

AGREEMENT

This Agreement is made and entered into as of June 27, 2018, by and between the Jefferson County Board of Education, a Kentucky board of education, hereinafter referred to as the Board, and the Eastern Track XC Booster Club, Inc., a Kentucky nonprofit corporation, hereinafter referred to as the Booster Club.

WITNESSETH:

WHEREAS, the Board operates the school known as Eastern High School, hereinafter referred to as Eastern High School, which is located at 12400 Shelbyville Road in Jefferson County, Kentucky, hereinafter referred to as the Property, and

WHEREAS, the Board provides a track and field program for the benefit of the students who attend Eastern High School, and

WHEREAS, the track and field program is in need of a 400 meter rubberized track for use in the program, and

WHEREAS, the Booster Club was organized for the purpose of providing financial and other support to the track and field program that is provided by the Board at Eastern High School, and

WHEREAS, the Booster Club is willing to provide funds for the construction of the 400 meter rubberized track, and

WHEREAS, the Board is willing to accept the donation of the 400 meter rubberized track.

NOW THEREFORE, for and in consideration of the foregoing, and intending to be legally bound, the Board and the Booster Club agree as follows:

1. The Booster Club will, at its sole expense, enter into a contract, hereinafter referred to as the Construction Contract, under which Hall Contracting of Ky, Inc. hereinafter referred to as the Contractor, will provide or obtain architectural services for the purpose of preparing an approvable set of completed plans and specifications, hereinafter referred to as the Plans and Specifications, and will construct a 400 meter rubberized track to be used for practice, races, and meets, etc., hereinafter referred to as the Track, to be placed inside the stadium that is currently located on the Property and to be used by the men's and women's track and field programs as applicable. The Contractor will submit the Plans and Specifications to the Board for review and approval.

2. The price paid to the Contractor under the Construction Contract will be \$348,576.83.

3. The Construction Contract will provide that the Contractor will begin no work on the Property until (A) the Plans and Specifications have been approved by the Board as provided in paragraph 1, and (B) the Board has authorized the Contractor to begin work on the Property after the Booster Club has provided written evidence to the Board that (1) the Contractor has adequate resources to complete the construction of the Track without financial liability to the Board, and (2) the rubberized track materials to be incorporated into the track are not and will not be subject to any lien or security interest of any person or entity.

4. Upon authorization as provided in paragraph 3(B), the Board will permit the Booster Club and the Contractor to have access to the Property as necessary for

the construction of the Track. The Booster Club and the Contractor will begin construction of the Track as soon as practicable, upon receipt of all necessary approvals, permits and/or licenses from any governmental agency or other authority. The Booster Club will be solely responsible for all construction work performed by the Contractor, and will make payment to the Contractor for all labor, materials and equipment for the completion of the Track from the funds of the Booster Club. The Board shall review the construction process from time to time for the purpose of determining whether the Track is being constructed in compliance with the approved Plans and Specifications, but the Booster Club will be solely responsible for completion of the Track in accordance with the approved Plans and Specifications, including without limitation proper construction oversight by qualified personnel. The Booster Club and the Contractor, during the period of their access to the Property as provided in this paragraph 4, shall operate in compliance with all applicable statutes, regulations and ordinances relating to the performance of the work and all applicable Board regulations, policies and procedures. During the performance of the work, the Booster Club and the Contractor will insure that the Property is kept free of waste material and rubbish and that all persons performing and supervising the work comply with all safety precautions and programs necessary to the reasonable safety of the work. The Track will be completed by the Booster Club and the Contractor in accordance with the approved Plans and Specifications and all applicable building codes and shall be certified for occupancy not later than October 30th, 2018.

5. The Booster Club will provide to the Board evidence that the Contractor and all other persons taking part in the construction of the Track have adequate insurance coverage as determined by the Board in its reasonable discretion, including without limitation general liability insurance and property damage insurance in the amounts not less than Five Hundred Thousand Dollars (\$500,000.00), and workers compensation insurance with all required statutory limits.

6. Upon completion of the Track in accordance with the approved Plans and Specifications, (A) the Booster Club will have no claims of ownership to the Track or any synthetic track materials incorporated therein, (B) all such synthetic track materials shall be deemed to be incorporated into and shall become part of the real estate, and (C) the real estate title to the Track will continue to be vested in the Board or the Jefferson County School District Finance Corporation, hereinafter referred to as the Finance Corporation, as applicable. Upon the completion of the Track, the Board shall have the sole right to the control and operation of the Track.

7. The Booster Club will indemnify and hold harmless the Board and its members, administrators and employees, and the Finance Corporation, from and against any and all claims, damages, losses and expenses, including reasonable attorneys fees, that arise from or are caused in whole or in part by (A) any negligent act or omission of the Booster Club or the Contractor or any other person performing or supervising the work for the Booster Club, and/or (B) any claim that any person or entity other than the Board or the Finance Corporation has any right of ownership, lien or security interest in the Track and/or the synthetic track materials incorporated therein.

8. This agreement shall be governed by the laws of Kentucky. This agreement shall constitute the entire agreement between the parties and may be amended or modified only by a writing signed by both parties. The rights and duties set forth in this

agreement may not be assigned or delegated by either party to any other person or entity without the consent of the other party.

WITNESS the hands of the parties this the 27 day of June, 2018

JEFFERSON COUNTY BOARD OF EDUCATION

BY: _____


Dr. Martin Pollio, Superintendent

ATTEST: _____

Secretary

EASTERN TRACK XC BOOSTER CLUB, INC.

BY:  _____

ATTEST:  _____

Secretary

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