

RESOLUTION

RESOLUTION OF THE BOARD OF COMMISSIONERS OF CLAY COUNTY, GEORGIA APPROVING AND AUTHORIZING EXECUTION, BY THE CHAIRMAN OF THE CLAY COUNTY BOARD OF COMMISSIONERS, OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY AND CERTAIN MUNICIPALITIES OF CLAY COUNTY CONCERNING A COUNTY ONE PERCENT SPECIAL PURPOSE LOCAL OPTION SALES AND USE TAX ENACTED PURSANT TO O.C.G.A. § 48-8-110 ET SEQ.; REPEALING PRIOR RESOLUTIONS IN CONFLICT; AND FOR OTHER PURPOSES.

WHEREAS, O.C.G.A. § 48-8-110 *et seq.* authorizes the imposition of a one percent county special purpose local option sales and use tax (SPLOST) for the purposes inter alia of financing capital outlay projects to be owned or operated by the County and one or more municipalities; and

WHEREAS, CLAY COUNTY, Georgia, the Municipality of FORT GAINES, Georgia, and the Municipality of BLUFFTON, Georgia desire to utilize the proceeds of a SPLOST for the one or more of the purposes authorized under O.C.G.A. § 48-8-111 (a)(1).

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Clay County, Georgia as follows:

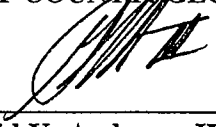
SECTION 1. The attached intergovernmental agreement addressing the disbursement of SPLOST proceeds among Clay County, the Municipality of FORT GAINES and the Municipality of BLUFFTON and other related matters is hereby approved.

SECTION 2. The Chairman of the Clay County Board of Commissioners is authorized to execute the intergovernmental agreement on behalf of the Board of Commissioners of Clay County, Georgia and affix the seal of the County thereto.

SECTION 3. This resolution is effective and implemented upon the counterparts of said intergovernmental agreement have adopted their respective resolutions authorizing the adoption of the said agreement.

SECTION 4. All resolutions, or parts of resolutions, in conflict herewith are repealed. This the 7TH day of June 2005.

Board of Commissioners
CLAY COUNTY, GEORGIA


Gerald V. Anderson III, Chairman

ATTEST:


TERESA SMITH
COUNTY CLERK

clayco\splost2005.resolution

SPLOST Intergovernmental Agreement

STATE OF GEORGIA
COUNTY OF CLAY

INTERGOVERNMENTAL AGREEMENT FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE 2006 SPECIAL PURPOSE LOCAL OPTION SALES TAX FOR CAPITAL OUTLAY PROJECTS

THIS AGREEMENT is made and entered this the 7th day of June, 2005 by and between Clay County, a political subdivision of the State of Georgia [the "County"], and the City of Fort Gaines, the City of Bluffton municipal corporations of the State of Georgia. (the "Municipalities", individually and collectively).

WITNESSETH:

WHEREAS, O.C.G.A. § 48-8-110 *et seq.* (the "Act"), authorizes the levy of a one percent County Special Purpose Local Option Sales Tax (the "SPLOST") for the purpose of financing capital outlay projects for the use and benefit of the County and qualified municipalities within the County; and

WHEREAS, the County and Municipalities met to discuss possible projects for inclusion in the SPLOST referendum on the 3rd day of May 2005, 17th day of May 2005, and 7th day of June 2005 in conformance with the requirements of O.C.G.A. § 48-8-111 (a); and

WHEREAS, the County and the Municipalities have negotiated a division of the Special Purpose Local Option Sales Tax proceeds as authorized by the Act.

NOW, THEREFORE, in consideration of the mutual promises and understandings made in this Agreement, and for other good and valuable consideration, the County and the municipalities consent and agree as follows:

Section 1. Representations and Mutual Covenants

A. The County makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:

- (i) The County is a political subdivision duly created and organized under the

- constitution of the State of Georgia;
- (ii) The governing authority of the County is duly authorized to execute, deliver and perform this Agreement; and
 - (iii) This Agreement is a valid, binding, and enforceable obligation of the County; and
 - (iv) The County will take all actions necessary to call an election to be held in all voting precincts in the County on the 20 day of September, 2005 for the purpose of submitting to the voters of the County for their approval, the question of whether or not a SPLOST shall be imposed on all sales and uses within the special district of Clay County for a period of twenty-four quarters, commencing on the 1st day of January 2006, to raise an estimated \$1,772,300 to be used for funding the projects specified in Exhibit A attached hereto.

B. Each of the Municipalities makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:

- (i) Each Municipality is a municipal corporation duly created and organized under the Laws of the State of Georgia;
- (ii) The governing authority of each Municipality is duly authorized to execute, deliver and perform this Agreement;
- (iii) This Agreement is a valid, binding, and enforceable obligation of each Municipality;
- (iv) Each Municipality is a qualified municipality as defined in O.C.G.A. § 48-8-110 (4); and
- (v) Each Municipality is located entirely or partially within the geographic boundaries of the special tax district created in the County.

C. It is the intention of the County and Municipalities to comply in all respects with O.C.G.A. § 48-8-110 *et seq.* and all provisions of this Agreement shall be construed in light of O.C.G.A. § 48-8-110 *et seq.*

D. The County and Municipalities agree to promptly proceed with the acquisition, construction, equipping and installation of the projects specified in Exhibit A of this Agreement and in accordance with the priority order referenced in Section 8 of this Agreement.

E. The County and Municipalities agree that each approved SPLOST project associated with this Agreement shall be maintained as a public facility and in public ownership. If ownership of a project financed pursuant to this Agreement is transferred to private ownership, the proceeds of the sale shall, for the purposes of this Agreement, be deemed excess funds and disposed of as provided under O.C.G.A. § 48-8-121 (g)(2).

F. The County and Municipalities agree to maintain thorough and accurate records

concerning receipt of SPLOST proceeds and expenditures for each project undertaken by the respective county or municipality as required fulfilling the terms of this Agreement

Section 2. Conditions Precedent

- A. The obligations of the County and Municipalities pursuant to this Agreement are conditioned upon the adoption of a resolution of the County calling for the imposition of the SPLOST in accordance with the provisions of O.C.G.A. § 48-8-111 (a).
- B. This Agreement is further conditioned upon the approval of the proposed imposition of the SPLOST by the voters of the County in a referendum to be held in accordance with the provisions of O.C.G.A. § 48-8-111 (b) through (e).
- C. This Agreement is further conditioned upon the collecting of the SPLOST revenues by the State Department of Revenue and transferring same to the County.

Section 3. Effective Date and Term of the Tax

The SPLOST, subject to approval in an election to be held on the 20th day of September, 2005, shall continue for a period of six years with collections beginning on the 1st day of January, 2006.

Section 4. Effective Date and Term of This Agreement

This Agreement shall commence upon the date of its execution and shall terminate upon the later of:

- (i) The official declaration of the failure of the election described in this Agreement;
- (ii) The expenditure by the County and all of the Municipalities of the last dollar of money collected from the Special Purpose Local Option Sales Tax after the expiration of the Special Purpose Local Option Sales Tax; or
- (iii) The completion of all projects described in Exhibit A.

Section 5. County SPLOST Fund; Separate Accounts; No Commingling

- A. A special fund or account shall be created by the County and designated as the 2006 CLAY COUNTY SPECIAL PURPOSE LOCAL OPTION SALES TAX FUND ("SPLOST Fund"). The County shall select a local bank which shall act as a depository and custodian of the SPLOST Fund upon such terms and conditions as

- may be acceptable to the County.
- B. Each Municipality shall create a special fund to be designated as the 2006 FORT GAINES SPECIAL PURPOSE LOCAL OPTION SALES TAX FUND AND THE 2006 BLUFFTON SPECIAL PURPOSE LOCAL OPTION SALES TAX FUND. Each Municipality shall select a local bank which shall act as a depository and custodian of the SPLOST proceeds received by each Municipality upon such terms and conditions as may be acceptable to the Municipality.
 - C. All SPLOST proceeds shall be maintained by the County and each Municipality in the separate accounts or funds established pursuant to this Section. Except as provided in Section 6, SPLOST proceeds shall not be commingled with other funds of the County or Municipalities and shall be used exclusively for the purposes detailed in this Agreement. No funds other than SPLOST proceeds shall be placed in such funds or accounts.

Section 6. Procedure for Disbursement of SPLOST Proceeds

- A. Upon receipt by the County of SPLOST proceeds collected by the State Department of Revenue, the County shall immediately deposit said proceeds in the SPLOST Fund. The monies in the SPLOST Fund shall be held and applied to the cost of acquiring, constructing and installing the County capital outlay projects listed in Exhibit A and as provided in Paragraph B of this Section. Level 1 projects shall be funded on an equal amount per month for the term of this Agreement. Should funding not be needed to the estimated amounts for Level 1 projects, the funds will be redistributed at the completion of each project based on the percentages stipulated in Paragraph D below.
- B. After the funding of Level 1 projects as provided in Paragraph A above, the County, following deposit of the remaining SPLOST proceeds in the SPLOST Fund, shall within 10 business days disburse the SPLOST proceeds due to each Municipality according to the schedule in Exhibit A. The proceeds shall be deposited in the separate funds established by each Municipality in accordance with Section 5 of this Agreement.
- C. Should any Municipality cease to exist as a legal entity before all funds are distributed under this Agreement, that Municipality's share of the funds subsequent to dissolution shall be paid to the County as part of the County's share unless an act of the Georgia General Assembly makes the defunct Municipality part of another successor municipality. If such an act is passed, the defunct Municipality's share shall be paid to the successor Municipality in addition to all other funds to which

the successor Municipality would otherwise be entitled.

D. After the funding of the Level 1 Projects as specified in Exhibit A of Clay County, the remaining SPLOST proceeds as outlined in Exhibit A shall be shared and divided according to the following percentages for Level 2 Projects:

- a. Clay County 61.7%
- b. City of Fort Gaines 33.3%
- c. City of Bluffton 5.0%

Section 7. Projects

All capital outlay projects, to be funded in whole or in part from SPLOST proceeds, are listed in Exhibit A which is attached hereto and made part of this Agreement.

Section 8. Priority and Order of Project Fund

Projects shall be fully or partially funded and constructed in accordance with the schedule found in Exhibit A of this Agreement. Except as provided in Paragraph B and Paragraph C of Section 9 of this Agreement, any change to the priority or schedule must be agreed to in writing by all parties to this Agreement.

Section 9. Completion of Projects

- A. The County and Municipalities acknowledge that the costs shown for each project described in Exhibit A are estimated amounts.
- B. If a county project has been satisfactorily completed at a cost less than the estimated cost listed for that project in Exhibit A, the County may apply the remaining unexpended funds to any other county project in Exhibit A.
- C. If a municipal project has been satisfactorily completed at a cost less than the estimated cost listed for that project in Exhibit A, the Municipality may apply the remaining unexpended funds to any other project included for that Municipality in Exhibit A.
- D. The County and Municipalities agree that each approved SPLOST project associated with this Agreement shall be completed or substantially completed within five years of the termination of the SPLOST. Any SPLOST proceeds held by a County or Municipality at the end of the five year period shall, for the purposes of this Agreement, be deemed excess funds and disposed of as provided under O.C.G.A. § 48-8-121 (g)(2).

Section 10. Certificate of Completion

Within thirty (30) days after the acquisition, construction or installation of a municipal project listed in Exhibit A is completed, the Municipality owning the project shall file with the County a Certificate of Completion signed by the mayor or chief elected official of the respective Municipality, setting forth the date on which the project was completed, and the final cost of the project the parties hereto with respect to distribution and use of said SPLOST.

Section 11. Expenses

The County shall administer the SPLOST Fund to effectuate the terms of this Agreement and shall be reimbursed for the actual costs of administration of the SPLOST Fund. Any reimbursement by the Municipalities shall be on a per capita basis but shall not exceed \$250.00 per year for each Municipality during the term of this Agreement. Furthermore, the County and Municipalities shall be jointly responsible on a per capita basis for the cost of holding the SPLOST election. The County shall be reimbursed for the costs of the election including the Municipalities' share of such costs out of SPLOST proceeds deposited in the SPLOST Fund.

Section 12. Audits

- A. During the term of this Agreement, the distribution and use of all SPLOST proceeds deposited in the SPLOST Fund and each Municipal fund shall be audited annually by an independent certified public accounting firm in accordance with O.C.G.A. § 48-8-121 (a)(2). The County and each Municipality receiving SPLOST proceeds shall be responsible for the cost of their respective audits. The County and the Municipalities agree to cooperate with the independent certified public accounting firm in any audit by providing all necessary information.
- B. Each Municipality shall provide the County a copy of the audit of the distribution and use of the SPLOST proceeds by the Municipality.
- C. County shall provide the Municipalities with a copy of the audit of the distribution and use of the SPLOST proceeds by the County.

Section 13. Notices

All notices, consents, waivers, directions, requests or other instruments or communications provided for under this Agreement shall be deemed properly given when delivered personally or sent by registered or certified United States mail, postage

prepaid, as follows:

*Gerald V. Anderson III, Chairman
Clay County Board of Commissioners
P.O. Box 519
Fort Gaines, Georgia 39851*

*City of Fort Gaines
David Wetherby, Mayor
City of Fort Gaines
P.O. Box 251
Fort Gaines, Georgia 39851*

*City Of Bluffton
William Albert Hubbard, Mayor
City of Bluffton
P.O. Box 55
Bluffton, Georgia 39824*

Section 14. Entire Agreement

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements existing between the County and the Municipalities with respect to distribution and use of the proceeds from the Special Purpose Local Option Sales Tax. Furthermore, this Agreement supersedes all prior agreements, negotiations and communications of whatever type, whether written or oral, between the parties hereto with respect to distribution and use of said SPLOST.

Section 15. Amendments

This Agreement shall not be amended or modified except by agreement in writing executed by the governing authorities of the County and the Municipalities

Section 16. Governing Law

This Agreement shall be deemed to have been made and shall be construed and enforced in accordance with the laws of the State of Georgia.

Section 17. Severability

Should any phrase, clause, sentence, or paragraph of this Agreement be held invalid or unconstitutional, the remainder of the Agreement shall remain in full force and effect as if such invalid or unconstitutional provision were not contained in the Agreement unless

the elimination of such provision detrimentally reduces the consideration that any party is to receive under this Agreement or materially affects the operation of this Agreement.

Section 18. Compliance with Law

The County and the Municipalities shall comply with all applicable local, State, and Federal statutes, ordinances, rules and regulations.

Section 19. No Consent to Breach

No consent or waiver express or implied, by any party to this Agreement, to any breach of any covenant, condition or duty of another party shall be construed as a consent to or waiver of any future breach of the same.

Section 20. Counterparts

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 21. Mediation

The County and Municipalities agree to submit any controversy arising under this Agreement to mediation for a resolution. The parties to the mediation shall mutually select a neutral party to serve as mediator. Costs of mediation shall be shared equally among the parties to the mediation.

IN WITNESS WHEREOF, the County and the Municipalities acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered for final execution by the County on the date indicated herein.

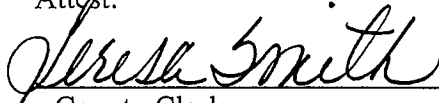
COUNTY OF CLAY

By:



Gerald V. Anderson III, Chairman

Attest:



County Clerk

SEAL

MUNICIPALITY OF FORT GAINES

By:

David Wetherby, Mayor

Attest:

City Clerk

SEAL

MUNICIPALITY OF BLUFFTON

By:

William Albert Hubbard, Mayor

Attest:

City Clerk

SEAL

EXHIBIT A

Total Anticipated Collections for Entire SPLOST Program = \$1,772,300

Individual Totals by Project Level and Project Priority are as follows:

LEVEL 1 Projects, County Wide - \$410,000

Capital improvements and/or alterations for Clay County Courthouse and County Offices; and planning for a regional jail facility.

LEVEL 2 Projects by Entity Total of All = \$1,362,300

Individual Totals by Priority are as follows:

Prioritized Level 2 Projects for Clay County - \$840,539

- 1 – Roads, Streets, and Bridge Projects
- 2 – Library Capital Assets and/or Improvements
- 3 – County Recreation and/or Historical Projects
- 4 – Water and/or Landfill Post Closure Projects

Prioritized Level 2 Projects for the City of Fort Gaines - \$453,646

- 1 – Water and/or Wastewater Projects
- 2 – Roads, Streets, and Bridge Projects
- 3 – City Buildings Capital Improvement Projects

Prioritized Level 2 Projects for the City of Bluffton - \$68,115

- 1 – Roads, Streets, and Bridge Projects
- 2 – City Historic and Recreation Projects
- 3 – WATER SYSTEM



Bart L. Graham
Commissioner

State of Georgia
Department of Revenue
Local Government Services Division
4245 International Parkway, Suite A
Mableton, Georgia 30354-3918
Telephone (404) 675-1547
Fax (404) 675-1552

Sha D. Hester
Director

CLAY COUNTY BOARD OF COMMISSIONERS
(SPLOST)
PO BOX 550
FORT GAINES GA 31751

October 12, 2005

RE: 1% Special Purpose Local Option Sales Tax (SPLOST)

Dear Commissioners:

On September 20, 2005, a referendum was held on the question of a 1% Special Purpose Local Option Sales Tax (SPLOST) being imposed in Clay County and was approved by the voters.

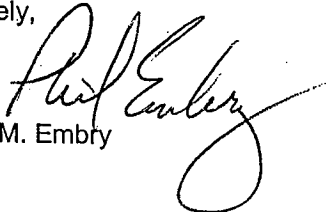
This is to advise that the tax is projected to begin January 1, 2006, with an expiration date of December 31, 2011 or at the end of the quarter where the raising of \$1,772,300.00 is reached, whichever occurs first. If your tax is for 6 years and your county has entered into an Intergovernmental Agreement, the tax will continue until the expiration date without regard to the monetary amount.

All dealers making sales within the county will be notified of the tax effective date. These dealers have until the twentieth of the following month in which to file their sales tax reports; for example, January sales collections should reach the Department by February 20th. We require another 30 or more days to process these report forms and post all monies to the proper accounts. The distribution check would be sent from the Department approximately the end of March.

If your county imposes any other local option sales taxes, you may notice a difference in the amount of your local option sales tax check and these other distributions due to field audits, delivery of goods outside the county, fi.fa. collection, and contracts let on construction projects prior to the referendum date. There may also be a "start-up" period of approximately four to six months where your local option sales tax will be lower than expected.

If we can be of further assistance, please do not hesitate to call.

Sincerely,


Phillip M. Embry

PME:jku