

SPLOST INTERGOVERNMENTAL AGREEMENT

STATE OF GEORGIA

COUNTY OF FANNIN

INTERGOVERNMENTAL AGREEMENT
FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE 2017
SPECIAL PUPOSE LOCAL OPTION SALES TAX FOR CAPITAL OUTLAY
PROJECTS

THIS AGREEMENT is made and entered this the 12th day of July, 2016 by and between Fannin County, a political subdivision of the State of Georgia (the “County”), and the City of Blue Ridge, and the City of McCaysville, 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 28th day of June, 2016 and on the 12th day of July, 2016 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 Local Option Sales Tax proceeds as authorized by the Act; and

WHEREAS, the County pursuant to a recorded vote on July 12, 2016, authorized the Chairman to enter into the within the SPLOST INTERGOVERNMENTAL AGREEMENT; and

WHEREAS, the City of McCaysville meet at a specially called meeting held on August 1, 2016; and

WHEREAS, the City of McCaysville approved the within SPLOST INTERGOVERNMENTAL AGREEMENT; and

WHEREAS, the City of Blue Ridge meet at a specially called meeting held on _____; and

WHEREAS, the City of Blue Ridge meet approved the within SPLOST INTERGOVERNMENTAL AGREEMENT; and

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 8th day of the November, 2016 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 Fannin County for a period of 6 Years, commencing on the 1st day of October, 2017, to raise an estimated \$30,000,000.00 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 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.

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 November 8, 2016, shall continue for a period of Six (6) Years with collections beginning on date the department of revenue specifies as the collection start date.

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 2017 Fannin 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 City of with their respective city name inserted 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 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 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.

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 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 the 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 after 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.

Section 11. Expenses

The County shall administer the SPLOST Fund to effectuate the terms of this Agreement. Furthermore, the County and the Municipalities shall be jointly responsible based upon their total SPLOST percentage split, for the costs of the legal notices for the holding of the SPLOST election. The County shall be reimbursed for the percentage cost of the SPLOST legal notices owed by the County and the Municipalities from their respective shares 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 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.

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:

Fannin County
Office of the Board of Commissioners
400 West Main Street, Suite 100
Blue Ridge, Georgia 30513

Blue Ridge
Office of the Mayor
480 West Main Street
Blue Ridge, Georgia 30513

McCaysville
Office of the Mayor
223 Blue Ridge Drive
Blue Ridge, Georgia 30555

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 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 dully 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 FANNIN, GEORGIA

By: _____(Seal)
William C. Simonds, Chairman

Attest:

Rita Davis-Kirby Clerk

MUNICIPALITY OF BLUE RIDGE, GEORGIA

By: _____(Seal)
Donna Whitener, Mayor

Attest:

Clerk

MUNICIPALITY OF McCAYSVILLE, GEORGIA

By: _____ (Seal)
Thomas Seabolt, Mayor

Attest:

_____ Clerk

EXHIBIT “A”

Distribution of proceeds: All projects have equal priority and shall receive a pro rata allocation of SPLOST funds on a monthly basis in accordance with the table below.

2017 SPLOST Revenue Estimate: \$30,000,000.00 over the next 6 years.

Project	County/ Municipality	Estimated Cost	Priority	Pro Rata Percentage
Maintenance, Repair and Construction of roads, streets, bridges and sidewalks	Fannin	17,370,000	1	57.9
Water Projects Countywide	Fannin	2,100,000	1	7.0%
Capital Outlay-Admin Building/Parking Deck	Fannin	3,150,000	1	10.5%
Recreation Equipment/Facilities	Fannin	1,500,000	1	5.0%
Public Safety Facilities/Public Service Equipment	Fannin	2,100,000	1	7.0%
Roads, Streets and Bridge purposes.	Blue Ridge	1,470,000	1	4.9%
Water or Sewer or both, capital outlay purposes	Blue Ridge	420,000	1	1.4%
Building Improvements and Infrastructure capital outlay purposes	Blue Ridge	210,000	1	.70%
Capital Outlay for Roads, Streets, and Bridge purposes, including, but not limited to, Construction, Repair, Maintenance, and equipment for the same, which purposes may include sidewalks and bicycle paths	McCaysville	1,080,000	1	3.6%

Capital Outlay, Water, Sewer, Utility and Equipment	McCaysville	300,000	1	1.0%
Capital Outlay Public Safety Equipment and Facilities	McCaysville	300,000	1	1.0%

If the imposition of the tax is approved by the voters, such vote shall also constitute approval of the issuance of general obligation debt of Fannin County and the City of Blue Ridge and the City of McCaysville, based upon each entity's total SPLOST percentage to be paid out of SPLOST funds not to exceed the estimated principal amount of \$30,000,000.00 for the above purposes.”