

STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

**LICENSE AGREEMENT FOR USE OF FIELDS AT
SOUTHPOST OAK SPORTSPLEX**

THIS License Agreement ("License" and/or "Agreement") is made and entered into by and between Fort Bend County (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and BIG SOUTH PUNISHER YOUTH FOOTBALL & CHEER (hereinafter "BSPYF&C"), a 501(c)(3) nonprofit organization authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS Fort Bend County hereby adopts Chapter 320 of the Local Government Code for the purpose of acquiring, improving, equipping, maintaining, financing, and operating one or more public parks; and

WHEREAS, Fort Bend County Commissioners Court elects to exercise and perform the powers authorized by Chapter 320 which includes executing a contract pertaining to a park under its control, namely South Post Oak Sportsplex ("SPO Sportsplex"); and

WHEREAS, BSPYF&C desires to assist County in providing recreational facilities for the citizens of the County, to promote the sport and hobby of youth football and develop within the citizens of the County the spirit of good sportsmanship and cooperation, as well as provide a means to actively and recreationally occupy the time and leisure of said citizens; and

WHEREAS, BSPYF&C has requested permission to use a certain portion of SPO Sportsplex, for the purposes described above, to be used by persons residing in the County; and

WHEREAS, the County is willing to allow BSPYF&C to use a certain portion of SPO Sportsplex for the purposes set forth above; and

WHEREAS, BSPYF&C is willing to supervise and manage the said fields and appurtenances thereto, which is a benefit to County; and

WHEREAS, County finds that this License serves a public purpose;

NOW, THEREFORE, in consideration of the mutual covenants, licenses, and benefits to both parties, it is agreed as follows:

AGREEMENT

1. Property.

- 1.1. Subject to the provisions of this License, the County licenses BSPYF&C a revocable right to use the following described portion of South Post Oak Sportsplex (SPO Sportsplex), located in Fort Bend County Texas:

Those certain fields located on a tract of land being a part of Fort Bend County, South Post Oak Sportsplex; said area being identified with hatch lines as "FIELD No. 2" on the map or diagram marked "Exhibit A" attached hereto and incorporated herein by reference, hereinafter called "Property."

- 1.2. The license granted herein permits BSPYF&C to use, schedule use of, and maintain the above described Property for the purposes of providing sporting activities and play fields for the residents of Fort Bend County and surrounding areas.
- 1.3. This license does not convey any interest in Property to BSPYF&C. The license is merely a license to use the Property according to the terms thereof.

2. Term.

- 2.1. The Term of this Agreement shall commence upon the date of execution by County ("Effective Date") and terminate on the one (1) year anniversary of the Effective Date ("Termination Date"). This Agreement will not automatically renew each year. A renewal request for an additional term for one (1) year, with the County's consent, must be submitted in writing on or before thirty (30) days preceding the Termination Date of the license, unless terminated in accordance with this Agreement.

3. Name.

- 3.1. The fields are to be known as "South Post Oak Sportsplex."

4. Maintenance.

- 4.1. BSPYF&C shall provide for all maintenance at the Property, to the satisfaction of County, UPON County's prior written permission and/or consent, and at the sole expense of BSPYF&C. Such maintenance shall include, but not be limited to maintenance of grounds, buildings, fences, playing areas, spectator areas and on-site sewage systems, if applicable.
- 4.2. BSPYF&C shall provide all supplies and materials necessary to perform the maintenance requirements described herein at the sole expense of the BSPYF&C. County may perform periodic unannounced and/or noticed inspections of the fields and appurtenances thereto to determine the condition thereof.

S. Improvements or Installations.

- 5.1. This license does not create a right by BSPYF&C to construct or install any fixtures, improvements, alterations or additions thereto, made and/or installed in or upon the fields by BSPYF&C including, but not limited to the playing areas, the appurtenances

thereto, team quarters (including lockers and showers), public restrooms, electronic scoreboards, sidewalks, shrubberies, stands, floodlighting facilities.

- 5.2. Should any fixtures or improvements be installed with or without the permission of the County, the County may order that the fixture, improvement, alteration or addition be removed or alternately that they become the property of the County when installed and/or constructed upon the fields. Except as otherwise provided herein, all property that maybe moved without damage to the Property, as determined solely by County, does not become the property of the County, but remains the property of the BSPYF&C. Upon termination of this license, any movable property not removed by BSPYF&C before the date of termination becomes the property of the County.
- 5.3. BSPYF&C SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE COUNTY FOR ALL DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEY FEES, FOR OR ON ACCOUNT OF ANY NECESSARY LEGAL ACTION TO REMOVE THE THREAT OF THE FILING OF A LIEN OR THE REMOVAL OF ANY LIEN.

6. **Liability and Insurance.**

- 6.1. BSPYF&C shall furnish County with insurance certificates(s) and a copy of each policy that is in effect as of the effective date of this Agreement for verification and approval by the County Risk Management Department. BSPYF&C shall provide County subsequent insurance certificates throughout the term of the Agreement upon request. BSPYF&C shall carry Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include independent contractors, and contractual liability each at \$1,000,000 per occurrence. Coverages shall be written on per occurrence forms. Policies shall name the County, its elected and appointed officials, agents, and employees as additional insureds.
- 6.2. BSPYF&C EXPRESSLY AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, CLAIMS, DEMANDS, LAWSUITS, LIABILITY, JUDGMENTS AND EXPENSES, INCLUDING ATTORNEY FEES, INVESTIGATIVE COSTS, AND OTHER COSTS OF LITIGATION, IN ANY MANNER ARISING OUT OF THE ACTS OR OMISSIONS OF BSPYF&C AND BSPYF&C'S EMPLOYEES, CONTRACTORS, REPRESENTATIVES, MEMBERS, AGENTS, GUESTS, INVITEES AND VOLUNTEERS, IN THEIR USE OF THE PROPERTY, IRRESPECTIVE OF WHETHER THE **COUNTY WAS CONCURRENTLY NEGLIGENT.**
- 6.3. BSPYF&C shall ensure that a "FORT BEND COUNTY ATHLETIC FACILITY RELEASE OF LIABILITY FOR PARTICIPANT", attached hereto as Exhibit B, is executed on behalf of each BSPYF&C participant prior to participation. Additional copies of the Release of Liability will be made available to County upon request.
- 6.4. County makes no representation, warranty, or guarantee with respect to the condition of the Property, the presence or absence of pits or depressions in the surface of the fields, the type or condition of the soil or other material within the soil, and the presence of pipes or other objects in the soil. BSPYF&C ACCEPTS THE PROPERTY AND

ALL APPURTENANCES AND IMPROVEMENTS THERETO, "AS IS, WHERE IS AND WITH ALL FAULTS".

7. Conduct/Security.

- 7.1. BSPYF&C shall exercise proper supervision and control of all activities of BSPYF&C on the Property. In exercising the rights and performing the obligations required of it under the terms of this license, BSPYF&C shall comply, and shall require all persons using the Property to comply, with all applicable federal, state, county and city laws, ordinances, rules and regulations, including the Park Rules that may be adopted from time to time by the Commissioners Court. Said Park Rules are incorporated herein by reference as if copied herein verbatim. Additionally, BSPYF&C shall at all times maintain and enforce good order and fair sportsmanship upon the Property, and shall not permit any conduct, behavior or practice in violation of any federal, state, or municipal laws, rules, regulations or ordinances or of a sort likely to bring discredit or humiliation upon anyone, including Fort Bend County and its governing body.
- 7.2. BSPYF&C shall not discriminate against any person or persons because of race, color, religion, sex, or national origin with regard to participation in the activities of the League upon the Property.
- 7.3. BSPYF&C may and is encouraged to create and distribute to users of the Property a written guideline or code of conduct. The guideline or code of conduct may not conflict with any federal, state, county and/or city ordinance, rule, and regulation. However, BSPYF&C may require conduct of a higher standard or degree of character than is required under all rules and laws so long as the prescribed conduct does not discriminate against any person on the basis of their race, color, religion, sex, or national origin. BSPYF&C shall provide to the County any such guideline or code of conduct. The County reserves the right to amend the guidelines or code of conduct.
- 7.4. BSPYF&C shall provide all necessary security personnel at the sole expense of BSPYF&C for the events it sponsors or conducts on the Property.
- 7.5. BSPYF&C acknowledges and agrees that it is neither the responsibility nor the right of persons other than those representing Fort Bend County Parks and Recreation Department to enforce park rules and regulations. BSPYF&C shall contact Fort Bend County Parks & Recreation if any BSPYF&C participant witnesses a violation of Park Rules or actions inconsistent with expectations of a public setting. For emergency situations, BSPYF&C shall call the Fort Bend County Sheriff's Office for assistance.
- 7.6. BSPYF&C agrees to comply with any health related protocols as requested by the County. Licensee further agrees to abide by any applicable County or state regulations.

8. Times/Calendar.

- 8.1. County may establish the day-to-day times when the BSPYF&C may use the Property for its activities. The County may post signs at or near the entrance to the Property stating the times when the Property is open to the public and the BSPYF&C.

- 8.2. BSPYF&C may use the Property at all times during the calendar year pursuant to its County approved schedule as shown in Exhibit C, and incorporated herein for all purposes.
- 8.3. **Except, that at all times the Property is scheduled for public use and/or other events by the County, BSPYF&C shall have right of first refusal for use of the Property as set forth in the Use Schedule attached hereto as Exhibit C, and incorporated herein for all purposes.** Public use times shall specifically be for use by the public, and/or other organizations, including but not limited to BSPYF&C, who are selected for said public or other use of the Property, by and through the sole discretion of the County. Public use times shall include use of all athletic fields, including but not limited to, fields that are subject to this License Use Agreement.
- 8.4. Notwithstanding the foregoing, the County may alter or change the dates and times that BSPYF&C may use the Property. The County may, with or without notice to BSPYF&C, prohibit entry into and use of the Property whenever it is necessary, as determined by County. Unless an act of God, war or other public calamity requires closure of the Property, the County may give notice to BSPYF&C, in the manner described herein of any change in the Park's calendar.
- 8.5. BSPYF&C shall be required to provide a written schedule of games and practices for each athletic season. BSPYF&C shall be responsible for scheduling use of the Property by its organization. County shall be sole responsible for scheduling use of the Property by other youth/adult organizations. BSPYF&C shall not deny the use of the Property to any organization that does not interfere with the normal BSPYF&C playing season.
9. **Notice.**
- 9.1. The license may be terminated by either party, with or without cause, by giving written notice to the other party at least thirty (30) days prior to the date of termination.
- 9.2. Notice to County shall be given by registered or certified U.S. Mail, Return Receipt Requested, postage prepaid addressed to:
- Fort Bend County
Attn: County Judge
401 Jackson St., 15th floor
Richmond, Texas 77469
- With copy to:
- Fort Bend County
Attn: Parks Director
301 Jackson St.
Richmond, Texas 77469
- 9.3. Notice to BSPYF&C shall be given by registered or certified U.S. Mail, Return Receipt Requested, postage prepaid addressed to:
- Big South Punisher Youth Football & Cheer
c/o Corey Jerome
16650 S. Post Oak Rd.
Houston, Texas 77053

- 9.4. Notice is considered given and completed upon deposit of the notice in the U.S. Mail.
- 9.5. Each party may change its respective address and specify as its address any other address in the State of Texas by giving at least fifteen (15) days written notice of such change to the other party.

10. Income.

- 10.1. BSPYF&C may sell "concession items" such as food, beverages, and activity "programs" without need for prior approval from County; however, BSPYF&C shall not charge third parties for use of, or admission to, the football fields at South Post Oak Sportsplex.
- 10.2. BSPYF&C must have prior written approval from County regarding any other uses of the property for production of income not named herein.
- 10.3. BSPYF&C is strictly prohibited from assigning, subletting, subleasing, and/or creating any co-tenancy or co-licensing relationships with any other organizations, entities, or individuals regarding this license for use of County property and in particular use of the football fields at South Post Oak Sportsplex.
- 10.4. Any tournament fees charged to third party organizations by BSPYF&C for use of County property is strictly prohibited. County may in its sole discretion modify this provision, but only after receipt of any and all tournament documents, contracts, proof of liability insurance, listing County and its Commissioner's Court as additional insureds and other documents as the County deems appropriate. This provision shall in no way operate as a waiver or estoppel of other provisions herein relating to income or BSPYF&C's use of County property at South Post Oak Sportsplex.

11. Miscellaneous.

- 11.1. Paragraph captions herein are merely descriptive and do not add to or detract from the content of this license.
- 11.2. Any oral representations or modifications concerning this license are of no force or effect; and this license may be modified or changed only by the Commissioners Court.
- 11.3. BSPYF&C shall provide the County at all times with the current names, addresses and phone numbers of the President, chief acting officer, vice-president and each board member of BSPYF&C.
- 11.4. This license shall be governed under Texas law, and it shall be performed entirely in Fort Bend County, Texas.
- 11.5. The person signing this license on BSPYF&C's behalf hereby represents that he or she is authorized by the BSPYF&C's Board of Directors to execute this license on BSPYF&C's behalf.
- 11.6. No statement contained in this license shall be construed so as to find BSPYF&C or any of its participants, to be an employee, or agent of the County, and BSPYF&C and its participants shall be entitled to none of the rights, privileges, or benefits of County employees except as otherwise may be stated herein nor shall Fort Bend or its participants hold itself out as an employee or agent of the County.

- 11.7. In the event of one or more of the provisions contained in this license shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any Other provision hereof and this license shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 11.8. The waiver by either party of a breach of any provision of this license shall not operate as or be construed as a waiver of any subsequent breach.
- 11.9. Any amendments to this license shall be of no effect unless in writing and signed by both parties hereto.
- 11.10. BSPYF&C shall not assign this license, or any interest arising herein, without the prior written consent of County.
- 11.11. The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

12. Termination.

- 12.1. County may terminate this Agreement at any time upon thirty (30) days written notice.
- 12.2. County may terminate the whole or any part of this Agreement for cause if BSPYF&C materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.
- 12.3. If County terminates this Agreement prior to the termination date, County shall not be subject to any early termination fee or other penalty.

13. Certain State Law Requirements for Contracts.

- 13.1. The contents of this Section are required by Texas Law and are included by County regardless of content. By signature below, BSPYF&C represents pursuant to Section 2252.152 of the TEXAS GOVERNMENT CODE, that BSPYF&C is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153.
- 13.2. Agreement to Not Boycott Israel Chapter 2270 TEXAS GOVERNMENT CODE: By signature below, BSPYF&C verifies BSPYF&C does not boycott Israel and will not boycott Israel during the term of this Agreement.
14. Human Trafficking. BY ACCEPTANCE OF CONTRACT, BSPYF&C ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL

BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

15. Understanding, Fair Construction.

15.1. By execution of this Agreement, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Agreement. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the non-drafting party.

16. Electronic and Digital Signatures.

16.1. The parties to this Agreement agree that the electronic and/or digital signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.

{REMAINDER OF PAGE INTENTIONALLY LEFT BLANK}

{EXECUTION PAGE TO FOLLOW}

IN WITNESS WHEREOF, this Agreement is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Agreement and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

KP George
KP George, County Judge
County Judge KP George

9.28.2021
Date

ATTEST:

Laura Richard
Laura Richard, County Clerk



BIG SOUTH PUNISHER YOUTH FOOTBALL & CHEER

Cory Jerome
Authorized Agent – Signature

Cory Jerome
Authorized Agent – Printed Name

President
Title

09/21/21
Date

Reviewed:

Darren McCarthy
Darren R. McCarthy,
Parks Director

Jacquelyn Minter
Jacquelyn Minter, MD
Fort Bend Health & Human Services Director

Mark Flathouse
Mark Flathouse,
Emergency Manager/Fire Marshal

Eric Fagan
Eric Fagan,
Fort Bend County Sheriff

Scalco, Troy
Troy K. Scalco,
Director – Environmental Health

Digitally signed by Eric Fagan, DN: cn=Eric Fagan, o=Fort Bend County, ou=Fort Bend County Sheriff's Office, email=eric.fagan@fortbendtx.gov, c=US, date=2021.09.21 12:25:40 -0500

- Exhibit A: Map
- Exhibit B: Participant Release Form
- Exhibit C: Participant Field Use Schedule
- Exhibit D: Instructions for Form 1295

I:\agreements\2022 agreements\parks\field use agreements\big south punisher (22-parks-100081)\license agreement spo sportsplex field use big south punisher (kcj - 09.17.2021)

EXHIBIT A



EXHIBIT B

THIS WAIVER MUST BE FILLED OUT BY EACH USER. WHERE THE USER IS UNDER THE AGE OF 18, A WAIVER MUST BE FILLED OUT BY THE MINOR'S PARENT OR LEGAL GUARDIAN.

**FORT BEND COUNTY PARK FACILITIES
ACKNOWLEDGEMENT OF RISK, RELEASE AND WAIVER OF LIABILITY AGREEMENT**

Notice: This is a legally binding agreement. Please read it thoroughly and understand its contents.

THIS ACKNOWLEDGEMENT OF RISK, RELEASE AND WAIVER OF LIABILITY AGREEMENT sets forth the terms and conditions applicable for participation in physical, recreational activities at one or more of Fort Bend County Park Facilities (herein referred to as "Activity") with Fort Bend County.

Participating in this Physical, Recreational Activity presents inherent dangers and risks, both anticipated and unanticipated, including all manner of injury (both physical and emotional), paralysis, death, damage to property or to other participants, or other losses. **NONETHELESS, I AGREE THAT I ASSUME ALL RISKS, WHETHER KNOWN OR UNKNOWN TO ME.**

Following consideration and recognition of the inherent risks of participation in Activity, I, **RELEASE FROM LIABILITY** and **WAIVE THE RIGHT TO SUE** Fort Bend County, Texas, its employees, officers, volunteers, and agents (collectively "the County") from any and all claims, including those resulting from any physical injury, illness, death, pain or suffering, or economic loss, that I may suffer due to participation in this Activity, whether participation is supervised or unsupervised expressly **including but not limited to loss, injury or death caused or contributed to by the negligence or gross negligence of Fort Bend County and/or its employees, officers, volunteers and agents.**

If I require medical treatment, the County is authorized to obtain medical treatment for me. **I AGREE NOT TO HOLD THE COUNTY RESPONSIBLE FOR ANY CLAIMS RESULTING FROM ANY MEDICAL TREATMENT.**

I agree as Parent/Guardian of the below named minor child to indemnify and hold harmless Fort Bend County, its employees, officers, volunteers and agents (collectively "the County") from and against any and all claims made by the minor child arising out of or caused by, directly or indirectly, from any physical injury, illness, death, pain or suffering, economic loss, that the minor child may suffer due to participation in this activity **including but not limited to loss, injury or death caused or contributed to by the negligence or gross negligence of Fort Bend County and/or its employees, officers, volunteers and agents.**

I understand that this document is written to be as broad and inclusive as legally permitted by the State of Texas. I understand the legal consequences of signing this document including **(A) RELEASING COUNTY FROM ALL LIABILITY, (B) WAIVER OF MY RIGHT TO SUE COUNTY, AND (C) ASSUMPTION OF ALL RISKS OF PARTICIPATING IN THIS ACTIVITY.**

I agree that if any portion of this Release is held invalid or unenforceable, I will continue to be bound by the remaining terms. By my signature, I warrant that I am at least 18 years old; that I have the legal authority to sign this **RISK, RELEASE AND WAIVER OF LIABILITY AGREEMENT**, and that I sign it of my own free will.

Signature of Individual/Guardian: _____ Date: _____

Printed Name _____ Name of Minor Child (if any) _____

EXHIBIT C

SOUTH POST OAK SPORTSPLEX
FOOTBALL FIELD No. 2 USE SCHEDULE
BIG SOUTH PUNISHER YOUTH FOOTBALL & CHEER
(During Football Season and Home Games)

Tuesdays and Thursdays

4:00 pm - 8:00 pm

Sundays

6:45 am - 8:00 pm

EXHIBIT D

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Big South Punishers Youth Football and Cheer
FRESNO, TX United States

Certificate Number:
2021-804254

Date Filed:
09/21/2021

Date Acknowledged:
09/28/2021

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

County of Fort Bend

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

22Park100081
Use of sports field

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)