

ORDINANCE NO. O-05-16

AN ORDINANCE PROVIDING FOR THE REFUND TO TAXPAYERS OF THE EXCESS COLLECTIONS OF THE ONE PERCENT (1%) SALES AND USE TAX PREVIOUSLY LEVIED WITHIN THE CITY OF ARKADELPHIA, ARKANSAS; APPROVING THE PROCEDURE FOR REFUNDING THE EXCESS TAX COLLECTIONS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the Board of Directors of the City of Arkadelphia, Arkansas (the "City") previously adopted Ordinance No. O-00-10 which levied a one-percent sales and use tax with the City (the "Sales and Use Tax") pursuant to Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated, in order to finance the acquisition and construction of park and recreational improvements, including new facilities and improvement to existing facilities (the "Project"); and

WHEREAS, the Sales and Use Tax was approved by the majority of the electors voting on the question at a special election held in the City on August 1, 2000; and

WHEREAS, the Project has been completed and the City has excess collections of the Sales and Use Tax on hand in the approximate amount of \$1,301,000; and

WHEREAS, the City desires to refund the excess collections of the Sales and Use Tax to the taxpayers who paid the Sales and Use Tax;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Arkadelphia, Arkansas:

Section 1. All excess collections of the Sales and Use Tax shall be paid into a special account of the City known as the "Sales and Use Tax Refund Account."

Section 2. All costs, expenses and professional fees associated with the refund of the excess collections of the Sales and Use Tax (the "Refund Process") shall be paid from the Sales and Use Tax Refund Account.

Section 3. Taxpayers shall be entitled to claim a refund pursuant to the Refund Process described herein. After all taxpayer claims have been submitted, processed and approved pursuant to the Refund Process, taxpayers shall be entitled to claim a refund of up to one percent (1%) for every dollar upon which sales or use tax was paid within the City from March 1, 2005 to October 31, 2005 (the "Refund Period"), subject to the submission by the taxpayer of proper documentation supporting the claim. Taxpayer claims shall be paid after costs, expenses and professional fees associated with the Refund Process are paid from the Sales Tax Refund Account. In the event the total amount of approved taxpayer claims exceeds amounts on hand in the Sales Tax Refund

Account after the payment of costs, expenses and professional fees associated with the Refund Process, the amount of each approved claim shall be reduced on a pro rata basis.

Section 4. Notice of the procedure for the Refund Process shall be published in *The Arkansas Democrat-Gazette* and *The Arkadelphia Daily Siftings Herald* once a week for three weeks in the news section (not the legal advertising section) of both papers beginning on or about December 12, 2005. The Notice shall be published in substantially the form attached hereto as Exhibit 1.

Section 5. A taxpayer is entitled to claim a refund using one of two methods:

- (a) By presenting receipts of actual payments of sales tax on purchases within the City during the Refund Period; or
- (b) By submitting proof of (i) income for the year 2004 in the form of available income shown on the claimant's Federal Income Tax Return; (ii) residency in Clark County at any time during the Refund Period; and (iii) number of exemptions claimed on the claimant's Federal Income Tax Return. A taxpayer seeking a refund on this basis will be paid in accordance with the optional sales tax tables contained in the 2004 Internal Revenue Service Publication 600.

Section 6. A Proof of Claim Form in substantially the form attached hereto as Exhibit 2 shall be made available to taxpayers clearly describing the proof required to claim a refund. An identical Proof of Claim Form shall be made available in Spanish.

Section 7. A Special Administrator shall be retained and paid by the City to administer the Refund Process and to make pertinent decisions in connection therewith. The Special Administrator shall be responsible for at least the following:

- (a) To review each and every Proof of Claim Form and to make a determination as to whether each claim for refund should be approved, disapproved or disapproved in part. In this regard, the Special Administrator has the discretion to approve or disapprove refund claims based upon the income tax information provided by individual taxpayers, including, but not limited to, the special circumstances associated with social security income;
- (b) To organize and develop an administrative system for the receipt, filing, maintenance and accounting for all claims and supporting documents filed consistent with Sections 8-13 below; and
- (c) To administer the payment of all approved refunds in accordance with Section 14 below.

Section 8. A Sales and Use Tax Refund Office shall be established and maintained at a prominent location at or near the regular offices of city government. The Sales and Use Tax Refund Office shall be open to citizens for filing of claims during

regular business hours for at least thirty (30) business days. Appropriate signage shall be displayed in the regular offices of the City directing taxpayers to the Sales and Use Tax Refund Office. The administrative staff of the City shall assist the Special Administrator in instructing taxpayers on how to complete and submit Proof of Claim Forms. Taxpayers shall ultimately be responsible for filing Proof of Claim Forms.

Section 9. Proof of Claim Forms shall be sequentially numbered by the Special Administrator in the order filed. Both a manual and computerized docket of filed Proof of Claim Forms shall be maintained by the Special Administrator showing the Proof of Claim number, the claimant's name, the claimant's address, the amount of the claim recommended for approval, and/or the reason for the disapproval of all or any portion of the claim submitted. Filed Proof of Claim Forms shall be maintained in a locked file cabinet in the Sales and Use Tax Refund Office. The Special Administrator shall make available to claimants Proof of Claim Forms, a copy machine and any other necessary supplies or equipment in order to expedite the completion and filing of claims.

Section 10. A taxpayer whose claim is denied in whole or in part shall have the right to file an objection with the Special Administrator. The Special Administrator shall keep a manual and computerized docket showing the objector's name, the date the objection was filed and the Special Administrator's disposition of the objection.

Section 11. The Special Administrator shall prepare an Approved Claims List identifying all taxpayers whose claims are approved. The Special Administrator shall also prepare a list of claims disapproved in whole or in part and the reason for the disapproval. Both lists shall be submitted to the City for approval at a regularly-scheduled meeting of the Board of Directors. The Special Administrator shall appear in person at the meeting.

Section 12. All taxpayers whose claims are disapproved in whole or in part shall receive written notice by first class mail of the disapproval at the address shown on the Proof of Claim Form at least thirty (30) days prior to the meeting described in Section 11 above. The notice shall state that any taxpayer whose refund claim is disapproved in whole or in part shall be entitled to an appeal and a hearing before the Board of Directors at the meeting. The notice shall also state the reason for disapproval of the claim.

Section 13. At the meeting described in Section 11, the Board of Directors shall allow each aggrieved taxpayer sufficient time to explain why the taxpayer is entitled to the full amount of the refund claimed. The Board of Directors shall vote on whether to approve the Approved Claims List submitted by the Special Administrator and shall specifically vote to approve or disapprove the appeal of any taxpayer. The Board of Directors shall not object to the jurisdiction of the District Court of Clark County to hear any claim by an aggrieved taxpayer whose claim is denied in whole or in part.

Section 14. All refund claims approved by the Board of Directors shall be paid by check mailed to the taxpayer at the address shown on the Proof of Claim Form within sixty (60) days after the meeting described in Section 11 above. The preparation and

mailing of all refund checks shall be the responsibility of the Special Administrator in association with the administrative staff of the City. Any checks mailed to claimants that are not cashed or deposited within six months of mailing shall be void and non-negotiable.

Section 15. All funds in the Sales and Use Tax Refund Account which remain unclaimed six months after the mailing of refund checks shall escheat to the City.

Section 16. It is hereby ascertained and declared that there is an immediate need to refund excess collections of the Sales and Use Tax to the taxpayers in order to promote and protect the health, safety and welfare of the City and its inhabitants. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of public peace, health and safety shall be in force and take effect immediately from and after its passage.

PASSED: December 1, 2005.

APPROVED:

ATTEST:

C. T. Hollingshead, Mayor

Rendi Currey, City Clerk

(SEAL)

CERTIFICATE

The undersigned, City Clerk of Arkadelphia Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. _____, passed at a regular session of the Board of Directors of Arkadelphia, Arkansas, held at the regular meeting place of the Board of Directors at _____ o'clock p.m., on the _____ day of _____, 2005, and that the Ordinance is of record in Ordinance Record Book No. _____, Page _____, now in my possession.

GIVEN under my hand and seal this _____ day of _____, 2005.

City Clerk

(SEAL)