

**ORDINANCE 2019-06-13-0500**

**APPROVING A FOURTH AMENDMENT TO THE FAIRMOUNT HOTEL  
GROUND LEASE AGREEMENT WITH FAIRMOUNT INVESTMENTS,  
LLC TO REVISE THE TERMS FOR THE APPROVAL OF SUBLEASES  
ON THE PROPERTY LOCATED AT 401 SOUTH ALAMO STREET.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio owns the real property upon which the Fairmount Hotel was developed in accordance with a ground lease originally authorized by Ordinance 60113, dated January 17, 1985; and

**WHEREAS**, pursuant to Ordinance 2018-09-20-0737 the term of the ground lease was extended to expire September 30, 2042; and

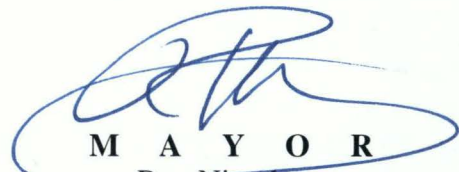
**WHEREAS**, this ordinance will approve the Fourth Amendment of the Fairmount Hotel Ground Lease Agreement and streamline the process for subletting the property; **NOW THEREFORE:**

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


**SECTION 1.** The City Manager and designee, severally, are authorized and directed to execute and deliver on behalf of the City a lease amendment with Fairmount Investments, LLC, which is attached hereto and incorporated herein for all purposes as **Exhibit I**.

**SECTION 2.** This ordinance is effective immediately upon passage by eight affirmative votes; otherwise it is effective on the tenth day after passage.

**PASSED and APPROVED this 13<sup>th</sup> day of June, 2019.**

  
**M A Y O R**  
Ron Nirenberg

**ATTEST:**

  
\_\_\_\_\_  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Andrew Segovia, City Attorney

<b>Agenda Item:</b>	<b>24 ( in consent vote: 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21A, 21B, 22, 24, 25, 26, 27, 30, 31, 32, 33, 34, 35, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 49, 48, 50, 51A, 51B, 52 )</b>
<b>Date:</b>	06/13/2019
<b>Time:</b>	10:10:52 AM
<b>Vote Type:</b>	Motion to Approve
<b>Description:</b>	Ordinance approving the Fourth Amendment of the Fairmount Hotel Ground Lease Agreement with Fairmont Investments, LLC, altering the terms for the approval of subleases on the property located at 401 South Alamo. This ordinance will have no fiscal impact. [Lori Houston, Assistant City Manager; John Jacks, Director, Center City Development and Operations]
<b>Result:</b>	Passed

<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Ron Nirenberg	Mayor	x					
Roberto C. Treviño	District 1		x			x	
Art A. Hall	District 2		x				
Rebecca Viagran	District 3		x				x
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				
Clayton H. Perry	District 10		x				

LC  
06/13/19  
Item No. 24

# **Exhibit I**



**Fourth Amendment of Fairmount Hotel Ground Lease Agreement**  
(401 South Alamo)

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This 4<sup>th</sup> Amendment of Ground Lease Agreement is between Lessee and the City of San Antonio ("Lessor") pursuant to the Ordinance Authorizing 4<sup>th</sup> Amendment.

**1. Identifying Information.**

**Ordinance Authorizing  
4<sup>th</sup> Amendment:**

**Lessor:** City of San Antonio

**Lessor's Address:** P.O. Box 839966, San Antonio, Texas 78283-3966  
(Attention: Center City Development & Operations  
Department)

**Lessee:** Fairmount Investments, LLC, a Texas limited liability  
company

**Lessee's Address:** P.O. Box 14000  
San Antonio, Texas 78214

**Lease:** Fairmount Hotel Ground Lease Agreement between  
Lessor and Lessee pertaining to certain real property  
located in San Antonio, Bexar County, Texas, and  
more specifically described as Lot 6, New City Block  
155, authorized by the Ordinance Authorizing Original  
Ground Lease

**Ordinance Authorizing  
Original Lease:** 60113, January 17, 1985

**Ordinance Authorizing  
2<sup>nd</sup> Amendment &  
Assignment of Lease:** 76424, September 3, 1992, as amended by Ordinance  
76699 on October 15, 1992

**Beginning of Extended  
Lease Term:** October 1, 2017

**Expiration of Extended  
Lease Term:** September 30, 2042

**Ordinance Authorizing  
3<sup>rd</sup> Amendment:** 2018-09-20-0737

## **2. Define Terms.**

All terms used in this instrument and not otherwise defined herein but defined in the Lease or any previous amendment to it have the meanings previously ascribed to them. References to "Lease" in this Amendment include the original Fairmount Hotel Ground Lease Agreement and all previous amendments.

## **3. Assignment and Sublease, Amendment.**

ARTICLE 12, "ASSIGNMENT AND SUBLEASE", Paragraphs 12.02 and 12.03 are hereby amended as to hereafter read as follows:

12.02 Subject to the approval of the City Manager or designee of such subletting, LESSEE shall have the right to sublet any portion of the leased premises herein described as LESSEE may deem proper, it being expressly understood and agreed that any such subletting shall have no effect on the obligations and covenants imposed hereunder upon LESSEE and shall not release LESSEE from any liability under this Lease.

12.03 LESSEE shall give the City Manager or designee, within thirty (30) days following the execution of an assignment or sublease, written notice that it has entered into an assignment or sublease of this Lease, which notice shall include the identity of and reasonable financial history and other relevant data concerning the proposed assignee or sub-tenant. LESSEE acknowledges that 1.) no assignment shall become effective until approved by the CITY OF SAN ANTONIO City Council as evidenced by the issuance of a CITY OF SAN ANTONIO Ordinance, and 2.) no sublease shall become effective until approved by the City Manager or designee, as evidenced by a letter from the City Manager or designee to LESSEE. Whether an assignment or sublease is requested by LESSEE, LESSOR will provide LESSEE written notice of its intent to approve or disapprove the assignment or sublease no later than sixty (60) days from LESSOR'S receipt of LESSEE'S written notice that it has entered into an assignment or sublease of this Lease.

## **4. No Default.**

Neither Lessor nor Lessee is in default under the Lease, and neither party is aware of a cause of action against the other arising out of or relating to the period before this amendment.

## **5. Counterparts.**

This Agreement may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of their number, counterparts constitute only one agreement. In making proof of this agreement, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.



## **6. Non-Discrimination.**

Lessee understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate in its operations under this lease agreement on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

## **7. Same Terms and Conditions.**

This Amendment is a fully integrated statement of the modifications to the Lease. Except as expressly modified by this Amendment, the Lease remains a comprehensive statement of the rights and obligations of Lessor and Lessee. Lessor and Lessee reaffirm the Lease as modified by this agreement and represent to each other that no written right or obligation of either party has been waived such that it would impair exercise of the right or enforcement of the obligation on a future occasion. If this Amendment conflicts with the Lease, this Amendment controls.

## **8. Public Information.**

Lessee acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public. Nothing in this agreement waives an otherwise applicable exception to disclosure.

[Remainder of this page intentionally left blank.]

In Witness Whereof, the parties have caused their representatives to set their hands.

**Lessor**

City of San Antonio, a Texas  
municipal corporation

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Approved as to Form:**

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

**Attest:**

\_\_\_\_\_  
City Clerk

**Lessee**

Fairmount Hospitality G.P., a  
Texas General Partnership

  
\_\_\_\_\_  
Signature

Robert D. Tips  
\_\_\_\_\_  
Name

Member  
\_\_\_\_\_  
Title

April 1, 2019  
\_\_\_\_\_  
Date