

R-20-165

RESOLUTION NO. ____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AMENDMENT TO OPTION AGREEMENT WITH FIRST ORION CORP.; AND FOR OTHER PURPOSES.

WHEREAS, First Orion Corp. ("First Orion") has constructed its headquarters in downtown North Little Rock on property located adjacent to the Argenta Plaza; and

WHEREAS, the City of North Little Rock (the "City") owns certain real property located behind the Rock Region Metro trolley barn that is near the future First Orion; and

WHEREAS, pursuant to Resolution No. 9765 (adopted by the City Council on October 28, 2019), the City and First Orion entered into an Option Agreement for the Purchase of Real Property for said property in anticipation of potential future expansion; and

WHEREAS, due to the challenges presented by the current COVID-19 pandemic, the City and First Orion would like to enter into an Amendment to the Option Agreement to provide for an additional year; and

WHEREAS, in order to facilitate future development of the downtown area of the City, it is in the best interests of the City and its citizens for the City to enter into an Amendment to the Option Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Mayor and City Clerk are hereby authorized to enter into an Amendment to the Option Agreement for the Purchase of Real Property (substantially similar to Exhibit A), extending the Option Agreement for the Purchase of Real Property with First Orion Corp to October 20, 2022.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

Mayor Joe A. Smith

SPONSOR:

ATTEST:



Mayor Joe A. Smith

Diane Whitbey, City Clerk

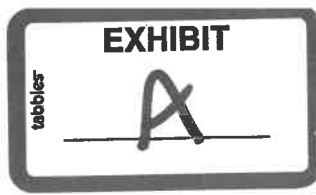
APPROVED AS TO FORM:



Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/kt

FILED	11:00	A.M.	_____	P.M.
By	A. Fields			
DATE	11-17-2020			
Diane Whitbey, City Clerk & Collector North Little Rock, Arkansas				
RECEIVED BY	S. Ussey			



**AMENDMENT TO OPTION AGREEMENT
FOR THE PURCHASE OF REAL PROPERTY**

This Amendment is entered into this ___ day of November, 2020 (“Amendment Effective Date”) by and between The City of North Little Rock (the “Seller”), a municipal corporation organized and existing pursuant to the laws of the State of Arkansas, and First Orion Corp., a Delaware corporation registered to do business in Arkansas, or its assigns (“Purchaser”) to amend that certain Option for the Purchase of Real Property Agreement (“Agreement”) dated as of the 31st day of October, 2019 between Seller and Purchaser. The Seller and the Purchaser are collectively referred to as the “Parties”.

WHEREAS, Parties desire to amend the Option Term as provided for in the Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the parties agree as follows:

1. The term “Option Term” is replaced in its entirety with the following:

“Option Term” shall mean that period of time commencing on the Execution Date and ending on or before 5 p.m. on October 30, 2022.

2. As consideration for modification to the Option Term, Purchaser shall pay Seller \$2,500, which payment shall be added to the Option Fee and resulting in the Option Fee for purposes of the Agreement being \$12,500.

3. Seller and Purchaser shall sign the Amended and Restated Memorandum of Option in the form of Exhibit “A” attached hereto and shall file the same the official land records of the Recorder’s Office of Pulaski County, Arkansas.

4. For purposes of Section 23 of the Agreement (Notices), notice to Purchaser shall be addressed as follows:

If to Purchaser:

First Orion Corp.
520 Main Street, Suite 400
North Little Rock, AR 72114
Attn: Chief Legal Officer
Email: sbaxter@firstorion.com
(501) 690-3858

5. This Amendment supersedes and amends the Agreement as of the Amendment Effective Date only as stated herein and does not supersede or amend any of the other terms and conditions of the Agreement, and the remainder of the Agreement shall continue in full force and effect in accordance with its terms and conditions.

6. This Amendment may be executed in counterparts, including by facsimile or electronic signature, each of which counterpart will be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Amendment Effective Date.

PURCHASER: First Orion Corp.

By: _____
Name: Charles D. Morgan
Title: Chief Executive Officer
Date: _____

SELLER: The City of North Little Rock, Arkansas

By: _____
Name: Joe A. Smith
Title: Mayor
Date: _____

EXHIBIT A

AMENDED AND RESTATED MEMORANDUM OF OPTION

AMENDED AND RESTATED MEMORANDUM OF OPTION

DOCUMENT PREPARED BY:

First Orion Corp.
520 Main Street, Suite 400
North Little Rock, AR 72114

AMENDED AND RESTATED MEMORANDUM OF OPTION

This Amended and Restated Memorandum of Option (“Memorandum”) dated as of the November __, 2020 amends and restates in full that certain Memorandum of Option dated effective October 31, 2019 by and between The City of North Little Rock, 300 Main Street, North Little Rock, AR 72114 (the “Owner”) and First Orion Corp., a Delaware corporation, with an address at 520 Main Street, Suite 400, North Little Rock, AR 72114 (the “Optionee”) and filed of record in the real estate records of Pulaski County, Arkansas as Instrument #2019077767. Any capitalized terms not defined herein shall have the meaning assigned thereto in the Option.

WHEREAS, Owner and Optionee have entered into an Option Agreement having the following terms:

1. Owner has granted to Optionee the exclusive option to purchase the property described in Exhibit A to this Memorandum (the “Option Property”).
2. The term of the Option is for thirty-six (36) months (defined as the Option Period in Section 1 of the Option), commencing on the October 31, 2019 and, if the option has not been exercised by Optionee, terminating at 5 p.m. on October 30, 2022, unless sooner terminated or extended pursuant to the terms of the Option.
3. Owner and Optionee acknowledge and affirm that this Memorandum is not a complete summary of the Option. Accordingly, Owner and Optionee hereby agree that this Memorandum shall not be used in interpreting the Option provisions and that, in the event of conflict between this Memorandum and the Option, the Option shall control.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the day and year first above written.

OWNER: The City of North Little Rock

By: _____

Name: Joe A. Smith

Title: Mayor

OPTIONEE: First Orion Corp.,
a Delaware corporation

By: _____

Name: Charles D. Morgan

Title: Chief Executive Officer

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF PULASKI

On this ___ day of November, 2020, before me, a Notary Public, personally appeared Joe A. Smith, who stated that he is the Mayor of The City of North Little and was authorized in his capacity to execute the foregoing instrument for The City of North Little Rock, and further stated and acknowledged that he had so signed, executed, and delivered same for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal this _____ day of November, 2020.

Notary Public

(SEAL)

My commission expires:

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF PULASKI

On this ___ day of November, 2020, before me, a Notary Public, personally appeared Charles D. Morgan, who stated that he is the Chief Executive Officer of First Orion Corp. and was authorized in his capacity to execute the foregoing instrument for First Orion Corp., and further stated and acknowledged that he had so signed, executed, and delivered same for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal this _____ day of November, 2020.

Notary Public

(SEAL)

My commission expires:

EXHIBIT "A"

LEGAL DESCRIPTION

OPTION PROPERTY

PART OF LOT A, BLOCK 39, ORIGINAL TOWN OF ARGENTA AND OTHER LANDS; ALL IN THE CITY OF NORTH LITTLE ROCK, PULASKI COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1, TROLLEY BARN ADDITION AND ALSO BEING ON THE SOUTHERN RIGHT-OF-WAY LINE OF BISHOP LINDSEY AVENUE (60' ROW);
THENCE S 88° 44' 39" E ALONG SAID RIGHT-OF-WAY FOR 102.36 FEET TO THE POINT OF BEGINNING;
THENCE S 88° 44' 39" E ALONG SAID RIGHT-OF-WAY FOR 173.10 FEET;
THENCE S 01° 18' 57" W FOR 300.94 FEET TO THE NORTHERN RIGHT-OF-WAY LINE OF E. 6TH STREET (60' ROW);
THENCE N 88° 44' 39" W ALONG SAID RIGHT-OF-WAY FOR 173.10 FEET;
THENCE N 01° 18' 57" E FOR 300.94 FEET TO THE POINT OF BEGINNING, CONTAINING 52,091 SQUARE FEET OR 1.196 ACRES, MORE OR LESS.