

AGREEMENT

BETWEEN

PIEDMONT UNIFIED SCHOOL DISTRICT

AND

PTT THANKSGIVING DAY RACE, DBA PIEDMONT TURKEY TROT

FOR

OPERATING THE PIEDMONT TURKEY TROT RACE

THIS AGREEMENT is made and entered into this 4th day of November, 2014, "Commencement Date" by and between the PIEDMONT UNIFIED SCHOOL DISTRICT, a public school district, located at 760 Magnolia Avenue, Piedmont, CA 94611, hereinafter referred to as "PUSD", and PTT Thanksgiving Day Race, a nonprofit Public Benefit Corporation, DBA PIEDMONT TURKEY TROT, located at 418 Blair Avenue, Piedmont CA 94611, hereinafter referred to as "PTT" (collectively "the parties").

1. RECITALS:

The PTT nonprofit organization, formed in 2014, includes community volunteers who have worked with the Piedmont High School ("PHS") Track and Cross Country coaches and families in the previous 12 years to run the Piedmont Turkey Trot Race. PTT's 501(c)(3) application specifies that it will not compensate officers, directors or members of PTT. Since 2003 the net proceeds from the Piedmont Turkey Trot Race have gone to support the PHS Track and Cross Country programs, and recently, some net proceeds have been used to acquire exercise equipment for PHS. The PTT nonprofit organization remains committed to the continued work with volunteers dedicated to the continuation of the Piedmont Turkey Trot Race run in support of the PHS Cross Country and Track programs for the next five year's Piedmont Turkey Trot Races. Further, PUSD agrees on the behalf of the PHS Cross Country and Track and Field programs that the PTT nonprofit organization will now manage, organize and run the Piedmont Turkey Trot Race starting in November 2014 as set forth in this Agreement. Both parties also agree to reasonably promote the Piedmont Turkey Trot Race each year of this agreement.

2. TERM of AGREEMENT

This Agreement shall become immediately effective upon approval of the Board of Trustees of PUSD and remain in effect for a period of five (5) years. Thereafter, this

Agreement shall expire. The PTT will continue to support the PHS Cross Country and Track & Field programs at a level approved by the Board of Directors of the PTT.

3. PAYMENT PROVISIONS

3.1 In order to secure continued funding of the PHS's Cross Country and Track and Field programs, PUSD hereby agrees that PTT shall have the right to solely manage, organize, control, operate all aspects of the Piedmont Turkey Trot Race in Piedmont. It is understood that unless rescheduled, the Piedmont Turkey Trot Race will take place on Thanksgiving Day each year in Piedmont, California. It is also understood that PUSD will play no role in managing, organizing, controlling, financing or operating the Piedmont Turkey Trot Race.

3.2 Within 24 hours of the PUSD Board of Trustee's approval of this Agreement, PTT agrees to deliver a check made payable to the PHS Cross Country team and the PHS Track and Field team in the amount of \$12,800.00, a portion of the \$30,000.00 proceeds from the 2013 Piedmont Turkey Trot Race. This leaves a balance of \$17,200 from the 2013 Piedmont Turkey Trot Race gross proceeds ~~which will be paid~~ which will be paid over a 14 month time frame as set forth below:

- a. On or before December 19, 2014, PTT will deliver a check made payable to the PHS Cross Country team and the PHS Track and Field team in the amount of \$8,600.
- b. On or before December 18, 2015, PTT will deliver a check made payable to the PHS Cross Country team and the PHS Track and Field team in the amount of \$8,600.

3.3 Regarding the Turkey Trot Races in 2014, 2015, 2016, 2017 and 2018, PTT agrees to deliver a check made payable to the PHS Cross Country team and the PHS Track and Field team in the minimum amount of \$20,000.00, on or before the 15th of January following the year of the Piedmont Turkey Trot Race as follows:

- a. On or before January 15, 2015, PTT will deliver a check made payable to the PHS Cross Country team and the PHS Track and Field team in the minimum amount of \$20,000.00, or more if PTT so chooses, representing money to support the Piedmont High School Cross Country and Track programs from the 2014 Piedmont Turkey Trot Race. At this same time, PTT shall also provide PUSD with a full accounting of all income and expenses relative to the 2014 Turkey Trot Race.

- b. On or before January 15, 2016, PTT will deliver a check made payable to the PHS Cross Country team and the PHS Track and Field team in the minimum amount of \$20,000.00, or more if PTT so chooses, representing money to support the Piedmont High School Cross Country and Track programs from the 2015 Piedmont Turkey Trot Race. At this same time, PTT shall also provide PUSD with a full accounting of all income and expenses relative to the 2015 Turkey Trot Race.
- c. On or before January 15, 2017, PTT will deliver a check made payable to the PHS Cross Country team and the PHS Track and Field team in the minimum amount of \$20,000.00, or more if PTT so chooses, representing money to support the Piedmont High School Cross Country and Track programs from the 2016 Piedmont Turkey Trot Race. At this same time, PTT shall also provide PUSD with a full accounting of all income and expenses relative to the 2016 Turkey Trot Race.
- d. On or before January 15, 2018, PTT will deliver a check made payable to the PHS Cross Country team and the PHS Track and Field team in the minimum amount of \$20,000.00, or more if PTT so chooses, representing money to support the Piedmont High School Cross Country and Track programs from the 2017 Piedmont Turkey Trot Race. At this same time, PTT shall also provide PUSD with a full accounting of all income and expenses relative to the 2017 Turkey Trot Race.
- e. On or before January 15, 2019, PTT will deliver a check made payable to the PHS Cross Country team and the PHS Track and Field team in the minimum amount of \$20,000.00, or more if PTT so chooses, representing money to support the Piedmont High School Cross Country and Track programs from the 2018 Piedmont Turkey Trot Race. At this same time, PTT shall also provide PUSD with a full accounting of all income and expenses relative to the 2018 Turkey Trot Race.
- f. Each of the \$20,000 (or more if PTT so chooses) payments above is conditioned upon the Piedmont Turkey Trot Race taking place and netting a profit for that particular year of at least \$20,000. If the Piedmont Turkey Trot Race does not take place in any particular year and is not otherwise rescheduled, no money is due and owing for that year. If the Piedmont Turkey Trot Race is rescheduled in any particular year, the payment and corresponding accounting is due no later than two months after the rescheduled Piedmont Turkey Trot Race takes place. To the extent net profits fall below \$20,000.00 in any particular year, all net profits will be

paid to the PHS Cross Country team and the PHS Track and Field team in lieu of the minimum of \$20,000.00 in that particular year.

- 3.4 To the extent net profits exceed the amount provided to the PHS Cross Country team and the PHS Track and Field team in any particular year for the term of this Agreement ("excess profits"), PTT shall deliver the "excess profits" as follows:
- a. On or before February 1, 2015, PTT will deliver the "excess profits" from the 2014 Piedmont Turkey Trot Race to the City of Piedmont's Athletic Facilities Preservation Fund, and provide PUSD with proof of such payment.
 - b. On or before February 1, 2016, PTT will deliver the "excess profits" from the 2015 Piedmont Turkey Trot Race to the City of Piedmont's Athletic Facilities Preservation Fund, and provide PUSD with proof of such payment.
 - c. For the any "excess profits" from the 2016 Piedmont Turkey Trot Race, PTT shall distribute those funds as it sees fit, consistent with PTT's By-Laws as a nonprofit corporation.
 - d. For the any "excess profits" from the 2017 Piedmont Turkey Trot Race, PTT shall distribute those funds as it sees fit, consistent with PTT's By-Laws as a nonprofit corporation.
 - e. For the any "excess profits" from the 2018 Piedmont Turkey Trot Race, PTT shall distribute those funds as it sees fit, consistent with PTT's By-Laws as a nonprofit corporation.

4. INSURANCE

- 4.1 PTT shall procure and maintain for each Piedmont Turkey Trot Race set forth in this Agreement, Commercial General Liability Insurance that covers PTT and PUSD from all claims for personal injury, including death and property damage and all other claims to any person involved in any way with the Piedmont Turkey Trot Race. The minimum insurance limits are \$1 million for liability coverage for bodily injury AND property damage per occurrence with an aggregate limit of no less than \$3 million and PUSD must be named as an ADDITIONAL INSURED with Endorsement on this policy.
- 4.2 Proof of insurance set forth above must be provided to PUSD, including (1) a Certificate of Insurance naming PUSD as an ADDITIONAL INSURED; and, (2) an Endorsement naming PUSD as an ADDITIONAL INSURED. These

documents must be provided to PUSD no later than two weeks prior to each Piedmont Turkey Trot Race.

- 4.3 The insurance coverage afforded to PUSD pursuant to this agreement shall be primary insurance coverage which must be exhausted before any liability, expense or fee payments are made by PUSD pursuant to any Joint Powers Agreements, or by any other insurance coverage which PUSD may have.

5. DISPUTE RESOLUTION

Should there be any dispute as to the terms, conditions and payments under this Agreement the parties hereto agree to meet and confer in person within 15 days of either party providing written notice to the other of a dispute. Within 5 days of such notification, the parties shall request from each other any documents needed to resolve the dispute and exchange said documents no later than 5 days thereafter. Should any dispute remain following the meet and confer process, the parties agree to mediate any such dispute before a mutually agreeable mediator, within 30 days of the completion of the meet and confer process, before the filing of any legal suit for damages. The cost of the mediation shall be shared equally by the PUSD and PTT.

6. ASSIGNMENT OR TRANSFER

Neither PTT nor PUSD shall in any manner, directly or indirectly, by operation of law or otherwise, assign or transfer this Agreement or any portion hereof of any interest herein, in whole or in part, without the prior written consent of the other party. If prior written consent is not given by the other party to assign or transfer, such action shall be deemed automatically void.

7. SEVERABILITY; WAIVER

- 7.1 If any provision of this Agreement is determined to be illegal, unenforceable, or invalid, such act shall in no way affect the validity of any other provision in this Agreement.
- 7.2 No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.

8. INTERPRETATION

Should interpretation of this Agreement, or any portion thereof, be necessary it is deemed that this Agreement was prepared by the parties jointly and equally and shall

not be interpreted against either party on the grounds that said party prepared the Agreement or caused it to be prepared. The captions and headings of the various sections of this Agreement are for convenience and identification only and shall not be deemed to limit or define the content of the respective sections hereof.

9. NOTICES

Any notices to be given pursuant to this Agreement shall be in writing and such notices, as well as any other document to be delivered, shall be delivered by personal service to the following addressee, unless an alternative address for PTT or PUSD is provided to the other party in writing prior to any such notice:

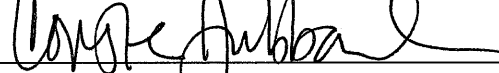
To PTT:

PTT Thanksgiving Day Race
DBA PIEDMONT TURKEY TROT
418 Blair Avenue
Piedmont CA 94611
Attn: Chief Executive Officer

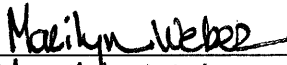

To PUSD:

Piedmont Unified School District Superintendent
760 Magnolia Avenue
Piedmont, CA 94611
Attn: Superintendent

PIEDMONT UNIFIED SCHOOL DISTRICT

Dated: November 4, 2014 By 
Constance Hubbard, Superintendent
Piedmont Unified School District

PTT Thanksgiving Day Race, a nonprofit Public Benefit Corporation, DBA PIEDMONT TURKEY TROT

Dated: November 3, 2014 By  
Marilyn Weber, President
(Print name) (Print title)
PTT Thanksgiving DBA PIEDMONT TURKEY
TROT

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