REAL ESTATE OPTION AGREEMENT

This Option Agreement ("Agreement") is made and entered into as of the date of last execution hereof (the "Effective Date") by and between Traxler Family Limited Partnership, an Ohio limited partnership, ("Seller"), and the City of Avon, Ohio, an Ohio municipal corporation, (the "City").

Witnesseth:

Whereas, Seller is the owner of the six (6) parcels of real property and improvements located in Avon, Ohio that are known as Lorain County Permanent Parcel Nos. 04-00-011-102-052, 04-00-011-102-051, 04-00-011-102-029, 04-00-011-102-025, 04-00-011-102-026 and 04-00-011-102-027 together consisting of approximately 37.50 acres of land and improvements, hereinafter called "Seller's Property"; and

Whereas, the City desires to acquire an option to purchase part of Seller's Property that is described below, hereinafter the "Property".

In consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. Grant of Option. In consideration of payment of the sums set forth below (the "Option Fee"), Seller hereby gives and grants to the City the exclusive right, privilege and option ("Option") during the Option Period (defined below) to purchase the Property for the total sum of One Million Six Hundred Seventy Thousand Dollars ($1,670,000.00) (the "Purchase Price").

2. Description of the Property and Property Split. The Property will be comprised of the entire part of Lorain County Permanent Parcel Nos. 04-00-011-102-052 and 04-00-011-102-025, a large portion of Lorain County Permanent Parcel Nos. 04-00-011-102-051 and 04-00-011-102-029, a rectangular area starting at the westerly end of Lorain County Permanent Parcel No. 04-00-011-102-026 with approximately 124' of frontage on Centennial Avenue and extending back along parallel lines approximately 232.32 feet. A sketch of the Property is attached hereto and made a part hereof as Schedule A. No part of Lorain County Permanent Parcel No. 04-00-011-102-027 will be sold.

The City will at its sole cost and in sufficient time to permit Closing on the Closing Date, engage the services of a surveyor to create the maps and legal descriptions necessary to split the Property from Seller's Property. The City will pay all costs and expenses associated with this property split.

3. Option Period; Exercise. The Option shall be exercisable at any time during the Option Period. The "Option Period" shall commence on the Effective Date and shall expire on the day that is Seven Hundred Thirty (730) days after the Effective Date, subject however to earlier termination as provided below. The Option shall be exercisable by written notice to Seller ("Exercise Notice") given in accordance with Section 9 hereof.

4. Option Fees and Purchase Price. On or before the Effective Date, the City shall pay Seller the sum of Fifteen Thousand Dollars ($15,000.00) as an option fee. In order to preserve the Option, the City shall thereafter pay the following additional option fees at the following times:

a. On or before the date that is ninety (90) days after the Effective Date, an additional option fee of Fifteen Thousand Dollars ($15,000.00); and

b. On or before the date that is one hundred eighty (180) days after the Effective Date, an additional option fee of Fifteen Thousand Dollars ($15,000.00); and

c. On or before the date that is two hundred seventy (270) days after the Effective Date, an additional option fee of Fifteen Thousand Dollars ($15,000.00); and

d. On or before the date that is three hundred sixty (360) days after the Effective Date, an additional option fee of Fifteen Thousand Dollars ($15,000.00); and

e. On or before the date that is four hundred fifty (450) days after the Effective Date, an additional option fee of Fifteen Thousand Dollars ($15,000.00); and

f. On or before the date that is five hundred forty (540) days after the Effective Date, an additional option fee of Fifty Thousand Dollars ($50,000.00); and

g. On or before the date that is six hundred thirty (630) days after the Effective Date, an additional option fee of Fifty Thousand Dollars ($50,000.00).

Each option fee when paid shall be non-refundable. If any of the installments of the option fee are not made within five (5) business days of the date payment is required, the Option and this Agreement shall be terminated and the City will have no other or further right or option to purchase the Premises. Each option fee is applicable to the Purchase Price. Accordingly, if all of the above option fees are paid, the City will be credited and the Seller shall be charged the total sum of One Hundred Ninety Thousand Dollars ($190,000.00) on account of payment of these option fees. If the City shall exercise the Option prior to the time the City pays the last scheduled option fee, the City shall be credited and the Seller shall be charged with an amount that is equal to the sum of option fees paid as of the date of exercise of the Option.

The City may elect to pay an amount which is more than the amount set forth above from time to time or at any time and in such case, shall be credited and the Seller will be charged with the amount of any such additional payment.

5. Terms of Sale. If the City exercises the Option, then this Agreement shall constitute an agreement of purchase and sale for the Premises, to be consummated in accordance with the following terms and conditions:

(a) The balance of the Purchase Price shall be paid in cash at Closing.

(b) Transfer of the Premises shall be by limited warranty deed (the “Deed”), conveying to the City fee simple title, free and clear of all liens and encumbrances, except (i) real estate taxes and assessments not due and payable; (ii) zoning and building ordinances and governmental regulations; (iii) easements, restrictions, conditions, limitations, reservations, rights of way and other encumbrances of record. Seller shall discharge, at Seller’s sole cost and expense, at or prior to the Closing, any and all mortgage, mechanic or judgment liens (“Monetary Liens”).

(c) At Closing, the Escrow Agent shall furnish the City with an ALTA Fee Policy of Title Insurance (the "Title Policy") issued by Old Republic Title (the “Title Company”) in an amount equal to the Purchase Price, insuring the City that title to the Premises is in the condition required by this Agreement. The escrow agent and title agent for this transaction shall be Old Republic Title, 160 Cleveland Street, Elyria, Ohio 44035 (440) 322-5300, (the “Escrow Agent”).

(d) This Agreement shall serve as escrow instructions, subject to the Escrow Agent's standard conditions of acceptance to the extent not contrary to any of the terms hereof.

(e) All documents and funds pertaining to the purchase of the Premises shall be deposited in escrow with the Escrow Agent in time to permit the Closing to occur on a date (the "Closing Date") which is no later than the Ninety (90) days after the Option is exercised. The term "Closing" means the recording of the Deed and the disbursement of funds by the Escrow Agent in accordance with the terms hereof. Closing Date means the date the Deed is recorded.

(f) If and when the Title Company will issue the above-required evidence of title and the Escrow Agent has received all funds and documents to be deposited hereunder, the Escrow Agent shall cause the Deed to be filed for record and the funds to be disbursed in accordance with this Agreement. The Escrow Agent also shall timely file all forms, notices and documents required to be filed with the Internal Revenue Service in connection with the sale of real property.

(g) On the Closing Date, real estate taxes and assessments shall be apportioned as of the Closing Date according to the calendar year, using the last available County Treasurer's tax duplicate.

(h) Sole and exclusive possession of the Premises shall be tendered by Seller to the City at Closing, except as provided herein.

(i) The Escrow Agent shall charge Seller with any transfer tax, any amounts due the City on account of prorations, one-half of the escrow fee, the cost of discharging all Monetary Liens, the cost of the title examination and one-half (½) of the premium for the Title Policy. Escrow Agent shall charge the City with the fee to record the Deed, one-half (½) of the escrow fee, and one-half (½) of the premium for the Title Policy, cost of all endorsements to the title policy or for any lender coverage, any cost associated with removal of standard exceptions or for a survey or survey coverage, cost to remove the mechanics lien exception and any expenses in connection with any mortgage or other financing.

6**.** **Representations.** Seller represents and warrants to the City that Seller owns the Property in fee simple absolute and has the right to sell the Property to the City in accordance with the terms of this Agreement. Except as specifically set forth in this Agreement, no representation or warranty concerning the Premises, its condition or its fitness for the City's purpose is made hereunder. The City acknowledges that it has had the unrestricted ability to inspect and that it has inspected the Premises and that, it is not relying on any representation or warranty of Seller concerning the Premises. The sale resulting from exercise of the Option granted herein is made on an absolute "as-is" basis.

7**.** **Broker.** The City and Seller hereby represent and warrant to each other that no real estate broker or salesman has shown the Premises to the City or initiated the sale of the Premises.

8**.** **Foreign Person.** Seller represents and warrants that Seller is not a "non-resident alien," "foreign person" or "foreign entity," and Seller agrees to provide the Escrow Agent at Closing with an appropriate affidavit in the form required by the Internal Revenue Service.

9. **Notices.** Any notification provided for herein must be in writing and shall be deemed to have been given when sent via overnight courier to the parties as follows:

If to Seller: John Traxler
Traxler Family Partnership
37225 Centennial Ave.
Avon, Ohio 44001

With copy to:

Timothy S. Trigilio, Esq.
Trigilio, Stephenson & Dattilo, PLL
5750 Cooper Foster Park Road
Lorain, Ohio 44053

If to the City: Mayor
The City of Avon, Ohio
36080 Chester Road
Avon, Ohio 44001

With copy to:

John Gasior, Esq.
Law Director
The City of Avon, Ohio
36080 Chester Road
Avon, Ohio 44001

10. Definitions; Binding Effect. Each person signing this Agreement in a representative capacity individually warrants his or her authority to do so. However, the Mayor's signature is not valid until City Council has authorized execution of this agreement by ordinance. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and assigns.

11. Entire Agreement. This Agreement contains the entire agreement between Seller and the City with respect to the subject matter hereof, and the parties hereto are not bound by any agreements, understandings and conditions except those stipulated herein. This Agreement may only be amended by written instrument executed by each party hereto.

12. Other Matters.

a. <u>Trees and Shrubs</u>. For a period of ninety (90) days after exercise of the Option and prior to Closing, Seller shall have the right to remove four (4) large trees and up to thirty (30) shrubs. These four large trees have a yellow ribbon tied around them.

b. <u>No Parking Zone/Natural Barrier</u>. Not less than a 15' natural landscape barrier shall at all times be maintained between the Property and the property being retained by Seller and/or owned by John Traxler. A no-parking zone will apply between those properties of not less than 60' unless a fence is erected and maintained by the City in which case the no-parking zone will be 15'. These restrictions will be placed in the Deed and will run with the land. Pursuant to Paragraph 2, above, the City will identify these areas on a map which shall be identified herein as Exhibit A to this Option Agreement.

c. <u>Barns and Landscape Materials</u>. For a period of no more than ninety (90) days after the exercise of the Option and prior to Closing, Seller will have the right to remove the equipment and other property stored in barns and also landscape materials located on the Property. Until such time as this removal has been completed, the City will have the right to use the Road. The City within this Ninety (90) day period, at a time mutually agreed by and between the parties, will provide 90 yards of asphalt grindings to John Traxler.

d. <u>Naming Rights</u>. Certain parts of the park to be developed on the Property by the City will use the "Traxler" name, the precise naming to be agreed to by and between the City and Seller prior to Closing. Use of that name will continue so long as the City shall own the Property. This covenant survives Closing.

11. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. The signature page of any counterpart, electronic copy or photocopy may be appended to any other counterpart and when so appended will constitute an original.

Traxler Family Limited Partnership	The City of Avon, Ohio
By:________________________	By:________________________
Dated: ______________________	Dated: ______________________