

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AERIAL EASEMENT AGREEMENT WITH ARGENTA HOSPITALITY, LLC; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to Resolution Nos. 10653 and 1064, adopted on September 25, 2023 by the North Little Rock City Council, the City has entered into two separate Real Estate Development and Purchase Agreements whereby the City has agreed to sell certain real property to Kal Makan for a construction of a high-end boutique hotel; and

WHEREAS, as allowed by the terms of the purchase agreements, Mr. Makan intends to assign the purchase agreements to Argenta Hospitality, LLC; and

WHEREAS, the two parcels that are being sold for construction of the hotel are separated by South Poplar Street, and Makan Hospitality, LLC desires to explore building part of the hotel over the street; and

WHEREAS, it is in the best interest of the City and its residents to enter into an Aerial Easement Agreement with Argenta Hospitality, LLC the permanent and exclusive right to use the airspace between the two lots of Poplar Street for the purpose of building and maintaining a structure within the easement area.

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 execute an Aerial Easement Agreement (substantially similar to Exhibit A attached hereto) with Argenta Hospitality, LLC.

SECTION 2: That the provisions of this Resolution are hereby declared to be severable, and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

SPONSOR:

Mayor Terry C. Hartwick

ATTEST:



Mayor Terry C. Hartwick

Diane Whitbey, City Clerk

APPROVED AS TO FORM:



Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/ABF

FILED	<u>10:45</u>	A.M.	___	P.M.
By	<u>A. Fields</u>			
DATE	<u>4.2.24</u>			
Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas				
RECEIVED BY	<u>S. Ussery</u>			

Please Return documents to:
Davidson Law Firm
PO Box 1300
Little Rock, AR 72203

Document prepared by:
Jessica Witherspoon, Esq.
Davidson Law Firm
724 Garland Street
Little Rock, AR. 72201

AERIAL EASEMENT AGREEMENT

THIS AGREEMENT is made this _____ day of April, 2024, between the City of North Little Rock (the "City") and Argenta Hospitality, LLC, an Arkansas limited liability company, ("Argenta") with its principal place of business in Little Rock, Arkansas.

WHEREAS, Argenta is the owner in fee of the property situated in Pulaski County, Arkansas, more particularly described in Exhibit A ("Tract 1"), and

WHEREAS, Argenta is the owner in fee of the property situated in Pulaski County, Arkansas, more particularly described as in Exhibit A ("Tract 2"), and

WHEREAS, the City is the owner of S. Poplar Street in North Little Rock, Pulaski County, Arkansas, which lies between Argenta's two properties, more particularly illustrated in Exhibit B ("Poplar Street").

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties covenant and agree for themselves, and their heirs, successors and assigns, as follow:

1. Aerial Easement Poplar Street. Argenta and all its heirs, successors, and assigns shall have the permanent and exclusive right to use the air space starting sixteen (16) feet above ground level, up to one hundred forty (140) feet over Poplar Street, as shown in Exhibit C for the use and benefit of Tract 1 and Tract 2. This use includes building and maintaining a structure within the easement area.

2. Maintenance of Easement Areas. Argenta shall maintain and keep in good repair its respective easements benefitting them, described herein, from sixteen (16) feet above ground level up to one hundred forty (140) feet in the air. The City shall continue to maintain Poplar Street at ground level, and any road signs or lights in the easement area.

3. Insurance Requirements. Argenta shall procure and maintain general liability insurance in the minimum amount of \$2,500,000.00.

EXHIBIT
A

4. Termination of Easement. This easement shall terminate and all aerial rights revert to the City upon the occurrence of the following events: (a) conveyance of Tract 1 and/or Tract 2 to the City; or (b) failure to commence construction of a structure within the easement area within one (1) year of the execution of this Aerial Easement Agreement; or (c) damage or destruction of the structure within the air rights area with a failure to make substantial progress toward making the structure habitable within one (1) year of such damage or destruction.

5. Covenants Running with the Land. The easements hereby granted, the restrictions hereby imposed, and the agreements herein contained shall be easements, restrictions and covenants running with the land and shall inure to the benefit of and the binding upon, the parties hereto and their respective heirs, successors and assigns, including, but without limitations, all subsequent owners of all or any part of Tract 1 and Tract 2 and all persons claiming under them.

6. Entire Agreement. This Agreement supersedes all agreements previously made between the parties relating to its subject matter.

7. Notices. All notices in this Agreement shall be in writing and delivered personally or mailed by certified mail, postage prepaid, addressed to the parties at their last known addresses.

8. Non-Waiver. No delay or failure of either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

9. Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

10. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Arkansas.

11. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the City and Argenta have caused this Agreement to be executed as the date first above written.

[Signature page to Follow]

CITY OF NORTH LITTLE ROCK

BY: _____
Terry C. Hartwick, Mayor

ATTEST:

Diane Whitbey, City Clerk

ARGENTA HOSPITALITY, LLC

BY: _____

TITLE: _____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)SS.
COUNTY OF PULASKI)

Personally appeared before me the undersigned authority in and for said County and State _____, he/she signed and delivered the foregoing instrument on the date and year therein mentioned as the act and deed of said corporation.

Given under my hand and official seal on this ____ day of _____, 2024.

NOTARY PUBLIC

(AFFIX SEAL)
My Commission Expires:

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)SS.
COUNTY OF PULASKI)

Personally appeared before me the undersigned authority in and for said County and State _____, he/she signed and delivered the foregoing instrument on the date and year therein mentioned as the act and deed of said corporation.

Given under my hand and official seal on this ____ day of _____, 2024.

NOTARY PUBLIC

(AFFIX SEAL)
My Commission Expires:

EXHIBIT A

TRACT 1:

LOT C, BLOCK 10, ARGENTA ADDITION OF CITY OF NORTH LITTLE ROCK,
PULASKI COUNTY ARKANSAS

TRACT 2:

LOT 12, BLOCK 9 ARGENTA ADDITION OF THE CITY OF NORTH LITTLE ROCK
PULASKI COUNTY ARKANSAS

EXHIBIT B

Map of area



MEMBER NATIONAL SOCIETY
PROFESSIONAL ENGINEERS

THOMAS ENGINEERING COMPANY

3810 LOOKOUT ROAD
NORTH LITTLE ROCK, ARKANSAS 72116
TELE. No. 501-753-4483 FAX. 501-753-8814

CIVIL ENGINEERS—LAND SURVEYORS
LAND PLANNING & DEVELOPMENT
RESIDENTIAL—COMMERCIAL—INDUSTRIAL

EXHIBIT B

E. WASHINGTON AVENUE



LOT C, BK 10
ARGENTA ADDITION

S. POPLAR STREET

BLOCK 9
ARGENTA ADDITION

AERIAL EASEMENT

LOT 12

LOT 11

RIVERFRONT DRIVE

DATE: 3/29/24
SCALE: 1" = 60'

EXHIBIT C

A 60 FOOT WIDE AERIAL EASEMENT IN THE CITY OF NORTH LITTLE ROCK, PULASKI COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE AREA OF S. POPLAR STREET (60' ROW) LYING WESTERLY AND ADJACENT TO LOT 12, BLOCK 9, ARGENTA ADDITION, SAID EASEMENT BEING A MINIMUM OF 16 VERTICAL FEET AND A MAXIMUM OF 140 VERTICAL FEET ABOVE THE CENTERLINE PAVED ELEVATION OF SAID PORTION OF S. POPLAR STREET.