



Spalding County online

Board of Commissioners

SPECIAL CALLED MEETING

The Board of Commissioners of Spalding County, Georgia, held a Special Called Meeting on Monday, January 15, 2003 beginning at 4:30 o'clock p.m. in the Courthouse Annex in the City of Griffin, Spalding County, Georgia. Those present were Commissioners Dick Morrow, Michael Kendall, Johnnie McDaniel, Cecil Davis, Eddie Goss, County Manager William Wilson, Assistant County Manager Michael Sabine, Finance Director Jinna Garrison, County Attorney Jim Fortune and County Clerk Phyllis Doane.

Special guests were Rachel Spears and Floyd Newton from King & Spalding.

Chairman Morrow called the Special Called Meeting to order.

The purpose of the meeting was as follows:

1. Consider Contract with the City of Griffin concerning improvements to wastewater infrastructure served by the Cabin Creek Wastewater Treatment Plant.

Upon motion by Commissioner McDaniel, seconded by Commissioner Davis the following Contract was unanimously approved by a vote of 5-0.

STATE OF GEORGIA,

COUNTY OF SPALDING.

CONTRACT

THIS CONTRACT, made and entered this 15th day of January, 2003 (the "Contract") between the CITY OF GRIFFIN, a municipality duly organized and existing under the laws of the State of Georgia (the "City") and SPALDING COUNTY, a political subdivision of the State of Georgia (the "County");

WITNESSETH:

WHEREAS, the County has proposed enhancements to the wastewater infrastructure in an unincorporated area served by the Cabin Creek Wastewater Treatment Plant, including, but not necessarily limited to, extending sewer collector lines along Bourbon Street and Greenbriar Street (the "Project"); and

WHEREAS, the County has proposed to finance the capital cost of the Project through the proceeds of the collection of a one percent special local option sales tax in the County; and

WHEREAS, Section 48-8-111 of the Official Code of Georgia Annotated, as amended, provides that a special local option sales tax may be incurred to finance a capital outlay project to be owned or operated by the County, one or more municipalities, or any combination thereof, with respect to which the County has, prior to the call of the election, entered into a contract or agreement with one or more municipalities in the County which contain more than one half of the aggregate population of all municipalities within the County; and

WHEREAS, the City contains more than one half of the aggregate population of all municipalities located within the County;

NOW, THEREFORE, in consideration of the mutual agreement of the parties to this Contract, and the benefits to arise to each party to this Contract, the parties hereto DO HEREBY AGREE as follows:

Section 1. The City and the County agree that the Project is within the powers of the City and the County as set forth in the Constitution of the State of Georgia of 1983, and is otherwise in furtherance of the public purposes of, and will promote the general welfare of, the City and the County. The Project shall be designed and constructed by the County, in accordance with plans and specifications approved by the City and Georgia EPD (the "Plans and Specifications"), with all costs thereof being the responsibility of the County. Upon completion of the Project as set forth in the Plans and Specifications, the City shall accept, own and operate the Project as an extension of its Combined Public Utilities (Sewer) System (the "System"). The County shall cause legal conveyance of the Project to the City by appropriate instrument(s), including assignment of all easements secured across private lands, and any permits or licenses obtained from governmental entities. All new users connecting onto the System through the Project shall be subject to the terms and conditions of the City's Sanitary Sewer Connection Policy, as set forth in that certain Resolution of the Board of Commissioners of the City of Griffin, Georgia, as last adopted on November 12, 2002, and such prevailing rates, fees and charges as imposed by the System for services, which by reference are incorporated as if fully set forth herein. Any provision for waiver or exemption of any provision of such policies, rates, fees and charges as a condition for obtaining grant funding by the County shall be separately approved in a writing executed after the date of this Contract. Notwithstanding the foregoing, the Capital Cost Recovery Fees collected by the City, formerly known as the Capacity Recovery Fees, are the subject of a lawsuit between the City and the County and whether and to the extent that the City is authorized to collect such fees are subject to the final adjudication of that lawsuit. Except as otherwise provided herein, by execution hereof, the parties acknowledge this Contract is consistent with the present Service Delivery Strategy for the County to the extent that such Service Delivery Strategy provides that the City shall be the only provider of publicly owned sewer in the County.

Section 2. The City hereby agrees, to the extent required by Section 48-8-111(a)(1)(D) of the Official Code of Georgia Annotated, that the County should call for an election on the question of the imposition of a one percent special purpose local option sales tax (the "Sales Tax") for the purpose, among other things, of financing the Project; provided, however, should said referendum fail to provide the required consent of the qualified electorate of Spalding County for imposition of the tax, this Contract shall be null and void, without effect or enforceability whatsoever.

Section 3. The County agrees that the portion of such sales tax allocable to the Project shall be applied to the acquisition, construction, installation and improvement of the Project. If the portion of the tax allocable to the Project proves insufficient to fully fund the construction cost of the Project as set forth in the Plans and Specifications, the City will not bear any fiscal responsibility to accept and complete any partial construction of the Project.

Section 4. The term of this Contract shall be five (5) years from the date of imposition of the Sales Tax .

Section 5. This agreement shall inure to the benefit of, and be binding upon, the City and the County and their respective successors and assigns.

Section 6. In the event any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 7. This Contract may not be amended, changed, modified, altered or terminated except by written agreement of the parties hereto.

Section 8. This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9. This Contract shall be governed by and construed in accordance with the laws of the State of Georgia.

Signed and sealed the day and year above entered, by the duly authorized representatives of the parties.

CITY OF GRIFFIN

By: Walker Cook, City Manager

Attest: (L.S.) C. Frank Strickland
City Manager

SPALDING COUNTY

By: (L.S.) Dick Morrow, Chairman

Attest: (L.S.) Phyllis P. Doane
County Clerk

2. Consider approval of a Resolution Relative to the Imposition of a One-Percent Special Purpose Local Option Sales Tax.

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF SPALDING COUNTY, GEORGIA AUTHORIZING THE IMPOSITION OF A ONE PERCENT SALES AND USE TAX AS AUTHORIZED BY ARTICLE 3 OF CHAPTER 8 OF TITLE 48 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; SPECIFYING THE PURPOSES FOR WHICH THE PROCEEDS OF SUCH TAX ARE TO BE USED; SPECIFYING THE ESTIMATED MAXIMUM PERIOD OF TIME FOR WHICH SUCH TAX MAY BE IMPOSED; SPECIFYING THE MAXIMUM COST OF THE CAPITAL OUTLAY PROJECTS TO BE FUNDED FROM THE PROCEEDS OF SUCH TAX; AUTHORIZING THE ISSUANCE OF CERTAIN GENERAL OBLIGATION DEBT SECURED BY THE PROCEEDS OF SUCH TAX; SPECIFYING THE PRINCIPAL AMOUNT OF SUCH GENERAL OBLIGATION DEBT TO BE ISSUED; SPECIFYING THE PURPOSE FOR WHICH SUCH GENERAL OBLIGATION DEBT IS TO BE ISSUED; SPECIFYING THE MAXIMUM INTEREST RATE OR RATES OF INTEREST WHICH SUCH GENERAL OBLIGATION DEBT MAY BEAR; SPECIFYING THE PRINCIPAL AMOUNT TO BE PAID IN EACH YEAR DURING THE LIFE OF SUCH GENERAL OBLIGATION DEBT; REQUESTING THE BOARD OF ELECTIONS TO CALL AN ELECTION OF THE VOTERS OF SPALDING COUNTY TO APPROVE THE ISSUANCE OF SUCH GENERAL OBLIGATION DEBT; APPROVING THE FORM OF BALLOT TO BE USED IN SUCH ELECTION; AND FOR OTHER PURPOSES.

WHEREAS, Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, as amended (the "Act"), authorizes the imposition of a one percent sales and use tax for the purpose, inter alia, of financing certain capital outlay projects; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia has determined that it is in the best interest of the citizens of Spalding County (the "County") that a one percent sales and use tax be imposed in the County to raise (a) not more than \$36,300,000 for the purposes of funding (i) improvements at the I-75 Industrial Park and the expansion of the Green Valley Industrial Park, including the acquisition of all necessary property, to be owned and developed by the Griffin-Spalding Development Authority (the "Industrial Park Projects"); (ii) the acquisition of land adjacent to Fairmont Park to be used as parkland (the "Fairmont Park Project"); (iii) other parks and recreation improvements in the County; (iv) the expansion and renovation of the Senior Citizens Center; (v) a new animal control/animal shelter facility in the County; (vi) wastewater improvements in the County which are the subject of a contract, dated as of January 1, 2003 (the "Contract"), between the County and the City of Griffin; (vii) the construction and equipping of a recreational and cultural facility and other recreation improvements in the City of Orchard Hill; and (viii) recreation improvements in the City of Sunny Side (collectively, the "Non-Roads Projects") and (b) not more than \$1,700,000 for road, street and bridge purposes in the County, the City of Griffin and the City of Sunny Side (the "Roads Projects", and together with the Non-Roads Projects, the "Projects"); and

WHEREAS, the Board of Commissioners of the County has also determined that it is in the best interest of the citizens of the County that \$30,030,000 of general obligation debt of the County (the "Bonds"), secured by the proceeds of such sales and use tax, be issued to permit the County to fund the Industrial Park Projects and the Fairmont Park Project (together, the "Bond-Financed Projects") from proceeds of such Bonds so as to insure that there will be no shortfall of construction funds for the Bond-Financed Projects during the period over which the sales and use tax is being collected for such purposes; and

WHEREAS, the County has determined that during each year in which any payment of principal or interest on the Bonds will come due the County will receive from the sales and use tax proceeds authorized by this resolution, net proceeds sufficient to fully satisfy the County's obligation with respect to payment of such principal and interest on a current basis;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Spalding County, Georgia, and it is hereby resolved by authority of the same as follows:

Section 1. Authorization of Sales and Use Tax. In order to finance the Projects, there is hereby authorized to be levied and collected within the County a sales and use tax in the amount of one percent on all sales and uses in the County as provided in the Act. As required by Section 48-8-111(a) of the Act:

(a) a portion of the proceeds of such tax is to be used to finance a capital outlay project of the County consisting of improvements at the I-75 Industrial Park and the expansion of the Green Valley Industrial Park, including the acquisition of all necessary property, to be owned and developed by the Griffin-Spalding Development Authority;

(b) a portion of the proceeds of such tax is to be used to finance a capital outlay project of the County consisting of the acquisition of land adjacent to Fairmont Park to be used as parkland;

(c) a portion of the proceeds of such tax is to be used to finance a capital outlay project of the County consisting of other parks and recreation improvements;

(d) a portion of the proceeds of such tax is to be used to finance a capital outlay project of the County consisting of the expansion and improvement of the Senior Citizens Center;

(e) a portion of the proceeds of such tax is to be used to finance a capital outlay project of the County consisting of a new animal control/animal shelter facility;

(f) a portion of the proceeds of such tax is to be used to finance a capital outlay project of the County consisting of enhancements to the wastewater infrastructure, which is the subject of the Contract between the County and the City of Griffin, such City containing more than one-half of the aggregate population of all municipalities within the County;

(g) a portion of the proceeds of such tax is to be used to finance a capital outlay project of the City of Orchard Hill consisting of the construction and equipping of a recreational and cultural facility and other recreation improvements;

(h) a portion of the proceeds of such tax is to be used to finance capital outlay projects of the City of Sunny Side consisting recreation improvements;

(i) a portion of the proceeds of such taxes to be used to finance road, street and bridge purposes in the County, the City of Griffin and the City of Sunny Side;

(j) such sales and use tax is hereby authorized to be imposed for a period of not to exceed twenty consecutive calendar quarters commencing on July 1, 2003;

(k) the maximum estimated cost of the Non-Roads Projects to be funded from the proceeds of such sales and use tax, including interest on the Bonds is \$36,300,000 and the maximum estimated cost of the Roads Projects to be funded from the proceeds of such sales and use tax is \$1,700,000;

(l) assuming that the imposition of such sales and use tax and the issuance of the Bonds is approved by the voters of the County in the election hereinafter referred to, the County is hereby authorized to issue the Bonds (in whole or in part), secured by the proceeds of such sales and use tax, in the aggregate principal amount of \$30,030,000. The Bonds shall bear interest from the first day of the month during which the Bonds are to be issued or from such other date as may be designated by the County prior to the issuance of the Bonds, at a rate or rates to be determined in a supplemental resolution to be adopted by the County prior to the issuance of the Bonds, which rates shall not exceed 6.00% per annum, payable semiannually on the first days of June and December in each year until paid commencing on December 1, 2003, and the maximum amount of principal to be paid on December 1 in each year during the life of such debt shall be as follows:

| <u>Date</u> | <u>Amount</u> |
|-------------|---------------|
| 2004 | \$5,695,000 |
| 2005 | 5,830,000 |
| 2006 | 5,985,000 |
| 2007 | 6,160,000 |
| 2008 | 6,360,000 |

The proceeds of the Bonds shall be deposited by the County in a separate account or accounts for the purpose of funding the Bond-Financed Projects, and any interest earnings on such proceeds shall be similarly applied by the County.

Sales and use tax proceeds received in any year pursuant to the imposition of such taxes shall first be used for paying debt service requirements on the Bonds for any such year before such proceeds are applied for the purposes authorized above. Proceeds of the sales and use tax not required to be deposited in the separate fund in any year for the payment of principal and interest on the Bonds coming due in the current year shall be deposited in a separate trust fund to be maintained by the County and applied toward funding the Projects to the extent such projects have not been funded with Bond proceeds.

Section 2. Call for Election. There is hereby called an election to be held in all the voting precincts in the County on the 18th day of March, 2003, for the purpose of submitting to the qualified voters of the County the question set forth in paragraph 3 below.

Section 3. Form of Ballot. The ballots to be used in such election should have written or printed thereon substantially the following:

/_/_ YES Shall a special one percent sales and use tax be imposed in Spalding County for a period of time not to exceed twenty calendar quarters and for the raising of not more than \$36,300,000 for the purpose of funding (i) improvements at

/_/ NO

the I-75 Industrial Park and the expansion of the Green Valley Industrial Park, including the acquisition of all necessary property, to be owned and developed by the Griffin-Spalding Development Authority; (ii) the acquisition of land adjacent to Fairmont Park to be used as parkland; (iii) other parks and recreation improvements in the County; (iv) the expansion and renovation of the Senior Citizens Center; (v) a new animal control/animal shelter facility in the County; (vi) wastewater improvements in the County which are the subject of a contract, dated as of January 1, 2003, between the County and the City of Griffin; (vii) the construction and equipping of a recreational and cultural facility and other recreation improvements in the City of Orchard Hill; and (viii) recreation improvements in the City of Sunny Side and for road, street and bridge purposes in the County, the City of Griffin and the City of Sunny Side for a period of time not to exceed twenty calendar quarters and for the raising of not more than \$1,700,000? If imposition of the tax is approved by the voters, such vote shall also constitute approval of the issuance of general obligation debt of Spalding County in the principal amount of \$30,030,000 for the purpose of funding items (i) and (ii) above.

Section 4. Manner of Election. The date of such election shall be and is hereby set for March 18, 2003, the polls of each election district of Spalding County shall be open at 7:00 a.m. and close at 7:00 p.m., and the election shall be held by the same persons and under and in accordance with the election laws of the State of Georgia, and the returns of such election shall be made to the Board of Commissioners of Spalding County and the Board of Elections of Spalding County (the "Board of Elections"), which shall count the votes, consolidate the returns and declare the result of said election in the manner required by law.

Section 5. Publication of Notice of Election. The Board of Elections is hereby authorized and requested to publish the notice of said election as required by law in the newspaper in which Sheriff's advertisements for Spalding County are published once a week for five weeks immediately preceding the date of the election in substantially the form attached hereto as Exhibit "A". Prior to the date of the election authorized herein, there shall be appointed proper Election Managers and Clerks to supervise and hold said election.

Section 6. Property Tax Levy. Should the Bonds be authorized by the requisite number of qualified voters, the Board of Commissioners of the County shall levy a tax upon all property subject to taxation for general obligation bond purposes within the County sufficient in amount to pay the principal of and interest on the Bonds at their respective maturities to the extent of any deficiency in the sales and use tax proceeds.

Section 7. Notice to Board of Elections. The Clerk of the Board of Commissioners of the County is hereby authorized and directed to deliver a copy of this resolution to the Board of Elections, with a request that the Board of Elections join in this call of the election.

Section 8. Advertisements as Binding Statements of Intention. As required by O.C.G.A. Section 36-82-1(d), any brochures, listings or other advertisements issued by the County or by any other person, firm, corporation or association with the knowledge and consent of the County, shall be deemed to be a statement of intention of the County concerning the use of the proceeds of the Bonds; and such statement of intention shall be binding on the County in the expenditure of any such bond funds or interest received from such bond funds which have been invested.

Section 9. Further Authority. The proper officers and agents of the County are hereby authorized to take any and all further actions as may be required in connection with the imposition of such sales and use tax, the acquisition, construction and installation of the projects above described and the issuance of the general obligation Bonds as herein provided.

Section 10. Effective Date. This Resolution shall take effect immediately upon its adoption.

This 15th day of January, 2003.

SPALDING COUNTY, GEORGIA

By: _____
Chairman, Board of Commissioners
of Spalding County, Georgia

(SEAL)

Commissioner

By: _____
Ex Officio Clerk, Board of
Commissioners of Spalding
County, Georgia

Commissioner

Commissioner

Commissioner

CLERK'S CERTIFICATE

I, William P. Wilson, Jr., Ex Officio Clerk of the Board of Commissioners of Spalding County, DO HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of a resolution adopted by the Board of Commissioners of Spalding County, Georgia on January 15, 2003, at a meeting which was duly called and assembled and open to the public and at which a quorum was present and acting throughout, which resolution has not been modified, repealed, revoked or rescinded as of the date hereof.

This 15th of January, 2003.

Ex Officio Clerk, Board of Commissioners of
Spalding County, Georgia

(SEAL)

A RESOLUTION OF THE SPALDING COUNTY BOARD OF ELECTIONS TO REGULATE AND PROVIDE FOR THE (1) CALLING OF AN ELECTION TO DETERMINE THE IMPOSITION OF A ONE PERCENT SALES AND USE TAX AUTHORIZED BY ARTICLE 3 OF CHAPTER 8 OF TITLE 48 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; AND (2) APPROVING THE ISSUANCE OR NON-ISSUANCE OF SPALDING COUNTY, GEORGIA GENERAL OBLIGATION SALES TAX BONDS IN THE PRINCIPAL AMOUNT OF \$30,030,000; AND FOR OTHER PURPOSES:

WHEREAS, the Board of Commissioners of Spalding County (the "County Board") has furnished this Board with a certified copy of its resolution (the "County Resolution") calling an election pursuant to Section 48-8-111, et seq., of the Official Code of Georgia Annotated, as amended, to determine (1) whether a one percent sales and use tax as

authorized by Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated shall be imposed for the purposes set forth in the County Resolution; and (2) whether \$30,030,000 principal amount of Spalding County, Georgia General Obligation Sales Tax Bonds shall be issued for the purposes set forth in the County Resolution, and has requested that this Board join the County Board in the call of the election for such questions on March 18, 2003; and

NOW, THEREFORE, BE IT RESOLVED by the Spalding County Board of Elections and it is hereby resolved by the authority of the same, that there be and there is hereby called to be held in all the voting precincts in Spalding County, Georgia on the 18th day of March, 2003, an election by the qualified voters of said County to determine (1) whether a one percent sales and use tax as authorized by Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated shall be imposed; and (2) whether \$30,030,000 principal amount of Spalding County, Georgia General Obligation Sales Tax Bonds shall be issued, for the purposes set forth in the County Resolution.

BE IT FURTHER RESOLVED by the authority aforesaid that the Election Superintendent proceed to conduct such election pursuant to the applicable laws of the State of Georgia and the rules and regulations of this Board, that Managers and election officials for all voting precincts be appointed and that election returns be consolidated in the presence of the County Board and this Board and that the result be declared, all as is provided by law.

Adopted and approved this 15th day of January, 2003.

SPALDING COUNTY BOARD OF ELECTIONS

(SEAL)

By:

Chairman

Attest:

By: _____

Secretary

GEORGIA, SPALDING COUNTY

I, _____, Secretary of the Spalding County Board of Elections, DO HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of a resolution adopted by the Board in a meeting which was duly called and assembled on the 15th day of January, 2003, which was open to the public, and at which a quorum was present and acting throughout, which resolution has been modified, amended, revoked or rescinded, and the original of which resolution has been duly recorded in the Minute Book of said Board, which is in my custody and control.

WITNESS my official hand and the seal of said Board this 15th day of January, 2003.

Secretary

County Manager Wilson stated he one other small item of business, which is we had originally scheduled Jordan Jones & Goulding a February 1st Open House Meeting on our new Comprehensive Plan; however, they would like to change this to Saturday, February 8th because of conflict with the facilitator. The Board had no objections to moving the meeting to the 8th of February. The meeting would be from 9:00 a.m. until 12:00 p.m. in the Meeting Room.

With no further business, Chairman Morrow adjourned the meeting at 4:36 P.M.

County Clerk

Chairman

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