

ORDINANCE NO. 3494

AN ORDINANCE AMENDING ORDINANCE NO. 3407 TO APPROVE THE 2022 AMENDED STILLWATER (RE)INVESTMENT PLAN (A STILLWATER DOWNTOWN/CAMPUS LINK PROJECT PLAN) PURSUANT TO THE OKLAHOMA LOCAL DEVELOPMENT ACT; DESIGNATING AND ADOPTING A PROPOSED INCREMENT DISTRICT AND ADDITIONAL PROJECT AREA; DEFERRING THE NAMING AND ESTABLISHING THE DATE FOR THE CREATION OF THE INCREMENT DISTRICT; ADOPTING CERTAIN FINDINGS; AUTHORIZING THE CITY OF STILLWATER TO CARRY OUT AND ADMINISTER THE PROJECT PLAN; ESTABLISHING A TAX APPORTIONMENT FUND; DECLARING APPORTIONED FUNDS TO BE SPECIAL FUNDS OF THE CITY OF STILLWATER OR THE STILLWATER ECONOMIC DEVELOPMENT AUTHORITY; AUTHORIZING THE USE OF INCREMENT REVENUES FOR THE FINANCING OR PAYMENT OF CERTAIN PROJECT COSTS; AUTHORIZING THE STILLWATER ECONOMIC DEVELOPMENT AUTHORITY TO CARRY OUT CERTAIN PROVISIONS OF THE PROJECT PLAN; RATIFYING AND CONFIRMING THE ACTIONS, RECOMMENDATIONS AND FINDINGS OF THE REVIEW COMMITTEE AND THE STILLWATER PLANNING COMMISSION; DIRECTING CONTINUING APPORTIONMENT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY

WHEREAS, on June 18, 2018, the City Council of Stillwater, Oklahoma ("City Council") adopted Ordinance No. 3407 approving the Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan) ("Project Plan") in accordance with the Oklahoma Local Development Act, 62 O.S. §850, *et seq.* ("Act"), and establishing Increment District No. 3, City of Stillwater ("Increment District No. 3"); and

WHEREAS, Ordinance No. 3407 was amended on November 5, 2018 by the City Council's adoption of Ordinance No. 3424, approving a minor amendment to the Project Plan to provide Payne County, its Health Department, and Meridian Technology a specific revenue source from those properties that generate increased property tax revenue without direct public assistance in Increment District No. 3 and which had no effect on the distributions and capital payment obligations to be made to the Stillwater Public Schools under the Project Plan, and was again amended through on October 7, 2019 by the City Council's adoption of Ordinance No. 3440 to correct an error in the denominator of the calculations used to determine the allocations to each of the affected taxing jurisdictions; and

WHEREAS, as a result of the potential to further achieve the purposes for which the original Project Plan and Increment District No. 3 were created and established, and to support the development, improvement, and/or expansion of non-retail business enterprise with high quality employment opportunities ("Project"), the City has prepared the proposed the 2022 Amended Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan) ("2022 Amended Project Plan") in accordance with the Act; and

WHEREAS, the purpose of the 2022 Amended Project Plan is to stimulate new and expanded non-retail business with quality employment opportunities in Stillwater, to maximize the economic and community benefits that will arise therefrom, to support the City's efforts to achieve its development objectives, improve the quality of life for its citizens, stimulate private investment, and enhance the tax base, thereby making possible investment that would be difficult without the adoption of the 2022 Amended Project Plan and the apportionment of incremental ad valorem and sales tax revenues; and

WHEREAS, the 2022 Amended Project Plan proposes the creation of a new ad valorem and sales tax increment district ("Increment District"), and enlargement of the Project Area by the same boundaries as the proposed new Increment District ("Additional Project Area"); and

WHEREAS, any indirect increment generated under the 2022 Amended Project Plan will continue to be shared with affected taxing jurisdictions as set forth in the original Project Plan; and

WHEREAS, the 2022 Amended Project Plan will have no effect on the distributions and capital payment obligations to be made to the Stillwater Public Schools under the original Project Plan; and

WHEREAS, the 2022 Amended Project Plan makes no change to the budget of project costs previously established for Increment District No. 3 and makes no change to the duration of Increment District No. 3; and

WHEREAS, the Stillwater Downtown/Campus Link Project Plan Review Committee ("Review Committee"), comprised of a representative of the City, a representative of the Stillwater Planning Commission ("Planning Commission"), representatives of each of the affected taxing jurisdictions (including Payne County, Stillwater Public Schools, Payne County Health Department, and Meridian Technology Center) and three members of the public at large, one of whom is a representative of the business community in the City of Stillwater, has reviewed the Project Plan; and

WHEREAS, the Review Committee has reviewed the proposed ad valorem and sales tax Increment District and the proposed Additional Project Area, in accordance with the criteria specified in the Act and has determined that the Increment District is eligible for designation as an increment district and for development under the Act and that the financial impacts on the affected taxing jurisdictions and business activities from implementation of the 2022 Amended Project Plan are positive; and

WHEREAS, the Review Committee has adopted its findings and recommends to the City Council the approval of the 2022 Amended Project Plan, including the proposed Increment District; and

WHEREAS, the Planning Commission has determined that the 2022 Amended Project Plan conforms to the Comprehensive Plan and is desirable; and

WHEREAS, the Planning Commission has adopted a resolution recommending to the City Council the approval of the 2022 Amended Project Plan, including the proposed Increment District; and

WHEREAS, the proposed Additional Project Area and the proposed Increment District, which share the same boundaries, are within a state designated enterprise zone and therefore meet the definition of an enterprise area as defined by the Act; and

WHEREAS, the projected investment and development are difficult, but possible, within the proposed Additional Project Area and the proposed Increment District if the 2022 Amended Project Plan is adopted and implemented; and

WHEREAS, tax increment financing is a necessary component in generating economic development in the proposed Additional Project Area and the proposed Increment District; and

WHEREAS, the apportioned increment revenues derived from the proposed Increment District will be used to finance eligible project costs for the Increment District as set forth in Section VIII of the 2022 Amended Project Plan; and

WHEREAS, the establishment of the proposed Increment District will work in conjunction with existing programs and other locally implemented economic development efforts in order to encourage economic development in the Additional Project Area; and

WHEREAS, the Project is expected to generate substantial new investment within the proposed Increment District and to stimulate additional indirect economic benefits outside of the proposed Increment District which would not occur without the Project; and

WHEREAS, the 2022 Amended Project Plan provides tools which will supplement and not supplant or replace normal public functions and services; and

WHEREAS, the boundaries of the proposed Increment District do not dissect any similar area nor create an unfair competitive advantage; and

WHEREAS, the Constitution of the State of Oklahoma, Article 10 Section 6C provides that a direction of apportionment may be prospective and may continue for one or more years, and apportioned tax increments may be pledged beyond the current fiscal year for the repayment of indebtedness of public entities; and

WHEREAS, maximum effort has been made to allow full public knowledge and participation in the application of the Act in the review and approval of the 2022 Amended Project Plan; and

WHEREAS, all required notices have been given and all required hearings have been held in connection with the 2022 Amended Project Plan, as prescribed by the Act, the Oklahoma Open Meetings Act, 25 O.S. §301, *et seq.*, and other applicable law; and

WHEREAS, pursuant to published notice, at a regular meeting of the City Council held on May 2, 2022, members of the public were provided information, including an analysis of potential positive and negative impacts, and had questions answered regarding the 2022 Amended Project Plan; and

WHEREAS, pursuant to published notice, at a regular meeting of the City Council held on May 16, 2022, all persons present were given an opportunity to be heard for and against the 2022 Amended Project Plan; and

WHEREAS, Section 856 of the Act authorizes the City to defer determination of the designation and initiation of the proposed Increment District, provided that the determination is not more than ten (10) years after the date of approval of the 2022 Amended Project Plan; and

WHEREAS, the City finds that it is in the best interest of the overall success of the Project to defer the creation, designation and official naming of the Increment District until such date as the City may establish by resolution, which date must be determined within ten (10) years of the date of the approval of the 2022 Amended Project Plan; and

WHEREAS, the City retains the right, pursuant to the Act, to make minor amendments to the 2022 Amended Project Plan; and

WHEREAS, implementation of the 2022 Amended Project Plan will be facilitated by authorizing the Stillwater Economic Development Authority, a public trust, or other entity designated by the City, to issue tax apportionment notes and to incur project costs as defined by the 2022 Amended Project Plan, to be reimbursed for such costs, and to incur the costs of issuance of such bonds and to accumulate appropriate reserves, if any, in connection therewith; and

WHEREAS, the City deems it appropriate and desirable and in the best interest of the City and its citizens to adopt and approve the 2022 Amended Project Plan, including the establishment of Increment District X, with the following modification to the budget of estimated project costs to be financed or paid by the apportionment of ad valorem and sales tax increments from Increment District X, as set forth in Section VIII of the Project Plan, which represents no increase in the proposed project costs:

Increment District X: The Project Costs will be financed or paid by the apportionment of ad valorem and sales tax increments from Increment District X. The Project Cost categories are:

Assistance in Development Financing	\$ 16,900,000
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TOTAL Project Costs – Increment District X	\$ 16,900,000
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In addition to any financing costs, costs of issuance, necessary or appropriate reserves, and interest on repayment of Project Costs.

Previously unpledged increment revenues from either Increment District may be pledged to the repayment of financing or payment of Project Costs as authorized for either

Increment District.

Additional assistance in development financing may be provided by other than apportioned tax increments as authorized by the City pursuant to Section VIII.B of the Project Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STILLWATER, OKLAHOMA THAT TO WIT:

SECTION 1. In order to develop the Project Area, the City elects to utilize Article 10, Section 6C of the Constitution of the State of Oklahoma and the Act, which authorize the use of local taxes for specific public investments and assistance in development financing, and which provide for the direction of apportionment of local taxes to plan, finance, and carry out development of unproductive, undeveloped, underdeveloped, or blighted areas as determined by the governing body of a city, town or county.

SECTION 2. The 2022 Amended Project Plan is hereby adopted and approved, as recommended by the Planning Commission and by the Review Committee, with the following modification to the budget of estimated project costs to be financed or paid by the apportionment of ad valorem and sales tax increments from Increment District X, which represents no increase in the proposed project costs:

Increment District X: The Project Costs will be financed or paid by the apportionment of ad valorem and sales tax increments from Increment District X. The Project Cost categories are:

Assistance in Development Financing	\$ 16,900,000
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TOTAL Project Costs – Increment District X	\$ 16,900,000
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In addition to any financing costs, costs of issuance, necessary or appropriate reserves, and interest on repayment of Project Costs.

Previously unpledged increment revenues from either Increment District may be pledged to the repayment of financing or payment of Project Costs as authorized for either Increment District.

Additional assistance in development financing may be provided by other than apportioned tax increments as authorized by the City pursuant to Section VIII.B of the Project Plan.

As used herein the “2022 Amended Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan” or “2022 Amended Project Plan” shall mean the document with a cover page indicating the Review Committee and the Planning Commission recommended approval on April 5, 2022, and was adopted by City Council on May 16, 2022, and is comprised of one cover sheet, thirteen pages of text, seven exhibits labeled Exhibits A, A-1, B, B-1, B-2, C, and D, and titled “2022 Amended Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan).”

SECTION 3. All actions taken and all recommendations and findings made in connection with the 2022 Amended Project Plan by the Planning Commission and the Review Committee are hereby ratified and confirmed, including, but not limited to, designation and selection of representatives to the Review Committee from the City, the Planning Commission, and the public at large, recommendations for approval, findings of conformance with the Comprehensive Plan, eligibility of the proposed Increment District, and financial impacts on the affected taxing jurisdictions.

SECTION 4. For identification purposes, and until such time that City Council, by resolution, officially creates, designates, and names the Increment District, the Increment District shall be temporarily identified as Increment District No. X, City of Stillwater ("Increment District X").

SECTION 5. The official creation, designation, and naming of Increment District X is hereby deferred until such time as determined by the City Council, provided that such determination shall be made within ten (10) years of the effective date of this Ordinance.

SECTION 6. The boundaries of the Additional Project Area and the boundaries of Increment District X are the same and are shown on Exhibit B of the 2022 Amended Project Plan and are hereby designated and adopted as follows:

Additional Project Area and Increment District X
Legal Description

A tract of land located in the Southeast Quarter (SE/4) of Section Thirty-five (35), Township Twenty (20) north, Range Two (2) East, I.M., Payne County, Oklahoma, according to the U.S. Government Survey thereof, more particularly described as follows:

Commencing at the Southeast corner of said Southeast Quarter (SE/4) also being the Southeast corner of Lot Five (5); Thence North 90°00'00" West along the South line of said Southeast Quarter (SE/4) and Lot Five (5) for a distance of 1323.76 feet to the Southwest corner of said Lot Five (5) also being the Southeast corner of Lot Six (6); Thence North 90°00'00" West along the South line of said Southeast Quarter and Lot Six (6) for a distance of 54.72 feet to the Point of Beginning; Thence North 90°00'00" West along the South line of said Southeast Quarter (SE/4) and Lot Six (6) for a distance of 1049.88 feet; Thence North 0°11'34" East for a distance of 1011.00 feet; Thence north 46°32'51" East for a distance of 970.00 feet to a point on the North line of said Lot Six (6); Thence South 89°56'34" East along the North line of said Lot Six (6) for a distance of 396.00 feet to the Northeast corner of Lot Six (6), also being the Northwest corner of Lot Five (5); Thence South 89°56'34" East along the North line of said Lot Five (5) for a distance of 100.00 feet; Thence South 0°02'06" East and parallel to the boundary line between said Lots Five (5) and Six (6) for a distance of 1222.70 feet; Thence South 32°00'00" West for a distance of 120.42 feet; Thence Southwesterly along a curve to the left with a radius of 596.44 feet for a distance of 333.11 feet; Thence South 0°00'00" East for a distance of 36.94 feet to the Point of Beginning.

SECTION 7. The City Council hereby finds and determines:

A. Findings Regarding 2022 Amended Project Plan; Eligibility of the Additional Project Area and Increment District X.

1. The proposed Additional Project Area and Increment District X, which boundaries are coextensive, are within a state designated enterprise zone and therefore meet the definition of an “enterprise area” under the Local Development Act (62 O.S. § 853(5), (6)). Enterprise Areas qualify for use of the tools of the Oklahoma Local Development Act pursuant to 62 O.S. §856(B)(4)(a).
2. The level of investment, development, and economic growth desired by the City is difficult, but possible, within the proposed Additional Project Area and Increment District X if the provisions of the Local Development Act are utilized.
3. Tax increment financing is a necessary component in stimulating reinvestment in the proposed Additional Project Area and Increment District X.
4. Tax increment financing will be used to supplement and not supplant or replace normal public functions and services in the proposed Additional Project Area and Increment District X.
5. Tax increment financing will be used in conjunction with existing programs and efforts and other locally implemented economic development efforts.
6. The 2022 Amended Project Plan emphasizes reinvestment, conservation, preservation, and rehabilitation.

B. Findings Regarding Financial Impacts on the Affected Taxing Jurisdictions and Business Activities within the Additional Project Area and Increment District X.

1. The activities authorized under the 2022 Amended Project Plan will generate tax increments sufficient to pay the authorized project costs under the 2022 Amended Project Plan; without the 2022 Amended Project Plan and Increment District X, the development activities described in the 2022 Amended Project Plan and the resulting increases in tax revenues would not occur.
2. Achievement of the objectives of the 2022 Amended Project Plan may result in a limited increase in demand for services by or in costs to the affected taxing jurisdictions; however, any such impacts will be offset by the specific revenue stream to the Stillwater Public Schools and by the stimulation of new tax revenues benefitting all taxing jurisdictions.
3. Implementation of the 2022 Amended Project Plan may require public expenditures, but these public sector costs will be substantially defrayed from apportioned tax increments in the 2022 Amended Project Plan.

4. The public revenue anticipated to result from the authorized activities described in the 2022 Amended Project Plan includes increased tax revenue beyond the revenues being apportioned to pay project costs authorized by the 2022 Amended Project Plan.
5. The economic benefits of the 2022 Amended Project Plan for the affected taxing jurisdictions and the community as a whole offset the adverse financial impacts, if any, of the 2022 Amended Project Plan, on the affected taxing jurisdictions.
6. The aggregate economic impact on the affected taxing jurisdictions and on business activities within the proposed Additional Project Area and Increment District X are positive and include the achievement of the objectives set forth in Section IV of the 2022 Amended Project Plan.
7. The activities authorized under the 2022 Amended Project Plan will stimulate substantial new investment within Increment District X and will generate additional economic benefits outside of the Increment District X, which would not occur without the Project activities.

SECTION 8. The following Project and Increment District authorizations are hereby approved:

A. The City is designated as the principal entity responsible for implementation and is authorized to carry out and administer the provisions of the 2022 Amended Project Plan and to exercise all powers necessary or appropriate thereto pursuant to Section 854 of the Act, and the City reserves the power to make minor amendments to the 2022 Amended Project Plan in accordance with Section 858(D) of the Act. Changes in project costs incurred pursuant to Section VIII(B) of the 2022 Amended Project Plan (those not to be financed with apportioned tax increments) do not require an amendment; and

B. The Stillwater Economic Development Authority, a public trust with the City as its sole beneficiary, shall have the authority to carry out certain provisions of the 2022 Amended Project Plan, including the authority to: (1) issue tax apportionment bonds or notes, or both; (2) pledge revenues from current and future fiscal years to repayment; (3) incur Project Costs pursuant to Section VIII of the 2022 Amended Project Plan; (4) provide funds to or reimburse the City for the payment of Project Costs and other costs incurred in support of the implementation of the 2022 Amended Project Plan; (5) provide assistance in development financing to pay any authorized Project Costs assumed by a developer or redeveloper; and (6) incur the cost of issuance of bonds for payment of such costs and to accumulate appropriate reserves, if any, in connection with them; and

C. The City Manager, Norman McNickle, or his successor in office, shall be the person in charge of implementation of the 2022 Amended Project Plan in accordance with the provisions, authorizations, and respective delegations of responsibilities contained in the 2022 Amended Project Plan.

SECTION 9. The sales tax increment is a portion of the City's sales taxes generated within Increment District X, to be determined by a formula and accounting procedures to be approved by resolution of the City Council in accordance with the Act. The ad valorem increment is the ad

valorem revenue in excess of the revenue generated by the base assessed value of Increment District X (as determined by the Payne County Assessor in accordance with the Act), i.e., the new revenue attributable to increases in the value of property within Increment District X.

SECTION 10. The increment of the taxes generated by Increment District X may be used to pay Project Costs authorized by Section VIII of the 2022 Amended Project Plan for a period not to exceed twenty-five (25) years from the effective date of Increment District X, as provided by law, or the period required for payment of the project costs authorized by Section VIII of the 2022 Amended Project Plan, whichever is less.

SECTION 11. During the period of apportionment, the tax apportionment fund (a) shall be available to pay Project Costs under Section VIII of the 2022 Amended Project Plan, (b) shall constitute special funds of the City or, at the direction of the City, the Stillwater Economic Development Authority, a public trust, and (c) shall not be subject to annual appropriation as a part of the general fund of the City.

SECTION 12. Pursuant to Section 6C of Article X of the Constitution of the State of Oklahoma and the Act, the direction of apportionment shall continue beyond the current fiscal year for the duration of Increment District X or the period required for the payment of Project Costs authorized by the 2022 Amended Project Plan, whichever is less.

SECTION 13. The 2022 Amended Project Plan is hereby determined to be desirable and is approved.

SECTION 14. REPEALER. All ordinances or parts of ordinances, in conflict with this ordinance are hereby repealed to the extent of the conflict only.

SECTION 15. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall not affect the validity of the remaining portions of this ordinance.

SECTION 16. EMERGENCY CLAUSE. It being immediately necessary for the preservation of the peace, health, safety, and public good of the City of Stillwater, and the citizens thereof, that the provisions of this ordinance take effect and be put into full force and effect, an emergency is declared to exist by reason whereof this ordinance shall take effect immediately and be put in full force and effect from and after the date of its enactment, as provided by law.

INTRODUCED AND CONSIDERED in an open meeting of the City Council of Stillwater, Oklahoma on the 16th day of May, 2022, with the Emergency Clause voted on and approved separately.

PASSED by the Council of the City of Stillwater this 16th day of May, 2022.

SIGNED by the Mayor of Stillwater on the 16th day of May, 2022.

William H. Joyce
WILLIAM H. JOYCE, MAYOR

ATTEST:

Teresa Kadavy
CITY CLERK



APPROVED AS TO FORM AND LEGALITY:

Dan Batchelor
Dan Batchelor, Special Counsel for
Economic Development

EMERGENCY CLAUSE

**THE EMERGENCY CLAUSE IS HEREBY PASSED, APPROVED AND ADOPTED THIS
16th DAY OF MAY, 2022.**

William H. Joyce
WILLIAM H. JOYCE, MAYOR

ATTEST:

Teresa Kadavy
CITY CLERK



APPROVED AS TO FORM AND LEGALITY:

Dan Batchelor
Dan Batchelor, Special Counsel for
Economic Development

First Reading: May 2, 2022
Second Reading: May 16, 2022