



City of Killeen

Agenda

Killeen Public Facility Corporation

Tuesday, March 5, 2024

5:00 PM

City Hall
Council Chambers
101 N. College Street
Killeen, Texas 76541

Call to Order

Roll Call

Directors

- | | |
|--|---|
| <input type="checkbox"/> Debbie Nash-King, Mayor | <input type="checkbox"/> Nina Cobb |
| <input type="checkbox"/> Riakos Adams | <input type="checkbox"/> Jessica Gonzalez |
| <input type="checkbox"/> Ramon Alvarez | <input type="checkbox"/> Jose Segarra |
| <input type="checkbox"/> Michael Boyd | <input type="checkbox"/> Joseph Solomon |

City Staff

- Kent Cagle, Assistant Secretary
- Holli Clements, City Attorney
- Laura Calcote, Secretary
- Judith Tangalin, Treasurer

Approval of Agenda

Citizen Comments

This section allows members of the public to address the Board regarding any item(s), other than a public hearing item, on the agenda for the Board's consideration. Each person shall sign up in advance, may speak only one time, and such address shall be limited to four (4) minutes. A majority of the Board is required for any time extensions. The Board shall have one (1) minute to respond to citizen comments with a statement or explanation without engaging in dialogue.

Approval of Minutes

1. [PFC-24-2](#) Consider Minutes of the Killeen Public Facility Corporation Meeting of August 22, 2023.
2. [PFC-24-3](#) Consider Minutes of the Killeen Public Facility Corporation Meeting of January 23, 2024.

Agenda Items

3. [PFC-24-4](#) Discuss and take possible action regarding a Resolution inducing the Avanti Legacy Parkview Apartments transaction, including authorizing the execution of all documentation necessary to obtain the financing for such transaction; authorizing all filings and agreements with Texas Department of Housing and Community Affairs in connection with applications for low income housing tax credits; authorizing the formation of any limited liability companies in connection with such transaction; and other matters in connection therewith.

Attachments: [Certificate for Resolution](#)

Adjournment

I certify that the above notice of meeting was posted on the Internet and on the bulletin board at Killeen City Hall on or before 5:00 p.m. on March 1, 2024.

Laura J. Calcote, City Secretary

The public is hereby informed that notices for City of Killeen meetings will no longer distinguish between matters to be discussed in open or closed session of a meeting. This practice is in accordance with rulings by the Texas Attorney General that, under the Texas Open Meetings Act, the City Council may convene a closed session to discuss any matter listed on the agenda, without prior or further notice, if the matter is one that the Open Meetings Act allows to be discussed in a closed session.

This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.



City of Killeen

Staff Report

File Number: PFC-24-2

Consider Minutes of the Killeen Public Facility Corporation Meeting of August 22, 2023.



City of Killeen

Staff Report

File Number: PFC-24-3

Consider Minutes of the Killeen Public Facility Corporation Meeting of January 23, 2024.



City of Killeen

Staff Report

File Number: PFC-24-4

Discuss and take possible action regarding a Resolution inducing the Avanti Legacy Parkview Apartments transaction, including authorizing the execution of all documentation necessary to obtain the financing for such transaction; authorizing all filings and agreements with Texas Department of Housing and Community Affairs in connection with applications for low income housing tax credits; authorizing the formation of any limited liability companies in connection with such transaction; and other matters in connection therewith.

DATE: March 5, 2024

TO: Kent Cagle, City Manager

FROM: Holli Clements, City Attorney

SUBJECT: Inducement Resolution regarding Avanti Legacy Parkview Apartments transaction

BACKGROUND AND FINDINGS:

Pursuant to the Texas Public Facility Corporations Act, the City Council created the Killeen Public Facility Corporation (the "PFC"). The PFC is empowered to finance the costs of public facilities that will provide safe housing at affordable prices for residents of the City.

Avanti Parkview LP ("Avanti") filed an Application for financing requesting that the PFC participate in acquisition, construction, and equipping of a proposed approximately 108-unit multifamily housing facility to be located on W.S. Young Drive and to be known as the Avanti Legacy Parkview Apartments. Avanti intends to finance the project in part with 9% housing tax credits and possibly a direct loan competitively procured from the Texas Department of Housing and Community Affairs.

Avanti has requested that the PFC create a subsidiary limited liability company to serve as general partner and the PFC or subsidiary will own the land on which the project is to be located. The proposed Resolution will constitute the PFC's preliminary non-binding commitment to proceed.

THE ALTERNATIVES CONSIDERED:

N/A

Which alternative is recommended? Why?

Staff recommends that Killeen Public Facility Corporation consider taking action regarding a Resolution inducing the Avanti Legacy Parkview Apartments transaction, including authorizing the execution of

all documentation necessary to obtain the financing for such transaction; authorizing all filings and agreements with Texas Department of Housing and Community Affairs in connection with applications for low income housing tax credits; authorizing the formation of any limited liability companies in connection with such transaction; and other matters in connection therewith.

CONFORMITY TO CITY POLICY:

This item conforms to city policy and state law.

FINANCIAL IMPACT:

What is the amount of the revenue/expenditure in the current fiscal year? For future years?

At the end of fifteen years, Avanti will purchase the property from the PFC for a payment equal to the amount of the foregone property taxes for the fifteen years.

Is this a one-time or recurring revenue/expenditure?

One time

Is this revenue/expenditure budgeted?

N/A

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this revenue/expenditure?

N/A

RECOMMENDATION:

Staff recommends that Killeen Public Facility Corporation consider taking action regarding a Resolution inducing the Avanti Legacy Parkview Apartments transaction, including authorizing the execution of all documentation necessary to obtain the financing for such transaction; authorizing all filings and agreements with Texas Department of Housing and Community Affairs in connection with applications for low income housing tax credits; authorizing the formation of any limited liability companies in connection with such transaction; and other matters in connection therewith.

DEPARTMENTAL CLEARANCES:

Click or tap here to enter text.

ATTACHED SUPPORTING DOCUMENTS:

Avanti Inducement Resolution

**AVANTI LEGACY PARKVIEW APARTMENTS
Inducement**

CERTIFICATE FOR RESOLUTION

The undersigned officer of the Killeen Public Facility Corporation (the "PFC") hereby certifies as follows:

1. In accordance with the bylaws of the PFC, the Board of Directors of the PFC (the "Board") held a meeting on March 5, 2024 (the "Meeting") of the duly constituted officers and members of the Board, at which a duly constituted quorum was present. Whereupon among other business transacted at the Meeting, a written

RESOLUTION INDUCING THE AVANTI LEGACY PARKVIEW APARTMENTS TRANSACTION, INCLUDING THE EXECUTION OF ALL DOCUMENTATION NECESSARY TO OBTAIN THE FINANCING FOR SUCH TRANSACTION; AND AUTHORIZING ALL FILINGS AND AGREEMENTS WITH TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS IN CONNECTION WITH APPLICATIONS FOR LOW INCOME HOUSING TAX CREDITS; AND AUTHORIZING THE FORMATION OF ANY LIMITED LIABILITY COMPANIES IN CONNECTION WITH SUCH TRANSACTION; AND OTHER MATTERS IN CONNECTION THEREWITH

(the "Resolution") was duly introduced for the consideration of the Board and discussed. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of the Resolution, prevailed and carried by a majority vote of the Board.

2. A true, full, and correct copy of the Resolution adopted at the Meeting is attached to and follows this Certificate; the Resolution has been duly recorded in the Board's minutes of the Meeting; each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting; and the Meeting was held and conducted in accordance with the Articles of Incorporation and the Bylaws of the PFC.

SIGNED AND SEALED March 5, 2024.

_____, Assistant Secretary

RESOLUTION INDUCING THE AVANTI LEGACY PARKVIEW APARTMENTS TRANSACTION, INCLUDING THE EXECUTION OF ALL DOCUMENTATION NECESSARY TO OBTAIN THE FINANCING FOR SUCH TRANSACTION; AND AUTHORIZING ALL FILINGS AND AGREEMENTS WITH TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS IN CONNECTION WITH APPLICATIONS FOR LOW INCOME HOUSING TAX CREDITS; AND AUTHORIZING THE FORMATION OF ANY LIMITED LIABILITY COMPANIES IN CONNECTION WITH SUCH TRANSACTION; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City Council of the City of Killeen, Texas (the "City"), has, pursuant to the Texas Public Facility Corporations Act, Chapter 303, Texas Local Government Code, as amended (the "Act"), approved and created the Killeen Public Facility Corporation, a nonstock, nonprofit public facility corporation (the "PFC");

WHEREAS, the PFC, on behalf of the City, is empowered to finance the costs of public facilities that will provide decent, safe, and sanitary housing at affordable prices for residents of the City;

WHEREAS, Avanti Legacy Parkview, LP, a Texas limited partnership (the "User"), has filed an Application for financing (the "Application"), requesting that (i) the PFC participate in the acquisition, construction, and equipping of a proposed approximately 108-unit multifamily housing facility to be located at as LOT 002, BLOCK 001, DESTINY WORLD OUTREACH AND AVANTI LEGACY PARKVIEW ADDITION, KILLEEN, BELL COUNTY, TEXAS aka 00000 W.S. YOUNG DRIVE, KILLEEN, BELL COUNTY, TEXAS and to be known as the Avanti Legacy Parkview Apartments (the "Project");

WHEREAS, the User intends to finance the Project in part with 9% housing tax credits and possibly a direct loan competitively procured from the Texas Department of Housing and Community Affairs ("TDHCA");

WHEREAS, this Resolution shall constitute the PFC's preliminary, non-binding commitment, subject to the terms hereof, to proceed;

WHEREAS, the User has requested that the PFC create a subsidiary limited liability company to serve as a general partner of the User;

WHEREAS, the User has requested that the PFC or a subsidiary thereof own the land on which the Project is to be located;

WHEREAS, the User has requested authorization to make all filings necessary to obtain and maintain equity and debt financing for the Project, including 9% tax credits and a direct loan from the TDHCA;

WHEREAS, the members of the Board of Directors of the PFC (collectively, the "Board") and their respective offices are as follows:

<u>Name of Director/Officer</u>	<u>Position</u>
Jessica Gonzalez	President
Michael Boyd	Vice-President
Debbie Nash-King	Director
Nina Cobb	Director
Riakos Adams	Director
Joseph Solomon	Director
Ramon Alvarez	Director
Jose Segarra	Director
Kent Cagle	Assistant Secretary/City Manager
Laura Calcote	Secretary
Judith Tangalin	Treasurer

WHEREAS, the Board has determined that it is in the public interest and to the benefit of the citizens and residents of Killeen for the various entities to enter into the transactions described above so that the User may construct the Project; and

WHEREAS, this Board has reviewed the foregoing and determined that the action herein authorized is in furtherance of the public purposes of the PFC; now, therefore,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE KILLEEN PUBLIC FACILITY CORPORATION THAT:

Section 1. Subject to the terms hereof, the PFC agrees that it will, acting in either its own capacity or as the party controlling the general partner of the User:

(a) cooperate with the User with respect to the Project, and, if arrangements therefor satisfactory to the User and the PFC can be made, take such action and authorize the execution of such documents and take such further action as may be necessary or advisable for the authorization, execution, and delivery of any applications, notices, contracts or agreements deemed necessary and desirable by the User or the PFC in connection with the Project, specifically including any applications, agreements, documents, certificates and instruments necessary to obtain low income housing tax credits and a direct loan from the TDHCA (collectively, the "Contracts"), providing among other things for financing, acquisition, construction, equipping, and improvement of the Project; and use, operation, and maintenance of the Project, all as shall be authorized, required, or permitted by law and as shall be satisfactory to the PFC and the User;

(b) work with a HUB if requested by User, including sharing ownership in the general partner of the User, sharing developer fees and cash flow of the User to enable the Project to earn additional points awarded by TDHCA for such HUB participation;

(c) own the real estate either itself or through a subsidiary and create or acquire membership interest in the general partner of User and/or serve as the general contractor for the Project to obtain tax exemptions;

(d) take or cause to be taken such other actions as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

Neither the State of Texas (the "State"), the City, the PFC nor any political, subdivision, or agency of the State shall be obligated to pay any debt or other obligation of the User or the Project and that neither the faith and credit nor the taxing power of the State, the City, or any political, subdivision, or agency thereof is pledged to any obligation relating to the Project.

Section 2. It is understood by the PFC, and the User has represented to the PFC, that in consideration of the PFC's adoption of this Resolution, and subject to the terms and conditions hereof, the User has agreed that

(a) the User will (1) pay all Project costs which are not or cannot be paid or reimbursed from the proceeds of any debt and (2) indemnify and hold harmless the PFC and the City against all losses, costs, damages, expenses, and liabilities of whatsoever nature (including but not limited to reasonable attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments) directly or indirectly resulting from, arising out of or related to the Project, or the design, construction, equipping, installation, operation, use, occupancy, maintenance, or ownership of the Project (other than claims arising from the gross negligence or willful misconduct of the PFC or the City); and

Section 3. This Resolution shall be deemed to constitute the acceptance of the User's proposal that it be further induced to proceed with providing the Project **provided that neither the User nor any other party is entitled to rely on this Resolution as a commitment to enter into the proposed transaction, and the PFC reserves the right not to enter into the proposed transaction either with or without cause and with or without notice, and in such event the PFC shall not be subject to any liability or damages of any nature. Neither the User nor anyone claiming by, through or under the User, nor any investment banking firm or potential purchaser shall have any claim against the PFC whatsoever as a result of any decision by the PFC not to enter into the proposed transaction.**

Section 4. The Board authorizes the President, Vice President, Secretary, Treasurer, Executive Director, or Assistant Secretary of the Board to execute any Contracts and take any and all actions required to obtain tax credits, equity financing and debt financing (including a direct loan from the TDHCA).

Section 5. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

Section 6. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict,

and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 7. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Board hereby declares that this Resolution would have been enacted without such invalid provision.

Section 8. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 9. This Resolution shall be in force and effect from and after its passage.

* * *