

**RESOLUTION NO. 1076**

**CONSIDERATION, DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION NO. 1076, A RESOLUTION OF NECESSITY TO FILE A SMALL CLAIMS ACTION AGAINST PRIDE HOSPITALITY, LLC DBA LAQUINTA INN & SUITES, LOCATED AT 451 W. ALBANY STREET, BROKEN ARROW, OKLAHOMA 74012 FOR FAILURE TO REPORT AND PAY HOTEL OCCUPANCY TAX OWING FOR THE PERIOD OF MAY 2017 AND JULY 2017**

**WHEREAS**, pursuant to Broken Arrow Code Sec. 22-112, there is levied an excise tax of four percent upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city, except that the tax shall not be imposed where the rent is less than the rate of \$5.00 per day; and

**WHEREAS**, pursuant to Broken Arrow Code Sec. 22-115, the hotel operator is responsible for tax collections. The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the City for the tax which shall be held in trust by the operator until paid to the city; and

**WHEREAS**, pursuant to Broken Arrow Code 22-115(c)(1), every operator shall file with the city manager a report of occupancy and of rents, and of the taxes payable thereon for the period ending on the last day of each month following the effective date of this article. Such return shall be filed within the first 15 days after the end of each such month; and

**WHEREAS**, Pride Hospitality, LLC dba LaQuinta Inn & Suites is a hotel which the public does, for consideration, obtain sleeping accommodations and along with paying rent, they pay a four percent (4%) hotel occupancy tax which is due to the City of Broken Arrow; and

**WHEREAS**, Hospitality Pride, LLC has been collecting said four percent (4%) tax from its renters; and

**WHEREAS**, for the period of time from June, August, September, October and November 2017 Hospitality Pride, LLC has failed and refused to file a report of occupancy and of rents which is required to be reported within 15 days of the end of the month being reported according to Broken Arrow Code Sec. 22-115(c)(1); and

**WHEREAS**, for the period of time from June, August, September, October and November of 2017 Hospitality Pride, LLC has failed pay approximately \$28,416.34 in taxes owed to the City; and

**WHEREAS**, Pride Hospitality is in violation of the city's ordinances with regard to reporting and paying hotel occupancy taxes; and

**WHEREAS**, Broken Arrow Code Sec. 22-126(d), provides that the City Manager may also authorize the city attorney to institute an action in personam and in rem to enforce payment and collect any delinquent lodging taxes, penalties and/or interest; and

**WHEREAS**, in order to meet the statutory restrictions, the Legal Department recommends that the Council authorize initiation of a Small Claims Action for the months of May and July 2017, in the sum of \$10,000.00.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Broken Arrow, Oklahoma that the filing of a Small Claims action against Pride Hospitality, LLC dba LaQuinta Inn & Suites is a necessary action for recovery of hotel occupancy taxes owed to the City.

**NOW THEREFORE, BE IT FURTHER RESOLVED** that the City Attorney is authorized to initiate a lawsuit to recover hotel occupancy taxes owed to the City.

This Resolution is approved in open meeting by the City Council of the City of Broken Arrow on this 19th day of December, 2017.

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Mayor

Attest:

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City Clerk

Approved as to form:

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Assistant City Attorney