

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL: March 12, 2026

CALENDAR NO. 35,349

NO. _____ MAYOR COUNCIL SERIES

BY: COUNCILMEMBER HARRIS (BY REQUEST)

AN ORDINANCE to authorize the Mayor of the City of New Orleans to enter into an agreement to grant a servitude to an adjacent property owner for encroachments on/over portions of public right-of-way located at the municipal address 1717 Religious Street; to fix the minimum price and terms of said servitude agreement; to declare that such use as granted in the servitude agreement will incorporate space that is neither needed for public purposes nor shall such use interfere with the use of the public right-of-way; to set forth the reasons for said servitude agreement; and otherwise to provide with respect thereto.

1 **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS,** That the
2 following portions of the public rights-of-way are not needed for public purposes at this time and that the Mayor
3 is hereby authorized to grant the following servitude thereon to the adjacent property owners as described below
4 for a yearly payment of \$208.00 said annual payment subject to upward adjustment of 15%, rounded to the nearest
5 dollar, following the expiration of every fifth year after November 1, 2024:

6 Approximately 62 square feet of air rights consisting of the Encroachments of a canopy,
7 on/over the Religious Street public right-of-way, the Encroachments being part of the
8 improvements located in the 1st Municipal District, Square 87, Lot Q-1A, bounded by
9 Religious Street, Celeste Street, Saint Thomas Street, and Saint James Street, bearing
10 the municipal address 1717 Religious Street, New Orleans, Louisiana.

1 **SECTION 2.** That the grant of servitude be undertaken for the following reasons:

- 2 (a) The owner, which owns the improvements adjacent to the City-owned property, has constructed
3 or is planning to construct improvements upon the public rights-of-way after applying for and
4 obtaining building permits, to the extent necessary, from the City of New Orleans;

5 (b) Said improvements and constructions referred to in subsection (a) hereinabove are dependent
6 upon the servitude agreement with the owner; the plans and specifications submitted by the
7 owner, to obtain the building permits for the improvements described herein, accurately delineate
8 the improvements and constructions which are subject to the servitude agreement, and said plans
9 and specifications were inspected and approved by the City of New Orleans prior to the issuance
10 by the City of building permits allowing the improvements to be constructed as shown therein;
11 the disposition of property rights by the servitude agreement as authorized herein will not hinder
12 or preempt the use by the public or the City of any other public property and will provide revenues
13 to the City otherwise not attainable if the aforementioned property rights were unused.

1 **SECTION 3.** That the Mayor is hereby authorized to execute the servitude agreement attached hereto
2 as described hereinabove in SECTION 1.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS _____

PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON _____

APPROVED:
DISAPPROVED: _____

MAYOR

RETURNED BY THE MAYOR ON _____ **AT** _____

CLERK OF COUNCIL

ROLL CALL VOTE:
YEAS:
NAYS:
ABSENT:
RECUSED:

GRANT OF SERVITUDE
BY
THE CITY OF NEW ORLEANS
TO
CELESTE LANDING, LLC

UNITED STATES OF AMERICA
STATE OF LOUISIANA
PARISH OF ORLEANS

BE IT KNOWN, on the respective dates herein below but effective this ____ day of _____, 20__ (“Effective Date”), before the undersigned Notaries Public, duly commissioned and qualified in and for the Parishes/County and State hereinafter referenced, and in the presence of the undersigned competent witnesses,

PERSONALLY CAME AND APPEARED:

- (1) **THE CITY OF NEW ORLEANS**, herein represented by Helena Moreno, Mayor, acting under and by virtue of authorization contained in Ordinance No. _____ M.C.S., adopted on _____, 20__, a copy of which is attached hereto and made a part hereof (hereinafter referred to as "City"); and
- (2) **CELESTE LANDING, LLC**, a limited liability company, with a domicile address of 4152 Canal Street, New Orleans, LA 70119, represented herein by Vanessa Levine, its Authorized Agent, duly authorized to appear herein on its behalf (hereinafter referred to as “Grantee”).

WHO DECLARED THAT:

The City hereby grants a predial servitude of right-of-use for the Encroachment of a canopy

and the improvement itself on/over the Religious Street public Right-of-way to Grantee, as described further below.

ARTICLE I - DEFINITIONS

The following terms have the meanings given to them in this Section I:

- (a) **Right-of-way:** City owned property adjacent to the dominant estate, of which the servitude exists upon a portion.
- (b) **Property:** The dominant estate, made up of the immovable property, adjacent to the right-of-way and which has improvements that encroach onto the right-of-way, described on Exhibit "A" attached hereto and made a part hereof.
- (c) **Grantee:** The owner of the dominant estate.
- (d) **Encroachment:** The portion of the property that occupies the right-of-way, as shown in Exhibit "B."
- (e) **Servitude:** The predial servitude pursuant to La. C.C. Art. 646, consisting of the right to use the airspace and correlated ground for an encroachment on the right-of-way as shown on Exhibit "B" and consisting of:

Approximately 62 square feet of air rights consisting of the Encroachment of a canopy on the Religious Street public right-of-way, the Encroachments being part of the improvements located in the 1st Municipal District, Square 87, Lot Q-1A, bounded by Religious Street, Celeste Street, Saint Thomas Street, and Saint James Street, bearing the municipal address 1717 RELIGIOUS STREET, New Orleans, Louisiana.

ARTICLE II - SERVITUDE AND CONSENT

Consent of City: As permitted in La. C.C. Art. 646, City does hereby consent to the exercise by Grantee of all the following rights:

- (1) The exclusive right to erect and own the encroachment burdening the right-of-way according to the attached Exhibit "B."

(2) Right to install, maintain, and repair the encroachment burdening the right-of-way according to the attached Exhibit “B.”

ARTICLE III - LIMITATIONS IN GENERAL

(a) The grant of the servitude and accessory rights by City and the exercise thereof by Grantee shall be subject and subordinate to the public use of the right-of-way, governmental laws and regulations, compliance with all of the rights reserved herein by City, and the terms of this Agreement.

(b) **Limitations on Right of Use:** Exercise of the Servitude granted in Sections I and II shall be subject to the following limitations:

(1) Grantee’s right of use shall be subject to the public’s use of the right-of-way.

(2) Grantee shall perform all work in a safe and reasonably expeditious manner at its expense, shall restore the premises of City and any third party to the same condition as existed prior to commencement of any work by Grantee, and shall be responsible for any damage caused to the right-of-way or any third parties resulting from any work by Grantee;

(3) Any right of use shall be exercisable only to the extent that such rights are reserved to Grantor pursuant to this servitude agreement and subject to any limitations or requirements imposed thereby.

(4) If the Servitude may not be exercised due to City’s use of the right-of-way for public purpose, Grantee assumes all costs associated with repair, replacement, or demolition of said encroachment.

ARTICLE IV – CONSIDERATION

(a) **Annual Payments.** In consideration of this Grant of Servitude, Grantee shall pay to the City the sum of \$208.00 per year, until such time as the Servitude is terminated.

(b) **Due Date of Annual Payment.** Grantee shall pay the Annual Payment the first time on or before the date of execution by Grantee of this Grant of Servitude. For subsequent Annual Payments, Grantee shall pay on or before the 1st day of November.

(c) **Late Fee.** Annual Payments received after the 10th of the month, regardless of whether the 10th is a weekend or holiday, will be assessed a late fee in the amount of 10% of the total amount due.

(d) **Adjustment of Annual Payment.** The foregoing Annual Payment shall be subject to upward adjustment of 15%, rounded to the nearest dollar, following the expiration of every fifth year after November 1, 2024.

(e) **Recordation.** Grantee shall record this Grant of Servitude in the Orleans Parish Land Records Division within thirty (30) calendar days of the date of full execution of this Grant of Servitude.

ARTICLE V - DEFAULT

(a) **Condition of Default of Annual Payment.** If Grantee fails to pay an Annual Payment on or before the due date as defined in Article IV, and Grantee fails to cure such monetary default within fifteen (15) working days after notice from the City to Grantee of such monetary default, the City shall deem Grantee ipso facto in default of this Grant of Servitude.

ARTICLE VI - ENFORCEMENT

(a) **In General.** In the event that Grantee fails to cure any violation of the terms of this Grant of Servitude within fifteen (15) working days after notice of default from the City, the City shall have the right to take any actions as may be necessary in the City's discretion to cure such violation, including but not limited to instituting legal proceedings, placing a lien on the property, and demanding removal of the encroachment(s).

(b) **Costs, Expenses, and Attorney's Fees.** The City shall be entitled to charge Grantee with all costs and expenses incurred by the City as a result of such violation. Should the City institute legal proceedings to enforce this Grant of Servitude, the City shall be entitled to recover from Grantee all of the attorney's fees, costs, and other expenses reasonably and necessarily incurred.

(c) **Remedies Cumulative.** All rights and remedies provided under this Grant of Servitude are

cumulative and may be pursued singularly, in any combination, and in any order.

(d) **Non-Waiver**. The failure to enforce any of the terms and provisions of this Grant of Servitude shall in no event be deemed to be a waiver of the right to thereafter strictly enforce the terms and provisions hereof.

ARTICLE VII - TERM

Except as set forth below, the Servitude and Consent shall be perpetual.

(a) **Termination:** Notwithstanding the foregoing, the Servitude and Consent shall terminate if:

- (1) The building and/or encroachment is demolished, substantially damaged, destroyed, or removed and not reconstructed or replaced within one (1) year after such destruction or damage;
- (2) The encroachment is taken or removed for public purposes in whole or in such part that it is not fit for its intended purposes;
- (3) Grantee is found to be in default of any of its obligations hereunder; or
- (4) Grantee removes the encroachments and provides notice of termination to the City.

(b) **Results of termination:** Upon termination of the servitude, there shall be no right or obligation to reconstruct the Encroachment, unless such right or obligation is established by law.

ARTICLE VIII - INDEMNITY AND INSURANCE

(a) At all times during the term of this Servitude, Grantee shall and does hereby agree to hold harmless and indemnify the City from and against any and all claims of Grantee or of any third persons for injuries to persons, including death, or damages to property, occurring on the right-of-way and arising from Grantee's use or occupancy of the encroachment, including the defense of all actions brought against the City for such damages, arising from the negligent acts or omissions of the Grantee, its employees, guests, invitees, agents or independent contractors.

(b) If a judgment is rendered thereon against Grantee, in a claim of a third party arising solely and exclusively from an act or omission by the City, its employees, guests, invitees, agents or independent contractors, the City agrees to pay the same to the extent of its comparative fault, to Grantee's complete satisfaction and discharge; provided, however, that the Grantee shall give the City prompt written notice of the existence of any such claims and of any proceedings taken against the Grantee thereon, so that such claims may be investigated and such proceedings may be contested by City.

(c) Grantee reserves the right and option to settle, compromise, and/or pay, any adjudicated claim by a third party for damages resulting from injuries to persons, including death, or damages to property, directly to said claimant, in place and stead of indemnifying the City; but if, and only if, Grantee obtains a valid and lawful complete release, satisfaction and discharge from the claimant in favor of the City.

(d) Grantee and its successors, heirs, or assigns shall furnish and maintain in effect during the Term of this Servitude an insurance policy or policies under the following terms:

- (i) If Grantee or its successors, heirs, and/or assigns to title of the Property is a non-individual, such as a corporation, partnership, limited liability company, or other entity, insurance shall remain in effect with limits not less than \$1,000,000/\$2,000,000 covering general commercial liability, in which policy or policies the City shall either be carried as an additional named insured or provision shall be made to insure the liability of Grantee under the above indemnification and hold harmless agreement under the contractual coverage provisions of said insurance policy or policies. A copy of such policy or policies, or certificate of insurance with reference to same, shall be delivered to the City upon execution of this Servitude;
- (ii) If Grantee or its successors, heirs, and/or assigns to title of the Property is an individual or individuals, an insurance policy or policies should remain in effect with limits, covering liability, not less than \$1,000,000/\$2,000,000.

ARTICLE IX - ASSIGNMENT OR TRANSFER

In the event that any of the building which the encroachment forms a part is sold by private or public sale, this Servitude shall be assigned or transferred without the prior consent of the City to the assignee or purchaser of said property. Any instrument assigning or transferring the Servitude shall be delivered to the City along with proof of insurance as required in Section VIII within thirty (30) days of the recordation of said assignment or transfer. Grantee shall cause the assignee or purchaser of said property to assume all obligations of Grantee herein and, effective as of the date of such assignment or transfer, Grantee shall thereafter be released of all obligations set forth in this agreement including, without limitation, those obligations of Grantee under Section VI and VIII above.

ARTICLE X - NOTICE

(a) **Form of Notice.** All notices, requests, claims, payments, demands and other communications between the parties shall be in writing.

(b) **Method of Notice.** All notices shall be given: (i) by delivery in person, (ii) by United States Postal Service, (iii) by first class, registered or certified mail, postage prepaid, or (iv) by electronic mail to the address of the party specified in this Grant of Servitude or such other address as either party may specify in writing. It is the responsibility of the Grantee to ensure the City has current and accurate mailing and electronic addresses at all times.

(c) **Receipt of Notice.** All notices shall be effective upon: (i) receipt by the party to which notice is properly given, or (ii) on the fifth day following mailing, whichever occurs first.

(d) **Grantee.** All notices to the Grantee shall be addressed to:

CELESTE LANDING, LLC
c/o VANESSA LEVINE
4152 CANAL STREET
NEW ORLEANS, LA 70119

(e) **The City.** All notices to the City shall be addressed to:

Department of Property Management,
Division of Real Estate and Records
1300 Perdido Street, Room 5W06
New Orleans, LA 70112

&

City Attorney
City of New Orleans
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

ARTICLE XI - MISCELLANEOUS PROVISIONS

(a) **Amendment.** No amendment of or modification to this Grant of Servitude shall be valid unless and until executed in writing by the duly authorized representatives of both parties to this Grant of Servitude.

(b) **Conflict of Law.** This Grant of Servitude and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the State of Louisiana.

(c) **Construction of Agreement.** Neither party will be deemed to have drafted this Grant of Servitude. This Grant of Servitude has been reviewed by the Parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the Parties. No term of this Grant of Servitude shall be construed or resolved in favor of or against the City or the Grantee on the basis of which party drafted the uncertain or ambiguous language. The headings and captions of this Grant of Servitude are provided for convenience only and are not intended to have effect in the construction or interpretation of this Grant of Servitude. Where appropriate, the singular includes the plural and neutral words and words of any gender shall include the neutral and other gender.

(d) **Entire Agreement.** This Grant of Servitude, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Grant of Servitude and are without effect to vary or alter any terms or conditions of this Grant of Servitude.

(e) **Limitations of the City's Obligations.** The City has no obligations not explicitly set forth in this Grant of Servitude or any incorporated documents or expressly imposed by law.

(f) **No Third Party Beneficiaries.** This Grant of Servitude is entered into for the exclusive

benefit of the parties and the parties expressly disclaim any intent to benefit anyone not a party to this Agreement.

(g) **Non-Waiver**. The failure of either party to insist upon strict compliance with any provision of this Grant of Servitude, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

(h) **Severability**. Should a court of competent jurisdiction find any provision of this Grant of Servitude to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is not possible, the unenforceable provision shall be fully severable and the remaining provisions of the Grant of Servitude remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part the Grant of Servitude.

(Signatures, Exhibits A, and B found on next pages.)

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the
____ day of _____, 20__.

CITY OF NEW ORLEANS

WITNESS:

BY: _____

HELENA MORENO, MAYOR

WITNESS:

NOTARY

Approved as to form and legality:

By: Law Department

THIS DONE AND PASSED, on this ____ day of _____, 20__.

GRANTEE: CELESTE LANDING, LLC

WITNESS:

Print Name: _____

BY: _____
VANESSA LEVINE

WITNESS:

Print Name: _____

Permanent Mailing Address of Grantee:
Attn: Vanessa Levine
4152 Canal Street
New Orleans, LA 70119

NOTARY

Print Name _____
Notary/Bar No. (State): _____
My Commission Expires: _____
(Affix Seal)

EXHIBIT A

Legal Description: Lot Q-1A

A CERTAIN PORTION OF GROUND, situated in the First District of the City of New Orleans, State of Louisiana, in Square 87 bounded by Celeste Street, Felicity Street, St. Thomas Street, St. James Street and Religious Steet designated as Lot Q-1A and shown on a survey and resubdivision by the Office of Gandolfo Kuhn LLC, dated August 19, 2022; Drawing No. CC-26-2 and is more particularly described as follows:

Begin at the intersection of the westerly line of Religious Street and the northerly line of Celeste Street, thence go along said line of Celeste Street in a westerly direction a distance of 127 feet 10 inches 5 eighths to a point on the division line of Lot P and Lot Q-1A; thence along said line at an interior angle to the left of $89^{\circ}55'40''$ a distance of 191 feet 11 inches 0 eighths to the division line of Lot Q-1A and Lot 4; thence along said line in an easterly direction and parallel to Celeste Street at an interior angle to the left of $90^{\circ}04'20''$ a distance of 127 feet 10 inches 5 eighths to a point on the westerly line of Religious Street; thence along said line in a southerly direction at an interior angle to the left of $89^{\circ}55'40''$ a distance of 191 feet 11 inches 0 eighths to the Point of Beginning.

4854-4005-6936, v. 1

GRANT OF SERVITUDE
BY
THE CITY OF NEW ORLEANS
TO
CELESTE LANDING, LLC

UNITED STATES OF AMERICA
STATE OF LOUISIANA
PARISH OF ORLEANS

BE IT KNOWN, on the respective dates herein below but effective this ____ day of _____, 20__ (“Effective Date”), before the undersigned Notaries Public, duly commissioned and qualified in and for the Parishes/County and State hereinafter referenced, and in the presence of the undersigned competent witnesses,

PERSONALLY CAME AND APPEARED:

- (1) **THE CITY OF NEW ORLEANS**, herein represented by Helena Moreno, Mayor, acting under and by virtue of authorization contained in Ordinance No. _____ M.C.S., adopted on _____, 20__, a copy of which is attached hereto and made a part hereof (hereinafter referred to as "City"); and
- (2) **CELESTE LANDING, LLC**, a limited liability company, with a domicile address of 4152 Canal Street, New Orleans, LA 70119, represented herein by Vanessa Levine, its Authorized Agent, duly authorized to appear herein on its behalf (hereinafter referred to as “Grantee”).

WHO DECLARED THAT:

The City hereby grants a predial servitude of right-of-use for the Encroachment of a canopy

and the improvement itself on/over the Religious Street public Right-of-way to Grantee, as described further below.

ARTICLE I - DEFINITIONS

The following terms have the meanings given to them in this Section I:

- (a) **Right-of-way:** City owned property adjacent to the dominant estate, of which the servitude exists upon a portion.
- (b) **Property:** The dominant estate, made up of the immovable property, adjacent to the right-of-way and which has improvements that encroach onto the right-of-way, described on Exhibit “A” attached hereto and made a part hereof.
- (c) **Grantee:** The owner of the dominant estate.
- (d) **Encroachment:** The portion of the property that occupies the right-of-way, as shown in Exhibit “B.”
- (e) **Servitude:** The predial servitude pursuant to La. C.C. Art. 646, consisting of the right to use the airspace and correlated ground for an encroachment on the right-of-way as shown on Exhibit “B” and consisting of:

Approximately 62 square feet of air rights consisting of the Encroachment of a canopy on the Religious Street public right-of-way, the Encroachments being part of the improvements located in the 1st Municipal District, Square 87, Lot Q-1A, bounded by Religious Street, Celeste Street, Saint Thomas Street, and Saint James Street, bearing the municipal address 1717 RELIGIOUS STREET, New Orleans, Louisiana.

ARTICLE II - SERVITUDE AND CONSENT

Consent of City: As permitted in La. C.C. Art. 646, City does hereby consent to the exercise by Grantee of all the following rights:

- (1) The exclusive right to erect and own the encroachment burdening the right-of-way according to the attached Exhibit “B.”

(2) Right to install, maintain, and repair the encroachment burdening the right-of-way according to the attached Exhibit “B.”

ARTICLE III - LIMITATIONS IN GENERAL

(a) The grant of the servitude and accessory rights by City and the exercise thereof by Grantee shall be subject and subordinate to the public use of the right-of-way, governmental laws and regulations, compliance with all of the rights reserved herein by City, and the terms of this Agreement.

(b) **Limitations on Right of Use:** Exercise of the Servitude granted in Sections I and II shall be subject to the following limitations:

(1) Grantee’s right of use shall be subject to the public’s use of the right-of-way.

(2) Grantee shall perform all work in a safe and reasonably expeditious manner at its expense, shall restore the premises of City and any third party to the same condition as existed prior to commencement of any work by Grantee, and shall be responsible for any damage caused to the right-of-way or any third parties resulting from any work by Grantee;

(3) Any right of use shall be exercisable only to the extent that such rights are reserved to Grantor pursuant to this servitude agreement and subject to any limitations or requirements imposed thereby.

(4) If the Servitude may not be exercised due to City’s use of the right-of-way for public purpose, Grantee assumes all costs associated with repair, replacement, or demolition of said encroachment.

ARTICLE IV – CONSIDERATION

(a) **Annual Payments.** In consideration of this Grant of Servitude, Grantee shall pay to the City the sum of \$208.00 per year, until such time as the Servitude is terminated.

(b) **Due Date of Annual Payment.** Grantee shall pay the Annual Payment the first time on or before the date of execution by Grantee of this Grant of Servitude. For subsequent Annual Payments, Grantee shall pay on or before the 1st day of November.

(c) **Late Fee.** Annual Payments received after the 10th of the month, regardless of whether the 10th is a weekend or holiday, will be assessed a late fee in the amount of 10% of the total amount due.

(d) **Adjustment of Annual Payment.** The foregoing Annual Payment shall be subject to upward adjustment of 15%, rounded to the nearest dollar, following the expiration of every fifth year after November 1, 2024.

(e) **Recordation.** Grantee shall record this Grant of Servitude in the Orleans Parish Land Records Division within thirty (30) calendar days of the date of full execution of this Grant of Servitude.

ARTICLE V - DEFAULT

(a) **Condition of Default of Annual Payment.** If Grantee fails to pay an Annual Payment on or before the due date as defined in Article IV, and Grantee fails to cure such monetary default within fifteen (15) working days after notice from the City to Grantee of such monetary default, the City shall deem Grantee ipso facto in default of this Grant of Servitude.

ARTICLE VI - ENFORCEMENT

(a) **In General.** In the event that Grantee fails to cure any violation of the terms of this Grant of Servitude within fifteen (15) working days after notice of default from the City, the City shall have the right to take any actions as may be necessary in the City's discretion to cure such violation, including but not limited to instituting legal proceedings, placing a lien on the property, and demanding removal of the encroachment(s).

(b) **Costs, Expenses, and Attorney's Fees.** The City shall be entitled to charge Grantee with all costs and expenses incurred by the City as a result of such violation. Should the City institute legal proceedings to enforce this Grant of Servitude, the City shall be entitled to recover from Grantee all of the attorney's fees, costs, and other expenses reasonably and necessarily incurred.

(c) **Remedies Cumulative.** All rights and remedies provided under this Grant of Servitude are

cumulative and may be pursued singularly, in any combination, and in any order.

(d) **Non-Waiver**. The failure to enforce any of the terms and provisions of this Grant of Servitude shall in no event be deemed to be a waiver of the right to thereafter strictly enforce the terms and provisions hereof.

ARTICLE VII - TERM

Except as set forth below, the Servitude and Consent shall be perpetual.

(a) **Termination:** Notwithstanding the foregoing, the Servitude and Consent shall terminate if:

- (1) The building and/or encroachment is demolished, substantially damaged, destroyed, or removed and not reconstructed or replaced within one (1) year after such destruction or damage;
- (2) The encroachment is taken or removed for public purposes in whole or in such part that it is not fit for its intended purposes;
- (3) Grantee is found to be in default of any of its obligations hereunder; or
- (4) Grantee removes the encroachments and provides notice of termination to the City.

(b) **Results of termination:** Upon termination of the servitude, there shall be no right or obligation to reconstruct the Encroachment, unless such right or obligation is established by law.

ARTICLE VIII - INDEMNITY AND INSURANCE

(a) At all times during the term of this Servitude, Grantee shall and does hereby agree to hold harmless and indemnify the City from and against any and all claims of Grantee or of any third persons for injuries to persons, including death, or damages to property, occurring on the right-of-way and arising from Grantee's use or occupancy of the encroachment, including the defense of all actions brought against the City for such damages, arising from the negligent acts or omissions of the Grantee, its employees, guests, invitees, agents or independent contractors.

(b) If a judgment is rendered thereon against Grantee, in a claim of a third party arising solely and exclusively from an act or omission by the City, its employees, guests, invitees, agents or independent contractors, the City agrees to pay the same to the extent of its comparative fault, to Grantee's complete satisfaction and discharge; provided, however, that the Grantee shall give the City prompt written notice of the existence of any such claims and of any proceedings taken against the Grantee thereon, so that such claims may be investigated and such proceedings may be contested by City.

(c) Grantee reserves the right and option to settle, compromise, and/or pay, any adjudicated claim by a third party for damages resulting from injuries to persons, including death, or damages to property, directly to said claimant, in place and stead of indemnifying the City; but if, and only if, Grantee obtains a valid and lawful complete release, satisfaction and discharge from the claimant in favor of the City.

(d) Grantee and its successors, heirs, or assigns shall furnish and maintain in effect during the Term of this Servitude an insurance policy or policies under the following terms:

- (i) If Grantee or its successors, heirs, and/or assigns to title of the Property is a non-individual, such as a corporation, partnership, limited liability company, or other entity, insurance shall remain in effect with limits not less than \$1,000,000/\$2,000,000 covering general commercial liability, in which policy or policies the City shall either be carried as an additional named insured or provision shall be made to insure the liability of Grantee under the above indemnification and hold harmless agreement under the contractual coverage provisions of said insurance policy or policies. A copy of such policy or policies, or certificate of insurance with reference to same, shall be delivered to the City upon execution of this Servitude;
- (ii) If Grantee or its successors, heirs, and/or assigns to title of the Property is an individual or individuals, an insurance policy or policies should remain in effect with limits, covering liability, not less than \$1,000,000/\$2,000,000.

ARTICLE IX - ASSIGNMENT OR TRANSFER

In the event that any of the building which the encroachment forms a part is sold by private or public sale, this Servitude shall be assigned or transferred without the prior consent of the City to the assignee or purchaser of said property. Any instrument assigning or transferring the Servitude shall be delivered to the City along with proof of insurance as required in Section VIII within thirty (30) days of the recordation of said assignment or transfer. Grantee shall cause the assignee or purchaser of said property to assume all obligations of Grantee herein and, effective as of the date of such assignment or transfer, Grantee shall thereafter be released of all obligations set forth in this agreement including, without limitation, those obligations of Grantee under Section VI and VIII above.

ARTICLE X - NOTICE

(a) **Form of Notice.** All notices, requests, claims, payments, demands and other communications between the parties shall be in writing.

(b) **Method of Notice.** All notices shall be given: (i) by delivery in person, (ii) by United States Postal Service, (iii) by first class, registered or certified mail, postage prepaid, or (iv) by electronic mail to the address of the party specified in this Grant of Servitude or such other address as either party may specify in writing. It is the responsibility of the Grantee to ensure the City has current and accurate mailing and electronic addresses at all times.

(c) **Receipt of Notice.** All notices shall be effective upon: (i) receipt by the party to which notice is properly given, or (ii) on the fifth day following mailing, whichever occurs first.

(d) **Grantee.** All notices to the Grantee shall be addressed to:

CELESTE LANDING, LLC
c/o VANESSA LEVINE
4152 CANAL STREET
NEW ORLEANS, LA 70119

(e) **The City.** All notices to the City shall be addressed to:

Department of Property Management,
Division of Real Estate and Records
1300 Perdido Street, Room 5W06
New Orleans, LA 70112

&

City Attorney
City of New Orleans
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

ARTICLE XI - MISCELLANEOUS PROVISIONS

(a) **Amendment.** No amendment of or modification to this Grant of Servitude shall be valid unless and until executed in writing by the duly authorized representatives of both parties to this Grant of Servitude.

(b) **Conflict of Law.** This Grant of Servitude and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the State of Louisiana.

(c) **Construction of Agreement.** Neither party will be deemed to have drafted this Grant of Servitude. This Grant of Servitude has been reviewed by the Parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the Parties. No term of this Grant of Servitude shall be construed or resolved in favor of or against the City or the Grantee on the basis of which party drafted the uncertain or ambiguous language. The headings and captions of this Grant of Servitude are provided for convenience only and are not intended to have effect in the construction or interpretation of this Grant of Servitude. Where appropriate, the singular includes the plural and neutral words and words of any gender shall include the neutral and other gender.

(d) **Entire Agreement.** This Grant of Servitude, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Grant of Servitude and are without effect to vary or alter any terms or conditions of this Grant of Servitude.

(e) **Limitations of the City's Obligations.** The City has no obligations not explicitly set forth in this Grant of Servitude or any incorporated documents or expressly imposed by law.

(f) **No Third Party Beneficiaries.** This Grant of Servitude is entered into for the exclusive

benefit of the parties and the parties expressly disclaim any intent to benefit anyone not a party to this Agreement.

(g) **Non-Waiver.** The failure of either party to insist upon strict compliance with any provision of this Grant of Servitude, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

(h) **Severability.** Should a court of competent jurisdiction find any provision of this Grant of Servitude to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is not possible, the unenforceable provision shall be fully severable and the remaining provisions of the Grant of Servitude remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part the Grant of Servitude.

(Signatures, Exhibits A, and B found on next pages.)

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the
____ day of _____, 20__.

CITY OF NEW ORLEANS

WITNESS:

BY: _____

HELENA MORENO, MAYOR

WITNESS:

NOTARY

Approved as to form and legality:

By: Law Department

THIS DONE AND PASSED, on this ____ day of _____, 20__.

GRANTEE: CELESTE LANDING, LLC

WITNESS:

Print Name: _____

BY: _____
VANESSA LEVINE

WITNESS:

Print Name: _____

Permanent Mailing Address of Grantee:
Attn: Vanessa Levine
4152 Canal Street
New Orleans, LA 70119

NOTARY

Print Name _____
Notary/Bar No. (State): _____
My Commission Expires: _____
(Affix Seal)

EXHIBIT A

Legal Description: Lot Q-1A

A CERTAIN PORTION OF GROUND, situated in the First District of the City of New Orleans, State of Louisiana, in Square 87 bounded by Celeste Street, Felicity Street, St. Thomas Street, St. James Street and Religious Steet designated as Lot Q-1A and shown on a survey and resubdivision by the Office of Gandolfo Kuhn LLC, dated August 19, 2022; Drawing No. CC-26-2 and is more particularly described as follows:

Begin at the intersection of the westerly line of Religious Street and the northerly line of Celeste Street, thence go along said line of Celeste Street in a westerly direction a distance of 127 feet 10 inches 5 eighths to a point on the division line of Lot P and Lot Q-1A; thence along said line at in interior angle to the left of $89^{\circ}55'40''$ a distance of 191 feet 11 inches 0 eighths to the division line of Lot Q-1A and Lot 4; thence along said line in an easterly direction and parallel to Celeste Street at an interior angle to the left of $90^{\circ}04'20''$ a distance of 127 feet 10 inches 5 eighths to a point on the westerly line of Religious Street; thence along said line in a southerly direction at an interior angle to the left of $89^{\circ}55'40''$ a distance of 191 feet 11 inches 0 eighths to the Point of Beginning.

4854-4005-6936, v. 1

Calendar No. (Rev)
(Exp)

Name Brandon Benjamin Ext. 3518
Person responsible for routing

**CHECK SHEET TO BE USED FOR
CLEARING ORDINANCES, MOTIONS, AND RESOLUTIONS
BEFORE SUBMISSION TO COUNCIL CLERK**

The originating agency shall attach a copy of each proposed ordinance, motion, or resolution to the check sheet for processing in the sequence indicated after preparing a synopsis. The detailed memorandum of explanation shall also be attached to this check sheet.

SYNOPSIS OF DOCUMENT: AN ORDINANCE authorizing the Mayor of the City of New Orleans to enter into a servitude agreement with Celeste Landing, LLC, air rights for the purpose encroachments of a canopy bearing the municipal address of 1717 Religious Street for a yearly payment of \$208.00;

1. Howard E. Nolder III
Department Head
2. [Signature] stephen nelson
Department of Law Deputy CAO
3. [Signature]
Chief Administrative Officer
4. Elizabeth Brusseau
Director of Council Relations
5. _____
Initials of Sponsoring Council Member

COUNCIL ACTION

Council Members Present: _____

Absent: _____

AMENDMENTS:

FINAL ADOPTION:

_____ MOVED: _____
 _____ 2ND: _____
 _____ YEAS: _____
 _____ NAYS: _____
 _____ ABSENT: _____
 _____ RECUSED: _____

7. _____
Reviewed by the Chief Administrative Officer after adoption by the City Council and prior to the Mayor's signature.



LEGISLATIVE SUMMARY

TO ACCOMPANY ORDINANCES

BEFORE SUBMISSION TO CLERK OF COUNCIL

Requesting Department or Agency: _____

Name of Contact Person: _____

Telephone Number: _____

Email Address: _____

Initials of Sponsoring Councilmember(s): _____

DETAILED SYNOPSIS OF THE ORDINANCE

Please generally describe the purpose, intent, and effect of the proposed ordinance.



LEGISLATIVE SUMMARY

If the Ordinance is to effectuate a contract, CEA, or other similar agreement (hereafter contract), please provide the following additional information.

If this section is not applicable, please check this box.

The parties involved:

The obligations, expectations, and deliverables of the parties involved:

Any fiscal implications for the City with the contract:

The public purpose and need for the contract:

The duration of the contract:



LEGISLATIVE SUMMARY

If the Ordinance is to effectuate an amendment to the Codes of the City of New Orleans, please provide the following additional information.

If this section is not applicable, please check this box.

The existing provision(s) of the Code being proposed for amendment:

The general content/requirements of the existing Code provision:

How the proposed ordinance will alter the existing Code provision(s):

Why these changes are needed:

REQUESTED ADOPTION DATE: _____