

House Bill 750 (AS PASSED HOUSE AND SENATE)

By: Representative Wiedower of the 121st

A BILL TO BE ENTITLED
AN ACT

1 To create the City of Watkinsville Public Facilities Authority; to confer powers and impose
2 duties on the authority; to provide for the membership and the appointment of members of
3 the authority and their terms of office, qualifications, duties, powers, and compensation; to
4 provide for vacancies, organization, meetings, and expenses; to provide for definitions; to
5 provide for the issuance and sale of revenue bonds and other obligations and their
6 negotiability, sale, and use of proceeds from such sales; to provide for conditions for issuance
7 of such obligations; to prohibit the pledge of credit for the payment of bonds; to provide for
8 trust indentures; to provide for payment of bond proceeds; to provide for bondholder
9 remedies and protection; to provide for refunding bonds; to provide for bond validation; to
10 provide for venue and jurisdiction; to provide for trust funds; to provide for the authority's
11 purpose; to provide for charges; to provide for rules and regulations; to provide for tort
12 immunity; to provide for tax exemptions and exemptions from levy and sale; to provide for
13 supplemental powers; to provide for effect on other governments; to provide for liberal
14 construction; to provide for severability; to provide an effective date; to provide for a short
15 title; to provide for related matters; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 750

- 1 -

17 **SECTION 1.**

18 Short title.

19 This Act shall be known and may be cited as the "City of Watkinsville Public Facilities
20 Authority Act."

21 **SECTION 2.**

22 Creation of authority; purpose.

23 There is created a body corporate and politic to be known as the "City of Watkinsville Public
24 Facilities Authority," which shall be a public corporation. Such corporation shall be separate
25 and distinct from any public corporation or other entity heretofore created by the General
26 Assembly and shall be an instrumentality of the State of Georgia exercising governmental
27 powers. The authority is created for the purpose of promoting the public good and general
28 welfare of the citizens of the City of Watkinsville and assisting the City of Watkinsville in
29 providing facilities, equipment, and services to the citizens of the City of Watkinsville and
30 the citizens located in the territories served by the City of Watkinsville in the most efficient
31 means possible. In connection with the exercise of any of its powers, the members of the
32 authority may make findings or determinations regarding the public good and general welfare
33 of the City of Watkinsville and the use of facilities, equipment, and services, and such
34 findings or determinations, if made, shall be conclusive and binding.

SECTION 3.

Definitions.

37 As used in this Act, the term:

38 (1) "Authority" means the City of Watkinsville Public Facilities Authority created in this
39 Act.

40 (2) "Cost of the project" shall include (A) the cost of construction; (B) the cost of all land
41 or interests therein, properties, rights, easements, and franchises acquired; (C) the cost of
42 acquiring, constructing, or erecting buildings, improvements, materials, labor, and
43 services; (D) the cost of all machinery and equipment; (E) financing charges, including
44 interest prior to and during construction or acquisition of any project and for six months
45 after such project is placed in service and operational at the level intended; (F) the cost
46 of construction, engineering, architectural, fiscal, accounting, inspection, legal expenses
47 relating to a project or to the financing or refinancing of any project, and other expenses
48 necessary or incident to determining the feasibility or practicability of any project; (G)
49 administrative expenses relating to any project or to the financing or refinancing thereof
50 and such other expenses as may be necessary or incident to the financing of a project
51 authorized by this Act; the acquisition, construction, renovation, reconstruction, or
52 remodeling of a project; and the placing of the same in operation. Any such obligation
53 or expense shall be regarded as a part of the cost of the project and may be paid or
54 reimbursed as such out of any funds of the authority, including proceeds of any revenue
55 bonds issued under the provisions of this Act for any such project or projects and the
56 proceeds of the sale of any contracts, lease agreements, or installment sale agreements
57 or the amounts payable thereunder, either directly or by the creation of interests therein.

58 (3) "City" means the City of Watkinsville, Georgia.

59 (4) "Project" means any capital project, located inside or outside the territorial
60 boundaries of the city, determined by the authority to promote the public good or general

61 welfare of the citizens of the city or to be necessary or convenient for the efficient
62 operation of the city or any of its enterprises or systems, including, but not limited to, the
63 acquisition, construction, renovation, improvement, extension, addition, or equipping
64 of (A) recreational facilities, including parks, athletic fields, buildings, or facilities or
65 other similar facilities; (B) public safety facilities, including law enforcement offices,
66 facilities, or equipment; (C) educational, cultural, or historical facilities and equipment;
67 (D) transportation facilities and equipment; (E) administrative facilities and equipment;
68 (F) any "undertaking" permitted by the Revenue Bond Law; (G) any undertaking, project,
69 or service for which the governmental body contracting with the authority is authorized
70 by law to undertake in the performance of its governmental, proprietary, or administrative
71 functions, all personal property to be used in connection therewith, and the lease and sale
72 of any part or all of such facilities, including real and personal property, so as to ensure
73 the efficient and proper development, maintenance, and operation of such project deemed
74 by the authority to be necessary, convenient, or desirable.

75 (5) "Revenue bonds" means revenue bonds issued by the authority pursuant to the terms
76 of this Act or under Article 3 of Chapter 82 of Title 36 of the O.C.G.A., known as the
77 "Revenue Bond Law."

78 **SECTION 4.**

79 Powers of authority.

80 The authority shall have the power:

- 81 (1) To hold, own, lease, transfer, and convey real and personal property or interests;
- 82 (2) To sue and be sued;
- 83 (3) To have and to use a seal and to alter the same at its pleasure;
- 84 (4) To acquire, construct, purchase, own, equip, operate, extend, improve, lease, and sell
85 any project;

- 86 (5) To exercise the powers conferred upon a public corporation or a public authority by
87 Article IX, Section III, Paragraph I of the Constitution of Georgia, such authority being
88 expressly declared to be a public corporation or a public authority within the meaning of
89 such provision of the Constitution of Georgia;
- 90 (6) To acquire property and projects in its own name by gift or by purchase on such terms
91 and conditions and in such manner as it may deem proper. If the authority shall deem it
92 expedient to construct any project on real property or any interest therein or usufruct which
93 is subject to the control of the city, the city is authorized to convey such real property or
94 interest therein to the authority for no consideration or for such consideration as may be
95 agreed upon by the authority and the city, taking into consideration the public benefit to be
96 derived from such conveyance. The city may transfer such property or interest therein
97 without the necessity of putting the same out for bid and without regard to any
98 determination as to whether or not such property or interest therein is in surplus.
- 99 (7) To accept gifts and bequests for its corporate purposes;
- 100 (8) To appoint, select, and employ, with or without bidding, as the authority may choose,
101 officers, agents, and employees, including engineering, architectural, and construction
102 experts, fiscal agents, underwriters, or other advisors, and attorneys, and to fix their
103 compensation;
- 104 (9) To make and execute with public and private persons and corporations contracts, lease
105 agreements, rental agreements, installment sale agreements, and other instruments relating
106 to its projects and incident to the exercise of the powers of the authority, including
107 contracts for constructing, renting, leasing, and selling its projects for the benefit of the
108 city; provided, without limiting the generality of this paragraph, that the authority is
109 specifically granted the power to enter into contracts, lease agreements, rental agreements,
110 installment sale agreements, and related agreements for a term not exceeding 50 years as
111 provided in Section III of Article IX of the Constitution of Georgia;

- 112 (10) To lease, sell, transfer, or otherwise dispose of any property, real or personal, or assets
113 of the authority, or to assign its rights under its contracts, lease agreements, or installment
114 sale agreements or its right to receive payments thereunder, either directly or through trusts
115 or custodial arrangements whereby interests are created in such contracts, lease agreements,
116 or installment sale agreements or the payments to be received thereunder through the
117 issuance of trust certificates, certificates of participation, custodial receipts, or other similar
118 instruments. In connection with any such sale, lease, transfer, or assignment, the authority
119 need not comply with any other provision of law requiring public bidding or any
120 announcement to the public of the sale of such property, assets, or rights;
- 121 (11) To accept loans and grants of money or property of any kind from the United States,
122 the State of Georgia, or any political subdivision or municipal corporation of the State of
123 Georgia;
- 124 (12) To borrow money for any of its corporate purposes and to issue revenue bonds, notes,
125 or other types of indebtedness payable solely from funds or revenues of the authority
126 pledged for that purpose and to pledge and assign any of its revenues, income, rent,
127 charges, and fees to provide for the payment of the same and to provide for the rights of
128 the holders of such revenue bonds; provided, however, that the power conferred by this
129 paragraph may not be exercised after the expiration of four years from the effective date
130 of this Act;
- 131 (13) To enter into (A) interest rate swaps, collars, or other types of interest rate
132 management agreements or (B) credit enhancement or liquidity agreements relating to any
133 obligations of the authority, provided that the obligation of the authority under any such
134 agreements shall not be a general obligation of the authority but shall be a limited
135 obligation of the authority payable from a specific source of funds identified for such
136 purpose. The authority shall be exempt from any requirement of Georgia law requiring a
137 swap management plan or other similar plan relating to interest rate swap agreements;

- 138 (14) To make such rules and regulations governing its employees and property as it may
139 in its discretion deem proper;
- 140 (15) The authority may be sued the same as any private corporation on any contractual
141 obligation of the authority. The authority shall have the same rights to sue any other person
142 or entity as any private corporation; and
- 143 (16) To issue revenue bonds, notes, or other obligations to finance or refinance any project
144 which may be financed by the city under the Revenue Bond Law of Georgia.

145 **SECTION 5.**

146 Members of authority; terms of office.

147 The authority shall consist of six members as follows: the mayor and each member of the city
148 council (the "council") to be appointed by themselves. The terms of office shall be
149 concurrent with their terms of office on the city council. Successors to such members shall
150 be appointed as the original members were appointed as provided in this Act, and any
151 vacancies shall be filled by the appointing authority as provided in this Act, for the unexpired
152 term. A majority of the members of the authority shall constitute a quorum, and no vacancy
153 on the authority shall impair the right of the quorum to exercise all the rights and perform all
154 the duties of the authority and, in every instance, a majority vote of a quorum shall authorize
155 any legal act of the authority, including for all things necessary to authorize and issue
156 revenue bonds. One of the members of the authority shall be the chairperson of the authority,
157 to be elected by the city council of Watkinsville. The authority shall elect a secretary and
158 treasurer who need not necessarily be members of the authority. The authority may elect a
159 vice chairperson or any number of assistant secretaries or treasurers as it may from time to
160 time deem necessary or desirable. The members of the authority shall not be entitled to
161 compensation for their services but shall be entitled to and shall be reimbursed for the actual
162 expenses necessarily incurred in the performance of their duties. The authority shall make

163 rules and regulations for its own governance and shall have perpetual existence. Any change
164 in name or composition of the authority shall in no way affect the vested rights of any person
165 under the provisions of this Act or impair the obligations of any contracts existing under this
166 Act.

167 **SECTION 6.**

168 Issuance and sale of revenue bonds.

169 The authority shall have power and is authorized from time to time to provide for the
170 issuance and sale of negotiable revenue bonds in the manner provided by Article 3 of
171 Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law," for the purpose of paying
172 all or any part of the cost of any one or more projects, including the cost of constructing,
173 reconstructing, equipping, extending, adding to, or improving any such project, or for the
174 purpose of refunding, as provided in this Act, any such bonds of the authority or any other
175 authority or public body previously issued to finance or refinance the cost of a project. The
176 principal of and interest on such revenue bonds shall be a limited obligation of the authority
177 payable solely from the source or sources of funds specified in the indenture or resolution
178 of the authority authorizing the issuance of such revenue bonds. The revenue bonds of each
179 issue shall be issued and validated under and in accordance with the provisions of the
180 Revenue Bond Law. Such revenue bonds shall mature on such dates, bear interest at such
181 rate or rates, whether fixed or variable, be subject to redemption, and have such other terms
182 as the authority may provide in the indenture or resolution relating thereto. Such revenue
183 bonds shall not be subject to any provision of Georgia law limiting the rate of interest
184 payable thereon and may be sold in a negotiated sale or in a public sale as the authority may
185 determine.

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SECTION 7.

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Power to incur loans or issue notes.

188 The authority shall have the power to incur indebtedness from time to time for financing or
189 refinancing any project or for refunding any obligations previously issued for such purpose
190 or for any other purpose, whether in the form of a loan or through the issuance of notes, and
191 the principal of and interest on such notes or loans shall be a limited obligation of the
192 authority payable solely from the source or sources of funds specified in the resolution or
193 trust indenture of the authority authorizing such loan or the issuance of such notes. Any such
194 loan or notes shall not be required to be validated as a condition to the issuance thereof and
195 shall have such terms as may be specified by the authority in the resolution or indenture
196 authorizing the same.

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SECTION 8.

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Negotiable instruments, bonds, and other obligations exempt from taxation.

199 All revenue bonds issued under the provisions of this Act shall have all the qualities and
200 incidents of negotiable instruments under the negotiable instruments law of this state. All
201 such bonds, and any loan incurred or note issued as provided in this Act, are declared to be
202 issued or incurred for an essential public and governmental purpose, and such obligations and
203 the interest thereon shall be exempt from all taxation within this state.

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SECTION 9.

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Revenue bonds or notes not debt or general obligation.

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Revenue bonds or notes issued under the provisions of this Act or any loan incurred as
authorized by this Act shall not constitute a debt or a pledge of the faith and credit of the

208 State of Georgia or of any political subdivision or municipal corporation thereof, including
209 the city, but shall be payable solely from the sources as may be designated in the resolution
210 or indenture of the authority authorizing the issuance of the same. The issuance of such
211 obligations shall not directly, indirectly, or contingently obligate the State of Georgia or any
212 political subdivision or municipal corporation thereof, including the city, to levy or to pledge
213 any form of taxation whatever for the payment thereof. No holder of any bond or receiver
214 or trustee in connection therewith shall have the right to enforce the payment thereof against
215 any property of the State of Georgia or any political subdivision or municipal corporation
216 thereof, including the city, nor shall any such bond constitute a charge, lien, or encumbrance,
217 legal or equitable, upon any such property. All such obligations shall contain on their face
218 a recital setting forth substantially the foregoing provisions of this section. Nothing in this
219 section shall be construed to prohibit the State of Georgia or any political subdivision,
220 municipal corporation, or agency thereof, including the city, from obligating itself to pay the
221 amounts required under any contract entered into with the authority pursuant to Article IX
222 of the Constitution of the State of Georgia or any successor provision, including from funds
223 received from taxes to be levied and collected for that purpose to the extent necessary to pay
224 the obligations contractually incurred with the authority, and from any other source.

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SECTION 10.

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Issuance of bonds or obligations under trust indentures or resolutions.

227 In the discretion of the authority, any issue of such revenue bonds, notes, or other obligations
228 may be secured by a trust indenture by and between the authority and a trustee, which may
229 be any trust company or bank having the powers of a trust company within or outside of the
230 State of Georgia. Such trust indenture may pledge or assign fees, tolls, rents, revenues, and
231 earnings to be received by the authority, including the proceeds derived from the financing,
232 sale, or lease, from time to time, of any project. Either the resolution providing for the

233 issuance of revenue bonds or other obligations or such trust indenture may contain such
234 provisions for protecting and enforcing the rights and remedies of the owners of such bonds
235 or obligations as may be reasonable and proper and not in violation of law, including
236 covenants setting forth the duties of the authority or any lessee or purchaser in relation to the
237 acquisition and construction of any project, the maintenance, operation, repair, and issuance
238 of any project, and the custody, safeguarding, and application of all moneys, including the
239 proceeds derived from the sale or lease of any project or from the sale of any such bonds,
240 notes, or other obligations and may also contain provisions concerning the conditions, if any,
241 upon which additional bond notes or other obligations may be issued, whether on a parity
242 with or subordinate to any other obligations issued by the authority. Such trust indenture or
243 resolution may set forth the rights and remedies of the owners of such obligations and of the
244 trustee. In addition to the foregoing, such trust indenture or resolution may contain such
245 other provisions as the authority may deem reasonable and proper for the security of the
246 owners of such bonds or other obligations or otherwise necessary or convenient in
247 connection with the issuance of such obligations. All expenses incurred in carrying out such
248 trust indenture or resolution may be treated as a part of the cost of maintenance, operation,
249 and repair of the project affected by such trust indenture or resolution.

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SECTION 11.

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Security for payment of bonds or other obligations.

252 The authority may assign or pledge any property or revenues to the payment of the principal
253 and interest on revenue bonds of the authority as the resolution authorizing the issuance of
254 the bonds or the trust indenture may provide. The use and disposition of such property or
255 revenues assigned to the payment of bonds or other obligations shall be subject to the trust
256 indenture or resolution authorizing the issuance of such revenue bonds or obligations. Any
257 lien created by the authority for the payment of such bonds or obligations may be a first lien

258 or a subordinate lien as the authority may provide, and any such trust indenture or resolution
259 may provide, at the option of the authority, for the issuance of additional bonds or other
260 obligations sharing any lien on a parity or subordinate lien basis.

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SECTION 12.

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Refunding bonds or obligations.

263 The authority is authorized to provide by resolution for the issuance of obligations, whether
264 revenue bonds, notes, or other obligations, for the purpose of refunding any revenue bonds
265 or other obligations issued under the provisions of this Act or under any other provision of
266 Georgia law so long as such bonds or other obligations were issued for a purpose or project
267 for which the authority could issue bonds. The issuance of such refunding bonds or other
268 obligations and all the details thereof, the rights of the holders thereof, and the duties of the
269 authority with respect to the same shall be governed by the foregoing provisions of this Act
270 insofar as the same may be applicable.

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SECTION 13.

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Principal office; venue.

273 The principal office of the authority shall be in the city, and the venue of any action against
274 it shall be in the City of Watkinsville, Georgia. Any action pertaining to the validation of
275 any bonds issued under the provisions of this Act and for the validation of any contract
276 entered into by the authority shall be brought in the Superior Court of the City of
277 Watkinsville, and such court shall have exclusive original jurisdiction of such actions.
278 Service upon the authority of any process, subpoena, or summons shall be affected by
279 serving the same personally upon any member of the authority.

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SECTION 14.

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Validation of revenue bonds.

282 Revenue bonds of the authority shall be confirmed and validated in accordance with the
283 procedure now or hereafter set forth in Article 3 of Chapter 82 of Title 36 of the O.C.G.A.,
284 the "Revenue Bond Law," as the same now exists or may hereafter be amended. The petition
285 for validation shall also make the city a party defendant to such action, if the city has or will
286 contract with the authority with respect to the project for which bonds are to be issued and
287 are sought to be validated. The bonds when validated and the judgment of such validation
288 shall be final and conclusive with respect to the validity of such bonds against the authority
289 and against all other persons or entities, regardless of whether such persons or entities were
290 parties to such validation proceedings.

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SECTION 15.

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No impairment of rights.

293 While any of the bonds or other obligations issued by the authority or any interests in
294 contracts of the authority remain outstanding, the powers, duties, or existence of the authority
295 or of its officers, employees, or agents shall not be diminished or impaired in any manner that
296 will affect adversely the interest and rights of the holders of such bonds or obligations or
297 such interests in contracts of the authority. The provisions of this section of this Act shall
298 be for the benefit of the authority and of the holders of any such bonds or obligations and
299 interests in contracts of the authority and, upon the issuance of bonds or obligations or the
300 creation of interests in contracts of the authority under the provisions of this Act, shall
301 constitute a contract with the holders of such bonds or obligations or such interests in
302 contracts of the authority.

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SECTION 16.

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Trust funds; permitted investments.

305 All moneys received by the authority pursuant to this Act, whether as proceeds from the sale
306 of revenue bonds or obligations of the authority as grants or other contributions, or as
307 revenues, income, fees, and earnings, shall be deemed to be the trust funds to be held and
308 applied solely as provided in this Act and in such resolutions and trust indentures as may be
309 adopted and entered into by the authority pursuant to this Act. Any such moneys or funds
310 may be invested from time to time in such investments as may be permitted under the
311 indenture, agreement, or resolution establishing the fund or account in which such funds are
312 held, or if not held in such a fund or account, in such investments as would be permitted
313 investments for a development authority created under Code Section 36-62-1 of the
314 O.C.G.A., et seq., as amended.

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SECTION 17.

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Power to set rates, fees, and charges.

317 The authority is authorized to prescribe and fix and collect rates, fees, tolls, rents, and
318 charges and to revise, from time to time, and collect such revised rates, fees, tolls, rents, and
319 charges for the services, facilities, or commodities furnished, including leases, concessions,
320 or subleases of its projects, and to determine the price and terms at and under which its
321 projects may be sold, leased, or otherwise disposed of.

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SECTION 18.

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Essential government function; no taxes or assessments.

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All property or interests in property owned by the authority shall be public property held and owned for governmental purposes and shall be exempt from ad valorem taxation. The exercise of the powers conferred upon the authority hereunder shall constitute an essential governmental function for a public purpose, and the authority shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession, or supervision or upon its activities in the operation and maintenance of property acquired by it or of buildings erected or acquired by it or any fees, rentals, or other charges for the use of such property or buildings or other income received by the authority. The tax exemption provided in this Act shall not include an exemption from sales and use tax on property purchased by or for the use of the authority.

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SECTION 19.

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Immunity of authority and members.

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The authority shall have the same immunity and exemption from liability for torts and negligence as the State of Georgia, and the officers, agents, and employees of the authority, when in performance of the work of the authority, shall have the same immunity and exemption from liability for torts and negligence as officers, agents, and employees of the State of Georgia.

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SECTION 20.

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Authority property not subject to levy and sale.

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The property of the authority shall not be subject to levy and sale under legal process.

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SECTION 21.

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Authority area of operation.

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The scope of the authority's operations shall be limited to the territory embraced within the territorial limits of the city and within the territorial limits of any project owned or operated by the city, as the same now or may hereafter exist; provided, however, that nothing in this section shall prevent the authority from contracting with any entity, public or private, outside of the city with respect to any project located in the city or any project located outside of the city, if the authority shall determine that entering into such contract is in the best interest of the authority and in furtherance of its public purposes.

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SECTION 22.

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Supplemental powers.

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This Act does not in any way take away from the authority any power which may be conferred upon it by law but is supplemental thereto.

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SECTION 23.

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No power to impose taxes.

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The authority shall not have the right to impose any tax on any person or property.

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SECTION 24.

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Act to be liberally construed.

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This Act shall be liberally construed to affect the purposes hereof.

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SECTION 25.

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Severability of provisions.

365 Should any sentence, clause, phrase, or part of this Act be declared for any reason to be
366 unconstitutional or invalid, the same shall not affect the remainder of this Act or any part
367 hereof other than the part so held to be invalid, and the remaining provisions of this Act shall
368 remain in full force and effect; it is the express intention of this Act to enact each provision
369 of this Act independently of any other provision hereof.

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SECTION 26.

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Effective date.

372 This Act shall become effective upon its approval by the Governor or upon its becoming law
373 without such approval.

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SECTION 27.

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Conflicting laws.

376 All laws and parts of laws in conflict with this Act are repealed.