

# OKLAHOMA TAX COMMISSION

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July 11, 2001

City Treasurer  
Bradley  
PO Box 26  
Bradley, OK 73011

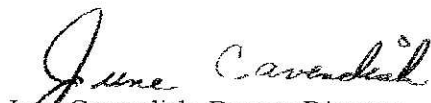
Enclosed for your file is a copy of the following Agreement(s):

- Agreement for Administration of the Sales Tax Ordinance
- Agreement for Administration of the Use Tax Ordinance
- Agreement for Administration of the Use Tax Ordinance (County)
- Agreement for Administration of the Sales Tax Ordinance  
(County)

Thank you for your cooperation in this matter. If I can be of further assistance, please contact me at (405) 521-3200.

Sincerely,

OKLAHOMA TAX COMMISSION

  
June Cavendish, Deputy Director  
Taxpayer Assistance Division

JC:tmn  
Enclosure

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2501 NORTH LINCOLN BOULEVARD • OKLAHOMA CITY • OKLAHOMA 73194

IT IS OUR MISSION TO SERVE THE PEOPLE OF OKLAHOMA BY PROMOTING TAX COMPLIANCE THROUGH QUALITY SERVICE AND FAIR ADMINISTRATION

AGREEMENT FOR ADMINISTRATION  
OF THE SALES TAX ORDINANCE  
OF THE CITY/TOWN OF

Brookley

THIS AGREEMENT is entered into this 17 day of June, 2003, pursuant to the provisions of Sections 2701 *et seq.* of Title 68 of the Oklahoma Statutes, between the Oklahoma Tax Commission, hereinafter referred to as "Commission," and the City/Town of Brookley, Oklahoma, hereinafter referred to as "Municipality," for the administration of Ordinance No. \_\_\_\_\_, hereinafter referred to as "Ordinance," levying a municipal sales tax of three percent (3 %) upon sales within the Municipality.

1. This Agreement is based upon the Ordinance, a certified copy of which is attached hereto and made a part hereof. The Municipality may, at any time and from time to time, amend or repeal the Ordinance and, to the extent that the Municipality amends or repeals the Ordinance, the Municipality shall promptly provide the Commission with a certified copy of the ordinance effecting such amendment or such repeal.

An increase or a decrease in the municipal sales tax rate shall become effective only on the first day of a calendar quarter. The Municipality shall notify the Commission of an increase or a decrease at least fifteen (15) days prior to the close of the prior calendar quarter and shall provide the Commission with a certified copy of the ordinance effecting such increase or such decrease and a certified copy of the election results, if any, with respect thereto.

2. The Commission shall administer and shall enforce the Ordinance and shall collect the municipal sales tax, and the interest and penalties with respect thereto, as provided in the Ordinance and as herein provided. It is recognized and acknowledged that: (a) the Ordinance levies a municipal sales tax upon all sales within the Municipality which are subject to the state sales tax levied by Sections 1350 *et seq.* of Title 68 of the Oklahoma Statutes, hereinafter referred to as "Oklahoma Sales Tax Code;" (b) the term "sale" as used in the Ordinance has the same meaning as the term "sale" has in the Oklahoma Sales Tax Code; and (c) any sale exempt from state sales tax is exempt from the municipal sales tax, unless otherwise provided by the Oklahoma Sales Tax Code.

To facilitate such administration, such collection and such enforcement, as well as the administration, the collection and the enforcement of local taxes, the Commission shall designate a Local Tax Coordinator of the Commission who shall be generally responsible for matters related to the collection of local taxes and, with respect to such matters, shall directly advise the Administrator of the Commission. The duties which may be performed by the Local Tax Coordinator and/or other employees of the Commission under his or her supervision, shall include, without limitation, (a) acting as liaison between the Commission and municipalities and counties with respect to the administration, the collection and the enforcement of local taxes, (b) addressing concerns of the Commission and/or taxpayers with respect to the administration, the collection and the enforcement of municipal taxes by municipalities and county taxes by counties, (c) consulting with municipalities and counties on concerns and trends with respect to local taxes, (d) coordinating collection and enforcement actions by the Commission, municipalities and counties with respect to local taxes, (e) coordinating the provision by the Commission to municipalities and counties of information and (f) providing educational and other support to municipalities and counties in their collection and enforcement efforts. In making decisions with respect to the administration of local taxes, the Commission will consider the view, if any, expressed by the Municipality; provided, however, the Commission may accept or reject any such views expressed by the Municipality.

Notwithstanding anything else contained herein, the Local Tax Coordinator shall not perform any duties which are the sole responsibility of the Municipality.

3. The bracket system shall be adopted by the Commission for use by vendors in collecting both state sales tax and local sales tax, as authorized in Section 1362 of the Oklahoma Sales Tax Code.

4. The discount allowed to vendors in Section 1367 of the Oklahoma Sales Tax Code shall be applicable to both state and local sales tax remittances.

5. The Commission shall retain, as its sole compensation for its services rendered hereunder, an amount equal to the applicable percentage of the amount of the municipal sales taxes, and the interest and penalties with respect thereto, collected by the Commission hereunder. The applicable percentage is set forth in Exhibit A.

6. Except as otherwise provided herein, the Commission shall give no preference in applying an amount received for state, municipal and county sales taxes owed by a taxpayer to the extent that such amount is less than the aggregate state, municipal and county sales tax liability of the taxpayer. Any such amount shall be applied pro rata to the satisfaction of the claims of the Commission, the claims of the Municipality and the claims of other municipalities and counties based on the portions of the aggregate state, municipal and county sales tax liability of the taxpayer represented by their respective claims.

7. The municipal sales tax received and collected by the Commission pursuant hereto shall be deposited in the State Treasury as required by law. The Commission shall use its best efforts to cause to be paid to the Municipality no later than the tenth day of each calendar month all municipal sales tax, and the interest and the penalties with respect thereto, received and collected by the Commission during the immediately preceding calendar month, less any amount withheld by the Commission under Paragraph 5 and less any amounts deducted by the Commission in connection with refunds hereunder.

8. The Commission shall require reports of municipal sales tax from vendors, shall maintain records of reports by, and receipts and collections from, vendors, and shall maintain the records in such a manner that the total amount due the Municipality each month can be determined by the Commission and can be verified by the Municipality. The requirement for the Commission to maintain its records in a verifiable form is not intended to require the Commission to maintain its records in any particular form; the Commission may use any form which is capable of being understood by a person reviewing such records with the assistance of the Commission (which assistance shall be provided through the Local Tax Coordinator). The Commission shall transmit to the Municipality a monthly statement of the municipal sales tax, and interest and penalties with respect thereto, received and collected by the Commission during the immediately preceding calendar month, the amounts, if any, refunded by the Commission to taxpayers during the immediately preceding calendar month and the amount withheld by the Commission under Paragraph 5.

9. The Municipality acknowledges that the Commission is responsible for making refunds to taxpayers of municipal sales taxes previously collected by the Commission on behalf of the Municipality. The Commission's determination of any taxpayer's liability for sales and use taxes shall be binding as between the Municipality and the taxpayer.

Any refund of municipal sales tax previously paid by the Commission to the Municipality shall be paid from subsequent collections of the municipal sales tax. Such refund shall be deducted from the collections payable by the Commission to the Municipality in the immediately following calendar month (unless the taxpayer entitled to such refund otherwise agrees).

The Commission shall use its best efforts to give written notice to the affected municipality or municipalities at least five (5) days prior to the mailing of a refund check in an amount of \$5,000 or more of state, county and municipal sales taxes. In addition, the Commission shall generate internal reports with respect to adjustments and amended returns and shall use its best efforts to provide at least five (5) days' prior notice of payments based thereon; provided, however, if the Commission can not give at least five (5) days' prior notice, it shall give such prior notice as it can.

10. Any municipal sales tax, and/or any interest and penalties with respect thereto, paid under protest by a taxpayer to the Commission during the immediately preceding calendar month shall be paid by the Commission to the Municipality as part of the payment being made by the Commission to the Municipality. If the protested municipal sales tax, interest or penalties are required to be refunded, such amount and any interest required to be paid thereon will be paid out of subsequent collections by the Commission. Such refund shall be deducted from the collections payable

by the Commission to the Municipality in the immediately following calendar month (unless the taxpayer entitled to such refund otherwise agrees).

In the event the Commission conducts a hearing on a claim for refund or a taxpayer files a protest to an audit proposed assessment which involves \$10,000 or more of local taxes and an affected municipality shall have requested such notice in writing, the Commission shall at least thirty (30) days prior to conducting such hearing provide notice of such claim for refund or such protest, as the case may be, to the municipality affected.

11. It is contemplated that the some or all of the municipalities located in the State of Oklahoma will establish, pursuant to the Interlocal Cooperation Act, an entity to maintain a reserve with respect to refunds that the Commission may be required to make in connection with municipal sales and use taxes. Such entity shall be governed by definitive documentation which is mutually satisfactory to the participating municipalities and which complies with applicable law.

Provided the Commission 15 days prior to close of the month, receives from time to time, written notice from the entity that one or more municipalities, including the Municipality, has elected to participate in such entity and that such municipalities, including the Municipality, have funding obligations with respect to such entity, the Commission shall pay to the entity the percentage, if any, designated by such entity of the Municipality's sales tax received and collected during the immediately preceding calendar month; the Commission and the Municipality expressly acknowledge that the funding obligations may cease and recommence in accordance with the definitive documentation among the participating municipalities. The Commission shall use its best efforts to make such payments simultaneously with the payments to the Municipality contemplated by Paragraph 7; provided, however, that the Commission shall never be required to make payments with respect to less than all of the participating municipalities and the percentage payable shall be the same for all municipalities participating.

12. Simultaneously with the execution and the delivery of this Agreement, the Commission shall, upon written request of the Municipality, provide to the Municipality a full and complete list of the names and the addresses of the persons and the entities which or who report doing business within the boundary of the Municipality during the preceding calendar year.

The Commission shall, upon written request of the Municipality, report to the Municipality on a monthly basis all of the following information:

- (a) additions to, and deletions from, the full and complete list of the names and the addresses of persons and entities which or who report doing business during the preceding calendar year within the boundary of the Municipality;
- (b) a full and complete list of the persons and the entities specified in Paragraph 12(a) which or who are more than sixty (60) days delinquent in remitting municipal sales taxes pursuant to the Ordinance; and
- (c) a full and complete list of all persons and all entities paying municipal sales tax under the Ordinance, and/or interest and penalties with respect thereto, and the amount of such remittances.

The Commission shall, upon written request of the Municipality, report to the Municipality on a quarterly basis all of the following information:

- (a) the number of audits completed by the Commission with respect to municipal sales taxes, and/or interest and penalties with respect thereto, under the Ordinance during the preceding calendar year; and

- (b) the amount of additional municipal sales taxes, and/or interest and penalties with respect thereto, under the Ordinance collected by the Commission during the preceding calendar year.

The Commission shall monitor the administration, the collection and the enforcement of municipal sales taxes, and/or interest and penalties with respect thereto, under the Ordinance. The Commission shall provide the Municipality such information as may be requested by the Municipality with respect to any protest or any refund of municipal sales taxes levied by the Municipality. The Municipality shall also be entitled to consult with the Commission's legal staff about protests and refunds and, to the extent that a protest or a refund involves one or more hearings, the Municipality shall, through legal counsel employed by the Municipality, be entitled to be present and observe such hearing(s); provided, however, the administrative law judge or the Commission may limit the number of counsel, if any, who may be present to the extent necessary to permit the hearing to be conducted in an orderly fashion and without undue trepidation on the part of the taxpayer.

To the extent that such documents and/or such information relates to municipal sales taxes, and/or interest and penalties with respect thereto, and is requested, at any time and from time to time by the Municipality, the Commission shall promptly provide to the Municipality (a) copies of applications for sales tax permits, (b) copies of sales tax reports, (c) copies of installment or other payment plans, if any, with taxpayers and (d) other documents and other information.

The Commission shall promptly notify the Municipality of any conduct which the Commission believes might be the basis for a criminal prosecution by the Municipality under the Ordinance and shall provide to the Municipality all of the documents and the information in the possession of the Commission with respect thereto, including, without limitation, the names of employees of the Commission who might be witnesses with respect thereto.

The Municipality acknowledges that Section 205 of Title 68 of the Oklahoma Statutes, which makes the records and the files of the Commission confidential (subject to specified exceptions) and which prohibits disclosure of such records and such files (subject to specified exceptions), includes the Commission's records and files with respect to the receipt and the collection of municipal sales tax. Nothing contained herein is intended to require the Commission to disclose to the Municipality any information whose disclosure to the Municipality is prohibited by Section 205.

The Commission acknowledges that (a) Section 205(c)(7) of Title 68 of the Oklahoma Statutes permits the Commission to furnish information disclosed by the records and the files of the Commission to an official body or any official person who is concerned with the administration or the assessment of certain taxes, such as the Municipality, (b) Section 205(c)(23) of Title 68 permits the disclosure of information directly involved in the resolution of issues arising out of the enforcement of a municipal sales tax ordinance, such as the Ordinance, pursuant to a municipal tax collection agreement, such as this Agreement, and (c) Section 22-107 of Title 11 of the Oklahoma Statutes and Section 205.1 of Title 68 of the Oklahoma Statutes permits the Commission to release specified information to municipalities.

The Municipality acknowledges that Section 205 of Title 68 of the Oklahoma Statutes may prevent the disclosure by the Municipality and persons associated with the Municipality of information which is provided by the Commission to the Municipality and that improper disclosure by the Municipality or any such person of such information may result in civil and criminal liability. The Municipality shall comply with the restrictions imposed by Section 205.

13. In the event of termination of this Agreement, the Commission will cause to be paid over to the Municipality, all municipal sales tax funds in its possession then due and payable under this Agreement. The Municipality shall thereafter be liable for and shall pay any refunds of municipal sales tax required by law to be made, including refunds of municipal sales tax, penalty and interest paid under protest that must be refunded and any interest required thereon. After such termination, the Commission's liability shall extend only to the amount of such funds being held by it. The Municipality agrees to pay any interest required by law to be paid on such refunds.



14. The Commission shall have the authority to assess and to collect, on behalf of the Municipality, the municipal sales tax levied by the Ordinance, and the interest and the penalties with respect thereto, including, without limitation, any municipal sales tax, interest and/or penalty existing on the date hereof.

The Municipality may inquire into the compliance of persons and entities with the Ordinance and, to the extent that the Municipality determines that any person or any entity has not complied with the Ordinance, the Municipality may request the Commission to issue a proposed assessment against such person or such entity. To the extent that the Commission receives any such request, the Commission shall review such request and, to the extent that the Commission believes that such request presents a basis for a proposed assessment, shall issue a proposed assessment. Any such proposed assessment shall be resolved as provided in Sections 201 *et seq.* of Title 68 and the procedural rules promulgated by the Commission.

The Municipality may, at the option of the Municipality, request the Commission to initiate a show cause proceeding against a person or an entity which the Municipality believes, in good faith, not to be in compliance with the Ordinance or any provision thereof. To the extent that the Commission receives any such request, the Commission shall review such request and, to the extent that the Commission believes that such request presents a basis for a show cause proceeding, shall initiate a show cause proceeding. Such show cause proceeding shall be conducted as provided in the procedural rules promulgated by the Commission.

The Commission and the Municipality acknowledge the mutual interest of the Commission and the Municipality in maximizing compliance with the Ordinance and the collection of local taxes thereunder. The Municipality may, at any time and from time to time, either alone or in conjunction with other municipalities, submit a written proposal for supplemental audit, collection and enforcement activities for consideration by the Commission; provided, however, it is expressly understood that any such written proposal must provide for coordination with the collection and enforcement activities of the Commission, provide for the use of the then applicable audit standards of the Commission and otherwise be in form and in substance to the Commission.

15. It is recognized and acknowledged that the Ordinance includes criminal sanctions for violation of the Ordinance. Notwithstanding anything else contained herein, the Municipality shall have the exclusive authority to prosecute any criminal violations of the Ordinance and the Commission shall refrain from taking any such action. Nothing contained herein shall prevent any the State of Oklahoma from prosecuting persons for crimes under state law, including, without limitation, embezzlement by a vendor of a municipal sales tax.

16. To the extent that the Municipality decides to or to prosecute criminally any action under this Agreement, the Commission and the Municipality shall cooperate, in good faith, to maximize collections under the Ordinance and to minimize duplicative effort by the Commission and the Municipality.

17. Any payment of municipal sales tax, and/or the interest and the penalties with respect thereto, generated as a result of action by the Municipality hereunder, shall be paid by the taxpayer directly to the Commission.

18. The Commission has the exclusive authority to enter into an installment or other payment agreement with any taxpayer, including a taxpayer prosecuted under a municipal sales tax ordinance, for state and local taxes owed by the taxpayer.

19. The Municipality agrees that, if there is a challenge to the constitutionality or the legality of the Ordinance or any provision thereof (other than a challenge based on the application by the Commission of the Ordinance or any provision thereof), the Municipality shall be responsible for the resolution of such challenge. If such a challenge is based on the application by the Commission of the Ordinance or any provision thereof, the Commission shall be responsible for the resolution of such challenge. The party responsible for the resolution of any challenge shall make all decisions with respect to the prosecution and the settlement of any litigation with respect to such challenge and the other party shall cooperate with the responsible party with respect to the resolution of such challenge.

20. The Municipality agrees to promptly give the Commission a notice in writing of any annexation or de-annexation of territory to the Municipality. The notice shall include a verified copy of the street or physical boundaries of the newly annexed or de-annexed territory. All Municipality limit lines shall be designated by street name, or other physical boundaries, shown in map form, and certified to the Commission.

21. This Agreement shall be in effect beginning 7-1 201 which shall renew without action of the parties for additional terms of one (1) year provided that the current rate has not been changed and neither party has given written notice to the other party of its intent to terminate this Agreement prior to the expiration of the then current term. Either party may terminate this contract for any reason upon thirty (30) days written notice of its intent to terminate to the other party.

IN WITNESS WHEREOF, the parties have set their hands and affixed their official seals the day and year first above written.

THE MUNICIPALITY OF

OKLAHOMA TAX COMMISSION

Bradley

[Signature]

A Municipal Corporation

Chairman

Robert Pinnick

[Signature]

Mayor

Vice Chairman

ATTEST: (CITY SEAL)

Chadwick Brown

[Signature]

Municipal Clerk

Secretary-Member

ATTESTED: (STATE SEAL)

[Signature]  
Assistant Secretary - OTC

APPROVED:

[Signature]

Director, Taxpayer Assistance Division

APPROVED BY THE CITY OF \_\_\_\_\_ LEGAL DEPARTMENT

BY \_\_\_\_\_ DATE \_\_\_\_\_