

AN ORDINANCE

98530

RENEWING A LICENSE AGREEMENT WITH HMC RETIREMENT PROPERTIES, L.P., FOR THE CONTINUED USE OF EAST DURANGO BOULEVARD PUBLIC RIGHT OF WAY FOR AN EXISTING DECORATIVE WALL AND LANDSCAPING AT THE ABUTTING PLAZA SAN ANTONIO, A MARRIOTT HOTEL, LOCATED AT 555 SOUTH ALAMO STREET, IN NCB 901, FOR A TEN (10) YEAR TERM AND A LICENSE FEE OF \$5,000.00; AND PROVIDING FOR A POSSIBLE ASSIGNMENT TO BARCELO CRESTLINE CORPORATION, OR HIGHLAND HOSPITALITY CORPORATION.

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WHEREAS, the City previously approved a License Agreement with HMC Retirement Properties, L.P., pursuant to Ordinance No. 49367 on May 11, 1978 for the use of East Durango Public Right of Way for an existing decorative wall and landscaping at the abutting Plaza San Antonio, a Marriott Hotel, located at 555 South Alamo Street in N.C.B. 901; and

WHEREAS, HMC Retirement Properties, L.P., ("Petitioner") has requested a renewal of the License Agreement for the continued use of public right of way at East Durango and for a possible assignment of said agreement to Barcelo Crestline Corporation or its designee, Highland Hospitality Corporation or an affiliate of either Barcelo Crestline Corporation or Highland Hospitality Corporation in the near future to expire within one (1) calendar year of the effective date of the Ordinance; **NOW THEREFORE**;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The License Agreement with HMC Retirement Properties, L.P. previously approved by Ordinance No. 49367 on May 11, 1978 for the use of East Durango Public Right of Way for an existing decorative wall and landscaping at the abutting Plaza San Antonio Hotel at 555 South Alamo Street is hereby renewed.

SECTION 2. The City Manager, or her designee, is hereby authorized to execute a License Agreement, Memorandum of License Agreement and any other related instruments, as first reviewed and approved by the City Attorney, granting HMC Retirement Properties, L.P., as Licensee, the continued right to use public right of way at East Durango for an existing decorative wall and landscaping at the abutting Plaza San Antonio Hotel at 555 South Alamo Street, in NCB 901 for a ten (10) year term for the total License Fee of \$5,000.00. Copies of the License Agreement and Memorandum of License Agreement, executed on behalf of the Licensee, are both attached hereto as **Exhibit "A"** and incorporated herein verbatim for all purposes. Said use is further shown on **Exhibit "B"** attached hereto and incorporated herein for all purposes.

SECTION 3. Licensee is granted the right to assign the License Agreement to Barcelo Crestline Corporation or its designee, Highland Hospitality Corporation or an affiliate of either Barcelo Crestline Corporation or Highland Hospitality Corporation in the near future to expire within one (1) calendar year of the effective date of the License Agreement, with thirty (30) days' prior written notice to the City, in connection with the possible sale of the abutting Hotel property to the assignee.

SECTION 4. The grant of the License is contingent on Licensee's compliance with the conditions and/or restrictions set forth in a letter agreement, a copy of which is attached hereto as **Exhibit "C"** and incorporated herein verbatim for all purposes.

SECTION 5. The License Fee shall be deposited into Fund 11-0000 entitled "General Fund," Index Code 012732 entitled "License Agreement – Use of ROW."

SECTION 6. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocation to specific Index Codes and Fund Number as necessary to carry out the purpose of this Ordinance.

SECTION 7. This ordinance shall take effect on the 14th day of December 2003.

PASSED AND APPROVED this 4th day of December 2003.



M A Y O R

EDWARD D. GARZA

ATTEST: *Mary Lou Rodriguez*
for City Clerk

APPROVED AS TO FORM: *[Signature]*
for City Attorney