

AN ORDINANCE **9 9 0 4 5**

APPROVING: 1) A CONSENT (AND RELEASE) IN CONNECTION WITH AN ASSIGNMENT OF A GROUND LEASE AGREEMENT, AS AMENDED, GRANTING THE CITY'S CONSENT, AS LESSOR, TO ASSIGN THE LEASEHOLD INTEREST OF PATRIOT AMERICAN HOSPITALITY PARTNERSHIP, L.P., THE CURRENT LESSEE, TO FAIRMOUNT INVESTMENTS, LLC, A TEXAS LIMITED LIABILITY COMPANY, TO USE CITY-OWNED LAND UNDER THE FAIRMOUNT HOTEL LOCATED AT 401 S. ALAMO STREET IN CITY COUNCIL DISTRICT 1; 2) GROUND LEASE ESTOPPEL-LESSOR ESTOPPEL CERTIFICATE; 3) A CONSENT AND NON-DISTURBANCE OF LESSOR, REQUESTED BY NORTH AMERICA LIFE INSURANCE COMPANY OF TEXAS AS THE LENDER ("MORTGAGEE") FOR FAIRMOUNT INVESTMENTS, LLC; 4) A CONSENT FROM THE CITY FOR FAIRMOUNT INVESTMENTS, LLC, TO ENTER INTO A NEW SUBLEASE AGREEMENT WITH HHC TRS OP, L.L.C., AS SUBLESSOR, DERIVING IT RIGHTS BY AGREEMENT(S) WITH HIGHLAND HOSPITALITY, L.P., OWNER OF THE PLAZA SAN ANTONIO-MARRIOTT HOTEL TO USE A PORTION OF THE GERMAN-ENGLISH SCHOOL LEASED PREMISES FOR PARKING PURPOSES, INCLUDING A LICENSE FOR INGRESS AND EGRESS; 5) TERMINATION OF EXISTING LICENSE AGREEMENT WITH PATRIOT AMERICAN HOSPITALITY PARTNERSHIP, L.P., AND 6) A NEW TEN (10) YEAR LICENSE AGREEMENT GRANTING A LICENSE TO FAIRMOUNT INVESTMENTS, LLC, TO USE PUBLIC RIGHT-OF-WAY TO REPAIR, MAINTAIN, AND REPLACE TWO PORCHES ON THE OLDER PORTION OF THE FAIRMOUNT HOTEL AND THE "PORTE COCHERE" ON THE HOTEL'S NEWER ADDITION, ON ALAMO STREET, AND FOUR "AREAWAYS" (EXTENSIONS) ON THE NUEVA STREET SIDE FOR THE CONSIDERATION OF \$5,000.00, PLUS 7) ANY OTHER NECESSARY DOCUMENTS, AS FIRST REVIEWED AND APPROVED BY THE CITY ATTORNEY, IN CONNECTION WITH THE CLOSING OF THE SALE OF THE FAIRMOUNT HOTEL FROM PATRIOT AMERICAN HOSPITALITY PARTNERSHIP, L.P., TO FAIRMOUNT INVESTMENTS LLC; ALL CITY APPROVALS BEING SUBJECT TO WRITTEN CONFIRMATION OF THE CLOSING OF SUCH SALE.

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WHEREAS, the City entered into a Ground Lease Agreement with C. Thomas Wright pursuant to Ordinance No. 60113 dated January 17, 1985 to use city owned land beneath the Fairmount Hotel; and

WHEREAS, Patriot American Hospitality Partnership, L.P. is the current Lessee with a 25 year term which ends on September 30, 2017 with a 25-year renewal option and in addition the city entered into a license agreement with Fairmount Hotel to use city right of way for some improvements to the hotel; and

WHEREAS, Patriot American Hospitality Partnership, L.P. also owner of the Fairmount Hotel, has entered into a contract to sell the Fairmount Hotel to Fairmount Investments, LLC and is requesting that the City approve the execution of several documents in connection with the pending sale, to also include consenting to a sublease of a portion of the City-Owned German-English School now leased by the owners of the Plaza San Antonio-Marriott Hotel; for parking for the Fairmount Hotel; and the City staff is recommending such approval, subject to written confirmation of the closing of such sale; **NOW THEREFORE**;

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

SECTION 1. The following documents are approved in connection with the pending sale of the Fairmount Hotel by Patriot American Hospitality Partnership, L.P., the owner and the current Lessee, under a Ground Lease with the City, to Fairmount Investments, LLC: 1) a Consent (And Release) in connection with an Assignment of A Ground Lease Agreement, as amended, granting the City's consent, as Lessor, to assign the leasehold interest of Patriot American Hospitality Partnership, L.P., the current Lessee, to Fairmount Investments, LLC, a Texas Limited Liability Company, to use City-owned land under the Fairmount Hotel located at 401 S. Alamo Street; 2) a Ground Lease Estoppel-Lessor Estoppel Certificate; 3) a Consent and Non-Disturbance Of Lessor, requested by North America Life Insurance Company Of Texas as the Lender ("Mortgagee") for Fairmount Improvements, LLC; 4) a Consent from The City For Fairmount Investments, LLC, as Sublessee, to enter into a new Sublease Agreement With HHC TRS OP, L.L.C., as Sublessor, deriving it rights by agreement(s) with Highland Hospitality, L.P., owner of the Plaza San Antonio-Marriott Hotel to use a portion of the German-English School leased premises for parking purposes, including a License for ingress and egress; 5) Termination Of Existing License Agreement With Patriot American Hospitality Partnership, L.P., and 6) a new ten (10-year License Agreement granting a license to Fairmount Investments, LLC, to use public right-of- way to repair, maintain, and replace two porches on the older portion of the Fairmount Hotel and the "Porte Cochere" on the hotel's newer addition, on Alamo Street, and four "areaways" (Extensions) on Nueva Street Side for the consideration of \$5,000.00, plus 7) any other necessary documents, as first reviewed and approved by the City Attorney, with the approval by the City being subject to written confirmation of the closing of such sale of the Fairmount Hotel.

SECTION 2. The City Manager or her designee is hereby authorized to execute all of the documents set forth in **SECTION 1.** above, to include any other necessary documents, as first reviewed and approved by the City Attorney, in connection with the closing of the sale of the Fairmount Hotel From Patriot American Hospitality Partnership, L.P., to Fairmount Investments LLC, as noted in **SECTION 1.**, with all City approvals and authorization to execute the documents being subject to written confirmation of the closing of such sale.

Copies of said documents are affixed hereto as **Attachment I** and incorporated herein verbatim for all purposes.

SECTION 3. The License Fee received from the new 10-year License Agreement referenced in **SECTION 1.** above, shall be deposited into Fund 11-000 entitled "General Fund," Index Code 012732, entitled, "License Agreements - Use of ROW."

SECTION 4. This ordinance shall take effect on the 18th day of April 2004.

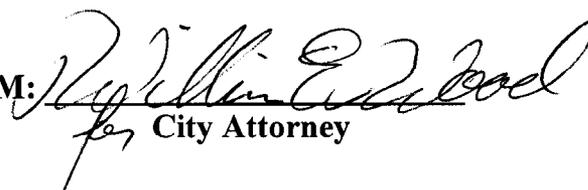
PASSED AND APPROVED this 8th day of April 2004.



M A Y O R

EDWARD D. GARZA

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney