

SPECIAL PURPOSE LOCAL OPTION SALES TAX INTERGOVERNMENTAL CONTRACT

This Intergovernmental Contract (the “Contract”), is between Spalding County, Georgia (the “County”), the City of Griffin (“Griffin”), the City of Orchard Hill (“Orchard Hill”) and the City of Sunny Side (“Sunny Side” and, together with Griffin and Orchard Hill, the “Cities”).

PREAMBLE

Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, as amended (the “Act”), provides for the creation of a special district in each county in the State of Georgia and authorizes the imposition of a one percent sales and use tax (the “Sales and Use Tax”) in such district for purposes, *inter alia*, of financing roads, streets and bridges and certain capital outlay projects specified therein and retiring previously incurred general obligation debt.

The County and the Cities wish to continue the Sales and Use Tax presently in effect (or to impose the Sales and Use Tax if the Sales and Use Tax currently in effect expires prior to the time the new Sales and Use Tax can be imposed), and are entering into this Contract for the purpose of specifying the projects to be funded with such Sales and Use Tax and providing for the distribution of the proceeds of the Sales and Use Tax and the Bonds referred to herein.

In consideration of the mutual agreements of the County and the Cities in this Contract, and for other good and valuable consideration, the receipt and sufficiency of which the County and the Cities acknowledge, the County and the Cities agree as follows:

Section 1. Representations of the Cities. Each of the Cities hereby represents as follows:

(a) It is a municipal corporation as defined by law and judicial interpretation and a “qualified municipality” as such term is defined in the Act and has been duly authorized to execute and deliver this Contract and to perform its obligations hereunder, and such authorization has not been revoked or rescinded.

(b) The execution and delivery of this Contract by the City, and the performance of its obligations hereunder, does not violate any provision of the Constitution or laws of the State of Georgia or any order, rule or regulation of any judicial or governmental agency binding on the City, or violate or constitute (with the passage of time or the provision of notice or both) a breach of or a default under any agreement, contract, instrument, ordinance or other resolution of the City or by which the City is bound.

(c) To the knowledge of the City, there is no litigation pending or threatened challenging the existence or powers of the City or the ability of the City to enter into this

Contract, or seeking to restrain or enjoin the City from entering into this Contract or acquiring, constructing or installing any of the projects sought to be financed from the proceeds of the Sales and Use Tax.

Section 2. Representations of the County. The County hereby represents as follows:

(a) It is a political subdivision of the State of Georgia and has been duly authorized to execute and deliver this Contract and to perform its obligations hereunder, and such authorization has not been revoked or rescinded.

(b) The execution and delivery of this Contract by the County, and the performance of its obligations hereunder, does not violate any provision of the Constitution or laws of the State of Georgia or any order, rule or regulation of any judicial or governmental agency binding on the County, or violate or constitute (with the passage of time or the provision of notice or both) a breach of or a default under any agreement, contract, instrument, ordinance or other resolution of the County or by which the County is bound.

(c) To the knowledge of the County, there is no litigation pending or threatened challenging the existence or powers of the County or the ability of the County to enter into this Contract, or seeking to restrain or enjoin the County from entering into this Contract, imposing the Sales and Use Tax or acquiring, constructing or installing any of the projects of the County sought to be financed from the proceeds of the Sales and Use Tax.

Section 3. Referendum for Imposition of Sales and Use Tax. The County agrees that it will take all actions necessary to call a referendum, to be held in all the voting precincts in the County, on the 4th day of November, 2014, or on such other date as the County and the Cities shall mutually agree, for the purpose of submitting to the qualified voters of the County for their approval, the question of whether or not a Sales and Use Tax of one percent shall be imposed on all sales and uses in the special district which consists of Spalding County, as authorized by the Act for 24 calendar quarters (six years) commencing no later than April 1, 2015 for the purpose of funding the projects listed on Exhibit A to this Contract (collectively the "Projects" or as to any City or the County, the "Projects" of such City or County). The amount of money to be raised by the Sales and Use Tax is estimated to be \$50,400,000. The Projects and the amount of Sales Tax and Use Tax attributable to each Project is shown on Exhibit A attached to this Contract. The Resolution calling the referendum will also provide that if the Sales and Use Tax is imposed by affirmative vote of the qualified voters of the County as provided in the Act, such vote will also authorize general obligation debt (the "Bonds") of the City of Griffin in connection therewith in a principal amount of not to exceed \$12,500,000 to finance the retirement of existing indebtedness and acquisition of One Griffin Center, replacement fire headquarters and remodeling and repurposing of Historic City Hall projects of Griffin listed on Exhibit A hereto.

Section 4. Conditions Precedent. The obligations of all parties under this Contract are conditioned upon the following events:

(a) The adoption of a resolution by the Board of Commissioners of Spalding County authorizing the imposition of the Sales and Use Tax and calling the referendum described above.

(b) The approval of the Sales and Use Tax and the issuance of the Bonds by a majority of the voters in the County voting in the election for those purposes as required by the Act.

Section 5. Creation of Funds. The County agrees to establish with a custodian selected by the County prior to the issuance of the Bonds (the “Custodian”) a trust account which shall be known as the “Spalding Project Fund,” and within such Spalding Project Fund, a separate trust account for the County and each of Orchard Hill and Sunny Side (the “Project Fund Account” as to each such City or the County). Griffin agrees to establish with a custodian selected by Griffin prior to the issuance of the Bonds (the “Griffin Custodian”) a trust account which shall be known as the “Griffin Project Fund” and within such Griffin Project Fund a separate account which shall be known as the “Bond Proceeds Sub-Account.” The parties hereto agree that all proceeds in either the Spalding Project Fund or the Griffin Project Fund shall be used solely for the purposes approved by the voters in the referendum described above.

The proceeds received by Griffin from the sale of the Bonds (which shall be net of all costs of issuing and underwriting the Bonds) shall be deposited into the Bond Proceeds Sub-Account of Griffin.

Each of the County, Orchard Hill and Sunny Side shall be responsible for directing the investment of all moneys in their respective Project Fund Accounts from time to time in accordance with the laws of the State of Georgia. Any investment proceeds received from such investment shall be allocated to the Project Fund Account to which such investment relates. Griffin shall be responsible for directing the investment of all moneys in the Griffin Project Fund.

Griffin agrees to establish with a custodian selected by Griffin prior to the issuance of the Bonds a trust account which shall be known as the “Sinking Fund.” Moneys in the Sinking Fund shall be held for and applied to the payment of principal and interest on the Bonds except as otherwise provided in this Contract. Griffin shall be responsible for directing the investment of all moneys in the Sinking Fund from time to time in accordance with the laws of the State of Georgia. To the extent any moneys remain in the Sinking Fund upon the payment in full of the Bonds, whether from the investment of moneys in the Sinking Fund or otherwise, such moneys shall be paid to Griffin and applied by Griffin for any lawful purpose.

Section 6. Apportionment of Sales and Use Tax Proceeds. The parties hereto agree that the proceeds of the Sales and Use Tax received each month will be applied as follows (and in the order indicated below):

a) The Sales and Use Tax receipts received from the Department of Revenue shall be deposited at the direction of the County with the Custodian, and (1) in the case

of the County, Sunny Side and Orchard Hill, shall be deposited by the Custodian into the Project Fund Account of each of the County, Sunny Side and Orchard Hill, and (2) in the case of Griffin, transferred to the Griffin Custodian for deposit in the Griffin Project Fund, in accordance with their respective percentages shown in the column titled "Percentage Allocation of Sales Tax Received" on Exhibit A until the cumulative amount deposited therein is equal to the respective amount shown in the column titled "Subtotal by Beneficiary" on Exhibit A hereto.

- b) Griffin agrees that the Sales and Use Tax receipts deposited into the Griffin Project Fund shall first be deposited into the Sinking Fund until the balance held in the Sinking Fund is not less than the principal and interest due on the Bonds in such Sinking Fund Year (July 2 of such year to and including July 1 of the following year) prior to expending any of such proceeds on Griffin Projects which are not financed with the Bonds.
- c) The remaining Sales and Use Tax receipts (if any) remaining after each of the Cities and the County shall have received the amount shown in the column titled "Subtotal by Beneficiary" shall be split equally and deposited into the Project Fund Account of the County and the Griffin Project Fund, respectively, for use in connection with any County Projects or any Griffin Projects, respectively, listed on Exhibit A which were not fully funded pursuant to paragraph (a) of this Section 6.

Section 7. Requisitions for Funds from Spalding Project Fund; Record Keeping; Publication of Reports.

(a) The County will authorize the Custodian of the Spalding Project Fund to pay requisitions from the Project Fund Account for each of Orchard Hill and Sunny Side, to the extent funds are available therein, upon receipt by the Custodian of the following:

- (i) a requisition to the Custodian of the Spalding Project Fund signed by the Mayor, City Manager or other Authorized Signatory specifying (A) the amount of such requisition, (B) the Project for which such cost was incurred and (C) the person or entity to whom such payment is to be made (which payment may be made to reimburse either Orchard Hill or Sunny Side, respectively for costs of a Project already paid); and
- (ii) a certificate stating that (A) a bill or statement of account relating to such requisition is on file with either Orchard Hill or Sunny Side, respectively, and (B) such payment is for a cost which has been properly incurred or paid with respect to the Project for such City and represents a charge for work actually performed or materials actually delivered to or incorporated into the site of the related Project.

For purposes of this Contract, "Authorized Signatory" shall mean the person or persons designated from time to time by the Mayor of any City to act as the Authorized Signatory under this Contract by written notice filed with the Custodian.

(b) Each of the Cities and the County shall include in its annual audit the schedule required by Section 48-8-121 of the Act relating to each Project approved for such City or the County in the referendum. Each of the Cities and the County shall publish the report relating to the Projects of such City and County as required by Section 48-8-122 of the Act. Each City and the County agrees that the proceeds received from the Sales and Use Tax or from the Bonds shall be used by each City or the County, as the case may be, exclusively for the purpose or purposes specified in the resolution calling for the referendum except as may otherwise be permitted under the Act. Each of the Cities and the County shall be responsible for their own expenses incurred in maintaining such records and making any such reports.

(c) The County and each of the Cities shall have no liability to each other for the failure by any City or the County to spend the proceeds received from the Sales and Use Tax or from the Bonds for the purposes authorized in the referendum, although each party hereto shall have right, but not the duty, to seek to enforce the obligation of each of the other parties hereto to apply the proceeds received from the Sales and Use Tax in accordance with the Act and the referendum.

Section 8. Project Completion and Termination. Within 30 days after the acquisition, construction and installation of all of the Projects of any City have been completed, such City shall file with the County a Certificate of Completion signed by the Mayor, City Manager or other Authorized Signatory, setting forth the date on which the final Project or Projects were completed and stating that all Sales and Use Tax proceeds deposited into the Project Fund Account for such City have been applied to the Project or Projects or otherwise applied in accordance with the Act.

Section 9. Other Expenses; Reimbursement. The parties to this Contract acknowledge that the fees and expenses relating to, or incurred incident to, calling the referendum for the imposition of the Sales and Use Tax and for the approval by the voters of the issuance of the Bonds (but not for the validation of the Bonds or relating to the sale of the Bonds) shall be paid by the County. Any costs relating to the validation and sale of the Bonds by Griffin shall be paid from the proceeds of the Bonds or from other funds of Griffin. The County shall from time to time provide notification to Orchard Hill and Sunny Side of the fees and expenses of the Custodian and any other similar expenses relating to the Sales and Use Tax proceeds except as provided in the preceding sentence. Each of the Cities (including Griffin if it uses the same Custodian as appointed by the County, or other than Griffin if Griffin appoints a separate Custodian for the Griffin Project Fund Account) agrees that it will be liable to the County for its pro rata share of such costs determined on the basis of the of the aggregate amount of the Sales and Use Tax expected to be received by such entity as shown on Exhibit A attached hereto. In the event that following the passage of the referendum relating to the imposition of the Sales and Use Tax, any litigation or threatened litigation, audit or investigation relating to the imposition of the Sales and Use Tax or the use of the proceeds of the Sales and Use Tax or other similar matters relating thereto shall occur, the parties hereto agree that each party shall pay the percentage of the costs of such litigation or threatened litigation, audit or investigation, or for the cost of any judgment or settlement of such litigation or threatened litigation, audit or investigation equal to their respective Allocated Percentage as shown on Exhibit A attached hereto. In the event Griffin appoints a separate Custodian to act as Custodian of the Griffin

Project Fund Account, Griffin agrees that it shall be solely liable for the fees and expenses of such Custodian.

The Cities agree that any payment required to be made to the County under this Section shall be made promptly upon receipt by the City of a statement therefor from the County. Nothing in this Section shall preclude any City or the County (either individually or collectively) from seeking repayment from, or from instituting any action against, any other party to this Contract to the extent that any action or inaction on the part of any party or parties to this Contract results in liability to the County or the Cities whether directly or indirectly pursuant to this Section of this Contract, and the costs of any such action shall not be shared as provided in this Section but shall be costs of the parties instituting such action.

Section 10. Term of this Contract. The term of this Contract (assuming the conditions precedent in Section 5 have been satisfied) shall expire at the later of (i) July 1, 2024 or (ii) the date on which all of the Bonds have been paid and any moneys held in any accounts or sub-accounts established under this Contract are fully depleted, but in no event shall this Contract run for more than 50 years from the date hereof.

Section 11. Litigation. The parties hereto agree to submit any controversy arising under this Contract to litigation in the Superior Court of Spalding County.

Section 12. Counterparts. This Contract may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

Section 13. Governing Law. This Contract and all transactions contemplated hereby shall be governed by, construed and enforced in accordance with the laws of the State of Georgia.

Section 14. Severability. Should any provision of this Contract or application thereof to any person, entity or circumstance be held invalid or unenforceable, the remainder of this Contract or the application of such provision to any person, entity or circumstance, other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Contract shall be valid and enforceable to the full extent permitted by law.

Section 15. Notices. All notices, demands or requests required or permitted to be given pursuant to this Contract shall be in writing and shall be deemed to have been properly given or served and shall be effective on being deposited or placed in the United States mail, postage prepaid and registered or certified with return receipt requested to the addresses appearing below, or when delivered by hand to the addresses indicated below:

- (a) As to Spalding County:
Spalding County Board of Commissioners
Attention: Chairman
P.O. Box 1087

Griffin, GA 30224

- (b) As to the City of Griffin:
City of Griffin
Attention: Chairperson, Board of Commissioners
P.O. Box T
Griffin, GA 30224
- (c) As to the City of Orchard Hill:
City of Orchard Hill
Attention: Mayor
P.O. Box 448
Orchard Hill, GA 30266
- (d) As to the City of Sunny Side:
City of Sunny Side
Attention: Mayor
P.O. Box 100
Sunny Side, GA 30284

Any party to this Contract, may, in the manner provided herein for the giving of notices, specify another or different address to which notices under this Contract must be sent by giving notice thereof to each other party to this Contract.

2014. IN WITNESS WHEREOF, all parties hereto have agreed as of this 1st day of July,

SPALDING COUNTY, GEORGIA

By: _____
Chairman, Board of Commissioners

(SEAL)

Attest:

Clerk

CITY OF GRIFFIN

By: _____
Chairperson, Board of Commissioners

(SEAL)

Attest:

City Manager

Approved:

Andrew Whalen, Esq.
Attorney for the City of Griffin

CITY OF ORCHARD HILL

By: _____
Mayor

(SEAL)

Attest:

Clerk

CITY OF SUNNY SIDE

By: _____
Mayor

(SEAL)

Attest:

Clerk

Exhibit A

[Insert Tax Allocation Calculation]