

ORDINANCE NO. 3521

AN ORDINANCE AMENDING ORDINANCE NO. 3494 APPROVING A MINOR AMENDMENT TO THE 2022 AMENDED STILLWATER (RE)INVESTMENT PLAN (A STILLWATER DOWNTOWN/CAMPUS LINK PROJECT PLAN) PURSUANT TO THE OKLAHOMA LOCAL DEVELOPMENT ACT; APPROVING A MINOR BUDGET AMENDMENT WITHOUT INCREASING THE BUDGET OF PROJECT COSTS FOR INCREMENT DISTRICT NO. 3; CLARIFYING THE METHODS BY WHICH THE CAPITAL PAYMENT OBLIGATIONS TO THE STILLWATER PUBLIC SCHOOLS MAY BE SATISFIED; ALLOCATING A PORTION OF THE INCREMENT GENERATED BY THE INCREASE IN REAL AND PERSONAL PROPERTY VALUES IN INCREMENT DISTRICT NO. 5 UP TO \$1,128,600.00 TO THE AFFECTED TAXING JURISDICTIONS; INCREASING THE BUDGET OF PROJECT COSTS FOR INCREMENT DISTRICT NO. 5 BY FIVE PERCENT (5%) TO PROVIDE A SOURCE OF FUNDS FOR IMPLEMENTATION AND ADMINISTRATIVE COSTS INCURRED BY THE STILLWATER ECONOMIC DEVELOPMENT AUTHORITY; 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) ("Original Downtown/Campus Link Project Plan") in accordance with the Oklahoma Local Development Act, 62 O.S. §850, *et seq.* ("Act"), establishing Increment District No. 3, City of Stillwater ("Increment District No. 3"), and retained the right therein, pursuant to the Act, to make minor amendments to the Original Downtown/Campus Link Project Plan; 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 Original Downtown/Campus Link 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 Original Downtown/Campus Link Project Plan, and was again amended through a minor amendment 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, Ordinance No. 3407 was further amended on May 16, 2022 by the City Council's adoption of Ordinance No. 3494 approving an amendment to the Original Downtown/Campus Link Project Plan, titled the 2022 Amended Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan) ("2022 Amended Downtown/Campus Link Project Plan" or "Project Plan"), designating a new ad valorem and sales tax increment district, Increment District No. 5, City of Stillwater, and enlarges the Project Area by the same boundaries as Increment District No. 5, in accordance with the Act, in support of the development,

improvement, and/or expansion of non-retail business enterprise with high quality employment opportunities; and

WHEREAS, by Resolution No. CC-2022-2, the City Council approved a Redevelopment Agreement by and between the Stillwater Economic Development Authority, a public trust, USA Rare Earth Magnets, LLC, a Delaware limited liability company, and USA Rare Earth Real Estate, LLC, an Oklahoma limited liability company ("Redeveloper"), pursuant to which Redeveloper agreed, among other things, to make an estimated investment of approximately \$140 million, comprised of \$9.9 million in building and land acquisition costs, \$17 million in immediate building improvement construction costs, and \$113 million in additional building improvements and new equipment purchases, to develop and operate the first U.S.-based rare earth metal, strip casting and neo-magnet production facility, and add new full-time employees in the City of Stillwater as set forth in the Redevelopment Agreement (collectively, the "Redevelopment"), on certain real property located at 100 W. Airport Road, Stillwater, Payne County, Oklahoma ("Property"); and

WHEREAS, in consideration of the anticipated substantial benefit to the City as a result of the Redevelopment and recognizing the significant costs involved with the Redevelopment, certain assistance in development financing is to be provided in support of the Redevelopment, as described in the Redevelopment Agreement and Resolution No. CC-2022-2; and

WHEREAS, the Redeveloper acquired the Property on or about June 9, 2022 for a purchase price of \$9.9 million ("Purchase Price"); and

WHEREAS, by Resolution No. CC-2022-20, the City Council activated and made effective as of July 15, 2022, Increment District No. 5, City of Stillwater ("Increment District No. 5"), an ad valorem and sales tax increment district, which boundaries are identical to the boundaries of the Property; and

WHEREAS, on August 18, 2022, the Payne County Assessor determined and certified the base assessed value of Increment District No. 5 to be \$728,164.00; and

WHEREAS, the City Council finds it desirable and appropriate to ensure the affected taxing jurisdictions receive the benefit of their respective shares of the ad valorem taxes generated by the portion of the increment generated by the increase in real and personal property values in Increment District No. 5, up to \$1,128,600.00 (an assessed valuation determined by multiplying 0.114 (the assessment ratio) by the \$9,900,000.00 Purchase Price); and

WHEREAS, the City Council has directed Special Counsel for Economic Development to prepare a proposed amendment to the 2022 Amended Downtown/Campus Link Project Plan, which is attached to this Ordinance; and

WHEREAS, the proposed amendment provides that the portion of the increment generated by the assessed real and personal property values in Increment District No. 5 up to an assessed valuation of \$1,128,600.00 shall be allocated to all affected taxing jurisdictions in proportion to their respective tax levies (including sinking funds), in the same manner as taxes generated by the base assessed value as if there was no increment district (the "Public Entity Allocation"); and

WHEREAS, the proposed amendment provides that the portion of the increment generated by assessed real and personal property values in Increment District No. 5 in excess of an assessed valuation of \$1,128,600.00 shall be allocated to pay Project Costs authorized by Section VIII of the Project Plan (the "Project Cost Allocation"); and

WHEREAS, the proposed amendment clarifies that the assistance in development financing that is to be made available to the Redeveloper pursuant to the Redevelopment Agreement shall be disbursed from ninety percent (90%) of the Project Costs Allocation, and that ten percent (10%) of the Project Costs Allocation shall be first allocated to the Stillwater Public Schools as a specific revenue source, 62 O.S. §§ 853(9), (14)(i), and 854(4), in the same manner as set forth in the Original Downtown/Campus Link Project Plan, and as thereafter amended, with the remaining portions of the ten percent (10%) of the Project Costs Allocation to be available to assist the Stillwater Economic Development Authority in defraying its administrative and implementation costs; and

WHEREAS, the proposed amendment to the 2022 Amended Downtown/Campus Link Project Plan will have no effect on the distributions and capital payment obligations to be made to the Stillwater Public Schools; and

WHEREAS, proposed amendment to the 2022 Amended Downtown/Campus Link Project Plan clarifies that the capital payment obligations to the Stillwater Public Schools may be satisfied by cash disbursements or such other methods as may be approved by the Stillwater Public Schools; and

WHEREAS, the proposed amendment to the 2022 Amended Downtown/Campus Link Project Plan makes no change to the total budget of project costs previously established for Increment District No. 3, makes no change to the boundaries of Increment District No. 3, and makes no change to the duration of Increment District No. 3; and

WHEREAS, the proposed amendment to the 2022 Amended Downtown/Campus Link Project Plan increases the budget of project costs previously established for Increment District No. 5 by five percent (5%) to provide a source of funds for the Stillwater Economic Development Authority's implementation and administrative costs, makes no change to the boundaries of Increment District No. 5, and makes no change to the duration of Increment District No. 5; and

WHEREAS, the proposed amendment to the 2022 Amended Downtown/Campus Link Project Plan includes clarifying revisions consistent with previously approved actions of the City Council and the Stillwater Economic Development Authority, including replacing all references to "Increment District X" to "Increment District No. 5" and identifying its activation date of July 15, 2022; and

WHEREAS, the City Council finds that the proposed amendment meets the objectives of 2022 Amended Downtown/Campus Link Project Plan, and that the 2022 Amended Downtown/Campus Link Project Plan, as amended, will be used in conjunction with existing programs and other locally implemented efforts in order to encourage continued revitalization in the Project Area; 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, the proposed amendment does not modify the boundaries of Increment District No. 3 or Increment District No. 5, does not increase the overall project cost budget for Increment District No. 3, does not increase the overall project cost budget for Increment District No. 5 by more than five percent (5%), and does not change the character or purpose of the 2022 Amended Downtown/Campus Link Project Plan, and therefore qualifies as a minor amendment to the Project Plan, as defined in 62 O.S. § 858(D), and is determined to not be a significant deviation to the Project Plan, as described in 11 O.S. § 38-106(H); and

WHEREAS, the City Council deems it appropriate and desirable and in the best interest of the City and its citizens to adopt and approve the minor amendment to the 2022 Amended Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link 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. All references in the 2022 Amended Project Plan to "Increment District X" are replaced with "Increment District No. 5, City of Stillwater" or "Increment District No. 5," as reflected in the revisions to the 2022 Amended Project Plan attached to this Ordinance.

SECTION 3. Section VI.A. of the 2022 Amended Project Plan is revised to reflect that Increment District No. 5 has been activated effective as of July 15, 2022.

SECTION 4. Section VI.B. of the 2022 Amended Project Plan is revised to clarify that the capital payment obligations to the Stillwater Public Schools described in the Project Plan may be satisfied through cash disbursements or such other methods as may be approved by the Stillwater Public Schools. The following provision is added to the section titled "Capital Payment Obligations to Stillwater Public Schools" under Section VI.B.1 of the 2022 Amended Project Plan:

With the approval of the Stillwater Public School District, the capital payment obligations hereunder may be satisfied in the form of cash payments, transfers of real property, transfers of personal property, services, and other items of equivalent value, or any combination thereof.

SECTION 5. Section VI.B. of the 2022 Amended Project Plan is revised to provide specific allocations for Increment District No. 5 as follows:

B.2. ALLOCATIONS FOR INCREMENT DISTRICT NO. 5: The ad valorem increment is the portion of ad valorem taxes generated in excess of the base assessed value of Increment District No. 5 (as determined by the Payne County Assessor in accordance with the Oklahoma Local Development Act), i.e., the new revenue attributable to increases in the values of property within Increment District No. 5. The increment shall be apportioned into two parts as follows:

PUBLIC ENTITY ALLOCATION

The portion of the increment generated by the assessed real and personal property values in Increment District No. 5 up to an assessed valuation of \$1,128,600.00*, shall be allocated to all affected taxing jurisdictions in proportion to their respective tax levies (including sinking funds), in the same manner as taxes generated by the base assessed value as if there was no increment district. *The assessed valuation of \$1,128,600.00 is determined by multiplying 0.114 (the assessment ratio) by \$9,900,000.00 (the purchase price paid for the real and personal property in Increment District No. 5 on or about June 9, 2022). This allocation duplicates the procedure that would have been followed if the base assessed value of Increment District No. 5 had been determined to be \$1,128,600.

PROJECT COSTS ALLOCATION

The portion of the increment generated by assessed real and personal property values in Increment District No. 5 in excess of an assessed valuation of \$1,128,600.00 shall be allocated to pay Project Costs authorized by Section VIII of this Project Plan for a period not to exceed twenty-five (25) fiscal years from the effective date of Increment District No. 5, as provided by law, or the period required for the payment of the Project Costs authorized by Section VIII, whichever is less. During the period of apportionment, the ad valorem apportionment fund (1) shall be available to pay Project Costs under Section VIII, (2) shall constitute special funds of the Stillwater Economic Development Authority, a public trust, or another public trust, if designated by the City, and (3) shall not be subject to annual appropriation as a part of the general fund of the City of Stillwater. This allocation duplicates the procedure that would have been followed if the base assessed value of Increment District No. 5 had been determined to be \$1,128,600.

Pursuant to the terms and conditions of a redevelopment agreement executed by the Stillwater Economic Development Authority in support of a new non-retail redevelopment located within the boundaries of Increment District No. 5, the Project Costs Allocation shall be apportioned as follows:

Ninety percent (90%) of the Project Costs Allocation shall be allocated for disbursement to the redeveloper as assistance in development financing to support the non-retail redevelopment located in Increment District No. 5.

From the remaining ten percent (10%) of the Project Costs Allocation, a portion of the generated income shall first be allocated to the Stillwater Public Schools as a specific revenue source, 62 O.S. §§ 853(9), (14)(i), and 854(4), as follows:

The percentage share to the Stillwater Public Schools, for each fiscal year, shall be a portion of the increment generated by the assessed real and personal property values in Increment District No. 5 in excess of an assessed valuation of \$1,128,600.00, determined as follows: (a) its millage levy (excluding sinking funds) as the numerator, divided by (b) the total of all levies for all ad valorem taxing entities (including sinking funds) as the denominator; which is multiplied by (c) 12%. The Stillwater Public Schools' percentage share shall be multiplied by that portion of the increment generated by assessed real and personal property values in Increment District No. 5 in excess of an assessed valuation of \$1,128,600.00.

All remaining portions of the ten percent (10%) of the Project Costs Allocation, after disbursement to the Stillwater Public Schools, shall be available to assist the Stillwater Economic Development Authority in defraying its administrative and implementation costs.

SECTION 6. Section VIII.A. of the 2022 Amended Project Plan is revised to add the following provision to the budget of estimated Project Costs for Increment District No. 3:

Any funds not disbursed as "Public Infrastructure, Facilities, and Improvements" or "Public School Facilities" may be allocated to the "Assistance in Development Financing" and "New Business Development" budget categories.

SECTION 7. Section VIII.A. of the 2022 Amended Project Plan is revised to reflect a five percent (5%) increase to the budget of estimated Project Costs for Increment District No. 5 to provide a source of funds for the Stillwater Economic Development Authority's implementation and administrative costs, as follows:

Increment District No. 5: The Project Costs will be financed or paid by the apportionment of ad valorem and sales tax increments from Increment District No. 5. The Project Cost categories are:

Assistance in Development Financing (Funded from 90% of the Project Costs Allocation)	\$ 16,900,000
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Implementation and Administration (Funded from 10% of the Project Costs Allocation)	\$ 845,000
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TOTAL Project Costs – Increment District No. 5	\$ 17,745,000
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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 this Project Plan.

SECTION 8. The City Council hereby finds that the 2022 Amended Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan), amended as described above in this Ordinance and as reflected in the attachment to this Ordinance:

- a. Does not modify the boundaries of Increment District No. 3 or Increment District No. 5;
- b. Does not increase the overall project cost budget for Increment District No. 3;
- c. Does not increase the overall project cost budget for Increment District No. 5 by more than five percent (5%);
- d. Does not change the character or purpose of the 2022 Amended Downtown/Campus Link Project Plan;
- e. Includes clarifying revisions consistent with previously approved actions of the City Council and the Stillwater Economic Development Authority, and consistent with the previously approved Redevelopment Agreement; and
- f. Qualifies as a minor amendment to the Project Plan, as defined in 62 O.S. § 858(D), and is determined to not be a significant deviation to the Project Plan, as described in 11 O.S. § 38-106(H).

SECTION 9. The 2022 Amended Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan), amended as described above in this Ordinance and as reflected in the attachment to this Ordinance, is hereby adopted and approved.

SECTION 10. As used herein, the “Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan),” the “Original Downtown/Campus Link Project Plan,” the “2022 Amended Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan),” and the “2022 Amended Downtown/Campus Link Project Plan” shall mean the document comprised of: one (1) cover sheet; fourteen (14) pages of text; six (6) exhibits labeled Exhibit A, Exhibit A-1, Exhibit B, Exhibit B-1, Exhibit C, and Exhibit D; titled “2022 Amended Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan),” with a list of the project plan approval history.

SECTION 11. Except as modified by this Ordinance, all findings, determinations, authorizations, and provisions of the 2022 Amended Stillwater (Re)Investment Plan (A Stillwater Downtown/Campus Link Project Plan) and Ordinance No. 3424, 3440, and 3494 are hereby confirmed and shall remain in full force and effect.

SECTION 12. 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 13. EMERGENCY CLAUSE. WHEREAS, 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 passage, as provided by law.

INTRODUCED AND CONSIDERED in an open meeting of the City Council of Stillwater, Oklahoma on the 27th day of March, 2023.

PASSED by the City Council of the City of Stillwater this 27th day of March, 2023, with the Emergency Clause voted on and approved separately.


William H. Joyce, Mayor

ATTEST:




Teresa Kadavy, City Clerk


EMERGENCY CLAUSE


THE EMERGENCY CLAUSE IS HEREBY PASSED, APPROVED AND ADOPTED
THIS 27th DAY OF March, 2023.


William H. Joyce, Mayor

ATTEST:


Teresa Kadavy, City Clerk


Approved as to form and legality:


Special Counsel for Economic Development

First Reading: March 6, 2023
Second Reading: March 27, 2023