

Special Meeting

July 24, 2018

The Council of the City of Milford met in special session in Council Chambers at 745 Center St. at 7:00 p.m. on July 24, 2018. Mayor Albrecht called the Work Session-Special meeting to order with the Pledge of Allegiance and a Moment of Silence.

Roll Call: Present: Mayor Albrecht, Vice Mayor Brewer, Ms. Russell, Mr. Brady, Ms. Chamberland, Mr. Haskins, Ms. Evans. Ms. Brewer made a motion to excuse Ms. Evans. Seconded by Mr. Brady. All voted yes

Mayor Albrecht made an announcement prior to the special presentation for the development agreement mentioning that there would be no public comments tonight.

Presentation:

City Manager Michael Doss:

Council should have copies of proposed development agreement. The development agreement is between Fussball also known as FC Cincinnati, the Clermont County CVB and the City of Milford. Mr. Doss highlighted points throughout his presentation in the development agreement as they relate to the City of Milford specifically. In particular the finances of the development agreement.

In reliance upon its powers to pursue economic development (which requires job creation in furtherance of commerce), Per the Development Agreement, the City agrees to issue securities in the amount sufficient to provide \$3.5 million for properties, together with an additional \$1.5 million to be provided by FC Cincinnati. These funds will be used by the City to acquire the real property upon which FC Cincinnati's training facility will be constructed.

Under the current draft of the Professional Sports Facility Development Agreement, it is contemplated that the County will levy the 1% lodging tax, remit receipts from that tax to the CVB, and then the CVB would remit those receipts to the City.

The City will agree that those receipts will only be used for payment of debt service on securities to be issued by the City – those securities will be issued for the purpose of paying the costs of acquiring the land upon which the professional sports facility will be located. Under the Agreement, "payment of debt service" will include debt service which is currently payable in any calendar year, or if the City is required to use its nontax revenues to pay debt service because the annual lodging tax receipts are insufficient (which is expected, at least in the beginning), to reimburse the City for its use of nontax revenues to pay debt service (an annual deficit payment).

Mr. Doss wanted to breakdown the information to make clear that the city will be financing a little over \$3.5 million for the property. It will actually be about \$3.7 because we will be including our services for our financial advisor, not uncommon, and our bond council, not uncommon when you are securing financing at the public level. The city will be in debt for approximately \$3.7 million. \$3.5 for the land acquisition and roughly \$200,000 for professional services for securities and financial advice.

The breakdown of the financing of \$3.5 million project fund for land acquisition is as follows:

Total Project Fund (Land Acquisition)	\$3,500,000
FC Cincinnati Contribution	\$1,500,000
Total expenditures of Land Acquisition	\$5,000,000

Terms of the debt issued 20 Years (Callable 5 yrs., 10 yrs.)this meaning that we will have the opportunity to pay off the debt early if possible. The city of Milford will be incurring this debt. This is the city's contribution to the development of the sports facility. We are projecting that

Average Annual Debt Service (projected)	\$266,901
Average Annual Lodging Tax Revenue (projected)	\$220,000
Annual Difference	- \$46,901
Annual Milford Income Tax Revenue (projected)	\$80,000-\$100,000

*Non-tax revenue will be utilized to make-up any deficit between the annual debt service and the annual lodging tax revenue. Non-tax revenue includes fees, service charges, sin taxes, local government funds). Any increase in the annual lodging tax revenue (more hotels, increase in occupancy) would result in less deficit for the annual debt service payment for the City.

The Agreement also provides that in each year, if the amount of receipts from the CVB is more than the amount required by the City to pay current debt service and to reimburse the City for any annual deficit payments, then the City will retain that surplus and use it to pay future debt service or annual deficit payments. At the same time, the City will pay to the Developer an amount equal to that surplus for the purpose of reimbursing the Developer for up to \$1.5 million of its land costs. The City's obligation to

make those payments will be limited to the City's nontax revenues which are annually appropriated by City Council for that purpose.

Under the Development Agreement, the City will acquire the properties and convey the properties to the Port Authority. The Port Authority would charge a de minimis amount to the Club to lease the property for the Training Facility. It is the City's understanding that the Port Authority and FC Cincinnati could work out an agreement regarding specific tax exemptions. If the Port Authority requires that debt be issued by the Port for the construction of the practice facilities (sometimes Port Authorities want bond issues in addition to holding title in order to secure the various sales and property tax exemptions) then such debt would be bought by FC Cincinnati and the debt service on that debt would be paid by the Club and not by the Port Authority. This agreement would be separate from this Development Agreement between the Clermont County Convention and Visitors Bureau, FC Cincinnati and the City of Milford.

*According to school officials, Milford Exempted Village School District has reached a compensation agreement with FC Cincinnati and supports the project.

FC Cincinnati is committed to construct a \$30 million facility. The City is committed to issue special obligation securities to provide \$3.5 million towards the cost of acquiring the land for the facility. According to the agreement, if at any time prior to the retirement of those securities, the team does not commence construction (within 270 days) or complete construction (630 days) of the facility or materially reduces its operations at the facility (measured by a 50% drop in municipal income tax receipts), the City has a right to require FC Cincinnati to pay to the City the outstanding principal amount of those securities as well as accrued interest to that date. FC Cincinnati also has the right to acquire the facility from the Port Authority, but as long as FC Cincinnati is compliant with its obligations described above, the City does not have any right to require repayment of the City's securities.

Mayor Albrecht commented that as in any other city working together with a private organization, this is just a perfect example of why development incentives exist. This will be an awesome project for the City of Milford, for the County, for the Townships as well as the State of Ohio. He thanked everyone for their hard work. Mr. Doss also mentioned that the other portion of consideration aside from the development agreement deals with some incentives for the club. The incentives include a waiver of utility tap fees and building permit credits for the club. Based on information provided by the contractor to our utility department, we are projecting that the tap fees will be \$196,200.00. This would include domestic water, sanitary sewer lines and a landscape line. The ordinance that is in front of you tonight will provide a 100% waiver of those utility tap fees. Assuming that that building for the proposed facility are designed by the architect as an A2 use group, and 1B construction type, the total permit fees would be \$12,907.00. 10% credit equals \$1,290.00. The remaining 90% per our contract goes to an independent company we contract with, NIC, they will recoup their 90% of the building fees. We are asking that 10% come back to the city. Ms. Brewer made a motion as a council, as a committee of the whole, to draft an ordinance authorizing the city manager to enter into a development agreement with the Clermont County Convention and Visitors Bureau and Fussball Club Cincinnati, LLC for a soccer training facility. Seconded by Mr. Brady. All voted yes.

Ordinance 18-1393 An Ordinance Authorizing a Development Agreement with The Clermont County Convention and Visitors Bureau and Fussball Club Cincinnati, LLC for a Soccer Training Facility Ms. Brewer made a motion to suspend the rules and read by title only. Seconded by Mr. Brady. All voted yes. Ms. Brewer made a motion to adopt. Seconded by Mr. Brady. All voted yes.

Mr. Doss commented on Ordinance 18-1394 explaining that this is a two part program that council approved back in 2016 as part of an incentive package. Some will recall several ordinances that we passed. One was our municipal tax and property tax rebate program which a couple of businesses: The Main Cup and the Little Miami Brewing Company have enjoyed. These are two other ordinances that deal with utilities in this case, tap fees and also permit waivers. This is something extra that we try and offer businesses. Ms. Brewer made a motion as a council, as a committee of the whole, to draft an ordinance authorizing for utility tap fee waivers and building permit credits for Fussball Club Cincinnati, LLC for a soccer training facility. Seconded by Mr. Brady. All voted yes.

Ordinance 18-1394 An Ordinance Authorizing a Public Utility Tap Fee Waiver and Building Permit Discount Agreement Ms. Brewer made a motion to suspend the rules and read by title only. Seconded by Mr. Brady. All voted yes. Ms. Brewer made a motion to adopt. Seconded by Mr. Brady. All voted yes.

Adjourn:

There being no further business to come before the Special Council meeting, the meeting adjourned at 7:20 p.m. with a motion from Ms. Brewer, seconded by Mr. Brady. All voted yes.

Jackie Bain, C.P.T.

Fred Albrecht, Mayor

**PROFESSIONAL SPORTS FACILITY
DEVELOPMENT AGREEMENT**

Among

CITY OF MILFORD, OHIO

And

CLERMONT COUNTY OHIO CONVENTION & VISITORS BUREAU, INC.

And

FCC TRAINING FACILITY, LLC

Dated as of July 24, 2018

THIS PROFESSIONAL SPORTS FACILITY DEVELOPMENT AGREEMENT (this "Development Agreement") is made and entered into as of the ___ day of July, 2018, among the **City of Milford, Ohio**, an Ohio municipal corporation, with an address of 745 Center Street, Suite 200, Milford, Ohio 45150 (the "City"), the **Clermont County Ohio Convention & Visitors Bureau, Inc.**, a non-profit corporation existing under the laws of the State of Ohio, with an address of P.O. Box 100, 410 East Main Street, Batavia, Ohio 45103 (the "CVB"), and **FCC TRAINING FACILITY, LLC**, an Ohio limited liability company, with an address of 14 E. 4th Street, Third Floor, Cincinnati, Ohio 45202 (the "Developer") and together with the City and the CVB, the "Parties"), witnesseth:

RECITALS:

1. Fussball Club Cincinnati, LLC (the "Team"), through its affiliate the Developer, seeks the development of a facility to support team operations, including but not limited to, personnel training and development and management and merchandising operations, along with associated tournaments, seminars and similar events (the "Project"). The Team and Developer desire the location of this practice facility to be on an approximately 20 acre tract of land located within the boundaries of the City (such land being referred to herein as the "Property" and is more fully described in Exhibit A which is attached hereto and made a part hereof) and believe that the Project will result in the creation of new jobs and employment opportunities within the City.
2. In order to facilitate the development of the Project, the Developer, either itself or through an affiliated entity, has entered into options for the purchase of the Property (the "Purchase Agreements").
3. The City and the CVB have determined that the construction of the Project is in the best interests of their respective constituencies and will enhance, foster, aid, and promote economic development, tourism, and public recreational opportunities within their respective jurisdictions.
4. The City intends to support the Project by providing for the issuance of certain obligations (as more fully described herein and particularly in Section 2.A. and referred to herein as the "City Securities") the proceeds of which will be used to acquire the Property and contribute it to the Clermont County Port Authority (the "Port Authority").
5. The Project constitutes a "professional sports facility" for purposes of ORC Section 5739.09(A)(12).
6. The Parties anticipate that Clermont County, Ohio (the "County") will support the Project by using its authority under ORC Section 5739.09(A)(12) to increase the rate of its existing transient occupancy tax (as such tax has been previously implemented pursuant to ORC Section 5739.09 and is referred to herein as the "Baseline Lodging Tax") by one percent (1%) for the purposes of paying the costs of constructing, improving, and maintaining the Project (which includes but is not limited to the acquisition of related real property) and paying for expenses considered necessary by the CVB to promote travel and tourism with respect thereto (such incremental 1% tax being more fully defined in Section 3.A). As more fully set forth herein, it is anticipated that the County will pledge all of its receipts generated by the Incremental Lodging Tax (defined *infra*) to the City to defray the costs of the City Securities.

7. The Parties intend for the Project to constitute a “port authority facility” for purposes of ORC Section 4582.21(E). In furtherance of that intention, the City will be contributing the Property to the Port Authority. It is further anticipated that the Port Authority will thereafter lease the Property to the Developer in the manner more fully set forth herein. The Developer will construct the Project on behalf of the Port Authority. The Parties intend for the Project to be exempt from taxation pursuant to ORC Sections 4582.46 and 5739.02(A)(13).

8. The Parties further intend that the Developer will enter into a compensation agreement with the Milford Exempted Village School District (the “School District”) providing, in pertinent part, for compensation to be paid to the School District in an amount set forth in said compensation agreement if the Project is exempt from taxation under ORC Section 4582.46, (such agreement being referred to herein as the “School Compensation Agreement”).

9. The Parties intend to cooperate in good faith with one another pursuant to the terms of this Development Agreement to effect the construction, equipping, and maintenance of the Project.

NOW, THEREFORE, in consideration of the foregoing, the promises contained herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1. DEVELOPMENT AGREEMENT

For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference, the City, the CVB, and the Developer have determined to cooperate with each other in order to effect the acquisition of the Property and the construction, equipping, and maintenance of the Project. This Development Agreement, including the Exhibits hereto, all of which are incorporated herein by reference, is intended to and shall be an agreement by the Parties hereto to cooperate in the placing into effect of the foregoing, and the agreements contained herein are intended to and shall be construed as agreements to further effect cooperative action and safeguard the respective interests of the Parties.

SECTION 2. CITY ACTIONS; ISSUANCE OF CITY SECURITIES

A. Issuance of City Securities and Subject to Appropriation Commitment.

(i) Within a reasonable period of time following the County’s authorization of the Incremental Lodging Tax as provided for in Section 5.A.i and the execution of the Cooperative Agreement as described in Section 5.A.iv, the City will take all necessary and reasonable steps to issue the City Securities in the principal amount described below which will, together with monies provided by the Developer as described below, provide sufficient monies to pay the costs of acquiring the Property (such costs being the “Public Project Costs”). The City Securities, hereinafter the “City Securities”, will be issued in an amount equal to the lesser of (i) the Public Project Costs, or (ii) an amount sufficient to yield net proceeds of \$3,500,000 for application towards the Public Project Costs and are expected to be payable solely from the City’s lawfully available, nontax revenues.

(ii) After taking into consideration the net proceeds of the City Securities, the Developer shall contribute monies sufficient in amount to pay the remainder of the Public Project Costs (such amount being referred to as the "Developer Contribution" and initially anticipated to be \$1,500,000).

(iii) On or before the date on which the Developer contributes the Developer Contribution, the City and the Developer will enter into a Subject to Appropriation Agreement (the "Appropriation Obligation" and together with the City Securities the "City Obligations") pursuant to which the City will agree to make certain payments to the Developer no less frequently than annually. The City's annual payment obligation to the Developer shall be paid from the City's lawfully available nontax revenues in an amount equal to the Lodgings Tax Remittances (defined *infra*) remaining after (i) reimbursement of the City for annual debt service on the City Securities for the most recent calendar year and (ii) payment of any Accrued Deficit outstanding at the time of such payment. If the amount computed pursuant to the preceding sentence is less than zero dollars for any calendar year, the City will not have a payment obligation to the Developer for that calendar year. The aggregate of all annual payments shall not exceed an amount equal to the Developer Contribution. The City's obligations under that Agreement will be subject to an annual appropriation by the City's City Council and will be payable solely from the City's lawfully available, nontax revenues.

For purposes of this Section 2, "Accrued Deficit" shall mean any portion of the aggregate principal, interest, redemption premium and any other debt service charges which the City paid from its nontax revenues in any preceding calendar year in respect of the City Securities which has not yet been reimbursed from the Incremental Lodging Tax during the term of the City Securities.

B. Contribution to the Port Authority. Within a reasonable period of time following the closing and delivery of the City Securities, and after the Developer shall have assigned or caused to be assigned to the City the Purchase Agreements, the City will consummate the acquisition of the Property pursuant to the terms of the Purchase Agreements; provided, however, that the City's only financial obligations under the Purchase Agreements will be to make payment of the purchase price for the Property in an amount not to exceed the net proceeds of the City Obligations (initially anticipated to be \$5,000,000). Within a reasonable period of time following the acquisition of the Property by the City, the City will contribute the Property to the Port Authority (the "City Contribution"). In no event shall the City be required by this Development Agreement or otherwise to use any other monies of the City to facilitate the purchase of the Property.

C. Zoning. The City will, to the extent permitted by law and consistent with the City's Codified Ordinances, cooperate with the Developer and the Port Authority to ensure that the Property is properly zoned for the Project (including but not limited to zoning allowing for retail space within the Project) and that the Project have signage viewable from Interstate 275.

SECTION 3. CVB CONTRACT FOR CONSTRUCTION OF PROFESSIONAL SPORTS FACILITY.

A. Professional Sports Facility. The CVB is entering into this Development Agreement and the Cooperative Agreement in order to fulfill the requirement of ORC Section 5739.09(A)(12) that it contracts for the construction, improvement, or maintenance of a professional sports facility that is

or will be located on property acquired, in whole or in part, with revenue from the Incremental Lodging Tax. The Parties intend that the Project constitutes a "professional sports facility" as defined in ORC Section 5739.09(A)(12) and that this Development Agreement is a contract with the CVB pursuant to which the Developer has agreed to construct the Project in accordance with the other provisions hereof.

B. Pledge of Incremental Lodging Tax. The CVB intends to make a pledge of all revenues that it receives from the Incremental Lodging Tax (defined *infra*) to the City for repayment of the City Securities. It is anticipated that such pledge will be made pursuant to the terms of the Cooperative Agreement (defined *infra*). Other than the receipts from the Incremental Lodging Tax, no other monies of the CVB shall be pledged for the repayment of the City Securities or the Project.

SECTION 4. DEVELOPER ACTION

A. Purchase Agreements. Substantially simultaneously with the issuance of the City Securities, the Developer will assign or cause to be assigned to the City the Purchase Agreements for the purpose of allowing the City to acquire the fee title to the Property.

B. Construction of the Project. The Developer shall enter into a construction manager at risk agreement (the "CMAR Agreement") with the Port Authority pursuant to which the Developer will construct, at its sole cost and expense, the Project, in all events in accordance with the zoning and building code requirements of the City. The Developer shall have the right under the CMAR Agreement and the Project Lease to design the Project (including but not limited to its site plan and architecture) to the specifications of the Team.

C. Leasing and Operation of the Project. The Developer shall enter into the Project Lease and the Operating Agreement as such agreements are contemplated under Section 4.C., together with all other agreements reasonably necessary to effect the agreements set forth therein.

D. School Compensation Agreement. Simultaneous with or prior to execution of the Project Lease, the Developer shall enter into School Compensation Agreement with the School District containing the terms set forth in Recital 8 to this Cooperative Agreement.

E. Insurance and Indemnification. For the term of the Project Lease, the Developer will maintain reasonable levels of insurance on the Leased Premises. Additionally, the Developer will enter into a separate indemnification agreement (the "Indemnification Agreement") with the County, the City, the CVB, and the Port Authority (collectively, the "Indemnified Parties") pursuant to which the Developer will provide customary indemnities to the Indemnified Parties related to economic development projects elsewhere in southwest Ohio.

F. Remission of Developer Contribution. In order to pay the portion of the Public Project Costs not paid for by the City Securities, within a reasonable period of time following the closing and delivery of the City Securities, but in no event sooner than five (5) business days prior to the date on which the City expects to acquire the Property, the Developer shall contribute the Developer Contribution (in such manner as is reasonably acceptable to the Developer and the City) to the City.

SECTION 5. CONTINGENCIES FOR ACTIONS BY THE COUNTY AND PORT AUTHORITY

A. **Contingencies.** The obligations of the Parties under this Development Agreement are contingent upon all of the following conditions being satisfied on or prior to September 15, 2018:

- (i) The County shall have taken all necessary and reasonable steps to levy and collect a one percent (1%) increase in Baseline Lodging Tax pursuant to the permissive provisions of ORC Section 5739.09(A)(12) (such 1% increase being referred to herein as the "Incremental Lodging Tax") for the purpose of paying the costs of constructing, improving, and maintaining a professional sports facility in the County, which costs the Parties hereto intend to include the cost of acquiring the Property and paying expenses considered necessary by the CVB to promote travel and tourism with respect to that professional sports facility.
- (ii) The County shall have provided to the City a certified copy of the resolution providing for the levy and collection of the Incremental Lodging Tax.
- (iii) The County shall have taken all necessary and reasonable steps to consent to the pledge by the CVB of the Incremental Lodging Tax to the City for repayment of the City Securities.
- (iv) The Parties shall have executed a Cooperative Agreement (the "Cooperative Agreement") with the County and the Port Authority providing for, among other things:
 - (a) An agreement that the Port Authority will accept the City Contribution.
 - (b) A pledge (i) by the County to continue to impose and collect the Incremental Lodging Tax for the term set forth in the Cooperative Agreement and to remit all of the amounts collected from the Incremental Lodging Tax to the CVB and (ii) by the CVB to continue to remit or assign the amounts of the Incremental Lodging Tax received from the County, for so long as the County imposes and collects the Incremental Lodging Tax, to the City for repayment of the City Securities. Such pledge shall be expressly contingent upon the County authorizing the imposition and collection of the Incremental Lodging Tax.
 - (c) An agreement by the Port Authority to enter into a project lease agreement (the "Project Lease") with the Developer pursuant to which the Developer will lease the Project and the Property (collectively, the "Leased Premises") from the Port Authority for a period of 360 days, at an annual rent of \$1.00, and subject to at least 20 renewal terms exercisable annually with the mutual consent of the Port Authority and the Developer; provided, however, that such Project Lease shall not contain any provision which in the City's reasonable judgment would impair the City's ability to enforce its rights set forth in Section 6.A of this Development Agreement; and provided further, such Project Lease will provide that, upon termination of such Project Lease for any reason, including reason of default, the Leased Premises

will be transferred by the Port Authority to the Developer for an amount equal to (i) \$1.00, plus (ii) all expenses of the Port Authority incurred in effecting such transfer, including but not limited to reasonable attorneys' fees.

- (d) An agreement by the Port Authority to enter into a construction manager at risk agreement (the "CMAR Agreement") with the Developer pursuant to which the Developer will construct the Project on behalf of the Port Authority and the CVB.
- (e) An agreement by the Port Authority to take all necessary and reasonable steps to assist the Developer in (i) perfecting a real property tax exemption for the Leased Premises pursuant to ORC Section 4582.46, and (ii) pursuant to ORC Section 5739.02(A)(13), effecting an exemption on building materials incorporated into the Project in its capacity as a "port authority facility" under the Act.
- (f) An agreement by the Port Authority to issue lease revenue bonds (the "Lease Revenue Bonds") in connection with the construction of the Project, which Lease Revenue Bonds will be purchased by the Developer, one of its affiliates, or the construction lender for the Project and which bonds will be secured by a pledge of the Project Lease and an open-end fee and leasehold mortgage on the Property.
- (g) An agreement by the parties to the Cooperative Agreement incorporating the requirements of Section 6.B. of this Development Agreement.

(v) The Team, Developer (if appropriate) and the CVB shall enter into an agreement setting forth the Team's commitment to host and sponsor certain tournaments, seminars, clinics and similar events.

B. Waiver. Notwithstanding Section 4.A. hereof, the Developer shall have the option, in its sole discretion, to waive, in a written notice provided to the other Parties, the contingencies found in Section 5.A.iv.c through 5.A.iv.g. The CVB shall have the option, in its sole discretion, to waive, in a written notice to the other Parties, the contingency set forth in Section 5(v).

SECTION 6. SPECIAL PROVISIONS RELATING TO CONSTRUCTION AND USE OF PROJECT

A. Failure to Construct or Reduction in Use of Project. If a Failure Event (as defined below) shall occur, the City, in its sole discretion, may require the Developer to pay to the City an amount equal to the then outstanding principal amount of the City Securities together with any accrued but unpaid interest through such date (such payment being the "Early Payment").

For purposes of this Section 6.A., each of the following shall constitute a "Failure Event":

(i) By the Two Hundred Seventieth (270th) day following the date on which the City acquires the Property, the Developer shall have failed to give a notice to proceed with construction of the Project,

(ii) By the Six Hundred Thirtieth (630th) day following the date on which the City acquires the Property, the Developer shall have failed to substantially complete construction of the Project in order that a certificate of occupancy may be issued for the Project, and

(iii) For any calendar year following the Base Tax Year, the date on which the City reasonably determines that the Municipal Income Tax Withholdings for that calendar year are less than 50% of the Base Tax Year Withholdings. For purposes of this Section 6.A.iii, (a) "Base Tax Year" shall mean the first calendar year next succeeding the calendar year in which a certificate of occupancy is issued for the Project, (b) "Municipal Income Tax Withholdings" shall mean the actual municipal payroll withholding taxes collected and received during that calendar year and in respect of that calendar year by the City from all individuals employed at the Project and (c) "Base Tax Year Withholdings" shall mean the actual municipal payroll withholding taxes collected and received during the Base Tax Year and in respect of the Base Tax Year by the City from all individuals employed at the Project. Notwithstanding the foregoing, it shall not be deemed a Failure Event if the Municipal Income Tax Withholdings in any given year are below the aforementioned 50% threshold as a result of a change in law, including but not limited to a change in the income tax rate applicable within the City.

B. Maintenance and Use of Project.

(i) The Developer will have exclusive, unlimited use, access and freedom to schedule the use of the Project at its sole discretion.

(ii) Developer will have the exclusive right to rent or sublease portions of the Project, at its sole discretion, and retain the revenues from such rents and subleases. Anticipated rentals include fields or facilities by event, hourly, seasonal or multi-year terms, commercial activity such as team store, sports medicine practice, physical therapy, sports fitness and other complimentary businesses.

(iii) Developer shall have option to purchase the Property for nominal consideration at any time beginning four years after completion of the Project, or such earlier time as is provided for in the Project Lease or Cooperative Agreement.

(iv) Developer shall retain any revenue generated by its operation of the Project, including but not limited to, any rental fees, lease fees, concessions sales, merchandise/retail sales, sponsorship sales or any other revenues that the Developer may receive. Furthermore, Developer shall have the right to allow the Team to retain similar revenues related to Team operations at the Project.

(v) The Developer will have the exclusive right to develop corporate partnership assets including signage (subject to local zoning laws), corporate events, fan engagement activities, and other concepts to maximize the Team's corporate partner exposure and partnership value.

(vi) No Party will use any other party's corporate marks or official designations without prior approval from the party to whom such corporate marks or official designations belong.

(vii) Notwithstanding any other provision of this Development Agreement to the contrary, the Developer shall not be permitted to use, or enter into any contracts relating to the use of, the Project in any manner which would impair the City's rights set forth in Section 6.A.

C. **Imposition of Admissions Tax.** The Developer acknowledges that the City reserves the right to impose an admissions tax in connection with ticketed sporting events hosted at the Project.

SECTION 7. REPRESENTATIONS AND WARRANTIES

A. **Representations and Warranties of Developer.** Developer hereby represents and warrants that:

(i) It is a limited liability company duly organized and in full force and effect under the laws of the State of Ohio, with full power to execute and deliver this Development Agreement and perform its obligations hereunder;

(ii) It has duly authorized, executed and delivered this Development Agreement and no approval or other action by any governmental authority is required in connection therewith;

(iii) This Development Agreement constitutes its valid and binding obligation enforceable in accordance with its terms, except to the extent that the enforcement thereof may be limited by bankruptcy laws and other laws affecting creditors' rights and the exercise of judicial discretion;

(iv) Neither the making nor the performance of this Development Agreement will conflict with or violate its organizational documents or any indenture, agreement or other instrument to which it is a party or by which it may be bound;

(v) There are no actions, suits, proceedings, inquiries or investigations pending, or to its knowledge threatened, against or affecting it in any court or before any governmental authority or arbitration board or tribunal that challenges the validity or enforceability of, or seeks to enjoin performance of, this Development Agreement, or if successful would materially impair its ability to perform its obligations under this Development Agreement;

B. **Representation and Warranties of the City.** The City hereby represents and warrants that:

(i) It has duly authorized, executed and delivered this Development Agreement and no further approval or other action by any governmental authority is required in connection therewith;

(ii) This Development Agreement constitutes its valid and binding obligation enforceable in accordance with its terms, except to the extent that the enforcement thereof may be limited by bankruptcy laws and other laws affecting creditors' rights and the exercise of judicial discretion;

(iii) Neither the making nor the performance of this Development Agreement will conflict with or violate its organizational documents or any indenture, agreement or other instrument to which it is a party or by which it may be bound; and

(iv) To its knowledge, there are no pending or threatened actions, suits, proceedings, inquiries or investigations against or affecting it in any court or before any governmental authority or arbitration board or tribunal that challenges the validity or enforceability of, or seeks to enjoin performance of, this Development Agreement, or if successful would materially impair its ability to perform its obligations under this Development Agreement.

C. Representation and Warranties of the CVB. The CVB hereby represents and warrants that:

(i) It has duly authorized, executed and delivered this Development Agreement and no approval or other action by any governmental authority is required in connection therewith;

(ii) This Development Agreement constitutes its valid and binding obligation enforceable in accordance with its terms, except to the extent that the enforcement thereof may be limited by bankruptcy laws and other laws affecting creditors' rights and the exercise of judicial discretion;

(iii) Neither the making nor the performance of this Development Agreement will conflict with or violate its organizational documents or any indenture, agreement or other instrument to which it is a party or by which it may be bound; and

(iv) There are no actions, suits, proceedings, inquiries or investigations pending, or to its knowledge threatened, against or affecting it in any court or before any governmental authority or arbitration board or tribunal that challenges the validity or enforceability of, or seeks to enjoin performance of, this Development Agreement, or if successful would materially impair its ability to perform its obligations under this Development Agreement.

SECTION 8. EVENTS OF DEFAULT AND REMEDIES

Except as otherwise provided in this Development Agreement, in the event of any default in or breach of this Development Agreement, or any of its terms or conditions, by any Party hereto, such defaulting Party shall, upon written notice from any non-defaulting Party, proceed immediately to cure or remedy such default or breach, and, in any event, within thirty (30) days after receipt of such notice. In the event such default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the defaulting Party shall upon written notice from any non-defaulting Party commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved non-defaulting Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach.

SECTION 9. ASSIGNMENT

The Parties may not assign their rights or obligations hereunder without first receiving the prior written consent of all non-assigning Parties to this Development Agreement.

SECTION 10. TERMINATION

This Development Agreement shall terminate on September 30, 2018 if, by such date, the City has not issued the City Securities and appropriated any additional funds necessary, if any, to pay for the Public Project Costs.

SECTION 11. NOTICES

A notice or communication under this Development Agreement by any Party to another shall be sufficiently given by hand delivery, by reputable overnight courier, or by certified mail, postage prepaid, return receipt requested, to the addresses set forth in the preambles hereto, or if such notice is addressed in such other way in respect to any Party as that Party may from time to time designate in writing by notice to the other Parties. Any such notice or communication shall be effective upon receipt or, if given by overnight courier or certified mail, upon failure or refusal of delivery.

SECTION 12. MISCELLANEOUS

A. Entire Agreement; Amendments. This Development Agreement presently constitutes the entire agreement among the City, the CVB, and the Developer regarding the subject matter hereof. This Development Agreement shall not be amended except by written agreement executed by all Parties. Notwithstanding the foregoing, it is intended that the intent of this Development Agreement will be carried out pursuant to additional agreements to be entered into in the future, such as the Cooperative Agreement, the Project Lease, the CMAR Agreement, and related agreements (the "Related Agreements"). This subsection shall not be deemed to derogate from the terms of such agreements as are subsequently entered into by one or more of the Parties.

B. Governing Law. This Development Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws. All claims, counterclaims, disputes and other matters in question between the Parties, or their respective agents and employees, arising out of or relating to this Development Agreement or its breach will be decided in a court of competent jurisdiction within the County or Clermont, Ohio.

C. Related Agreements. All references in this Development Agreement to any of the Related Agreements shall be references to such of the Related Agreements as the same may from time to time be modified or amended. This Development Agreement is not intended to make any Party hereto a third party beneficiary of any of the Related Agreements.

D. Severability. If any provision of this Development Agreement is held to be illegal, invalid or unenforceable, said provision will be fully severable. This Development Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Development Agreement and the remaining provisions of this Development Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Development Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Development Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible that is and will be legal, valid and enforceable.

E. No Personal Liability. All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City, the CVB, or the Developer other than in his or her official capacity, and neither the members of the legislative bodies of the City or the CVB, nor any member of the Developer, nor any official of the City, the CVB, or the Developer executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the City, the CVB, and the Developer contained in this Agreement

F. Counterparts. This Development Agreement may be executed in counterpart, and in any number of counterparts, each of which shall be treated as an original and all of which, together, shall constitute one and the same instrument.

SECTION 13. EXHIBITS

The following exhibits are hereby incorporated into and made a part of this Development Agreement.

Exhibit A

Description of the Property

IN WITNESS HEREOF, the City, the CVB, and the Developer have caused this Development Agreement to be executed in their names by their duly authorized officers, all as of the day and the year first written above.

CITY OF MILFORD, OHIO

By: _____
Name: Michael Doss
Title: City Manager

**CLERMONT COUNTY OHIO CONVENTION &
VISITORS BUREAU, INC.**

By: _____
Name: _____
Title: _____

Approved as to form:

By: _____
Name: Mike Minniear
Title: Law Director

FCC TRAINING FACILITY, LLC

By: _____
Name: _____
Title: _____

CITY FISCAL OFFICER'S CERTIFICATE

The undersigned, fiscal officer of the City of Milford, Ohio, hereby certifies that the moneys required to meet the obligations, if any and excluding the proceeds of the City Securities which will be appropriated at the time those City Securities are authorized, of the City during the year 2018 under the foregoing Development Agreement have been lawfully appropriated by the Council of the City of Milford, Ohio for such purpose and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Director of Finance
City of Milford, Ohio

Dated: _____, 2018

EXHIBIT A

DESCRIPTION OF THE PROPERTY

0135579.0651382 4839-1272-8686v1

CITY OF MILFORD PUBLIC UTILITY TAP FEE WAIVER AND BUILDING PERMIT DISCOUNT AGREEMENT

This Agreement is entered into by and between the City of Milford, an Ohio municipal corporation (hereafter "Milford" or "City"); FCC Training Facility, LLC and Fussball Club Cincinnati, LLC (FCC), an Ohio corporation for profit (hereafter "Company").

WHEREAS, Milford recognizes the importance of encouraging successful businesses to locate within the City limits; and,

WHEREAS, in an effort to accomplish this goal, the Milford City Council has established a Public Utility Tap Fee Waiver and a Building Permit Discount Credit Program; and,

WHEREAS, the primary consideration for this Agreement is the City's offering a full 100% waiver of all utility taps fees and a ten percent discount credit for building permits for City of Milford to Company in exchange for Company's commitment to conduct its business within the City of Milford;

NOW, THEREFORE, in consideration of the mutual promises exchanged herein the parties hereto do hereby agree as follows:

1. City agrees to provide incentives to the Company according to the following:
 - A full 100% waiver of all utility tap fees associated with the development of a Soccer Training Facility for properties located at 689 US 50, 701 US 50 and 715 US 50 within the City of Milford.
 - A 10% discount credit for building permits fees associated with the development of a Soccer Training Facility for properties located at 689 US 50, 701 US 50 and 715 US 50 within the City of Milford.
2. Company agrees to construct and operate a Professional Sports Soccer Training Facility in the City of Milford, Ohio.
3. Company agrees to pay all applicable water, sewer, and stormwater utility charges to the City of Milford Utility Department in a timely manner. If the company should become delinquent on utility charges during the twenty years following the signing of the Agreement, Company will have one year to become current on utility charges, or the entire amount of the Grant shall be reimbursed to the City.
4. Company affirmatively covenants that it has made no false statements to the City in the process of obtaining approval of this incentive. If any representative of the Company knowingly made false statements to the City to obtain or maintain the incentive provided by the Agreement, the Company shall be required to immediately return all benefits received under this Agreement and shall be ineligible for any other future assistance from the city.

5. Company acknowledges that it is receiving credits and discounts and the documentation of the use of these credits and discounts may be subject to audit by the County Auditor or the State Auditor or their representatives.
6. Company agrees not to discriminate against employees or applicants for employment by reason of race, color, religion, sex, national origin, ancestry, handicap, age, political belief or place of birth nor knowingly permit contractors or subcontractors to do so.
7. This Agreement is exclusive to Company and may not be transferred or assigned without the express written consent of City.
8. This Agreement may only be voided or amended by the written mutual consent of both parties.
9. This Agreement was prepared by Michael Minniear, Law Director for the City of Milford, based on negotiations between the parties, but it shall not be strictly construed against either party hereto.
10. This Agreement is binding on the parties, their heirs, personal representatives, successors and assigns.
11. This Agreement shall be in full force and effect on the date signed by the second party to sign.

CITY OF MILFORD, OHIO :

By: _____

Name: _____

Title: _____

Date: _____

FUSSBALL CLUB CINCINNATI

By: _____

Name: _____

Title: _____

Date: _____

FCC TRAINING FACILITY, LLC.:

By: _____

Name: _____

Title: _____

Date: _____



Milford Community Fire Department Inc.

687-B U.S. Route 50
Milford, Ohio 45150
Business 513-831-7777 • Fax 513-831-7786
www.milfordcommunityfd.org

July 9, 2018

Mr. Michael Doss, City Manager
City of Milford
745 Center Street
Milford, Ohio 45150

RE: FC Cincinnati Training Facility

Mr. Doss,

As you are aware Milford Community Fire Department is a private, non-profit corporation that provides fire and emergency medical services protection to the city on a contractual basis. I appreciate your efforts to keep the fire department informed of matters relating to the proposed FC Cincinnati practice facility. This is an exciting opportunity for the city.

I have evaluated the potential impact of FC Cincinnati's proposal on overall fire and EMS protection of the city versus the property's current use. In my opinion the new facility would have no significant impact in consideration of:

- Nature of the operation of a major league soccer team, as I understand it
- Nature of use of the facility (predominantly professional athletics)
- Low daily occupancy for normal business affairs
- Low occupancy for field-view seating during events (likely less than an average high school facility)
- Use of fire alarm and detection systems, fire sprinklers, and modern building construction practices that promote fire and injury prevention

MCFD Details to Expressway Park-689 U.S. Route 50						
	2018	2017	2016	2015	2014	2013
EMS	8	11	10	15	9	11
FIRE*	3	2	4	2	3	1

**the majority of fire details were in support of the ambulance on acute EMS details*

The amount of EMS details will likely remain at or below that generated annually by the current occupant. Fire details may increase slightly because the proposed facility is required to have fire alarm and automatic sprinkler systems. One will likely offset the other.

Thank you for the opportunity to comment on the proposal by FC Cincinnati. Please contact me if you have questions.

Sincerely,

A handwritten signature in blue ink, reading "Mark Baird". The signature is written in a cursive style with a large, stylized "M" and "B".

Mark Baird
Fire Chief



Milford Police

745 Center Street
Lower Level
Milford, Ohio 45150
513-248-5084
Fax 513-248-5089
Dispatcher 513-825-2280

Milford City Council
745 Center Street
Milford, Ohio 45150

July 5, 2018

Re: FC CINCINNATI IMPACT ON POLICE SERVICES

Dear Councilmember:

I have conducted an impact analysis for the proposed professional soccer training facility. Based upon the data and information I reviewed, I don't anticipate an increase in calls for service at the facility.

The tenant for the previous thirty-eight years was Expressway Ballpark, a premiere softball facility that serviced the Greater Cincinnati area. Although Expressway Ballpark was open to the public seven days per week, and sold alcohol, we only averaged thirty-eight (38) calls for service, per season. The vast majority (70%) of service calls were non-criminal; including life squad runs, vehicle lockouts, and alarm drops. Thefts, assaults and disturbance calls made up 13% of the police reports, and the remaining 16% of calls were miscellaneous in nature. By contrast, the proposed training facility will not be open to the general public on a regular basis and will not serve alcohol. The nearest MLS training facility is the Columbus Crew in Obetz, Ohio. Chief Confer of the Obetz Police Department described the Columbus Crew as "the best neighbors you will ever have". He stated that they don't have any problems from the facility and only average two alarm drops annually.

I have no apprehension or concerns about the impact that FC Cincinnati will have on our deliverable services. Please don't hesitate to contact me if you have any questions.

Respectfully,


Chief Jamey Mills

Memorandum

Project #
180077.005

TO: Michael Doss, Milford City Manager
CC: File
FROM: Mark W. Nolt, PE, PTOE
DATE: July 12, 2018
RE: Expressway Park FC Cincinnati Facility – Traffic Evaluation

The Kleingers Group has reviewed the City of Milford's Zoning Ordinance to determine the traffic information that will need to be provided as part of the site plan submittal for this project.

According to information provided by the design team, this project includes the construction of up to three soccer fields and two buildings totaling approximately 40,000 square feet to be primarily used as a practice facility for the FC Cincinnati soccer team. In addition, the site is expected to host daily practices for local teams as well as youth games on Saturdays. On rare occasions, the site may host a regional high school soccer tournament game. In anticipation of some of the larger events, a 500-seat bleacher section is being planned. The project will include one driveway on the south side of Lila Avenue (US 50) east of the Mike Castrucci River's Edge Collision Center.

According to the Zoning Ordinance, the site plan informational requirements include "A traffic impact study for all retail developments in excess of 10,000 square feet, all office developments in excess of 60,000 square feet, all multi-family developments in excess of 220 units, all single-family developments in excess of 160 units, and any development which will generate more than 100 new inbound or outbound trips during the peak hour. Such traffic impact study should follow the traffic impact study outline in the appendices of the Milford Thoroughfare Plan."

According to the ordinance, the only item that is applicable to this project is whether there are 100 new inbound or outbound trips during the peak hour.

Below is a summary of the peak hour traffic that is anticipated to be generated by the site based on information provided by the design team and data from the Institute of Transportation Engineers Trip Generation Manual.

Time Period	Use	Inbound Trips	Outbound Trips	Frequency
Weekday AM	FCC Staff, Players, Coaches	40 to 50		Daily
Weekday PM	Local Team Practice Entering; FCC Staff, Players, Coaches Exiting	25	40 to 50	Daily
Saturday	Youth games (from ITE Trip Generation Manual for 3 fields)	58	62	Weekly (typical)
Occasional Use	Regional High School Tournament	Not Estimated	Not Estimated	2-3 Events Per Year



Memorandum

July 12, 2018

Expressway Park FC Cincinnati Facility – Traffic Evaluation

180077.005

Based on this information, the estimated trips to and from this facility for regularly occurring events are expected to fall below the 100 new inbound or outbound trip threshold outlined in the Milford Zoning Ordinance. As a result, a traffic impact study is not expected to be needed. Since a potential regional high school tournament game is likely a relatively rare occurrence, no estimation of site-generated trips was made. For these types of events, law enforcement personnel can be utilized if needed to provide for adequate traffic flow to and from the site.

It is recommended that the driveway be located so that there is adequate visibility in each direction along Lila Avenue. Also, this site is currently being planned for the future development of outparcels near Lila Avenue. It is recommended that the need for a traffic study be evaluated further as part of the development of those outparcels.



City of Milford

General Administration
831-4192
248-5096 FAX

745 Center Street, Suite 200, Milford, Ohio 45150

www.milfordohio.org

July 17, 2018

RE: Expressway Park Redevelopment

Dear Mayor and City Council,

This correspondence serves as a letter stating that the City of Milford has adequate capacity in our utility systems to handle the Expressway Park Redevelopment.

The Waste Water Treatment Plant and collection system will adequately be able to absorb the increased demand for sanitary service. The plant currently processing 550,000 to 600,000 gallons daily, while the plant design flow is 1.2 MGD with a peak hydraulic capacity of 3.83 MGD. Our collection system on US 50 has a 10-inch sewer main all the way to Milford Parkway and from there it is a 15-inch sewer main all the way to the plant. The sewer system will not require any infrastructure improvements.

The Water Treatment Plant and distribution system will adequately be able to absorb the increased demand for water service. The plant currently making 550,000 gallons of drinking water daily, while the plant is designed to make up to 900,000 gallons daily. Our distribution system on US 50 has an 8-inch water main all the way to Milford Parkway flows at 1141 gal/min with a 119 PSI and a residual 87 PSI. The water system will not require any infrastructure improvements.

The Water Management Sediment Control (WMSC) plans currently being reviewed indicate that because of the location in the flood plain, the storm water will be treated and released directly to the river, prior to flood waters coming in. The storm water quality requirements will be met through bioswales and sedimentation basins to treat the water prior to its release. The resulting storm water from impervious areas will not be connected or impact our existing storm water infrastructure.

In closing, the redevelopment of Expressway Park will not require any infrastructure improvements by the City of Milford Public Works Department. If you have any questions regarding this correspondence, please feel free to contact me directly at 513-576-5468.

Sincerely,

Nathaniel Clayton PE
Public Works Director
City Engineer

Joe Casteel
Water Distribution and
Plant Supervisor

David Walker
Wastewater Collection
System/Treatment Plant
Supervisor



MILFORD EXEMPTED VILLAGE SCHOOL DISTRICT

ADMINISTRATIVE OFFICES

1099 State Route 131
Milford, Ohio 45150

513.831.1314 Phone
513.965.6159 Fax
www.milfordschools.org

July 24, 2018

Mr. Michael Doss, City Manager
The City of Milford
745 Center Street, Suite 200
Milford, OH 45150

Dear Mr. Doss,

The Milford Exempted Village School District Board of Education is in support of the FC Cincinnati and City of Milford project. The Board has reached a compensation agreement with FC Cincinnati.

If you have additional questions, please contact me.

Sincerely,

Nancy C. House
Superintendent