

PURSUANT TO THE LEGAL NOTICE AS IS REQUIRED BY THE OKLAHOMA OPEN MEETING ACT INCLUDING THE POSTING OF NOTICE AND AGENDA AS IS REQUIRED BY THE TERMS THEREOF, THE TAX INCREMENT DISTRICT REVIEW COMMITTEE OF THE CITY OF BROKEN ARROW, OKLAHOMA, MET IN SPECIAL SESSION IN THE CITY COUNCIL CHAMBERS AT BROKEN ARROW CITY HALL, 220 S. 1ST STREET, BROKEN ARROW, OKLAHOMA, 74012, ON THE 7TH DAY OF DECEMBER, 2023, AT 3:30 O'CLOCK P.M.

PRESENT: Chair Christi Gillespie, Jaylee Klempa (Planning Commission), Darla Heller (Wagoner County), Michelle Dean (At-Large), Brandy Roulet (At-Large), and Ronda Vuillemont-Smith (At-Large)

ABSENT: None

(OTHER PROCEEDINGS)

Thereupon, the following resolution was introduced and caused to be read by title by the City Clerk. Committee Member Jaylee Klempa moved passage of the Resolution and Committee Member Brandy Roulet seconded the motion. The motion carrying with it the approval of said Resolution was approved by the following vote:

AYE: Chair Christi Gillespie, Jaylee Klempa, Michelle Dean, Brandy Roulet, and Ronda Vuillemont-Smith

NAY: None

ABSTAIN: Darla Heller

The Resolution so approved is as follows:

[RESOLUTION ON FOLLOWING PAGE]

RESOLUTION NO. 1555

A RESOLUTION RECOMMENDING THAT THE CITY OF BROKEN ARROW, OKLAHOMA THROUGH ITS CITY COUNCIL CREATE A TAX INCREMENT DISTRICT AND APPROVE THE SUNSET AT BROKEN ARROW ECONOMIC DEVELOPMENT PROJECT PLAN; AND MAKING CERTAIN FINDINGS IN REGARDS THERETO.

WHEREAS, pursuant to the provisions of the Local Development Act, 62 O.S. 2021, Section 851 *et seq.* (the “Local Development Act”), as amended, the City Council of the City of Broken Arrow, Oklahoma (the “City”) appointed the Tax Increment District Review Committee (the “Review Committee”) to review and make recommendations concerning a proposed tax increment district within the City; and

WHEREAS, the membership of this Review Committee is comprised of the following individuals: a representative of the City, a representative of Wagoner County, Oklahoma (the “County”), a representative of the Planning Commission of the City, and three representatives of the public at large, all as required pursuant to Section 855(A) of the Local Development Act; and

WHEREAS, the Review Committee has the statutory duty to consider and make its findings and recommendations to the City with respect to the conditions establishing the eligibility of the proposed district and the appropriateness of the approval of the proposed plan and project, as well as to report its findings to the City in regard to the financial impact on the taxing jurisdictions within the proposed district; and

WHEREAS, Article 10, Section 6C of the Oklahoma Constitution and its enabling legislation known as the Local Development Act provide that the City may use local taxes and local fees, in whole or in part, for specific public investments, assistance in development financing, or as a specific revenue source for other public entities in the area for which the improvements take place and may direct the apportionment of the taxes and fees for historic preservation, reinvestment, or enterprise areas that are exhibiting economic stagnation or decline; and

WHEREAS, the Review Committee has been presented with the “Sunset at Broken Arrow Economic Development Project Plan” (the “Project Plan”), providing for the creation of Increment District No. 5, City of Broken Arrow, Oklahoma (the “Increment District”), wherein certain projects are contemplated to be financed from a combination of public and private sources, including apportionment of sales and use taxes and hotel taxes derived from the proposed Increment District, to be established in connection with the project; and

WHEREAS, the Project Plan contemplates the funding of essential public improvements and economic incentives; and

WHEREAS, it is more likely than not that the private investment referenced in the Project Plan would not occur within the proposed Increment District without the public improvements and economic incentives specified in such plan.

NOW, THEREFORE, BE IT RESOLVED BY THE REVIEW COMMITTEE THAT THE FOLLOWING RECOMMENDATIONS AND FINDINGS BE MADE TO THE CITY COUNCIL

OF THE CITY OF BROKEN ARROW, OKLAHOMA, IN REGARD TO THE PROPOSED INCREMENT DISTRICT NO. 5, CITY OF BROKEN ARROW, OKLAHOMA, AND THE PROJECT PLAN:

SECTION 1. ELIGIBILITY AND CREATION OF INCREMENT DISTRICT NO. 5, CITY OF BROKEN ARROW, OKLAHOMA. The Review Committee hereby finds that the boundaries of the proposed Increment District, as set forth in Exhibit “B” of the Project Plan, are within a reinvestment area (as defined in Section 853(17) of the Local Development Act), and therefore, meets the requirements of Section 856(B)(4)(a)(1) of the Local Development Act.

SECTION 2. APPROVAL AND RECOMMENDATIONS IN REGARD TO THE PROJECT PLAN.

(A) The Review Committee has considered the Project Plan, and hereby finds that the provisions of the Project Plan do meet the following legislative guidelines set forth in Section 852 of the Local Development Act:

(1) Investment, development, and economic growth are difficult within the boundaries of the proposed Increment District, but possible if the tax increment financing provisions of the Local Development Act are available;

(2) That the proposed Increment District does not encompass an area where investment, development and economic growth would occur without the assistance of public funds;

(3) That the undertaking of the projects described in the Project Plan will not supplant or replace normal public functions and services;

(4) That the purpose set forth in the Project Plan for the proposed Increment District works in conjunction with the City’s locally implemented economic development plans;

(5) That the proposed Increment District does not have boundaries that dissect a similar area and does not create an unfair competitive advantage;

(6) That the project contemplates the need for residential and neighborhood treatments, and capital improvements to neighborhood public schools, as well as commercial/industrial development;

(7) That where possible, partial credits or credits that do not utilize the full time frame allowed have been incorporated into the Project Plan;

(8) That the maximum effort has been made to allow full public knowledge and participation in the use of the Local Development Act in connection with the preparation and adoption of the Project Plan;

(9) That the Project Plan contemplates the conservation, preservation and rehabilitation of existing improvements within the proposed Increment District; that

demolition, clearance and relocation is minimized except for structures necessary for the undertaking of the projects referenced in the Project Plan; and

(10) That the Project Plan, upon adoption by the City, develops and applies clear standards, criteria and threshold limits that are applicable to all similar property and areas that the Project Plan contains protection against nearby relocations to utilize incentives.

(B) The Review Committee further finds that contemplated private and public projects described in the Project Plan will likely enhance the value of other real property located within the proposed Increment District and the Project Area and will promote the general public interest.

(C) The Review Committee further finds that the aggregate net assessed value of all taxable property in all increment districts, as determined pursuant to Section 856(B)(4)(d) of the Local Development Act, within the City does not exceed 25% of the total net assessed value of taxable property within the City.

(D) The Review Committee further finds that the aggregate net assessed value of the taxable property in all increment districts, as determined pursuant to Section 856(B)(4)(f) of the Local Development Act, within the City does not exceed 25% of the total assessed net value of any affected school districts located within the City.

(E) The Review Committee further finds that the land area of all increment districts within the City does not exceed 25% of the total land area of the City.

(F) Based on the foregoing, the Review Committee finds that the Project Plan and the projects therein are appropriate under the provisions of the Local Development Act, and the approval of the Project Plan by the City is hereby recommended.

SECTION 3. REPORT OF FINANCIAL IMPACT.

(A) The Review Committee finds that the current sales and use tax revenues and hotel tax revenues collected within the proposed Increment District (if any) will continue to be apportioned to the City and the County, respectively. The Committee also finds that dedicating incremental sales and use tax revenues, hotel tax revenues, fee by agreement revenues, and certain Leverage Act revenues (collectively, the “TIF Revenues” as described in the Project Plan) to the Increment District apportionment fund until such time as all project costs are paid or approximately twenty-five (25) years (ending June 30, 2049, and referred to as the “Expiration Date”), whichever is less, is desirable to serve as a catalyst for retaining or expanding employment, to attract major investment in the area, and to enhance the tax base. These investments will benefit the proposed Increment District and thereby eventually result in substantial increased sales and use tax revenues to the City and the County through implementation of the Project Plan. Furthermore, the Project Plan provides that excess TIF Revenues collected within the proposed Increment District that are not required for project costs and/or debt service on the TIF Bonds (as defined in the Project Plan) shall be returned to the City and the County, respectively. As used herein, the phrase “payment of project costs” is deemed to include any interest component of any reimbursement offered pursuant to a development agreement.

(B) The Project as represented to the Review Committee contemplates a significant tourist destination with related commercial development. Sunset at Broken Arrow, LLC (the “Developer”), a subsidiary of Notes Live, Inc., a national developer specializing in outdoor performance and events venue projects, proposes to invest or cause to be invested in excess of \$71 million to construct an estimated 12,500 seat outdoor entertainment venue with a dedicated stage for a diverse array of performances and outdoor live music concerts, with a projected opening date by December 2025, on approximately 13 undeveloped acres located immediately north of the Broken Arrow Events Park located at 21101st Street South just east of the Creek Turnpike (the “Amphitheater Project”). As a result of the Amphitheater Project, it is further expected that the surrounding arterial roads will experience additional commercial retail and hotel development that will serve the increased traffic from the Sunset Amphitheater as well as other event offerings at the Events Park (the “Additional Development Projects”). The City proposes to complete certain traffic, parking, and stormwater management improvements, along with water system interconnection improvements that will provide service to the development area and thereby allow the Amphitheater Project and resulting Additional Development Projects to move forward. The proposed Project Costs (as described in the Project Plan) total an aggregate amount not-to-exceed \$28,450,000 construction of improvements, plus an estimated \$350,000 for organizational and administration costs related to the Increment District, plus potential debt service costs not-to-exceed \$50,365,000. The Increment District will capture all of the new City sales and use tax revenue generated at the Amphitheater Project, and one-half of the new City sales and use tax revenue generated everywhere else within the Increment District over the approximately twenty-five (25) year term of the Increment District, and the Increment District will terminate on the earlier of June 30, 2049, or the payment of all Project Costs. Additionally, the Increment District will capture all (100%) of the new County sales tax revenue (but not use tax revenue) generated during calendar years 2024-2027, three-quarters (75%) of the new County sales tax revenue (but not use tax revenue) generated during calendar years 2028-2029, one-half (50%) of the new County sales tax revenue (but not use tax revenue) generated during calendar years 2030-2031, one-quarter (25%) of the new County sales tax revenue (but not use tax revenue) generated during calendar years 2032-2033, and shall not capture any of the County sales tax revenue generated after December 31, 2033. Additionally, the Increment District will capture all of the new City hotel tax revenue generated within the Increment District, along with any funds made available as State of Oklahoma matching funds pursuant to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act, 62 O.S. §840, *et seq.*, and all fee by agreement revenue generated by the Amphitheater Project, including specifically a one percent (1.0%) fee added to all taxable sales occurring at the Amphitheater Project. Based on the preliminary development projections assuming construction of the Amphitheater Project and the additional development projects, it is anticipated that (i) approximately \$98.01 million in City sales and use tax TIF Revenues will be generated during the term of the Increment District, with approximately \$90.96 million available for the payment of Project Costs, and the balance of approximately \$7.05 million apportioned to the City; (ii) approximately \$35.89 million in County sales tax TIF Revenues will be generated during the term of the Increment District, with approximately \$6.24 million available for the payment of Project Costs (i.e. the incentive payments along with organizational costs of the Increment District), and the balance of approximately \$29.65 million apportioned to the County; (iii) approximately \$4.31 million in City hotel tax TIF Revenues will be generated during the term of the Increment District for the payment of Project Costs; (vi) approximately \$23.63 million in fee by agreement TIF Revenues will be generated during the term of the Increment District for the

payment of Project Costs; and (v) potentially up to \$100.95 million in Leverage Act TIF Revenues will be generated during the term of the Increment District for the payment of Project Costs. The total of estimated TIF Revenues (not including potential Leverage Act TIF Revenues) is approximately \$125.15 million. It is anticipated that a total of approximately \$28,800,000 will be expended for the payment of Project Costs and Organizational Costs, plus interest and other financing amounts related to the issuance of TIF Bonds, if any, and any excess TIF Revenues will be returned to the City and County, respectively.

(C) The Review Committee hereby finds that the likely financial impact on the City within the proposed Increment District to be as follows:

(1) CITY OF BROKEN ARROW. The City currently levies sales and use taxes equal to three and fifty-five hundredths percent (3.55%) pursuant to Chapter 22, Article II, Section 22-6 *et seq.*, of the Broken Arrow Code of Ordinances (referred to within this subsection as the “Sales Tax Revenue”). The stated purposes of the Sales Tax Revenue under the Broken Arrow Code of Ordinances are: (i) one and one-half percent (1.5%) is designated for general municipal functions of the City; (ii) one half of one percent (0.5%) of is designated for capital improvements; (iii) one percent (1.0%) is designated for the payment of operation and maintenance of the water, sewer and solid waste systems, to pay costs of planning and constructing said systems' improvements, the cost and feasibility studies, land acquisition, election and other expenses, and the payment of the debt service, including payment of interest and principal, and premium, if any; (iv) one quarter of one percent (0.25%) is designated for the purpose of improving, constructing and maintaining city streets, sidewalks, and related stormwater appurtenances, including the acquisition and replacement of machinery, equipment and materials, and including the installation of traffic control devices and signalization; and (v) three tenths of one percent (0.3%) is designated for public safety sales tax fund, and used for the purpose of funding the staffing of public safety personnel, and the acquisition and replacement of public safety vehicles, equipment, technology and apparatus. Additionally, the City currently levies hotel taxes equal to four percent (4.0%) pursuant Chapter 22, Article VI, Section 22-111 *et seq.*, of the Broken Arrow Code of Ordinances (referred to within this subsection as the “Hotel Tax Revenue”). The stated purposes of the Hotel Tax Revenue under the Code of Ordinances are to encourage, promote and foster, leisure, culture and tourism in Broken Arrow.

Sales Tax Revenue. There is currently no known Sales Tax Revenue generated within the proposed Increment District. The unique nature of the Amphitheater Project is expected to draw significant spending from outside the City that will be new to Broken Arrow, and in recognition thereof, all of the resulting new sales and use tax revenue will be captured by the Increment District. The City reasonably expects that the Additional Development Projects may result in increased competition for retail sales with establishments within Broken Arrow but outside the Increment District boundaries, therefore the Project Plan proposes that only one-half of the incremental sales and use tax revenue accruing to the City from the Additional Development Projects will be captured by the Increment District, and further, that the increment of Sales Tax Revenues shall be reduced by the amount of sales tax revenues generated by any existing businesses (currently located within

the City, but outside the boundaries of the Increment District) that cease operations at their existing location and relocate to within the Increment District, but provided further, said reduction shall not be applied to any existing businesses that open an additional location within the Increment District for so long as all other existing location(s) remain open for business. With regard to future incremental Sales Tax Revenue, the maximum annual and total incremental revenues which are expected to be generated within the proposed Increment District from the City's 3.55% sales and use tax levy and apportioned under the Project Plan for project costs and/or debt service on the TIF Bonds are estimated as set forth on Exhibit "A" hereto. Because substantially all of the incremental Sales Tax Revenue which would be generated from new private investment would not have occurred without the payment of Project Costs contemplated in the Project Plan, and because the City has proposed mitigating measures to guard against the cannibalization of existing sales tax collections, no adverse financial impact to the City's Sales Tax Revenue is expected.

Hotel Tax Revenue. There is currently no Hotel Tax Revenue generated within the proposed Increment District. The Project Plan proposes that one-hundred percent (100%) of the increment of Hotel Tax Revenues will be captured by the Increment District. With regard to future incremental Hotel Tax Revenue, the maximum annual and total incremental revenues which are expected to be generated within the proposed Increment District from the City's 4.0% hotel tax levy and apportioned under the Project Plan for project costs and/or debt service on the TIF Bonds are estimated as set forth on Exhibit "A" hereto. Because substantially all of the incremental Hotel Tax Revenue which would be generated from new private investment would not have occurred without the payment of Project Costs contemplated in the Project Plan, no adverse financial impact to the City's Hotel Tax Revenue is expected.

Other Considerations. The remaining unapportioned one half of the sales and use tax (representing 50.0% of the incremental sales and use tax revenue based on a total of 3.55% sales and use tax levied by the City as of the date of the Project Plan) shall be retained by the City and utilized for any lawful purpose consistent with the aforementioned Code of Ordinances, and represent a significant source of revenue for the duration of the Increment District that will also be available to offset any adverse financial impacts to the City.

(2) WAGONER COUNTY. Wagoner County, Oklahoma (the "County") currently levies sales taxes equal to one and three-tenths percent (1.3%) pursuant to Resolution 2006-078 dated November 27, 2006, and Resolution 2017-005 dated January 23, 2017 (referred to within this subsection as the "Sales Tax Revenue"). The stated purposes of the Sales Tax Revenue are: (i) three-tenths of one percent (0.3%) permanent sales tax to support fire departments in Wagoner County (Resolution 2006-078); and (ii) one percent (1.0%) expiring March 31, 2028 for operations and road and bridge improvements (80%), general fund (10%), and capital outlay and operations of the Wagoner County Sheriff Office (Resolution 2017-005).

Sales Tax Revenue. There is currently no known Sales Tax Revenue generated within the proposed Increment District. The Increment District will capture all (100%) of the new County sales tax revenue (but not use tax revenue) generated during calendar years 2024-2027, three-quarters (75%) of the new County sales tax revenue (but not use tax revenue) generated during calendar years 2028-2029, one-half (50%) of the new County sales tax revenue (but not use tax revenue) generated during calendar years 2030-2031, one-quarter (25%) of the new County sales tax revenue (but not use tax revenue) generated during calendar years 2032-2033, and shall not capture any of the County sales tax revenue generated after December 31, 2033; further, that the increment of Sales Tax Revenues shall be reduced by the amount of sales tax revenues generated by any existing businesses (currently located within the County, but outside the boundaries of the Increment District) that cease operations at their existing location and relocate to within the Increment District, but provided further, said reduction shall not be applied to any existing businesses that open an additional location within the Increment District for so long as all other existing location(s) remain open for business. With regard to future incremental Sales Tax Revenue, the maximum annual and total incremental revenues which are expected to be generated within the proposed Increment District from the County's 1.3% sales tax levy and apportioned under the Project Plan for project costs and/or debt service on the TIF Bonds are estimated as set forth on Exhibit "A" hereto. Because substantially all of the incremental Sales Tax Revenue which would be generated from new private investment would not have occurred without the payment of Project Costs contemplated in the Project Plan, and because the City and the County have proposed mitigating measures to guard against the cannibalization of existing sales tax collections, no adverse financial impact to the City's Sales Tax Revenue is expected.

Other Considerations. The remaining unapportioned amount of the sales tax shall be retained by the County and utilized for any lawful purpose consistent with the aforementioned Sales Tax Resolutions, and represent a significant source of revenue for the duration of the Increment District that will also be available to offset any adverse financial impacts to the County.

(3) FEE BY AGREEMENT REVENUE. The Developer has agreed to impose a fee by agreement of 1% of the gross taxable retail sales occurring at the Amphitheater Project for the full duration of the Increment District. This "Fee by Agreement Increment Revenue" is separate and in addition to the City Sales Tax Increment Revenue and the County Sales Tax Increment Revenue, and represents an important additional revenue source to facilitate the payment of the Project Costs. The maximum annual and total incremental revenues which are expected to be generated within the proposed Increment District from the Fee by Agreement Increment Revenue and apportioned under the Project Plan for project costs and/or debt service on the TIF Bonds are estimated to be \$23,634,204.

(4) OTHER TAXING ENTITIES: No portion of the ad valorem tax increments generated by the Project will be captured as part of the TIF Revenue. The ad valorem taxing jurisdictions are Wagoner County, the Wagoner County Health Department, Independent School District No. 3 of Tulsa County (Broken Arrow Public Schools), Tulsa

Technology Center No. 18, and the City. Upon completion of the Amphitheater Project, the ad valorem taxing jurisdictions could see an aggregate net gain in annual ad valorem tax revenues of approximately \$730,800 (based on a taxable capital investment of approximately \$57.2 million). Upon completion of the Additional Development Projects, the ad valorem taxing jurisdictions could see an additional aggregate net gain in annual ad valorem tax revenues of approximately \$311,700 (based on an additional taxable capital investment of approximately \$24.4 million).

(D) The Review Committee hereby finds that there will be no impact to existing business activities within the proposed Increment District. There are no ongoing commercial business activities within the proposed Increment District. Development of the Amphitheater Project is expected to create a destination tourism experience that will generate new commercial traffic benefitting the City, the County, and surrounding businesses outside the proposed Increment District.

[Remainder of Page Left Blank Intentionally]

ADOPTED THIS 7TH DAY OF DECEMBER, 2023.

(SEAL)
ATTEST:

By: _____
Chairman

By: _____
City Clerk

STATE OF OKLAHOMA)
)SS
COUNTY OF TULSA)

I, the undersigned, City Clerk of the City of Broken Arrow, Oklahoma, do hereby certify that the above and foregoing is a true, full and correct copy of an excerpt from the minutes of a meeting of the Tax Increment District Review Committee of said City held on the date above stated, all as recorded in the official minutes of such meeting. I further certify that the “Open Meeting Law” was complied with for such meeting.

GIVEN UNDER MY HAND THIS 7TH DAY OF DECEMBER, 2023.

(SEAL)

City Clerk

EXHIBIT A
Estimated Potential Impact on Certain Sales Tax Collections

Taxing Purpose	Tax Rate ⁽¹⁾	TIF Revenues Captured ⁽²⁾				Total Sales Tax Revenue
		Allocation to City ⁽³⁾	Allocation to Project Costs ⁽⁴⁾	Allocation to County ⁽³⁾	Allocation to State ⁽⁵⁾	
City of Broken Arrow Sales Tax	3.550%	7,057,552.65	90,958,977.30	0.00	0.00	98,016,529.95
Wagoner County Sales Tax	1.300%	0.00	6,244,875.52	29,648,501.64	0.00	35,893,377.17
State of Oklahoma Sales Tax	4.500%	0.00	0.00	0.00	124,246,305.57	124,246,305.57
TOTALS:	9.350%	7,057,552.65	97,203,852.82	29,648,501.64	124,246,305.57	258,156,212.69

(1) Assumes continued levy through expiration of Increment District (June 30, 2049)

(2) Based on estimated \$2.761 billion in total taxable sales (construction, retail, and lodging)

(3) 50% of Additional Development Project Sales Tax Increment Revenue (not Amphitheater Project) allocated to City (2.5% of a total of 5.0% City sales tax) and to County (0.65% of a total of 1.3% County sales tax)

(4) 100% allocation of Amphitheater Project Sales Tax Increment Revenues and 50% of Additional Development Project Sales Tax Increment Revenues; excess revenues not needed for Project Costs and related financing costs will be returned to the City

(5) A portion of the State Sales Tax Collections may be eligible for capture as TIF Revenue pursuant to the Leverage Act

Estimated Potential Impact on Certain Hotel Tax Collections

Taxing Purpose	Tax Rate ⁽¹⁾	TIF Revenues Captured ⁽²⁾			Total Hotel Tax Revenue
		Allocation to City ⁽³⁾	Allocation to Project Costs ⁽⁴⁾	Allocation to County ⁽³⁾	
City of Broken Arrow Hotel Tax	4.000%	0.00	4,309,920.00	0.00	4,309,920.00
Wagoner County Hotel Tax	0.000%	0.00	0.00	0.00	0.00
TOTALS:	4.000%	0.00	4,309,920.00	0.00	4,309,920.00

(1) Assumes continued levy through expiration of Increment District (June 30, 2049)

(2) Based on estimated \$107.748 million in total taxable lodging sales

(3) 0% allocation of Hotel Tax Increment Revenues allocated to City

(4) 100% allocation of Hotel Tax Increment Revenues allocated to Project Costs; excess revenues not needed for Project Costs and related financing costs will be returned to the City