

APPLING COUNTY, GEORGIA

**INTERGOVERNMENTAL AGREEMENT
FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE 2018 SPECIAL
PURPOSE LOCAL OPTION SALES TAX
FOR CAPITAL OUTLAY PROJECTS**

THIS AGREEMENT is made and entered this the 10th day of January, 2023, by and between Appling County, a political subdivision of the State of Georgia (the “County”), and the City of Baxley a municipal corporation of the State of Georgia (the “Municipality”).

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 of the use and benefit of the County and qualified municipality within the County; and

WHEREAS, the County and Municipality met to discuss possible projects for inclusion in the SPLOST referendum on the day of 28th of December, 2022, in conformance with the requirements of O.C.G.A. § 48-8-111 (a); and

WHEREAS, the County and the Municipality 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 Municipality 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;
 - (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 21st day of March, 2023, 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 Appling County for a period of 24 quarters, commencing on the 1st day of January, 2024 to raise an estimated **\$21,850,000.00** to be used for funding the projects specified in Exhibit A attached hereto.

APPLING COUNTY, GEORGIA

- B.** The Municipality makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:
- (i) The Municipality is a municipal corporation duly created and organized under the Laws of the State of Georgia;
 - (ii) The governing authority of the Municipality is duly authorized to execute, deliver and perform this Agreement;
 - (iii) This Agreement is a valid, binding, and enforceable obligation of the Municipality;
 - (iv) The Municipality is a qualified municipality as defined in O.C.G.A. § 48-8-110(4); and
 - (v) The Municipality is located entirely within the geographic boundaries of the special tax district created in the County.
- C.** It is the intention of the County and Municipality 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 Municipality 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 Municipality 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 Municipality 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 Municipality 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 Revenue Commissioner and transferring same to the County.

APPLING COUNTY, GEORGIA

Section 3. Effective Date and Term of the Tax

The SPLOST, subject to approval in an election to be held on 21st day of March 2023, shall continue for a period of six (6) years with collections beginning on the 1st day of January 2024.

Section 4. Effective Date and Term of this Agreement

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

- (i) The official declaration of the failure of the election described in this Agreement;
- (ii) The expenditure by the County and the Municipality 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 2024 Appling 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. The Municipality shall create a special fund to be designated as the 2024 City of Baxley Special Purpose Local Option Sales Tax Fund. The Municipality shall select a local bank which shall act as a depository and custodian of the SPLOST proceeds received by the Municipality upon such terms and conditions as may be acceptable to the Municipality.
- C. All SPLOST proceeds shall be maintained by the County and the 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 Municipality 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.
- B. The County, following deposit of the SPLOST proceeds in the SPLOST Fund, shall within 10 business days disburse the SPLOST proceeds due to the Municipality according to the schedule in Exhibit A. The proceeds shall be deposited in the separate funds established by the Municipality in accordance with Section 5 of this Agreement.

APPLING COUNTY, GEORGIA

- C. Should the Municipality cease to exist as a legal entity before all funds are distributed under this Agreement, the 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.

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 Funding

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 Municipality 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 Municipality agrees that each approved SPLOST project associated with this Agreement shall be completed or substantially completed within six years after the termination of the SPLOST. Any SPLOST proceeds held by a County or Municipality at the end of the six-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).
- E. E. If the County or City completes any project at a cost less than the estimated cost listed for that project above, the County or City may apply the remaining unexpended fund to any of its other projects in Exhibit A. If all City or County projects are satisfactorily completed at costs less than estimated above, or in any event when the sum of \$21,850,000.00 has been raised by the SPLOST then All sums collected through the

APPLING COUNTY, GEORGIA

SPLOST six-year termination date in excess of \$21,850,000 shall be distributed as follows:
(a) 50% to the County for maintenance and construction of roads and bridges in the county.

and

(b) 50% to the City for maintenance and construction of streets, utilities and drainage within the municipal limits of the City.

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 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.

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. Furthermore, the County and Municipality 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 Municipality's 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 the 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 the Municipality receiving SPLOST proceeds shall be responsible for the cost of their respective audits. The County and the Municipality agree to cooperate with the independent certified public accounting firm in any audit by providing all necessary information.
- B. The Municipality shall provide the County a copy of the audit of the distribution and use of the SPLOST proceeds by the Municipality.

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:

APPLING COUNTY:
Chairman of County Commission
C/O County Manager
Commissioner's Office

CITY OF BAXLEY:
Mayor of Baxley
C/O City Manager
City of Baxley

APPLING COUNTY, GEORGIA

69 Tippins St., Suite 201
Baxley, GA 31513

Tracy Alan Brown
Attorney for County
148 N. Wayne St.
Jesup Georgia, 31546

282 E. Parker St.
Baxley, GA 31513

J. Alexander
Attorney for City
132 W. Parker St.
Baxley Ga, 31513

Section 14. Entire Agreement

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements existing between the County and the Municipality 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 Municipality.

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 Municipality 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.

APPLING COUNTY, GEORGIA

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 Municipality 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 Municipality 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 SEAL)

APPLING COUNTY, GEORGIA (L.S.)

By: *E. Lorie Burch*
Chairman, Appling County Commissioners

Attest: *Randy Owens*
County Clerk

CITY OF BAXLEY, GEORGIA (L.S.)

By: *Terri Vandave*
Mayor, City of Baxley

Attest: *gm Gillan*
City Clerk

(CITY SEAL)



APPLING COUNTY, GEORGIA

EXHIBIT A

Distribution of Proceeds: All projects have equal priority and shall receive a pro rata allocation of SPLOST funds on a monthly basis as set forth below.

2024 SPLOST Revenue Estimate: \$21,850,000.00 over the next six years.

PROJECTS:	ESTIMATED COST	PRO RATA
COUNTY:		
Appling Healthcare HVAC and Plumbing Repair and Maintenance	\$1,000,000.00	4.6%
Appling Development Authority I.D.A. Industrial Park Entrance	\$500,000.00	2.3%
Volunteer Firefighters Scuba, Trucks, Pumps, Tanks, Turn out Gear	\$1,120,000.00	5.1%
Appling Co. Recreation Restrooms, New Facilities	\$580,000.00	2.7%
Appling County Courthouse (old) Repair and Renovation	\$500,000.00	2.3%
Appling Co. Sheriffs Dept Renovations and Vehicles	\$1,650,000.00	7.6%
Appling County	\$500,000.00	2.3%
Appling County Court Complex New Construction	\$2,000,000.00	9.1%
Appling Co Road Improvements	\$10,500,000.00	48%

ESTIMATED COUNTY: \$18,350,000.00