

SPECIAL PURPOSE LOCAL OPTION SALES TAX  
INTERGOVERNMENTAL CONTRACT

This Intergovernmental Contract (this “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 impose a Sales and Use Tax, and are entering into this Contract for the purpose of specifying the duration of the imposition of such Sales and Use Tax, the projects to be funded with such Sales and Use Tax, providing for the distribution of the proceeds of the Sales and Use Tax between the Cities and the County, and providing for the issuance by the County and Griffin of 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to execute and deliver this Contract and to perform its obligations hereunder, and such authorization has not been revoked or rescinded.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 as provided herein 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 and the Issuance by the County and Griffin of Certain Bonds.** 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 3rd day of November, 2015, 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 a period of 24 calendar quarters (six years) commencing no later than April 1, 2016 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 (1) 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 “County Bonds”) of the County in connection therewith in a principal amount of not to exceed \$8,800,000 to finance the (A) retirement or payment of outstanding indebtedness for the acquisition of Correctional Facility, Administrative Building, Senior Center Furniture, Fire Trucks and LB Norton Fire Station, (B) acquisition and installation of a CAD and Phone System for E911, (C) equipment for the Senior Nutrition Program, (D) judicial computers/software upgrades, (E) acquisition and construction of a recreation facility to be used for “pickleball”, (F) Fairmont/Heritage Park improvements, (G)

acquisition and installation of lighting for soccer at Wyomia Tyus Park, and (H) relocation of 800 MHz Equipment from Highway 155, as listed on Exhibit A hereto, and (2) if the Sales and Use Tax is imposed by affirmative vote of the qualified voters of the County as provided in the Act, and if the Sales and Use Tax is imposed by affirmative vote of the qualified voters of Griffin, such vote will also authorize general obligation debt (the “Griffin Bonds”) of Griffin in connection therewith in a principal amount of not to exceed \$10,570,000 to finance the (A) retirement of existing indebtedness for the acquisition of One Griffin Center, (B) replacement fire headquarters and aerial truck and (C) remodeling and repurposing of Historic City Hall projects of Griffin, all as 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 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 County 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). The County also agrees to establish within the Project Fund Account for the County a separate sub-account which shall be known as the “Spalding County Bond Proceeds Sub-Account”. Griffin agrees to establish with a custodian selected by Griffin prior to the issuance of the Griffin 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 “Griffin 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 the County from the sale of the County Bonds (which shall be net of all costs of issuing and underwriting the County Bonds) shall be deposited into the Spalding County Bond Proceeds Sub-Account of the Spalding Project Fund.

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

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.

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

Griffin agrees to establish with a custodian selected by Griffin prior to the issuance of the Griffin Bonds a trust account which shall be known as the "Griffin Sinking Fund." Moneys in the Griffin Sinking Fund shall be held for and applied to the payment of principal and interest on the Griffin Bonds except as otherwise provided in this Contract. Griffin shall be responsible for directing the investment of all moneys in the Griffin Sinking Fund from time to time in accordance with the laws of the State of Georgia. To the extent any moneys remain in the Griffin Sinking Fund upon the payment in full of the Griffin Bonds, whether from the investment of moneys in the Griffin 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 shall first be deposited into the County Sinking Fund and the Griffin Sinking Fund (or transferred to the Griffin Custodian for deposit into the Griffin Sinking Fund), pro rata based on the amount of interest due on the County Bonds and Griffin Bonds on July 1, 2016, until the amounts in the County Sinking Fund and Griffin Sinking Fund are not less than the interest due on the County Bonds and Griffin Bonds, respectively, on July 1, 2016.
- b) The Sales and Use Tax receipts remaining after the deposits in paragraph 6(a) above shall then be deposited by the Custodian into the Project Fund Accounts of Orchard Hill and Sunny Side, split 58.24% to Orchard Hill and the remainder to Sunny Side, until the cumulative amounts deposited therein are equal to the respective amounts for Sunny Side and Orchard Hill shown in the column titled "Subtotal by Beneficiary" on Exhibit A hereto.
- c) The Sales and Use Tax receipts remaining after the deposits in paragraph 6(b) (until the aggregate amount of Sales and Use Tax collected is equal to \$50,400,000) shall be split 54.91% to the County, and the remainder to Griffin. The County portion shall be deposited into the County Sinking Fund in each Sinking Fund Year (July 2 of such year to and including July 1 of the following

year) until the balance held in the County Sinking Fund is not less than the principal and interest due on the County Bonds in such Sinking Fund Year. Any amounts remaining from the County portion after the deposits in the County Sinking Fund described in the prior sentence in each Sinking Fund Year shall be deposited into the Spalding County Project Fund Account. The Griffin portion shall be deposited into the Griffin Sinking Fund (or transferred to the Griffin Custodian for deposit into the Griffin Sinking Fund) in each Sinking Fund Year until the balance held in the Griffin Sinking Fund is not less than the principal and interest due on the Griffin Bonds in such Sinking Fund Year. Any amounts remaining from the Griffin portion after the deposits in the Griffin Sinking Fund in each Sinking Fund Year as described in the prior sentence shall be deposited into the Griffin Project Fund Account.

- d) After the aggregate amount of Sales and Use Tax collected is equal to \$50,400,000, any additional Sales and Use Tax received by the County shall be split among the County and the Cities in accordance with the respective percentages shown in the column entitled "Percentage Allocation of Sales Tax Received After \$50,400,000" on Exhibit A and deposited into the Project Fund Accounts of the County, Sunny Side and Orchard Hill and the Griffin Project Fund, respectively, for use in connection with any Projects listed on Exhibit A which were not fully funded pursuant to paragraphs (b) and (c) 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 of such City 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 County Bonds or Griffin Bonds, as applicable, 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 County Bonds or Griffin 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. The County and each of the Cities agree that the County shall have no liability if the aggregate amount of the Sales and Use Tax collected is less than anticipated.

**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 approval of the County Bonds and Griffin Bonds, and for the issuance of the County Bonds, shall be paid from the proceeds of the County Bonds or from other funds of the County. Any costs relating to the validation and sale of the Griffin Bonds by Griffin shall be paid from the proceeds of the Griffin 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 Griffin 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 4 have been satisfied) shall expire at the later of (i) July 1, 2025 or (ii) the date on which all of the County Bonds and Griffin 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  
Attention: Chairman, Board of Commissioners  
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.



IN WITNESS WHEREOF, all parties hereto have agreed as of this \_\_\_\_ day of  
July, 2015.

SPALDING COUNTY, GEORGIA

By: \_\_\_\_\_  
Chairman, Board of Commissioners

(SEAL)

Attest:

\_\_\_\_\_  
Clerk

CITY OF GRIFFIN

By: \_\_\_\_\_  
Douglas S. Hollberg  
Chairperson, Board of Commissioners

(SEAL)

Attest:

\_\_\_\_\_  
Kenny L. Smith  
Secretary, Board of Commissioners

Approved:

\_\_\_\_\_  
Andrew J. Whalen, III  
City 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]