

FIRST AMENDMENT TO  
RIVER WALK LEASE AGREEMENT

This Amendment No. 1 to the River Walk Lease Agreement ("Agreement") is made and entered into by and between the CITY OF SAN ANTONIO, a Texas Municipal Corporation, acting herein through its City Manager pursuant to Ordinance No. \_\_\_\_\_ passed and approved on the \_\_\_\_\_ day of \_\_\_\_\_ 2014 (hereinafter referred to as "CITY"), and Palacio Del Rio, Inc., d/b/a Hilton Palacio Del Rio, a Delaware Corporation and successor in interest to Palacio Del Rio, Ltd. a Texas limited partnership, (hereinafter referred to as "LESSEE"), acting by and through its duly authorized officers, WITNESSETH.

Recital: CITY and LESSEE entered into a River Walk Lease Agreement ("Lease" or "Agreement" or "Lease Agreement") pursuant to Ordinance No. 2009-6-25-0578, passed and approved on June 25, 2009. The LESSEE has requested that the Agreement be extended for 25 years past the initial termination date of June 30, 2014. The City is agreeable to this request and the parties hereby agree to amend the Agreement as follows:

1. Section 3.1 of the Agreement hereby amended to extend the lease term to June 30, 2039. The period from July 1, 2014 — June 30, 2039 shall be referred to as the First Extended Term. If (1) LESSEE is not in default hereunder AND (2) subject to the prior approval of the San Antonio City Council, as evidenced by passage of a CITY Ordinance, LESSEE may renew for additional twenty-five (25) year lease period ("Second Extended Term"), under the same terms and conditions of this Lease, if still in effect, except rent and insurance which may be adjusted as provided herein, and provided however, that LESSEE shall notify CITY in writing no earlier than one year prior to the expiration date of the First Extended Term and at least six (6) months before the expiration date of the First Extended Term, of its intent to exercise option as herein provided.
2. The rental rate shall be \$2.63 per square foot per month or \$31.56 per square foot for the first lease year of the First Extended Term. This rental rate shall increase by a rate of three percent (3%) ("Escalation Rate") for each following year of the First and Second Extended Terms. However, at no shorter than five (5) year intervals, City may adjust, up or down, the rental rate to the "fair market rate" for comparable properties at that time. Before making such adjustment, City shall have a market rental study done by a MAI-certified appraiser selected by City. CITY shall provide copy of study to LESSEE within 120 calendar days of the end of the term, who shall have 30 calendar days to notify the CITY in writing if LESSEE does not agree with appraiser's fair market rate. If LESSEE notifies CITY in writing within 30 calendar days from date of receipt of study that LESSEE does not agree with

proposed fair market rate, LESSEE shall have 60 calendar days from the date of LESSEE's notification to CITY to provide to CITY and CITY's appraiser a market rental study conducted by a MAI-certified appraiser (at LESSEE's expense) that shall identify a fair market rate for LESSEE's space on the River Walk. CITY's appraiser and LESSEE's appraiser shall have 30 calendar days from date of CITY's receipt of LESSEE's appraiser's study to reach consensus on a fair market rate for LESSEE's space on the River Walk. If CITY's appraiser and LESSEE's appraiser are unable to reach consensus within 30 calendar days, both appraisers shall identify a third appraiser to conduct a market rental study and identify a fair market rate for LESSEE's space on the River Walk. The third appraiser's fair market rate shall be averaged with the closer of the rates from the CITY's or LESSEE's appraisers to establish a new rental rate. The cost of the third appraiser's services shall be paid equally by the CITY and LESSEE. During the period of a dispute regarding the fair market rate, LESSEE shall pay according to the last agreed rental rate until the dispute is resolved as agreed above. Upon such resolution of that dispute, LESSEE shall be credited or charged as appropriate for the difference between the resolved fair market rate and the last agreed rental rate that was being paid during the period of dispute. Within 30 calendar days of receiving written notice of any amount so charged, LESSEE shall pay in full such amount charged.

3. Section 4.3 of the Agreement is hereby amended to read as follows:

A fifty dollar (\$50.00) late charge will be assessed on any Rent payment received on the eleventh (11<sup>th</sup>) day of the applicable month or any day thereafter. All past due Rent under the terms of this Lease Agreement shall bear interest at the lesser of (a) the rate of 12% per annum from the date due until paid in full by LESSEE, or (b) the highest rate allowed by law. This Section 4.3 shall not apply to amounts determined to be due to CITY under the fair market rate appraisal process set forth in Paragraph 2 of the First Amendment to River Walk Lease Agreement.

4. Section 10.1 of the Agreement is hereby amended to include the following second paragraph:

Notwithstanding the preceding, if at any time during the First or Second Extended Terms LESSEE sells the adjacent hotel property to any entity other than a parent, subsidiary or similarly affiliated entity this Agreement shall automatically terminate. CITY covenants and agrees it shall enter into good faith negotiations with the new hotel owner for use of the Premises.

5. All other terms and conditions of the Agreement shall remain in full force and effect.

EXECUTED IN DUPLICATE ORIGINALS, each of which shall have the full force and effect of an original this the \_\_\_\_ day of \_\_\_\_\_, 2014.

LESSOR:

CITY OF SAN ANTONIO  
A Texas Municipal Corporation

By: \_\_\_\_\_  
City Manager

LESSEE:

Palacio Del Rio, Inc.  
a Delaware corporation  
d/b/a Hilton Palacio del Rio

By: Warren A. Stokes  
Name: Warren A. Stokes  
Title: Vice President

ATTEST: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney