

A RESOLUTION
EZDC-2004-02

OF THE CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION TAKING AFFIRMATIVE OFFICIAL ACTION, AT THE REQUEST OF DRURY SOUTHWEST, INC. AND EURO ALAMO INVESTMENTS, INC., TOWARD THE ISSUANCE OF TAX-EXEMPT EMPOWERMENT ZONE BONDS TO RENOVATE AND REDEVELOP THE ALAMO NATIONAL BANK BUILDING AND PARKING GARAGE, AND DECLARING AN OFFICIAL INTENT TO USE BOND PROCEEDS TO REIMBURSE EXPENDITURES, INCURRED BY DRURY SOUTHWEST, INC. AND EURO ALAMO INVESTMENTS, INC. (OR THEIR AFFILIATES OR RELATED ENTITIES) PRIOR TO THE ISSUANCE OF SUCH BONDS, IN CONNECTION WITH SUCH REDEVELOPMENT PROJECT

STATE OF TEXAS §
COUNTY OF BEXAR §
CITY OF SAN ANTONIO, TEXAS
EMPOWERMENT ZONE DEVELOPMENT CORPORATION §

WHEREAS, the CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION (the "Issuer") is a nonprofit local government corporation created by the CITY OF SAN ANTONIO, TEXAS (the "City") pursuant to Subchapter D of Chapter 431, Texas Transportation Code, as amended (the "Act"); and

WHEREAS, a portion of the City has been designated by the U.S. Department of Housing and Urban Development as a *Round III Urban Empowerment Zone* (the "Empowerment Zone"), which, among other areas, includes the downtown area of the City; and

WHEREAS, among other federal tax incentives available to provide a catalyst for private investment and promote economic development within the Empowerment Zone, the City is authorized to issue up to \$230,000,000 in principal amount of bonds (the "City's Empowerment Zone Bond Capacity") and loan the proceeds thereof to an "enterprise zone business" to finance "qualified zone property" (as such terms are defined in Sections 1397C and 1397D, respectively, of the Internal Revenue Code of 1986) in the Empowerment Zone, the interest on which is excludable from federal income taxation (the "Empowerment Zone Bonds"); and

WHEREAS, pursuant to the Act and the Issuer's Articles of Incorporation, the Issuer is empowered to aid and act on behalf of the City to accomplish certain governmental purposes of the City, to wit: the administration of various federal tax incentives relating to the Empowerment Zone designated within the City, including but not limited to the issuance of Empowerment Zone

Bonds on behalf of qualified businesses within the Empowerment Zone, at the request of the City Council of the City; and

WHEREAS, DRURY SOUTHWEST, INC., a Missouri corporation authorized to do business in the State of Texas ("Drury Southwest"), has submitted an application to the City (the "Application") requesting that the City designate \$40,000,000 of the City's Empowerment Zone Bond Capacity, and that the Issuer issue up to \$40,000,000 in principal amount of Empowerment Zone Bonds, in order to provide for tax-exempt financing to renovate and redevelop the Alamo National Bank Building and related parking facilities (located on the west side of St. Mary's Street between Commerce Street and Market Street in the City's downtown area) in one or more phases into a new hotel which, upon completion, will include approximately 390 guest rooms and related hotel amenities and parking facilities and improvements along the Riverwalk (the "Drury Hotel Project"); and

WHEREAS, the Drury Hotel Project is located within the Empowerment Zone and is expected to satisfy the requirements of a "qualified zone property" as set forth in Section 1397D of the Internal Revenue Code of 1986; and

WHEREAS, it is further expected that the Drury Hotel Project will be operated as a "Drury Hotel" and will be owned by a partnership composed of Drury Southwest and EURO ALAMO INVESTMENTS, INC., a Texas corporation ("Euro Alamo"), or one or more related entities of Drury Southwest and/or Euro Alamo and managed by Drury Southwest or one of its affiliates (herein referred to collectively as the "Borrower"); and

WHEREAS, Drury Southwest has represented to the City and the Issuer that the Borrower will satisfy the requirements of an "enterprise zone business" as set forth in Section 1397C of the Internal Revenue Code of 1986 (including but not limited to the requirement that at least 35% of the employees of the enterprise zone business are residents of the Empowerment Zone); and

WHEREAS, Drury Southwest has requested and proposed that the Issuer make a firm commitment to issue up to \$40,000,000 in principal amount of Empowerment Zone Bonds and loan the proceeds thereof to the Borrower to finance and pay for the Drury Hotel Project; and

WHEREAS, on June 24, 2004, prior to the adoption of this Resolution, the Interim Governing Board of the City of San Antonio Empowerment Zone Governance Board adopted a resolution approving the Drury Hotel Project for financing with tax-exempt Empowerment Zone Bonds and recommending that the Issuer issue up to \$40,000,000 of tax-exempt Empowerment Zone Bonds to finance all or a portion of the Drury Hotel Project and that the City Council of the City designate and reserve up to \$40,000,000 of the City's Empowerment Zone Capacity to finance all or a portion of the Drury Hotel Project with tax-exempt Empowerment Zone Bonds; and

WHEREAS, also on June 24, 2004, prior to the adoption of this Resolution, the City Council of the City approved an ordinance (the "Empowerment Zone Bond Designation Ordinance") approving the Drury Hotel Project for financing with tax-exempt Empowerment Zone Bonds, recommending and requesting that the Issuer issue up to \$40,000,000 of tax-exempt Empowerment Zone Bonds to finance all or a portion of the Drury Hotel Project, and designating and reserving up to \$40,000,000 of the City's Empowerment Zone Capacity to finance all or a portion of the Drury Hotel Project with tax-exempt Empowerment Zone Bonds (which reservation, in accordance with the Empowerment Zone Bond Designation Ordinance, will terminate if the City and the Borrower are unable to execute a development agreement prior to December 31, 2004, or if the Empowerment Zone Bonds are not issued prior to July 1, 2007); and

WHEREAS, Drury Southwest has advised the City and the Issuer that a contributing factor which would induce the Borrower to cooperate with the City and the Issuer in providing for the financing of the Drury Hotel Project would be a commitment and agreement by the Issuer to issue tax-exempt Empowerment Zone Bonds pursuant to the Act in order to finance and pay for all or a portion of the costs of the Drury Hotel Project; and

WHEREAS, in connection with its application for the issuance of Empowerment Zone Bonds by the Issuer, Drury Southwest has executed an "Inducement and Indemnity Agreement" which, among other things, obligates Drury Southwest to, at all times, indemnify and hold harmless the Issuer and the members, officers, employees, attorneys, and agents of its Board of Directors, the City, and the members, officers and employees of the City Council of the City against all losses, costs, damages, expenses and liabilities of whatsoever nature and kind directly or indirectly resulting from, arising out of, or related to the acceptance, consideration and approval or disapproval of its application for Empowerment Zone Bond financing or the issuance, offering, sale, delivery or payment of any such obligations, interest thereon and premium, if any or the design, construction, installation, operation, use, occupancy, maintenance or ownership of the Drury Hotel Project; and

WHEREAS, in conjunction with the Drury Hotel Project, Drury Southwest has indicated that it, along with Euro Alamo or other private entities, will use other available funds to renovate and redevelop the Aztec Theater, located near the Drury Hotel Project, into a state-of-the-art theme tourist destination movie theater and Riverwalk restaurant, which project is expected to provide additional economic development to the City; and

WHEREAS, the Issuer finds, intends and declares that this Resolution shall, in accordance with its provision, constitute the commitment and agreement of the Issuer to issue the Empowerment Zone Bonds in such aggregate principal amount requested by the Borrower (but in no event to exceed \$40,000,000) as is actually required to finance and pay for the Drury Hotel Project; and

WHEREAS, the Issuer finds, considers and declares that the issuance of the Empowerment Zone Bonds in such amount and for such purpose will be appropriate and consistent with the

objectives of the Act and the Issuer's Articles of Incorporation, and that the adoption of this Resolution is and constitutes, and is intended as: (i) an inducement to the Borrower to cooperate with the Issuer in providing for the financing of the Drury Hotel Project; and (ii) the taking of affirmative official action by the Issuer, acting by and through its Board of Directors, toward the issuance of the Empowerment Zone Bonds, and that such action is, and is intended to be, the adoption of an official intent for the Drury Hotel Project, within the meaning of Section 1.103-8(a)(5) of the Federal Treasury Regulations, and (iii) the official declaration of the intention of the Issuer, in accordance with the provisions of Section 1.150-2 of the Federal Treasury Regulations, to use bond proceeds to reimburse expenditures, incurred by the Borrower (including Drury Southwest, Euro Alamo or their affiliates or related entities) prior to the issuance of such bonds, for the Drury Hotel Project at such time or times as the Empowerment Zone Bonds are issued.

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; **NOW THEREFORE:**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION THAT:

SECTION 1. COMMITMENTS OF THE ISSUER. The Issuer is committed and agrees as follows:

(a) To adopt a bond resolution or bond resolutions prepared by the Issuer's Bond Counsel, when requested by the Borrower, authorizing the issuance of the Empowerment Zone Bonds pursuant to the Act and the Issuer's Articles of Incorporation and to issue the Empowerment Zone Bonds (subject to the requirements of the Act, the execution of the appropriate agreements or contracts described in (b) below and the final paragraph of this Section, and the sale of the Empowerment Zone Bonds under terms and conditions satisfactory to the Issuer and the Borrower) to finance and pay for the Drury Hotel Project, including amounts sufficient to pay the reasonable and necessary fees and out-of-pocket expenses and costs in connection with such issuance, including an amount adequate to pay the Issuer from bond proceeds for its fees set forth in the Application and any reasonable and necessary out-of-pocket expenses and costs incurred with respect to the Empowerment Zone Bonds and the Drury Hotel Project.

(b) Prior to the issuance of the Empowerment Zone Bonds, and when requested by the Borrower, to enter into such appropriate contracts or agreements between the Issuer and the Borrower as are mutually agreeable to the parties in all respects, under which the Borrower will be obligated to make payments to the Issuer and/or a corporate trustee of the amounts required to pay the principal of, interest on and redemption premium, if any, together with the paying agents', registrars' and trustee's fees, on the Empowerment Zone Bonds, as and when the same

shall become due and payable, and with such payments also to be sufficient to defray the Issuer's out-of-pocket expenses and costs with respect to the Empowerment Zone Bonds and the Drury Hotel Project.

(c) To take, or cause to be taken, such other action, and to execute such additional contracts and agreements mutually agreeable to the parties in all respects, when requested by the Borrower, which are required in accordance with the Acts and this Resolution to cause the issuance of the Empowerment Zone Bonds.

Notwithstanding anything to the contrary set forth above, in no event will the Issuer be obligated or deemed obligated to issue Empowerment Zone Bonds to finance the Drury Hotel Project if the City and the Borrower have not executed a mutually acceptable development agreement prior to December 31, 2004, relating to the Drury Hotel Project, if the City's designation of a portion of its Empowerment Zone Bond Capacity to enable the issuance of tax-exempt Empowerment Zone Bonds for the Drury Hotel Project has expired in accordance with the provisions of the Empowerment Zone Bond Designation Ordinance, or if the City otherwise directs the Issuer not to issue Empowerment Zone Bonds for the Drury Hotel Project due to the failure or inability of the Borrower to comply with provisions of the aforementioned development agreement.

SECTION 2. ACCEPTANCE OF PROPOSAL. The adoption of this Resolution shall be deemed to constitute the acceptance of the proposal of Drury Southwest that the Borrower be further induced to cooperate with the Issuer in providing for the financing of the Drury Hotel Project, and said proposal and acceptance shall constitute an agreement between the Issuer and the Borrower in accordance with the provisions of this Resolution.

SECTION 3. INCORPORATION OF RECITALS. The Issuer hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the Issuer hereby incorporates such recitals as a part of this Resolution.

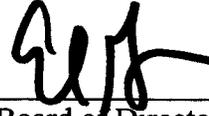
SECTION 4. SEVERABILITY. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 5. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

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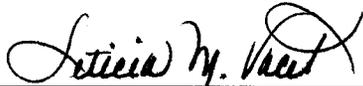
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06/24/04
Item #67B

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION THIS 24TH DAY OF JUNE, 2004.



President, Board of Directors

Attest:



Secretary, Board of Directors

[EXECUTION PAGE TO DRURY HOTEL PROJECT INDUCEMENT RESOLUTION]