

RESOLUTION NO. 2005-25-28

APPROVING THE ISSUANCE BY THE CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION OF UP TO \$35,000,000 IN PRINCIPAL AMOUNT OF ITS CONTRACT REVENUE EMPOWERMENT ZONE BONDS (DRURY SOUTHWEST HOTEL PROJECT), SERIES 2005, THE PROCEEDS OF WHICH WILL BE LOANED TO ALAMO NATIONAL BUILDING DEVELOPMENT, LP, A MISSOURI LIMITED PARTNERSHIP, TO FINANCE THE REDEVELOPMENT OF THE ALAMO NATIONAL BANK BUILDING INTO A HOTEL, AND APPROVING OTHER MATTERS RELATED THERETO

* * * * *

WHEREAS, the CITY OF SAN ANTONIO, TEXAS (the "City"), a Texas home-rule municipality operating pursuant to the laws of the State of Texas and its City Charter, authorized the creation of the CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION (the "Issuer") as a nonprofit local government corporation pursuant to the laws of the State of Texas, including particularly Subchapter D of Chapter 431, Texas Transportation Code (the "Act"), to act on behalf of the City for the purpose of "*aiding and acting 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 facility bonds on behalf of qualified businesses within the Empowerment Zone, at the request of the City Council of the City*"; and

WHEREAS, pursuant to law, particularly Section 99 of the Charter of the City, the City is authorized to issue revenue bonds for certain specific purposes enumerated therein and for "*any other lawful public purpose, provided such bonds shall never be a debt of the City and shall be a charge upon and payable solely from the designated sources, properties or interest acquired and the income therefrom*"; and

WHEREAS, state law recognizes that economic development by municipalities is a "public purpose" as evidenced by, among other laws, the provisions of (i) Article III, Section 52-a of the Texas Constitution which provides that the "*development and diversification of the economy of the state, [and] the elimination of unemployment or underemployment in the state*" is a "public purpose", and (ii) Chapter 380, Texas Local Government Code, which was enacted by the Texas Legislature in 1987 to implement the authority granted in Article III, Section 52-a of the Texas Constitution by authorizing municipalities to "*establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality.*"

WHEREAS, a portion of the City has been designated pursuant to Section 1391(h) of the Internal Revenue Code of 1986, as amended (the "Code") 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 a private entity to provide an "enterprise zone facility" which consists of "qualified zone property" the principal user of which is an "enterprise zone business" (as such terms are defined in Sections 1394, 1397D and 1397C, respectively, of the Code) in the Empowerment Zone, the interest on which is excludable from federal income taxation ("Empowerment Zone Bonds"); and

WHEREAS, on April 15, 2004, pursuant to Ordinance No. 99089, the City Council of the City created the City of San Antonio Empowerment Zone Governance Board (the "EZ Governance Board") to advise and assist the City Council and the City staff in leveraging the Empowerment Zone incentive tools to achieve maximum economic benefits, including evaluating and ranking projects eligible for financing with Empowerment Zone Bonds and the prioritizing and allocation of bonding capacity among eligible projects; and

WHEREAS, **ALAMO NATIONAL BUILDING DEVELOPMENT PARTNERSHIP, L.P.** (the "Ground Lessor"), a Texas limited partnership composed of **ALAMO NATIONAL MANAGEMENT, LLC**, a Texas limited liability corporation, as the general partner, and **ALAMO AZTEC DEVELOPMENT PARTNERSHIP, L.L.P.**, a Texas limited liability partnership, as a limited partner, has acquired 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), and desires to renovate and redevelop such property into a new hotel which, upon completion, will include approximately 310 guest rooms and related hotel amenities and parking facilities and improvements along the Riverwalk (the "Project"); and

WHEREAS, the Ground Lessor will lease the site on which the Project will be located to **ALAMO NATIONAL BUILDING DEVELOPMENT, LP**, a Missouri limited partnership (the "Borrower") composed of **DSW ALAMO NATIONAL BUILDING MANAGEMENT, LP**, a Missouri limited partnership, as the general partner, and **ALAMO NATIONAL BUILDING TENANT, LP**, as a limited partner, pursuant to a ground lease between the Ground Lessor and the Borrower, and the Borrower will own, renovate and redevelop the Project; and

WHEREAS, upon completion the Project will be leased by the Borrower to **ALAMO NATIONAL BUILDING TENANT, LP** (the "Master Tenant"), a Missouri limited partnership composed of **DSW ALAMO NATIONAL BUILDING MANAGEMENT, LP**, a Missouri limited partnership, as the general partner, and **DSW ALAMO INVESTMENTS, LLC**, as a limited partner; and

WHEREAS, the Project will be managed and operated by **ALAMO NATIONAL BUILDING MANAGEMENT, LP**, a Missouri limited partnership (the "Operator") composed of **DSW ALAMO MANAGEMENT, LLC**, a Missouri limited liability corporation as the general partner, and **DSW ALAMO INVESTMENTS, LLC**, a Missouri limited liability company, as a limited partner, pursuant to a management agreement to be entered into between the Borrower and the Operator; and

WHEREAS, the Ground Lessor, the Borrower, the Master Tenant and the Operator are each related to or affiliated with Drury Southwest, Inc., a Missouri corporation; and

WHEREAS, the Borrower has requested that the Issuer issue its revenue bonds for the purpose of financing the costs of the Project and the costs of issuance related thereto and loan the proceeds of such bonds to the Borrower for such purpose; and

WHEREAS, the Project is located within the Empowerment Zone, and the Borrower has represented to the City and the Issuer that the Borrower and the Project will satisfy the requirements of an "enterprise zone facility" as set forth in Section 1394(b) of the Code, which include the requirements of an "enterprise zone business" as set forth in Section 1397B of the Code, as modified by Section 1394 of the Code (including but not limited to the requirement that during each year of the term that the Bonds are outstanding, at least 35% of the employees of the enterprise zone business, including the Project, will be residents of the Empowerment Zone) and "qualified zone property" as set forth in Section 1397D of the Code, as modified by Section 1394 of the Code; and

WHEREAS, on June 24, 2004, the EZ Governance Board adopted a resolution approving the Project for financing with tax-exempt Empowerment Zone Bonds and recommended that the Issuer, acting on the City's behalf, issue up to \$40,000,000 of tax-exempt Empowerment Zone Bonds to finance a portion of the Project and that the City Council of the City designate and reserve up to \$40,000,000 of the City's Empowerment Zone Bond Capacity to finance all or a portion of the Project with tax-exempt Empowerment Zone Bonds; and

WHEREAS, following the recommendation of the EZ Governance Board, on June 24, 2004, the City Council of the City adopted a resolution allocating up to \$40,000,000 of the City's Empowerment Zone Bond Capacity to finance the Project with tax-exempt Empowerment Zone Bonds; and

WHEREAS, the City has determined that the construction and operation of the Project will promote economic development and will stimulate business and commercial activity in the City and within the Empowerment Zone; and

WHEREAS, in lieu of the City issuing revenue bonds to finance the Project as permitted by Chapter 99 of the City Charter, the City requested the Issuer to issue the revenue bonds on behalf of the City, and in so doing the Issuer will aid and act on behalf of the City to accomplish the public purpose of enhancing economic development in the City and the governmental purpose of issuing revenue bonds to finance a portion of the Project as permitted by Section 431.101(a), Texas Transportation Code; and

WHEREAS, the City has been informed by representatives of the Issuer that the Board of Directors of the Issuer has approved a resolution (the "Bond Resolution," a copy of which has been filed with the City) authorizing the issuance of up to \$35,000,000 in principal amount of its revenue bonds for the benefit of the Borrower, the proceeds of which shall be used to finance the Project, which bonds are further described as follows:

City of San Antonio, Texas Empowerment Zone Development Corporation Contract Revenue Empowerment Zone Bonds (Drury Southwest Hotel Project), Series 2005 (the "Bonds"); and

WHEREAS, representatives of the Issuer have assured the City that the Bonds will be payable solely from revenues derived by the Issuer from the Borrower pursuant to provisions of the Bond Resolution and a Loan Agreement, dated as of June 1, 2005, between the Issuer and the Borrower, and other applicable documents being entered into by the Issuer in connection with the issuance of the Bonds, and the City will have no responsibility in any manner for the payment of the debt service requirements of the Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended, requires the City Council of the City (as the "applicable elected representative" of the "governmental unit" on behalf of which the Bonds are issued) to approve the issuance of the Bonds; and

WHEREAS, on June 9, 2005, a public hearing was held with respect to the aforementioned subject matter and notice of such public hearing was posted (as required by Chapter 551, Texas Government Code) and published in a newspaper of general circulation in the City at least 14 days prior to such public hearing; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was adopted 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; and

WHEREAS, it is hereby deemed necessary and advisable that this Resolution be adopted;
NOW THEREFORE:

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

SECTION 1. REQUEST ISSUER TO UNDERTAKE PROJECT. The City Council has previously expressed its desire, and hereby formally confirms its request, for the Issuer to aid and act on behalf of the City to accomplish a governmental and public purpose of the City by issuing the Bonds for the purpose of financing of a portion of the costs required to develop, construct, equip and furnish the Project. The City hereby determines that the development, construction, equipping and furnishing of the Project will promote economic development and will stimulate business and commercial activity in the City and will further the objectives of the City to utilize a portion of the

federal economic development incentives provided in connection with the City's Empowerment Zone..

SECTION 2. APPROVING THE ISSUANCE OF THE BONDS. In order to satisfy the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, the City hereby approves the issuance of the Bonds described above in the aggregate principal amount of up to \$35,000,000 in order to obtain funds to pay costs of issuance and to finance a portion of the costs to redevelop the Alamo National Bank Building into a hotel and related parking (which improvements are more fully described in Exhibit A to the Loan Agreement between the Issuer and the Borrower), all pursuant to the requirements of the Act, Section 99 of the City's Charter, and other applicable laws.

SECTION 3. FURTHER PROCEDURES. The Mayor, the City Clerk, the City Manager, each Assistant City Manager, the Director of Finance and each Assistant Director of Finance of the City, and all other officers, employees, and agents of the City, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Resolution and to accomplish the sale of the Bonds by the Issuer.

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 the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 5. INCORPORATION OF RECITALS. The City Council hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the City Council hereby incorporates such recitals as a part of this Resolution.

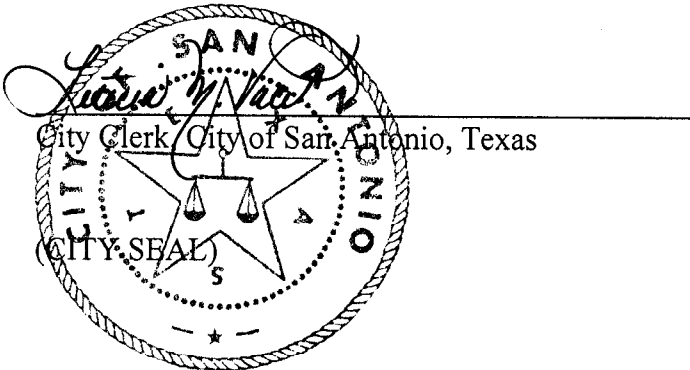
SECTION 6. EFFECTIVE DATE. Pursuant to Article II, Section 15 of the City's Charter, this Resolution shall become effective ten days following its passage.

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PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS ON THE 9TH DAY OF JUNE, 2005.

[Handwritten Signature]
MAYOR

ATTEST:



APPROVED AS TO FORM:

By: *[Handwritten Signature]*

Acting City Attorney

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[EXECUTION PAGE TO CITY ORDINANCE]

Agenda Voting Results

Name: 6.

Date: 06/09/05

Time: 04:24:31 PM

Vote Type: Multiple selection

Description: A Resolution by the City Council of the City of San Antonio, Texas approving the issuance by the City of San Antonio, Texas Empowerment Zone Development Corporation of up to \$35,000,000.00 in principal amount of its Contract Revenue Empowerment Zone Bonds (Drury Southwest Hotel Project), Series 2005, the proceeds of which will be loaned to Alamo National Building Development, L.P., to finance the redevelopment of the Alamo National Bank Building; and approving other matters related thereto. [Presented by Ramiro A. Cavazos, Director, Economic Development; Jelynn LeBlanc Burley, Assistant City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. McNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR		x		