

MPH  
01/10/19  
Item No. 5

**CERTIFICATE FOR RESOLUTION**

I, the undersigned Secretary of the **CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION** (the "**Corporation**"), hereby certify as follows:

1. The Corporation convened in Special Meeting on January 10, 2019 at the City Hall (the "**Meeting**"), and the roll was called of the duly constituted officers and members of the Corporation, to wit:

Ron Nirenberg, President  
Roberto C. Treviño, Director  
Vacancy  
Rebecca J. Viagran, Director  
Rey Saldaña, Director  
Shirley Gonzales, Director

Greg Brockhouse, Director  
Ana Sandoval, Director  
Manny Pelaez, Director  
John Courage, Director  
Clayton Perry, Director

all of the officers and members of the Corporation were present, except the following absentees:  
GOZNALES. Whereupon, among other business, the following was transacted at the Meeting: a written

**RESOLUTION NO. EZDC 2019-01-10-0001-R**

**A RESOLUTION OF THE  
CITY OF SAN ANTONIO, TEXAS  
EMPOWERMENT ZONE DEVELOPMENT CORPORATION**

**APPOINTING U.S. BANK NATIONAL ASSOCIATION TO SERVE AS THE MARKET AGENT RELATING TO THE OUTSTANDING CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION CONTRACT REVENUE EMPOWERMENT ZONE REFUNDING BONDS (DRURY SOUTHWEST HOTEL PROJECT), SERIES 2013A AND SERIES 2013B, AND APPROVING AND AUTHORIZING THE EXECUTION OF A RELATED MARKET AGENT AGREEMENT**

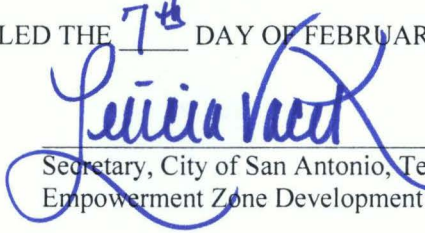
(the "**Resolution**") was duly introduced for the consideration of the Corporation. It was then duly moved and seconded that the Resolution be passed on first reading and, after due discussion, said motion carrying with it the adoption of the Resolution, prevailed and carried by the following vote:

AYES: 9 NOES: 0 ABSTENTIONS: 0

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2. A true, full and correct copy of the Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; the Resolution has been duly recorded in the Corporation's minutes of the Meeting; the above and foregoing paragraph is a true, full and correct excerpt from the Corporation's minutes of the Meeting pertaining to the passage of the Resolution; the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the Corporation as indicated therein; each of the officers and members of the Corporation was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the Meeting, and that the Resolution would be introduced and considered for passage at the Meeting, and each of said officers and members consented, in advance, to the holding of the Meeting for such purpose, and that the Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED THE 7<sup>th</sup> DAY OF FEBRUARY, 2019.

  
Secretary, City of San Antonio, Texas  
Empowerment Zone Development Corporation

(Seal)



Execution Page to Certificate for Resolution Execution Page to the Resolution  
Appointing the Market Agent and Approving a Market Agent Agreement Relating to  
City of San Antonio, Texas Empowerment Zone Development Corporation  
Contract Revenue Empowerment Zone Refunding Bonds  
(Drury Southwest Hotel Project), Series 2013A and Series 2013B

**RESOLUTION NO. EZDC 2019-01-10-0001R**

**A RESOLUTION OF THE  
CITY OF SAN ANTONIO, TEXAS  
EMPOWERMENT ZONE DEVELOPMENT CORPORATION**

**APPOINTING U.S. BANK NATIONAL ASSOCIATION TO SERVE AS THE MARKET AGENT RELATING TO THE OUTSTANDING CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION CONTRACT REVENUE EMPOWERMENT ZONE REFUNDING BONDS (DRURY SOUTHWEST HOTEL PROJECT), SERIES 2013A AND SERIES 2013B, AND APPROVING AND AUTHORIZING THE EXECUTION OF A RELATED MARKET AGENT AGREEMENT**

\* \* \* \* \*

*WHEREAS, the CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION (the "Issuer") is a nonprofit local government corporation created and existing under 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 OF SAN ANTONIO, TEXAS (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, the Issuer, acting on behalf of the City, issued and has outstanding the following series of "Empowerment Zone Bonds" (collectively, the "Series 2013 Bonds"), which were issued for the benefit of Alamo National Building Development, LP, a Missouri limited partnership (the "Borrower") in connection with the Borrower's acquisition and renovation of the former Alamo National Bank Building into a "Drury Hotel":*

**CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION CONTRACT REVENUE EMPOWERMENT ZONE BONDS (DRURY SOUTHWEST HOTEL PROJECT), SERIES 2013A, dated as of November 1, 2013, and currently outstanding in the aggregate principal amount of \$21,900,000 (the "Series 2013A Bonds"); and**

**CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION CONTRACT REVENUE EMPOWERMENT ZONE BONDS (DRURY SOUTHWEST HOTEL PROJECT), SERIES 2013B**, dated as of November 1, 2013, and currently outstanding in the aggregate principal amount of \$18,000,000 (the "**Series 2013B Bonds**"); and

**WHEREAS**, the Series 2013 Bonds were issued pursuant to the provisions of an Indenture of Trust, dated as of November 1, 2013, between the Issuer and *U.S. Bank National Association*, as Trustee (the "**Indenture**"); and

**WHEREAS**, all capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Indenture; and

**WHEREAS**, pursuant to the Indenture the Series 2013 Bonds currently are in an Index Rate Period and are bearing interest at an Index Rate; however the Borrower desires to convert the Series 2013 Bonds to an Adjusted Index Rate Period and to bear interest at an Adjusted Index Rate in accordance with Section 2.02(g) of the Indenture; and

**WHEREAS**, in order to establish interest at an Adjusted Index Rate, the Indenture requires a Market Agent to determine a component used to establish the Adjusted Index Rate; and

**WHEREAS**, the Indenture further provides that the Market Agent shall be "*any Person appointed by the Issuer at the request of the Borrower to serve as market agent in connection with a conversion to an Index Rate Period or an Adjusted Index Rate Period*"; and

**WHEREAS**, a Market Agent has not previously been appointed; accordingly, the Borrower has requested the Issuer to appoint U.S. Bank National Association as the Market Agent for the Series 2013 Bonds and has further requested the Issuer approve the a Market Agent Agreement among the Issuer, the Borrower and the Market Agent in substantially the form attached hereto as Exhibit A; 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

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

**SECTION 1. APPOINTMENT OF MARKET AGENT AND APPROVAL OF MARKET AGENT AGREEMENT.** As requested by the Borrower, the Board hereby appoints U.S. Bank National Association to serve as the Market Agent for the Series 2013 Bonds and perform the duties set forth therein and in the Indenture, and the Board and further approves the Market Agent Agreement substantially the form and substance attached to this Resolution as Exhibit A. The President, Vice President and Executive Director of the Issuer are each hereby authorized and directed, for and on behalf of the Issuer, to date, sign, and otherwise execute the Market Agent Agreement, and the Secretary or any Assistant Secretary is authorized and directed, for and on behalf of the Issuer, to attest the Market Agent Agreement, if necessary, and such officers are hereby authorized to deliver the Market Agent Agreement to the other parties named therein. Upon execution by the parties thereto and delivery thereof, the Market Agent Agreement shall be binding upon the Issuer in accordance with the terms and provisions thereof.

**SECTION 2. AUTHORIZATION TO APPROVE CHANGES.** The President, Vice President, Executive Director and Secretary of the Issuer, and Bond Counsel for the Issuer, are each hereby authorized to approve any changes made to the Market Agent Agreement as it relates to the Issuer from the form approved by the Board, such approval to be evidenced by the execution of the Market Agent Agreement, provided that such changes are not materially inconsistent with this Resolution. The President, Vice President, Executive Director and Secretary of the Issuer are hereby further authorized, empowered and directed from time to time, and at any time, to do and perform all such acts and things, and to execute and deliver in the name and under the official seal and on behalf of the Issuer 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 of the Market Agent Agreement.

**SECTION 3. APPROVAL OF CLOSING FEE.** The Board hereby approves a closing fee to be charged to and paid by the Borrower in connection with the issuance of the Bonds in the amount of \$20,000, which fee is identical to the closing fee charged in connection with the bonds issued by the Corporation for the Borrower in 2005 and 2007 and is consistent with the closing fee charged by other conduit issuers of the City.

**SECTION 4. INCORPORATION OF RECITALS.** The Board of Directors hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the Board of Directors hereby incorporates such recitals as a part of this Resolution.

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

*[The remainder of this page intentionally left blank]*

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***PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE CITY OF  
SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION  
THIS 10<sup>TH</sup> DAY OF JANUARY, 2019.***

  
\_\_\_\_\_  
President, Board of Directors

Attest:  
  
\_\_\_\_\_  
Secretary, Board of Directors



Execution Page to Resolution Appointing the Market Agent and  
Approving a Market Agent Agreement Relating to  
City of San Antonio, Texas Empowerment Zone Development Corporation  
Contract Revenue Empowerment Zone Refunding Bonds  
(Drury Southwest Hotel Project), Series 2013A and Series 2013B

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**EXHIBIT A**

**FORM OF MARKET AGENT AGREEMENT**

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**MARKET AGENT AGREEMENT**

by and among

**U.S. BANK NATIONAL ASSOCIATION,**  
as the Market Agent

**CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION,**  
as the Issuer

and

**ALAMO NATIONAL BUILDING DEVELOPMENT, LP,**  
as the Borrower

dated as of January 1, 2019

relating to

**\$39,900,000**  
**City of San Antonio, Texas Empowerment Zone Development Corporation**  
**Contract Revenue Empowerment Zone Refunding Bonds (Drury Southwest Hotel Project),**  
**Series 2013A and Series 2013B**

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## MARKET AGENT AGREEMENT

This **MARKET AGENT AGREEMENT**, dated as of January 1, 2019 (this "**Agreement**"), is by and among **U.S. BANK NATIONAL ASSOCIATION**, as market agent hereunder (the "**Market Agent**"), the **CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION**, a nonprofit corporation organized and existing under the laws of the State of Texas (the "**Issuer**"), and **ALAMO NATIONAL BUILDING DEVELOPMENT, LP**, a Missouri limited partnership (the "**Borrower**") composed of *Alamo National Building Management, LP*, a Missouri limited partnership, as the general partner, and *DSWAlamo Management, LLC*, a Missouri limited liability company, as a limited partner.

### RECITALS

**WHEREAS**, the Issuer issued its \$21,900,000 *Contract Revenue Empowerment Zone Refunding Bonds (Drury Southwest Hotel Project), Series 2013A*, and \$18,000,000 *Contract Revenue Empowerment Zone Refunding Bonds (Drury Southwest Hotel Project), Series 2013B* (collectively, the "**Bonds**"), pursuant to that certain Indenture of Trust, dated as of November 1, 2013 (the "**Indenture**"), between the Issuer and *U.S. Bank National Association*, as trustee (the "**Trustee**"); and

**WHEREAS**, the Issuer loaned the proceeds of the Bonds to the Borrower pursuant to that certain Loan Agreement, dated as of November 1, 2013 (the "**Agreement**"), between the Issuer and the Borrower; and

**WHEREAS**, the Borrower is electing, pursuant to Section 2.02(g) of the Indenture, to convert the interest rate determination method for the Bonds to an Adjusted Index Rate Period (i.e., to an Adjusted LIBOR Index Rate); and

**WHEREAS**, a component of the new Adjusted LIBOR Index Rate is the Adjusted Applicable Spread that is to be determined by the Market Agent in accordance with the provisions of the Indenture; and

**WHEREAS**, the Indenture defines the term "Market Agent" to mean "*any Person appointed by the Issuer at the request of the Borrower to serve as market agent in connection with a conversion to an Index Rate Period or an Adjusted Index Rate Period*"; and

**WHEREAS**, by becoming a party to this Agreement the Borrower is hereby requesting the Issuer appoint U.S. Bank National Association to serve as the Market Agent in order to perform the duties set forth in the Indenture and all other documents related to the Bonds; and

**WHEREAS**, the Issuer is entering into this Agreement pursuant to the Indenture in order to provide for the appointment of, and duties to be carried out by, U.S. Bank National Association as Market Agent as set forth herein and in the Indenture;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the Market Agent, the Issuer and the Borrower agree as follows:

## **SECTION 1. DEFINITIONS.**

Capitalized terms used herein (including the Recitals set forth above) shall have the meanings specified in the Indenture.

## **SECTION 2. APPOINTMENT OF MARKET AGENT AND ACCEPTANCE OF DUTIES.**

In accordance with the Indenture and as requested by the Borrower, U.S. Bank National Association is hereby appointed as the Market Agent. U.S. Bank National Association hereby acknowledges and accepts such appointment and agrees that it will comply with the provisions of the Indenture and this Agreement and will perform the duties set forth herein and therein. The Market Agent shall be obligated to perform only such duties as are specifically set forth herein and in the Indenture, and no other duties or obligations on the part of the Market Agent, in its capacity as such, shall be implied by this Agreement.

## **SECTION 3. RIGHTS AND LIABILITIES OF THE MARKET AGENT.**

(a) The Market Agent shall incur no liability with respect to the validity of any Bonds or in respect of any action taken or omitted to be taken, or suffered by it in reliance upon the Indenture, or any written instruction, direction, request, certificate, consent or other document or instrument reasonably believed by it in good faith to be genuine and on which it reasonably believed it is entitled to rely. Any written instruction, direction, request, certificate, consent or other document or instrument from the Trustee, the Borrower or the Issuer or given by the Trustee, the Borrower or the Issuer and sent, delivered or directed to the Market Agent under, pursuant to, or as permitted by, any provision of this Agreement shall be sufficient for purposes of this Agreement if the same is given in writing and signed by any officer of the Trustee, the Issuer or the Borrower. In the absence of gross negligence or willful misconduct on its part, neither the Market Agent nor its officers or employees shall be liable for any action taken, suffered or omitted or for any error of judgment made in good faith unless the Market Agent shall have been grossly negligent in ascertaining (or failing to ascertain) the pertinent facts. No party shall be liable for any default resulting from any circumstances beyond the reasonable control of the party affected. No action, regardless of form, arising out of or pertaining to the role of the Market Agent hereunder may be brought by the Trustee, the Issuer or the Borrower or any other party beyond the period stated in the applicable statute of limitations.

(b) In acting under this Agreement, the Market Agent does not assume any obligations or relationship of agency or trust for or with any of the beneficial owners or registered owners of the Bonds.

(c) The Market Agent may consult with counsel satisfactory to it, and the advice of such counsel shall be full and complete authorization and protection in respect of any action taken or omitted to be taken or suffered by it hereunder in good faith and in accordance with the advice of such counsel.

(d) The Market Agent, its directors, officers and employees may become the owner of, or acquire any interest in, any Bonds, with the same rights as any owner of the Bonds notwithstanding the fact that the Market Agent is the Market Agent hereunder, and the Market Agent, its directors, officers and employees may engage or be interested in any financial or other transaction with the Issuer or the Issuer and may act on, or as depositary, trustee or agent for, any committee or body of holders of Bonds or other obligations of the Issuer or the Borrower as freely as if the Market Agent were not a Market Agent hereunder.

#### **SECTION 4. TERMINATION.**

This Agreement shall terminate upon the earlier of the date on which (i) the principal of all Bonds have been fully paid or discharged pursuant to the Indenture, or (ii) the Bonds have been converted to a Fixed Rate pursuant to the Indenture.

#### **SECTION 5. COMMUNICATIONS.**

(a) Except for communications authorized to be by telephone by this Agreement, all notices, requests and other communications to the Market Agent, the Issuer or the Borrower shall be in writing (including facsimile or similar writing) and shall be given to such entity, addressed to it, at its address or facsimile number set forth below:

If to the Market Agent:	U.S. Bank National Association 10 N. Hanley Road St. Louis, Missouri 63105 Attention: Howard Goldberg
If to the Issuer:	City of San Antonio, Texas Empowerment Zone Development Corporation c/o City of San Antonio – Department of Economic Development San Antonio, Texas 78205 Attention: Executive Director
If to the Borrower:	Alamo National Building Development, LP 101 S. Farrar P.O. Box 1214 Cape Girardeau, Missouri 63702-1214 Attention: Herb Wedemeier

Each entity listed above may change the address for service of notice upon it by a notice in writing to the other entities named above. Each such notice, request or communication shall be effective when delivered at the address specified herein.

(b) The Market Agent may rely upon, and is authorized to honor, any telephonic requests or directions which the Market Agent reasonably believes in good faith to emanate from an authorized representative of the Issuer. Any telephonic request or direction to the Market Agent

shall promptly be confirmed in writing; *provided, however*, that failure to receive any such notice shall not affect the authority of the Market Agent to rely and act upon such request or direction.

**SECTION 6. MISCELLANEOUS.**

(a) This Agreement contains the entire agreement between the parties relating to the subject matter hereof, and there are no other representations, endorsements, promises, agreements or understandings, oral, written or inferred, between the parties relating to the subject matter hereof.

(b) The terms of this Agreement as set forth herein shall not be waived, altered, modified, amended or supplemented in any manner whatsoever except by written instrument signed by the parties hereto.

(c) This Agreement shall be binding upon, and inure to the benefit of, the Issuer, the Borrower and the Market Agent and their respective successors and assigns.

(d) If any clause, provision or section hereof shall be ruled invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections hereof.

(e) This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Delivery of a counterpart hereof by facsimile transmission or by e-mail transmission of an Adobe portable document format file (also known as a "PDF" file) shall be effective as delivery of a manually executed counterpart hereof.

(f) This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of laws principles thereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the parties hereto have caused this Market Agent Agreement to be duly executed and delivered by their proper and duly authorized officers as of the date first above written.

**CITY OF SAN ANTONIO, TEXAS  
EMPOWERMENT ZONE DEVELOPMENT  
CORPORATION,**  
as Issuer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**U.S. BANK NATIONAL ASSOCIATION,**  
as Market Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ALAMO NATIONAL BUILDING  
DEVELOPMENT, LP,**  
as Borrower

By: **Alamo National Building Management,  
LP**, its general partner

By: **DSW Alamo Management, LLC**,  
its general partner

By: **Drury Southwest, Inc.**, its manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Acknowledged:

**U.S. BANK NATIONAL ASSOCIATION,**  
as Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_