

## OPTION AGREEMENT

THIS OPTION AGREEMENT (this "Agreement"), is made as of January \_\_\_, 2018 (the "Effective Date"), by and between FUSSBALL CLUB CINCINNATI, LLC, a Delaware limited liability company ("Purchaser"), whose address is 14 E. 4<sup>th</sup> Street, Third Floor, Cincinnati, Ohio 45202, and CINCINNATI METROPOLITAN HOUSING AUTHORITY ("Seller"), a body corporate and politic under Section 3735.27 et seq., Ohio Revised Code, whose address is 1627 Western Avenue, Cincinnati, Ohio 45214. The parties hereto, for themselves, and their respective successors and assigns, for the Option Fee (as hereinafter defined), and other good and valuable consideration, hereby covenant as follows:

1. Grant of Option. In consideration of \$100.00 ("Option Fee"), receipt whereof is hereby acknowledged, the undersigned Seller does hereby grant to Purchaser an exclusive option to purchase approximately \_\_\_ acres of real estate as shown on the attached Exhibit "A" (the "Property"). This option shall last for a period of 365 days from the Effective Date (the "Option Period").

2. Exercise of Option. The option to purchase may be exercised by Purchaser by delivering written notice thereof to Seller at any time prior to the expiration of the Option Period.

3. Expiration of Option. In the event that Purchaser fails to exercise the option during the Option Period, then the option hereby granted shall expire and all money paid to seller shall remain the property of the Seller.

4. Purchase Price. The purchase price of the Property shall be the fair market value of the Property, as determined by an appraisal which Seller shall procure during the Option Period. The purchase price shall be payable at closing, and Purchaser shall receive a credit against the purchase price for all amounts previously paid to Seller pursuant to this Agreement.

5. Conveyance. In the event Purchaser exercises the option herein granted, Seller shall convey to Purchaser good and marketable title to said Property by General Warranty Deed, with release of dower, free from all encumbrances except for utility easements of record. Real estate taxes and assessments shall be prorated as of the closing. Seller shall be responsible for any real estate taxes that are recouped or recaptured subsequent to closing as a result of Purchaser's proposed development of the Property. Seller shall pay all conveyance and transfer associated with the conveyance.

6. Closing. The closing shall take place with-in (30) days after the exercise of the option agreement at such date and time and place as shall be mutually agreed upon by the parties hereto.

7. Site Investigation and Condition of Real Estate. Seller hereby grants to Purchaser the right to enter onto the Property to conduct such engineering and soil testing as it deems appropriate. This shall also include Purchaser's right to determine whether the Property is suitable for Purchaser's intended use. Purchaser shall conduct such site investigation in such a manor so as to minimize any damage to the Property and Purchaser shall restore any damaged areas of the Property. Prior to the closing, Seller shall not make any material alterations to the Property without the prior written consent of Purchaser.

Within ten (10) days from the Effective Date, if Seller has any in his possession, Seller shall deliver to Purchaser copies of all engineering reports, topographical maps, soil test, feasibility studies, easement agreements, subdivision approvals and surveys in Seller possession pertaining to the Property. Seller represents and warrants to Purchaser that, to the best of Seller's knowledge, the Property is free from any and all hazardous substances and waste, asbestos underground storage tanks, PCB's and wet lands. On or before closing, Purchaser, at its expense shall perform an environmental audit and wet lands assessment on the Property. In the event such audit discloses the presence of hazardous substances, waste, asbestos, underground storage tanks or underground or PCB's, then unless Seller, at Sellers option agrees, within ten (10) days after receipt of notice of the results of such audit, to remove and clean up any such hazardous substances, waste, asbestos, or underground storage tanks and to pay the cost of such removal and clean up prior to the closing date, the Agreement shall terminate and any option deposit made to Purchaser shall be returned in full and neither party shall be under any further obligation. Additionally, in the event such wet lands assessment discloses the presence of wet lands in excess of one-fourth (1/4) acres, Purchaser shall have the right to terminate this agreement by written notice to Seller, and any option deposit made by Purchaser shall be returned, and neither party shall be under any further obligation.

8. Contingencies. Purchasers may exercise the option granted pursuant to this Agreement at any time prior to the expiration of the Option Period. Unless and until Purchaser exercises such option in a manner set forth in Section 2 above, Purchaser shall have no obligation to Purchase the Property, nor shall Purchaser have any liability with respect thereto.

9. Broker. The parties do mutually represent to each other that no brokerage commission shall be due upon the execution of this agreement or the transfer of all or part of the Property. The parties agree to hold each other harmless and indemnify each other as a result of a claim for real estate commission asserted by any broker as a result of any dealings with either party hereto.

10. Signage. Purchaser shall have the right during the Option Period to place a "for sale" sign on the Property.

11. Possession. Possession of the Property shall be delivered upon Closing.

12. Remedies. In the event of a default by Purchaser, Seller shall retain the Option Fee provided to the Seller as Seller's sole exclusive remedy. In the event of default by Seller, Purchaser shall be entitled to any and all remedies including specific performance, damages and such other remedies as may be available under applicable law the Option Fee advanced to Seller shall be returned to Purchaser.

13. Notices. All notices, request, demands, approvals or other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent electronically, by Registered or Certified mail, Return Requested, address as follows:

SELLER:

Cincinnati Metropolitan Housing Authority  
1627 Western Ave.  
Cincinnati, Ohio 45214

PURCHASER:

G. Jeffrey Berding, President  
Fussball Club Cincinnati, LLC  
14 E. 4<sup>th</sup> Street, Third Floor  
Cincinnati, Ohio 45202  
Email: jeff@FCCincinnati.com

With a copy to:

James J. McGraw, Esq.  
Keating Muething & Klekamp  
One East Fourth Street, Suite 1400  
Cincinnati, Ohio 45202  
Telephone: 513-579-6400  
E-mail: jmcgraw@kmklaw.com

14. Miscellaneous. The foregoing Agreement contains the entire understanding between Seller and Purchaser and no verbal representation heretofore made by either party to the other shall be binding upon either of them. Purchaser shall have the right, in its sole and absolute discretion, to assign this Agreement and all rights hereunder. This Agreement shall be binding upon and insure to the benefit of the parties, their respective heirs, successors and assignments. The representations made herein shall survive the closing and shall not be merged in the closing. This Agreement shall be governed by and construed in accordance with the laws and regulation of the State of Ohio.

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the undersigned have executed the foregoing Agreement as of the Effective Date.

**PURCHASER:**

**FUSSBALL CLUB CINCINNATI, LLC**,  
a Delaware limited liability company

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SELLER:**

**CINCINNATI METROPOLITAN  
HOUSING AUTHORITY**, body corporate  
and politic under Section 3735.27, et seq.,  
Ohio Revised Code

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*[Signature Page to Option Agreement]*

**Exhibit A**  
Depiction of Property

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