnel and participants agree to abide by all Federal, State, and Local laws in addition to the policies of THE CITY pertaining to parks and facilities.
5. It is understood that THE CITY will not be liable for any injuries incurred by participants who are participating in activities on or in THE CITY facility. BYA shall indemnify and hold THE CITY, the City of Bryant, and all of its employees harmless against losses, claims, causes of action, and liabilities on account of damage to property or injury to or death of persons arising out of negligent acts by BYA, its agents, employees, or program participants
6. It is agreed that the named facility, area, or property may not be assigned, subleased, rented, reserved or loaned to any other group, business, individual, or entity by BYA without prior approval by THE CITY for any rental, assignment or subleased for any period longer than five (5) hours.
7. No alterations, changes, or modifications to change the intended use may be made to facilities by BYA, without first receiving written approval from THE CITY. The BYA must submit a detailed request in writing to THE CITY.
8. BYA assumes full responsibility and liability for damage caused by participants of their programs. Any damage caused will be fixed by BYA. If the repair is neglected for a long period of time THE CITY will make the necessary repairs and bill BYA.
9. BYA must inspect facilities prior to each use. If damage is discovered to equipment or the facility that poses an immediate hazard or danger then BYA must immediately notify THE CITY. Damaged equipment or facility that does not pose a danger or hazard should be discussed with THE CITY. BYA must report any vandalism or theft to THE CITY within 24 (twenty-four) hours or next business day.
10. Two keys will be given to the Director of the BYA. The BYA will provide the Parks Director with door codes and key fobs.
11. BYA agrees to return this agreement signed by the appropriate persons, and any and all additional requested material.

12. BYA agrees to provide a list of any bulk chemicals used and/or stored at the facility during their program agreement if applicable. This list must include a MSDS for each chemical listed and BYA must ensure that each chemical is properly stored according to MSDS specifications. THE CITY must be made aware of the intention to use any form of chemical prior to its use or storage in the facility.
13. Additional conditions to be agreed upon not previously listed:
    A. BYA will control all litter by picking up litter their program creates. The litter must be placed in the proper receptacle by BYA and then be removed on a regular basis by THE CITY contracted trash service.
    B. BYA will provide proper insurance for the programs they will be operating on city property. Proof of insurance must be attached to this program agreement. BYA understands that their program participants are in no way covered by insurance by THE CITY.
    C. BYA must contact THE CITY prior to any digging in the park area. The extensive underground wiring must be marked by THE CITY and One Call before any digging can begin. If this procedure is not followed and as a result any lines in the park are damaged, BYA will be responsible to pay for the cost of any and all repairs to the damaged lines.
    D. BYA will submit contact person(s) for after-business-hour emergencies. List responsibility of the person submitted.
    E. At the request of THE CITY, BYA will remove all their equipment at the completion of this agreement period.
    F. BYA will insure that their employees or participants do not attempt to operate equipment belonging to THE CITY.
    G. THE CITY will notify the BYA 10 days prior to events scheduled during BYA programming hours that require courts #2 & #3.
    H. The BYA will give THE CITY 10 day notice when requesting using other space not outlined in this agreement.
    I. THE CITY will be responsible for clearing courts #2 & #3 for BYA programming. The BYA will assist THE CITY in set up of courts #2 & #3 for Parks Department programming at the conclusion of BYA programming.
    J. Either Party may terminate this Use Agreement by providing a 60 day written notice of its intent to not renew this agreement. Any such notice must be made 60 days but no more than 90 days prior to the end of any annual term of this agreement. Thus the period to notify a party's intent to cancel this agreement must be submitted in October of the calendar year for which the party wishes to terminate the agreement for the following fiscal year.

14. Other specific agreements or assurance:
    A. Permanent improvements to facilities and fields will become property of THE CITY. Permanent fixtures include, but are not limited to all: concrete work, fences, underground installations, structural work, lighting fixtures, etc…
    B. Non-permanent improvements will be retained by BYA and include: appliances, equipment, concession equipment, portable buildings, and etc., which were purchased by BYA.

15. For Annual Programs-
    A. A program agreement must be signed annually in order to guarantee use of a facility or area. THE CITY will provide at least a 60 day notice prior to the end of the term of this agreement of the City's intent to cancel, modify or otherwise change the terms of this Use Agreement. Any changes in programs of uses by BYA will be provided to THE CITY via a written notice provided at least 30 days prior to any such change in program or use of the facilities governed under this Use Agreement. BYA shall notify THE CITY no later than 60 days nor more than 90 days prior to the end of any annual term of this agreement of BYA's intent to discontinue use of the facilities and/or its intent to vacate the facilities provided for herein.
    B. Either party may amend this agreement when deemed necessary, but any amendment, alteration or change in this agreement, other than as provided for in paragraph 15 above, will only be affective by the mutual assent of both parties and will be effective when reduced to writing signed by both parties and attached to this original agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed in their behalf and supersede any and/or all previous agreements, contracts, or leases.

CITY OF BRYANT, ARKANSAS	**BOYS' AND GIRLS' CLUB OF BRYANT**
_____	_____
Mayor Chris Treat	President
Attest:	
_____	_____
Mark Smith, City Clerk	Suzanne Passmore, Executive Director