



STAFF REPORT

DATE: December 1, 2020

TO: Kent Cagle, City Manager

FROM: Traci Briggs, City Attorney

SUBJECT: A resolution authorizing and approving the creation of the Killeen Public Facility Corporation and approving the Certificate of Formation

BACKGROUND AND FINDINGS:

On November 17, 2020, the City Council received a briefing on the concept of public facility corporations (PFC), a tool authorized by chapter 303 of the Texas Local Government Code. The purpose of PFCs, as stated in the statute, is to allow broad power to finance or to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, and placement in service of public facilities in an orderly, planned manner and at the lowest possible borrowing price. A PFC can also be used as an economic development tool.

The PFC has been proposed specifically for a potential multifamily project by The NRP Group with the city. Consideration of that specific project will come forward at a later date, but the viability of the project is dependent on the city's creation of a PFC because of the tax-exempt status the PFC can provide to a public facility.

In order to establish the Killeen Public Facility Corporation, the City Council must authorize and approve its creation and approve the certificate of formation. Upon approval by the City Council, the documentation is sent to the Secretary of State for filing, and after confirmation of filing, the PFC will then hold an organizational meeting to adopt bylaws, elect officers and any other action necessary, including consideration of the NRP project. The PFC will be a nonprofit public corporation, governed by a board of directors composed of the Mayor and City Council.

Attached are a formal resolution to authorize and approve the creation of the PFC and the Certificate of Formation. Also attached for review are the proposed bylaws to be approved by the PFC and the Certificate of the City Secretary to be provided to the Secretary of State.

THE ALTERNATIVES CONSIDERED:

The alternatives are to authorize and approve the creation of the Killeen Public Facility Corporation, or to not approve the creation of the Killeen Public Facility Corporation.

Which alternative is recommended? Why?

Staff recommends authorizing and approving the creation of the Killeen Public Facility Corporation. A PFC could create opportunities for public facility options in the future in addition to the proposed NRP project.

CONFORMITY TO CITY POLICY:

This item conforms to state law and city policies.

FINANCIAL IMPACT:

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

There is no financial impact in creating a PFC.

Is this a one-time or recurring expenditure?

N/A

Is this 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 expenditure?

N/A

RECOMMENDATION:

Staff recommends that the City Council approve and authorize the creation of the Killeen Public Facility Corporation to act on the City's behalf and approve the Certificate of Formation.

DEPARTMENTAL CLEARANCES:

Legal

ATTACHED SUPPORTING DOCUMENTS:

Resolution

Certificate of Formation

Certificate of City Secretary

Proposed Bylaws