

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN OPTION AGREEMENT AND TO SELL PROPERTY LOCATED ON SIXTH STREET BEHIND THE TROLLEY BARN TO FIRST ORION CORP., AND FOR OTHER PURPOSES.

WHEREAS, First Orion Corp. ("First Orion") is constructing 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 headquarters (see map attached hereto as Exhibit A); and

WHEREAS, First Orion anticipates that it may need additional facilities in the near future and has identified the property owned by the City as an appropriate location for the potential expansion of its headquarters; and

WHEREAS, Arkansas Code Ann. § 14-54-302 authorizes the City to sell its real property when authorized by a resolution approved by a majority vote of the City Council present and participating; and

WHEREAS, the City and First Orion Corp. desire to enter into an Option Agreement for the Purchase of Real Property ("Option Agreement") to accommodate potential future expansion of First Orion; 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 the Option Agreement and, in the event First Orion exercises the option, to sell the property to First Orion for a purchase price of \$729,368.64.

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 Option Agreement for the Purchase of Real Property (substantially similar to Exhibit B), granting First Orion Corp. an option to purchase certain property located on Sixth Street behind the Rock Region Metro trolley barn, said property being more particularly described as follows:

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.

SECTION 2: In the event First Orion exercises the option upon the conditions set forth in the Option Agreement for the Purchase of Real Property, the Mayor and City Clerk are hereby authorized to sell the property described herein to First Orion Corp. for the purchase price of \$729,369.64, with the City Attorney to review and approve all agreements and documents necessary to effectuate the sale and conveyance of the herein described property.

SECTION 3: 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

Amy Beckman Fields, City Attorney
 PREPARED BY THE OFFICE OF THE CITY ATTORNEY/cf

FILED	<u>10:50</u>	A.M.	_____	P.M.
By	<u>Marie Miller, Asst City Clk</u>			
DATE	<u>10/22/19</u>			
Diane Whitbey, City Clerk & Collector North Little Rock, Arkansas				
RECEIVED BY	<u>BT</u>			



tabbles
EXHIBIT
A.



200 Feet

100

50

0

This map is not survey accurate.

Date: 10/18/2019



OPTION AGREEMENT FOR THE PURCHASE OF REAL PROPERTY

This Option for the Purchase of Real Property Agreement (“Agreement”) is dated as of the ___ day of October, 2019, (“Effective Date”) 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”). The Seller and the Purchaser are collectively referred to as the “Parties”.

PART 1 – DEFINITIONS

For the purposes of this Agreement, the following terms shall have the following meanings:

“Closing” shall mean the date of the closing of the sale pursuant to this Agreement.

“Execution Date” shall mean the day upon which the last party to this Agreement shall duly execute this Agreement.

“Option Exercise Date” shall mean that date, within the Option Term, upon which the Purchaser shall send its written notice to Seller exercising its Option.

“Option Fee” shall mean \$10,000.00.

“Option Term” shall mean that period of time commencing on the Execution Date and ending on or before October ___, 2021.

“Property” shall mean the real property described in Exhibit A attached hereto.

“Purchase Price” shall mean \$729,368.64.

“Purchaser’s Use” shall mean the construction of an office building and/or parking lot.

PART 2 - OPTION TO PURCHASE

1. Grant of Option. For and in consideration of the Option Fee payable to Seller as set forth herein, Seller does hereby grant to Purchaser the exclusive right and option (“Option”) to purchase the Property for the Purchaser’s Use upon the terms and conditions as set forth in this Agreement.

2. Payment of Option Fee. Purchaser agrees to pay the Seller the Option Fee within five (5) business days after the Execution Date.



3. Exercise of Option. Purchaser may exercise its exclusive right to purchase the Property pursuant to this Agreement any time during the Option Term by giving written notice thereof to Seller. The date of sending of said notice shall be the Option Exercise Date.

4. Failure to Exercise Option. In the event the Purchaser does not exercise its exclusive right to purchase the Property granted by the Option during the Option Term, Seller shall be entitled to retain the Option Fee, and this Agreement shall become absolutely null and void and neither party hereto shall have any other liability, obligation or duty herein under or pursuant to this Agreement; provided that Purchaser shall execute and deliver any document reasonably requested by the Seller to terminate the Memorandum of Option.

PART 3 – CONTRACT FOR PURCHASE AND SALE.

5. Sale and Purchase / Purchase Price. Upon exercise by Purchaser of the right to purchase the Property pursuant to this Agreement, Seller shall sell and Purchaser shall purchase, subject to the terms and conditions herein, all of Seller's right, title and interest in and to the Property, including all improvements owned by Seller located thereon for the Purchase Price. The Purchase Price shall be paid on the Closing by cashier's check or wire transfer.

6. Cooperation in Design. The Parties agree to cooperate in the design elements of the Purchaser's Use of the Property to maintain a sense of uniformity and continuity in the area.

7. Utilities.

7.1 Water and Sewer: Purchaser will be responsible for the cost of the water and sewer connection to the Property.

7.2 Electricity: Seller will be responsible for the cost of all infrastructure necessary to deliver electricity to the Property.

8. Zoning and Land Use. Seller will expeditiously process applications for approval, waiver or variance for the development of the Property, if the development of the Property is inconsistent with or non-conforming with the zoning, overlay, land use or other similar ordinances, laws or regulations applicable to the development of the Property. Seller represents that the proposed Purchaser's Use of the Property and conceptual designs for the development of the Property are consistent with Seller's principles of compatibility and aesthetic appearance.

9. Financing and Incentives. Purchaser intends to investigate and seek available government economic development financing and other incentives, and the availability of such financing and incentives acceptable to Purchaser are critical to Purchaser's decision to proceed with the development of the Property. Seller will cooperate with Purchaser to structure the transaction in a manner that will allow development of Purchaser's Building on the Property to qualify for available government economic development financing and incentives, including PILOT financing, Bond Guaranty financing, payroll tax rebates or others.

10. Survey. Seller, at Seller's expense, shall obtain a current ALTA survey of the Property prepared by a Registered Surveyor (the "Survey"). The Survey, in a form suitable to Purchaser and the title company selected by Parties (the "Title Company"), shall (a) locate all present and future easements, rights-of-way, wetlands, 100-year flood plain, building lines, utility lines, roadways and encroachments on or abutting the Property; (b) contain an accurate metes and bounds description of the Property; and (c) contain the certification of the surveyor as to the number of net square feet contained in the Property.

11. Environmental Site Assessment. Purchaser and Seller, at Seller's cost, shall have prepared within sixty (60) days after the Execution Date of this Agreement a Phase 1 and Phase 2 environmental site assessment of the Property, in form and substance reasonably acceptable to Purchaser, and prepared by a qualified engineering firm reasonably acceptable by Purchaser and Seller.

12. Title Insurance. Promptly following Purchaser's exercise of the right to purchase the Property pursuant to this Agreement, Seller shall order a standard form ALTA Owner's Title Insurance Commitment Policy (the "Commitment") covering the Property and issued by the Title Company, together with copies of all instruments, if any, referenced in the Survey or referred to in the Commitment as exceptions to title. The title insurance policy issued to Purchaser shall have an ALTA comprehensive endorsement and extended coverage plus insurance coverage for (i) access to physically open streets adjacent to the Property, (ii) contiguity of any multiple parcels which comprise the Property with no gaps or gores, (iii) that the standard survey exception will be omitted from the title policy, and (iv) the policy shall cover Purchaser's successors. Within fifteen (15) business days of receipt of the latter of the Survey and the Commitment, which Commitment must include copies of all documents constituting exceptions to title and Survey, Purchaser shall give notice in writing to Seller of any defects in or objections to the title or the Survey as so evidenced. Seller shall, within fifteen (15) business days of receipt of said notice, or such time as may be extended by Purchaser, exert its reasonable and diligent efforts to clear the title of the defects and objections so specified. Failure to exert such effort to clear the title of defects and objections within the fifteen (15) business days, or such time as may be extended by Purchaser, shall constitute a default on the part of the Seller and be subject to the provisions of Section 18 herein. If Purchaser does not either accept the conditions of the Commitment and Survey or object to the conditions of the Commitment and Survey within said fifteen (15) business day period, then Seller shall give Purchaser written notice of its failure to object to the conditions of the Commitment and Survey. Except for (i) matters to which notice of Purchaser's objections has been given by Purchaser, and (ii) Lien and Lease Exceptions as defined below, any such uncured exceptions that have been so waived by Purchaser shall be included in the terms "Permitted Exceptions" as used herein. If the Commitment is amended or supplemented after Purchaser has submitted its objections to Seller, the same time periods, procedures and notices for objections and clearance of title shall apply to matters disclosed thereby.

13. Title and Deed. At the Closing, Seller shall convey to Purchaser, by General Warranty Deed in a form acceptable to Purchaser, marketable title to the Property, free and clear of any and all encumbrances except for the Permitted Exceptions. In no event shall mortgages,

deeds of trust, monetary liens, or leases be deemed Permitted Exceptions (“Lien and Lease Exceptions”). At the Closing, Seller shall provide, at Seller’s expense a form ALTA Owner’s Title Insurance Policy as described in Section 12 above (the “Policy”) issued by the Title Company, insuring marketable title to Purchaser in the full amount of the Purchase Price and containing no exceptions or conditions other than the Permitted Exceptions. Seller shall execute such affidavits or indemnity agreements as may be required by the Title Company to delete any standard exceptions from the Policy and provide “gap” insurance coverage to Purchaser. If Seller does not deliver such affidavits and/or indemnity agreements as set forth in this Agreement, then Seller shall be deemed to be in default under this Agreement and Purchaser shall have such remedies as are set forth in Section 17 herein. Seller shall deliver to Purchaser and Title Company copies of the deed and all other documents required for Closing. Delay in Seller’s delivery of said instruments may at Purchaser’s option result in a delay of the Closing equivalent to the delay in the delivery of the instruments.

14. Risk of Loss; Condemnation. Until the Closing, the risk of loss or damage to the Property by fire or other casualty or the taking or damage by condemnation shall be retained by Seller. If any loss or damage occurs prior to the Closing, then Purchaser shall have the option of (i) canceling and rescinding this Agreement (following by the prompt refund of the Option Fee to the Purchaser), (ii) accepting the Property with abatement of the Purchase Price in the amount of the cost of replacement or repair. If, prior to the Closing, all or any part of the Property shall be condemned by governmental or other lawful authority, Purchaser shall have the option of (a) completing the purchase, in which event all condemnation proceeds or claims thereof shall be assigned to Purchaser, or (b) canceling this Agreement, in which event this Agreement shall be terminated with neither party having any rights against the other except for the prompt refund of the Option Fee to the Purchaser.

15. Taxes and Assessments. Real property taxes shall be prorated and adjusted on the basis of a calendar year. Seller shall pay the last day, to and including the date of Closing. Taxes for all prior years shall be paid by Seller. If the Closing shall occur before the tax rate is fixed for the then-current year, the apportionment of taxes shall be upon the basis of the tax rate for the preceding year applied to the latest assessed valuation, with the proration to be adjusted between the parties based on actual taxes for the year in which Closing occurs at the time such actual taxes are determined. Assessments, either general or special, for improvements completed prior to the date of Closing, whether matured or unmatured, shall be paid in full by Seller. All other assessments shall be paid by Purchaser.

16. Transfer and Sales Taxes. The expense and cost of all documentary or revenue stamps, transfer, sales and other taxes, if any, relating to the sale of the Property shall be borne equally by Purchaser and Seller and shall be paid on the date of Closing. Both Parties agree to execute any tax returns or affidavits required to be filed in connection with any such taxes.

17. Default.

17.1 Default by Purchaser. (i) In the event Purchaser fails, without right, cause or legal excuse, to complete the purchase of the Property or to perform any covenant or

agreement of Purchaser contained herein, the Seller may, at its option (a) terminate this Agreement, and recover from Purchaser the reasonable expenses actually incurred by Seller and paid to third-parties in connection with the Seller's performance of Sections 10, 11 and 12 of this Agreement ("Damages for Expenses Actually Incurred"), or (b) pursue a suit for specific performance. (ii) Damages for Expenses Actually Incurred shall not include (a) any expenses, costs or purchase price incurred or paid by the Seller to acquire the Property, or (b) any expenses or costs incurred or paid in the performance of Seller's obligations under this Agreement, including, without limitation, the obligations set forth in Sections 6, 7, 8, 9, 23 and 35 of this Agreement. In this respect, Purchaser and Seller acknowledge that these Damages for Expenses Actually Incurred have been specifically negotiated between Purchaser and Seller and are to compensate Seller for incurring the itemized costs and expenses included in the definition of Damages for Expenses Actually Incurred.

17.2 **Default by Seller.** If Seller fails or refuses to fully comply with the terms of this Agreement, for any cause other than Purchaser's default hereunder, Purchaser may, at its option, (a) rescind this Agreement and recover from Seller any and all reasonable expenses paid or incurred by Purchaser in connection with this Agreement, (b) proceed with this Agreement and take the Property as is, or (c) pursue any legal or equitable remedy, including, but not limited to, a suit for specific performance.

17.3 **Notice of Default.** In the event either party is in default of any provision hereof, the non-defaulting party, as a condition precedent to its remedies, must give the defaulting party written notice of the default. The defaulting party shall have ten (10) business days from the receipt of such notice to cure the default. If the default is timely cured, this Agreement shall continue in full force and effect. If the default is not timely cured, the non-defaulting party may pursue its applicable remedies set forth in the Agreement.

18. **Right of Entry.** At any time prior to the Closing (including during the Option Period), and at Purchaser's sole expense, Purchaser or its authorized agents shall have the right to enter upon the Property for any lawful purpose, including without limitation making such surveys and site analysis, test borings and engineering studies and to erect such signs as Purchaser may deem necessary. Except for any pre-existing conditions on the Property, Purchaser shall indemnify and hold Seller harmless from and against any and all claims and liens arising out of any act or failure to act of Purchaser or its authorized agents as a result of their respective activities on the Property. Purchaser's obligation to close the transaction contemplated by this Agreement is expressly conditioned upon inspection results, which, in the sole judgment of Purchaser, evidence that the Property is suitable for Purchaser's intended use. When such reports disclose conditions unsatisfactory to Purchaser, which Seller is unable or unwilling to correct at Seller's expense, Purchaser may cancel this Agreement by written notice to Seller.

19. **Brokerage Fees.** Each party represents that no broker and/or agent is involved in this Agreement. Each party agrees to indemnify the other against any other brokerage or commission claims arising out of the indemnifying party's actions.

20. Seller's Representations. Seller represents and warrants to Purchaser the following:

20.1 Seller is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Arkansas, and has full power and authority to execute and deliver this Agreement and all other documents and instruments now or hereafter to be executed and delivered by it pursuant to this Agreement (collectively, the "Seller's Documents") and to perform all obligations arising under this Agreement and the Seller's Documents. This Agreement constitutes, and the Seller's Documents will each constitute, the legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms, subject to bankruptcy, reorganization and other similar laws affecting the enforcement of creditors' rights generally and except as may be limited by general equitable principles.

20.2 This Agreement and the Seller's Documents do not and will not contravene any provision of the organizational documents comprising the Seller, any judgment, order, decree, writ or injunction, or any provision of any existing law or regulation to which the Seller is a party or is bound. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by the North Little Rock City Council, as required by Arkansas law.

20.3 No services, material or work have been supplied, or as of the Closing will have been supplied to the Property for which payment (or arrangements satisfactory to Purchaser for payment) has not been made. If, subsequent to the Closing, any mechanic's or other lien, charge or order for the payment of money shall be filed against the Property, or any portion thereof as a result of labor or material supplied to the Property prior to the Closing, within twenty (20) days after notice to Seller of the filing thereof, Seller shall take such action, by bonding, deposit, payment or otherwise, as will remove or satisfy such lien of record against the Property and Seller shall indemnify and hold Purchaser harmless from and against all costs, fees, expenses, judgments and liabilities in arising from or in connection with such liens, charges or order for payment.

20.4 Seller has not made a general assignment for the benefit of creditors, filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by its creditors, suffered the appointment of a receiver to take possession of substantially all of its assets, suffered the attachment or other judicial seizure of substantially all of its assets, admitted its inability to pay its debts as they come due, or made an offer of settlement, extension or composition to its creditors generally.

20.5 Seller has not received written notice of any pending or threatened condemnation or eminent domain proceedings affecting the Property or any part thereof.

20.6 Seller has not received any notice that the Property (or any lands adjacent to the Property) and/or the present use and condition of the Property (or any lands adjacent to the Property) violate any applicable deed restrictions or other covenants, restrictions or agreements, site plan approvals, zoning or subdivision regulations, laws, statutes, codes, acts, ordinances,

orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions or requirements of any authorities governing or regulating the use and operation, or otherwise applicable to, the Property from time to time (collectively, the "Legal Requirements"). Seller has not entered into any agreements with any authorities in connection with compliance with Legal Requirements.

20.7 No litigation or proceeding is pending, threatened or likely with respect to the Property, Seller's interest therein, or which would inhibit Purchaser's obtaining clear title to the Property in accordance with the provisions of this Agreement or inhibit Purchaser's development of the Property for its intended use.

20.8 There are no leases, arrangements, licenses, agreements, options, easements, understandings, contracts or rights of first offer or refusal affecting or relating to the Property in any way, including for the purchase, ownership, use, license or possession of the Property (or any portion thereof) (in the case of any of the foregoing, recorded or unrecorded, written, verbal or prescriptive).

20.9 To the best of Seller's knowledge: (a) the Property is not the subject of any judicial or administrative notice or action relating to Hazardous Materials, hazardous waste or environmental contamination; (b) Seller has received no notice of any claim of violation of any law or regulation having to do with Hazardous Materials or environmental protection relating to the Property; (c) no Hazardous Materials or toxic substances have been stored, processed, or disposed of on the Property during the period that Seller has owned the Property; and (d) no underground storage tanks are located on the Property. Hazardous Materials shall mean any hazardous or toxic substance, material, or waste in any concentration that is or becomes regulated by the United States of America, the state in which the Property is located, or any local governmental authority having jurisdiction over the Property, and shall include: (i) Any "hazardous substance," as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 United States Code sections 9601-9675); (ii) "Hazardous waste," as that term is defined in the Resource Conservation and Recovery Act of 1976 (42 United States Code sections 6901-6992k); (iii) Any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement; (iv) Petroleum products, asbestos containing materials ("ACM's") in any form or condition, and polychlorinated biphenyls ("PCB's") and substances or compounds containing ACM's or PCB's; and (v) Radioactive material, including any source, special nuclear, or byproduct material as defined in 42 United States Code sections 2011-2297g-4.

20.10 Seller has not granted any tenancies or rights to possession or occupancy of the Property prior to Closing.

20.11 Seller shall promptly notify Purchaser of any change in any condition with respect to the Property or of any event or circumstance that makes any representation or warranty under this Agreement materially untrue or misleading or any covenant of either party under this Agreement incapable or less likely of being performed.

20.12 Seller has not solicited offers for the Property or submitted or accepted or discussed proposals or solicitations for the sale or other disposition of, or investment in, the Property prior to Closing.

21. Due Diligence; Closing Conditions; Closing Deliveries.

21.1 Due Diligence and Closing Conditions. Purchaser's obligations under this Agreement are expressly contingent upon Purchaser's satisfaction or waiver, each in its sole and absolute discretion, of all matters pertaining to Purchaser's due diligence review of the Property and transaction, including, without limitation, matters pertaining to soils, environmental, and any other physical conditions and/or limitations pertaining to the Property which affect or impact the development of and construction on the Property for Purchaser's intended use. In the event (i) Purchaser determines, in Purchaser's sole discretion, that it is not satisfied with its due diligence review of the Property or the transaction for any reason; (ii) there are pending or threatened regulatory, rezoning, platting, re-platting or zoning verification issues that would prohibit Purchaser from using the Property for its intended use; or (iii) Purchaser is unable to obtain financing to purchase the Property and finance all improvements on the Property desired by Purchaser on terms acceptable to Purchaser; then, Purchaser may terminate this Agreement upon written notice to Seller at any time prior to the Closing and Seller shall promptly refund of the Option Fee to the Purchaser.

21.2 In addition to the foregoing, Purchaser's obligations under this Agreement are expressly conditioned upon the satisfaction or waiver, in Purchaser's sole and absolute discretion, of all governmental and quasi-governmental requirements to the development of and construction on the Property for Purchaser's intended use, including requirements imposed by ordinance, rule or regulation and pertaining to land use, zoning, site plan, traffic, financial incentives and/or entitlements, permits and approvals for land disturbance and building, utility relocations, extensions, and/or connections, and any other permit or approval which must be obtained as a condition for Purchaser's development of the Property for its intended use. Within fifteen (15) business days of the Effective Date, Seller shall deliver to Purchaser all plans, environmental reports, property inspection reports, evidence of payment of taxes, and any other such documents that relate to the Property that are in Seller's possession or control.

21.3 The foregoing conditions shall be satisfied or waived by Purchaser, in its sole and absolute discretion, on or before the date of Closing.

22. Closing Deliveries.

22.1 At Closing, Seller shall:

22.1.1 Execute and deliver to Purchaser the General Warranty Deed conveying the Property in accordance with the terms hereof;

22.1.2 Execute and deliver to Purchaser a closing statement, to be prepared by Title Company ("Closing Statement"), evidencing the payment of the Purchase Price, as adjusted in accordance with the terms of this Agreement;

22.1.3 Execute and deliver to Purchaser an Owner's Affidavit in the form acceptable to the Title Company;

22.1.4 Present evidence of the authority of the person or persons executing the documents contemplated by this Agreement on behalf of Seller; and

22.1.5 Execute and deliver such further documents as may be required to consummate the transaction contemplated hereby.

22.2 At Closing, Purchaser shall:

22.2.1 Deliver or cause to be delivered to Seller the Purchase Price (adjusted as shown on the Closing Statement);

22.2.2 Execute and deliver the Closing Statement;

22.2.3 Present evidence of the authority of the person or persons executing the documents contemplated by this Agreement on behalf of Purchaser; and

22.2.4 Execute and deliver such further documents as may be required to consummate the transaction contemplated hereby.

23. Indemnifications.

23.1 Seller Indemnification. Seller shall indemnify, protect, defend and hold harmless Purchaser from any claim, loss, damage, cost or expense, including all reasonable attorneys' fees, asserted against or suffered by Purchaser resulting from property damage or claims related to Hazardous Materials that arise from events that occurred on or related to the Property prior to Closing.

23.2 Purchaser Indemnification. Purchaser shall indemnify, protect, defend and hold harmless Seller from any claim, loss, damage, cost or expense, including all reasonable attorneys' fees, asserted against or suffered by Seller resulting from (i) third party claims that arise due to Purchaser's breach after Closing of an agreement entered into by Purchaser or its agents with respect to the Property, and (ii) third party claims for personal injury or property damage or claims related to Hazardous Materials that arise from events that occurred on or related to the Property after Closing.

23.3 Continuation. The indemnification provisions of this Section 23 and all representations and warranties by the respective parties contained herein or made in writing

pursuant to this Agreement shall survive the execution and delivery of this Agreement and the delivery of the deed and transfer of title.

24. Closing. The Closing shall take place at a place a time and place mutually acceptable to Purchaser and Seller following the satisfaction of or waiver of all conditions required to be satisfied herein. The parties shall work in good faith to cause the Closing to occur within sixty (60) days after the Exercise Notice from Purchaser to Seller.

25. Closing Costs. Notwithstanding anything to the contrary contained herein, the Closing costs shall be paid as follows:

25.1 By Seller:

25.1.1 Expenses of placing title in proper condition;

25.1.2 The cost of the owner's title policy;

25.1.3 Preparation of transactional documents, including the General

Warranty Deed;

25.1.4 IRS notification form;

25.1.5 One-half of the Revenue stamps or transfer tax;

25.1.6 One-half of the escrow fee, if any;

25.1.7 One-half of the recording fees; and

25.1.8 Other charges customarily paid by Seller.

25.2 By Purchaser:

25.2.1 Premium for mortgagee's title insurance, if any;

25.2.2 One-half of the escrow fee, if any;

25.2.3 One-half of the Revenue stamps or transfer tax;

25.2.4 One-half of the recording fees; and

25.2.5 Other charges customarily paid by Purchaser.

26. FIRPTA Compliance, Tax Reporting. Purchaser and Seller agree to disclose on or before the Closing, to the Title Company or other closing agent for this transaction, their United States citizenship status, solely for the purpose of compliance with the Foreign Investment in

Real Property Taxation Act (FIRPTA). In addition, Purchaser and Seller shall execute all documents required by the Title Company or other closing agent to document compliance with the FIRPTA and all other applicable laws. Purchaser and Seller agree that nothing in this Agreement is intended to limit the responsibility of the Title Company or other closing agent as defined pursuant to United States Treasury Regulation 1.6045-4 to (i) be the "reporting person" under state and federal tax laws (including without limitation 26 USC Section 6045(e)), and (ii) file all necessary forms regarding the Closing, including without limitation form 1099, 8288 or 8288A. By accepting the role as Title Company or other closing agent, this Agreement shall obligate the Title Company or other closing agent to fulfill their responsibilities as set forth above and as defined by the above statutes. Seller will execute an affidavit confirming compliance with FIRPTA, as prepared by the Title Company or other closing agent.

PART 4 – MISCELLANEOUS PROVISIONS

27. Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be mailed by certified or registered mail, postage prepaid, or by a nationally recognized overnight carrier, addressed as follows:

If to Seller:

The City of North Little Rock
300 Main Street
North Little Rock, AR 72114
Attn: Danny Bradley
(501) 975-8601

If to Purchaser:

First Orion Corp.
500 President Clinton Avenue, Suite 215
Little Rock, AR 72201
Attn: Chief Legal Officer
(501) 690-3858

Notice shall be deemed to have been given upon evidence of actual receipt or refusal. Either party may change its address by giving the other party notice of the change in any manner permitted by this Section 23.

28. Time of Essence. Time is expressly declared to be of the essence of this Agreement. Unless otherwise specified, days as it appears in this Agreement shall mean calendar days. Further, all times and dates set forth in this Agreement refer to Arkansas Central time and date.

29. Entire Agreement. This Agreement contains the entire agreement between Seller and Purchaser, and there are no other terms, conditions, promises, undertakings, statements or representations, expressed or implied, concerning the sale contemplated by this Agreement. Headings. The headings to the Sections hereof have been inserted for convenience of reference only and shall in no way modify or restrict any provisions hereof or be used to construe any such provisions.

30. Modifications. The terms of this Agreement may not be amended, waived or terminated orally, but only by an instrument in writing signed by both Seller and Purchaser.

31. Closing Documents. Seller and Purchaser agrees to execute, at the Closing, any documents reasonably required by the Title Company to complete the Closing.

32. Succession and Assignment. This Agreement shall inure to the benefit of and bind the parties hereto and their respective successors and assigns. All rights hereunder may be assigned by the Purchaser without restriction, provided that notice of such assignment shall be given in writing to the Seller.

33. Governing Law. This Agreement shall be governed by the laws of the State of Arkansas.

34. Severability. If any term, covenant or condition of this Agreement, or the application thereof to any person, party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law. Survival. All warranties, indemnities, representations and covenants herein shall survive Closing and shall not be merged into any deed, assignment or other instrument or document delivered in connection with the transaction contemplated hereby. None of the limitations on remedies set forth in Section 17 hereof shall affect the remedies available to either Purchaser or Seller following Closing with respect to any obligations which survive the Closing.

35. Attorneys' Fees and Cost. With respect to the negotiation and consummation of this Agreement and the transaction contemplated by the Agreement, each party will bear its own attorneys' fees and cost. However, if either party undertakes litigation against the other party arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorney fees and all incurred costs.

36. Counterparts/Facsimile Signatures. This Agreement may be executed in one or more counterparts, each of which will constitute an original. It is understood by the parties hereto that this Agreement may be executed in multiple counterparts which, when collectively read together, shall constitute a single document which is binding upon all parties hereto. Signatures on this Agreement which are exchanged by facsimile or other electronic means are

true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as original signatures.

37. Memorandum of Option. Seller and Purchaser shall sign a memorandum of option (“Memorandum”), in the form of Exhibit “B” attached hereto which shall be filed of record in the official land records of the Recorder’s Office of Pulaski County, Arkansas.

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

PURCHASER: First Orion HQ, LLC

By: _____
Name: Aaron Peeples
Title: Authorized Representative
Date: _____

SELLER: The City of North Little Rock, Arkansas

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

EXHIBIT A

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.

EXHIBIT B
MEMORANDUM OF OPTION