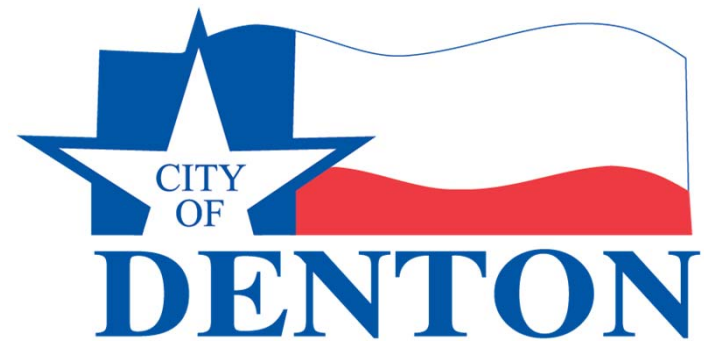


Public Facility Corporations



COMMUNITY SERVICES

WORKING TO PROVIDE QUALITY AFFORDABLE HOUSING, A SUITABLE
LIVING ENVIRONMENT, AND EXPANDING ECONOMIC OPPORTUNITY,
PRINCIPALLY FOR PERSONS OF LOW TO MODERATE INCOME.

BACKGROUND

On June 28, 2022, CM Watts made a two-minute pitch request and received support for a:

A work session to discuss the City creating Public Facility Corporations to partner with developers to develop affordable housing in Denton.

WHAT IS A PFC?

PUBLIC FACILITY CORPORATION (PFC) is a corporation created by a local government entity to hold title to and provide funding for any real, personal, or mixed property, or an interest in property devoted to public use.

- Authorized by Chapter 303 of the Texas Local Government Code – the Public Facility Corporation Act (Act)
- It is a **nonprofit** corporation created through Texas Secretary of State

WHO CAN FORM A PFC?

SPONSORS

- **Municipality**
- County
- School district
- Public housing authority
- Special district

PFC PURPOSE

A City PFC would use the corporation to:

- Acquire, construct, rehabilitate, renovate, repair, equip, furnish, or place in service public facilities
- Issue the bonds to finance the costs (above).

A sponsor (municipality, county, school district or housing authority) may create one or more of the nonprofit public facility corporations to:

- Issue bonds
- Finance public facilities;
- Loan the proceeds of the obligations to other entities

PFC ROLE IN AFFORDABLE HOUSING

- **Partnership:** Land is transferred to PFC which leases it back to limited partnership with PFC, Developer, investors, etc.
- **LIHTC:** PFC serves as member in the ownership (as above) and may be Bond Issuer
- **Bonds:** PFC may only be Bond Issuer

Key Requirement:

- At least 50% of the residential units are set aside for households whose income is at or below 80% of AMI.

BENEFITS OF THE PFC

- **Incentivizes creation** of affordable housing toward City's unit production and Affirmatively Furthers Fair Housing goals.
- **Expands the capacity** of Denton Housing Authority (DHA)
- Provides the opportunity to **generate revenue** with unrestricted proceeds available for a public purpose such as to offsets some portion tax exemption, fund City's Affordable Housing Strategies, grant funds to public assistance programs, and/or fund future public projects.
- As a partner gives PFC **negotiating power** over affordability, revenue, and priorities such as:
 - *Can require deeper affordability* than the minimum required in PFC program
 - *Can negotiate revenues* from the operation and/or sale of the development.
 - *Can enhance protection for renters* such as requiring voucher acceptance, source of income protection, rent restrictions, etc.

PFC CHALLENGES

- Any public facility owned by a PFC (property owned by this state or a political subdivision of this state) is **exempt from taxation** if the property is used for public purposes
 - Tax Exemption for projects includes exemption from School District and County taxing entities and potential for sales tax exemption
 - As typical partner in PFC, the private developer benefits from tax exemption
- City as development partner may be at odds with the Federal (HUD), State and City's **entitlement processes** (i.e. Planning & Zoning Commission as compared to City authorities)
- Requires **commitment of resources** to support forming, operating a PFC
- Managing **expectations** (PFC will not create housing overnight)
- May be perceived as **competition** with Denton Housing Authority

SETTING UP A PFC

Step 1:

- Preparing Bylaws and Certificate of Formation

Step 2:

- City Council Approval

Step 3:

- Submission to the Secretary of State

Step 4:

- File for Franchise Tax Exemption and EIN

Step 5:

- Organizational Meeting

OPTIONS

- Direct staff to create a development program authorizing the formation of Public Facility Corporations for future affordable housing projects
- Take no further action regarding the formation of Public Facility Corporations