

AN ORDINANCE 2006-03-02-0275

**AUTHORIZING THE EXECUTION OF (1) A CONSENT TO ASSIGNMENT OF A LEASE OF PUBLIC PATIO SPACE ALONG THE RIVERWALK FOR WATERMARK DINING USE AND PROVIDING FOR A \$1,000.00 ASSIGNMENT FEE AND (2) A CONSENT TO ASSIGNMENT OF A LEASE OF PUBLIC PATIO SPACE ALONG THE RIVERWALK FOR LA MANSION DINING USE AND PROVIDING FOR A \$1,000.00 ASSIGNMENT FEE; AND AUTHORIZING THE DELIVERY OF VARIOUS DOCUMENTS IN CONNECTION WITH THE PENDING SALE OF THE LA MANSION AND WATERMARK HOTELS.**

\* \* \* \* \*

**WHEREAS**, on December 9, 1999, through Ordinance No. 90983, City Council approved a lease agreement with La Mansion Del Rio, Inc. for the continued use of 1,536 square feet of public space for outdoor dining adjacent to the Las Canarias Restaurant; and

**WHEREAS**, additionally, through the same ordinance, City Council approved a lease agreement with La Mansion Hotels, Ltd. for another public space on the San Antonio Riverwalk to be developed for outdoor dining purposes; and

**WHEREAS**, La Mansion Hotels, Ltd. completed its development with the completion of the Watermark Hotel in December 2003, and began occupancy of 1,140 square feet of lease space on January 1, 2004 for use by Pesca Restaurant; and

**WHEREAS**, both leases have been assigned to La Mansion Hotels Ltd; and

**WHEREAS**, in February 2006 La Mansion Hotel, Ltd. informed the City their properties were to be sold to Omni Hotels, Inc. and requested the City's consent to assign leases for Las Canarias Restaurant and Pesca Restaurant as well as other license agreements with the City's Asset Management Department; and

**WHEREAS**, the lease agreements with La Mansion Hotels, Ltd. allow for the assignment of each lease, with the consent of City Council; NOW THEREFORE:

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

**Section 1.** The City Manager or her designee is hereby authorized to execute and deliver a consent to assignment substantially in the form attached hereto as Exhibits A and B, which are incorporated herein by reference for all purposes as if it were fully set forth. The City Manager or her designee is further authorized to take all other actions reasonably necessary or convenient to effect the transactions described in Exhibit A and B, including agreeing to non-material changes to its terms.

**Section 2.** Funds in the amount of \$2,000.00 are to be deposited into Fund 29093000, River Walk Improvements, WBS Element OR-00001-01-01-01, Future Riverwalk Improvements, General Ledger 4407711, C&R Rental Income - Other, when received from Riverwalk Hotel and Spa Corporation.

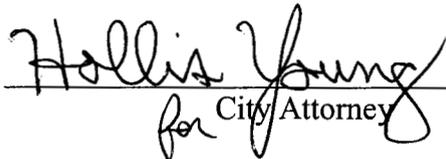
**Section 3.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**Section 4.** This ordinance becomes effective March 12, 2006, unless it receives the eight votes requisite to immediate effectiveness under City Code of San Antonio § 1-15, in which case it shall be effective immediately.

PASSED AND APPROVED this 2<sup>nd</sup> day of March 2006.

  
M A Y O R

Attest:   
City Clerk

Approved As To Form:   
for City Attorney

**Consent to Assignment of Lease Agreement  
(Watermark Hotel—Riverwalk Patio Lease)**

This Consent to Assignment of Lease Agreement is entered into among the City of San Antonio (City) and the Assignee and Assignor designated below.

**Predicate Facts**

Assignor is the Lessee under the below described Lease with City.

Assignor wishes to assign the Lease Agreement to Assignee, and City consents to the assignment on the terms and conditions of this instrument.

**Rights and Obligations**

Now therefore, in consideration of the premises, the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

**1. Identifying Information.**

**Lease:** Lease Agreement between City and Assignor relating to Lessee's use of 1140.35 sq. ft. of public patio space along the San Antonio Riverwalk, San Antonio, Texas, for outdoor dining authorized by the Ordinance Authorizing Original Lease, and attached as **Exhibit A**

**Assignor:** La Mansion Hotels, Ltd.

**Assignor's Address:** c/o Jack Hebdon, Jr., 112 E. Pecan, Suite 2810, San Antonio, Texas 78205-1570

**Assignee:** Riverwalk Hotel and Spa Corporation

**Assignee's Address** 420 Decker Drive, Irving, Texas 75062

**Ordinance Authorizing Original Lease (No. & Date):** No. 90983, dated December 9, 1999

**Ordinance Authorizing This Consent (No. & Date):**

**Assignment Fee** \$1,000.00  
**(City Code § 29-22):**

**2. Defined Terms.**

All terms defined in the Lease and not otherwise defined in this Consent, when used in this instrument, have the meanings ascribed to them in the Lease.

### **3. Consent.**

City consents to the assignment contemplated by this instrument, but the consent is dependent on fulfillment of the instrument's other terms.

### **4. No Default.**

As a part of the inducement to City to execute and deliver this consent, Assignor represents to City and Assignee that:

- a. The Lease is in full force and effect according to its terms.
- b. City is not in default under the Lease.
- c. Assignor has no offset or claim against City that would reduce or impair its obligations to City under the Lease.

### **5. Assumption of Lease.**

Assignee assumes all liabilities of the Lessee under the Lease, whether relating to the period before assignment or after. City may hereafter deal with Assignee as if it were the original Lessee under the Lease, and Assignee will have no rights or defenses not available to the Assignor as to matters relating to the period before the assignment. City releases Assignor of all liabilities relating to the period after the assignment, but only as to such liabilities.

### **6. Assignment Fee.**

The Assignment Fee must be paid to City before City executes and delivers this consent.

### **7. Scope of Agreement.**

This instrument defines the rights and obligations of City as against Assignor and Assignee. As between themselves, Assignor and Assignee may define the rights and obligations between themselves differently. But City is a third party beneficiary of any retention by Assignor, in any agreement with Assignee, of liabilities arising out of or relating to this Lease.

### **8. Same Terms and Conditions.**

This Consent to Assignment is a fully integrated statement of the modifications to the Lease. Except as expressly modified by this consent to assignment, the Lease remains a comprehensive statement of the rights and obligations of City, Assignor, and Assignee under the Lease. City, Assignor, and Assignee reaffirm the Lease, as modified by this consent.

**Consent to Assignment of Lease Agreement  
(La Mansion del Rio/Las Canarias Restaurant—Riverwalk Patio Lease)**

This Consent to Assignment of Lease Agreement is entered into among the City of San Antonio (City) and the Assignee and Assignor designated below.

**Predicate Facts**

Assignor is the Lessee under the below described Lease with City.

Assignor wishes to assign the Lease Agreement to Assignee, and City consents to the assignment on the terms and conditions of this instrument.

**Rights and Obligations**

Now therefore, in consideration of the premises, the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

**1. Identifying Information.**

**Lease:** Lease Agreement between City and Assignor relating to Lessee's use of 1536 sq. ft. of public space along the San Antonio Riverwalk, San Antonio, Texas, for outdoor dining authorized by the Ordinance Authorizing Original Lease, and attached as **Exhibit A**

**Assignor:** La Mansión Hotels, Ltd.

**Assignor's Address:** c/o Jack Hebdon, Jr., 112 E. Pecan, Suite 2810, San Antonio, Texas 78205-1570

**Assignee:** Omni La Mansión Corporation

**Assignee's Address** 420 Decker Drive, Irving, Texas 75062

**Ordinance Authorizing Original Lease (No. & Date):** No. 90983, dated December 9, 1999

**Ordinance Authorizing This Consent (No. & Date):**

**Assignment Fee (City Code § 29-22):** \$1,000.00

**2. Defined Terms.**

All terms defined in the Lease and not otherwise defined in this Consent, when used in this instrument, have the meanings ascribed to them in the Lease.

### **3. Consent.**

City consents to the assignment contemplated by this instrument, but the consent is dependent on fulfillment of the instrument's other terms.

### **4. No Default.**

As a part of the inducement to City to execute and deliver this consent, Assignor represents to City and Assignee that:

- a. The Lease is in full force and effect according to its terms.
- b. City is not in default under the Lease.
- c. Assignor has no offset or claim against City that would reduce or impair its obligations to City under the Lease.

### **5. Assumption of Lease.**

Assignee assumes all liabilities of the Lessee under the Lease, whether relating to the period before assignment or after. City may hereafter deal with Assignee as if it were the original Lessee under the Lease, and Assignee will have no rights or defenses not available to the Assignor as to matters relating to the period before the assignment. City releases Assignor of all liabilities relating to the period after the assignment, but only as to such liabilities.

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