

House Bill 781 (AS PASSED HOUSE AND SENATE)

By: Representative Loudermilk of the 14<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Adairsville Building Authority as a public corporation and an instrumentality  
2 of the State of Georgia; to authorize the authority to acquire, construct, own, and convey real  
3 property and personal property and to sue and be sued; to authorize the authority to enter into  
4 intergovernmental contracts and contracts with private persons; to confer upon the authority  
5 the power of eminent domain; to authorize the authority to enter into contracts, lease  
6 agreements, and installment sale agreements; to authorize the authority to accept grants and  
7 gifts; to authorize the authority to fix and collect fees and charges for the use or for the rental  
8 of its facilities; to provide for the membership of the authority; to authorize the authority to  
9 acquire, construct, equip, maintain, and operate projects; to authorize the authority to acquire  
10 the necessary property therefor and to lease or sell any or all of such facilities; to authorize  
11 the authority to sell its contracts, lease agreements, or installment sale agreements or its right  
12 to receive payments thereunder, either directly or by creating interests therein; to authorize  
13 the issuance of revenue bonds of the authority, payable from the revenues, tolls, fees,  
14 charges, and earnings of the authority including, but not limited to, amounts derived from  
15 leasing and selling facilities of the authority; to authorize the collection and pledging of the  
16 revenues and earnings of the authority for the payment of such bonds and to authorize the  
17 execution of trust indentures to secure the payment thereof and to define the rights of the  
18 holders of such bonds or obligations; to provide that no debt of the State of Georgia or of the  
19 City of Adairsville shall be incurred in the exercise of any powers granted by this Act; to  
20 make the bonds of the authority exempt from taxation; to authorize the issuance of refunding  
21 bonds; to fix the venue of actions relating to any provision of this Act and to provide for the  
22 validation of bonds issued by the authority and of contracts between the authority and the  
23 City of Adairsville; to confine the activities of the authority to the territorial limits of Bartow  
24 County; to prohibit the authority from levying any tax; to provide for severability; to provide  
25 an effective date; to repeal conflicting laws; and for other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Short title.

This Act may be cited as the "Adairsville Building Authority Act."

**SECTION 2.**

Adairsville Building Authority created.

There is created a body corporate and politic to be known as the Adairsville Building Authority (herein called the "authority"), which shall be deemed to be a political subdivision of this state and public corporation by that name, style, and title to be known. Such corporation shall be separate and distinct from any public corporation heretofore created by the General Assembly and shall be an instrumentality of the State of Georgia exercising governmental powers. All property owned by such corporation shall be public property held and owned for governmental purposes and shall be exempt from taxation.

**SECTION 3.**

General powers.

The authority shall have the power:

(1) To hold, own, and convey real and personal property;

(2) To sue and be sued;

(3) To have and to use a seal and to alter the same at pleasure;

(4) To acquire, construct, purchase, own, equip, operate, extend, improve, lease, and sell any project;

(5) To exercise the powers conferred upon a "public corporation" or a "public authority" by Article IX, Section III, Paragraph I of the Constitution of Georgia, such authority being hereby expressly declared to be a "public corporation" or a "public authority" within the meaning of such provision of the Constitution of Georgia;

(6) To acquire in its own name by purchase on such terms and conditions and in such manner as it may deem proper or by condemnation in accordance with the provisions of any and all existing laws of this state applicable to the condemnation of property for public use, including the power to proceed as condemning body under the provisions of Article 2 of Chapter 2 of Title 22 of the Official Code of Georgia Annotated, or by gift, grant, lease, or otherwise real property or rights and easements therein and franchises and personal property necessary or convenient for its corporate purposes and to use the same so long as its corporate existence shall continue and to lease or make contracts with

1 respect to the use, sale, or disposition of the same in any manner it deems to the best  
2 advantage of the authority. Title to any such property shall be held by the authority  
3 exclusively for the benefit of the public. The authority shall be under no obligation to  
4 accept and pay for any property condemned as provided herein except from the funds  
5 provided therefor and, in any proceedings to condemn, such orders may be made by the  
6 court having jurisdiction of the suit, action, or proceedings as may be just to the authority  
7 and to the owners of the property to be condemned. No property shall be acquired upon  
8 which any lien or other encumbrance exists, unless at the time such property is so  
9 acquired a sufficient sum of money shall be deposited in trust to pay and redeem the  
10 amount of such lien or encumbrance. If the authority shall deem it expedient to construct  
11 any project on lands which are subject to the control of the City of Adairsville, the city  
12 is authorized to convey such lands to the authority for such consideration as may be  
13 agreed upon by the authority; and the city shall take into consideration the public benefit  
14 to be derived from such conveyance;

15 (7) To accept gifts and bequests for its corporate purposes;

16 (8) To appoint, select, and employ officers, agents, and employees, including  
17 engineering, architectural, and construction experts, fiscal agents, and attorneys, and to  
18 fix their compensation;

19 (9) To make and execute with public and private persons and corporations contracts,  
20 lease agreements, rental agreements, installment sale agreements, and other instruments  
21 relating to its projects and incident to the exercise of the powers of the authority,  
22 including contracts for constructing, renting, leasing, and selling its projects for the  
23 benefit of the City of Adairsville; and, without limiting the generality of the foregoing,  
24 authority is specifically granted to the City of Adairsville to enter into contracts, lease  
25 agreements, rental agreements, installment sale agreements, and related agreements with  
26 the authority for a term not exceeding 50 years;

27 (10) To sell or assign its rights under its contracts, lease agreements, or installment sale  
28 agreements or its right to receive payments thereunder, either directly or through trust or  
29 custodial arrangements whereby interests are created in such contracts, lease agreements,  
30 or installment sale agreements or the payments to be received thereunder through the  
31 issuance of trust certificates, certificates of participation, custodial receipts, or other  
32 similar instruments;

33 (11) To accept loans and grants of money or property of any kind from the United States,  
34 the State of Georgia, or any political subdivision of the State of Georgia;

35 (12) To borrow money for any of its corporate purposes and to issue revenue bonds  
36 payable solely from funds or revenues of the authority pledged for that purpose and to  
37 pledge and assign any of its revenues, income, rent, charges, and fees to provide for the

1 payment of the same and to provide for the rights of the holders of such revenue bonds;  
 2 and  
 3 (13) To make such rules and regulations governing its employees and property as it may  
 4 in its discretion deem proper.

#### 5 **SECTION 4.**

#### 6 **Membership.**

7 The authority shall consist of five members who shall be residents of the City of Adairsville  
 8 who shall be eligible to succeed themselves and who shall be appointed by the Adairsville  
 9 City Council. The councilmembers shall be eligible to be appointed to serve on the  
 10 authority. The members of the authority shall hold office for terms of four years and until  
 11 their successors shall be appointed; provided, however, that of the original members  
 12 appointed to the authority, three shall be appointed for terms of one year each and two shall  
 13 be appointed for terms of three years. Upon the expiration of each such initial term, the  
 14 successors shall be appointed for terms of four years. Any vacancy on the authority shall be  
 15 filled for the unexpired term by the city council. Immediately after their appointment, the  
 16 members of the authority shall enter upon their duties. Three members of the authority shall  
 17 constitute a quorum, and no vacancy on the authority shall impair the right of the quorum to  
 18 exercise all the rights and perform all the duties of the authority and, in every instance, a  
 19 majority vote of a quorum shall authorize any legal act of the authority, including all things  
 20 necessary to authorize and issue revenue bonds. The authority shall elect one of its members  
 21 as chairperson and shall elect a secretary and treasurer who need not necessarily be a member  
 22 of the authority. The members of the authority shall not be entitled to compensation for their  
 23 services but shall be entitled to and shall be reimbursed for their actual expenses necessarily  
 24 incurred in the performance of their duties. The authority shall make rules and regulations  
 25 for its own government. It shall have perpetual existence. Any change in name or  
 26 composition of the authority shall in no way affect the vested rights of any person under the  
 27 provisions of this Act or impair the obligations of any contracts existing under this Act.

#### 28 **SECTION 5.**

#### 29 **Definitions.**

30 As used in this Act, the following words and terms shall have the following meanings unless  
 31 a different meaning clearly appears from the context:

32 (1) "Authority" shall mean the City of Adairsville Building Authority created in Section  
 33 2 of this Act.

1 (2) "Project" shall mean and include real and personal property, including buildings and  
 2 related facilities and equipment, which are necessary or convenient for the efficient  
 3 operation of the City of Adairsville.

4 (3) "Cost of the project" shall include the cost of construction; all lands, properties,  
 5 rights, easements, and franchises acquired; buildings, improvements, materials, labor, and  
 6 services contracted for; all machinery and equipment, financing charges, interest prior to  
 7 and during construction and for one year after the completion of construction,  
 8 engineering, architectural, fiscal, accounting, inspection, and legal expenses; plans and  
 9 specifications and other expenses necessary or incident to determining the feasibility or  
 10 practicability of the project, administrative expenses, and such other expenses as may be  
 11 necessary or incident to the financing herein authorized; the acquisition, construction,  
 12 renovation, reconstruction, or remodeling of any project and the placing of the same in  
 13 operation; and the condemnation of property necessary for such construction and  
 14 operation. Any obligation or expense incurred for any of such purposes shall be regarded  
 15 as a part of the cost of the project and may be paid or reimbursed as such out of any funds  
 16 of the authority, including proceeds of any revenue bonds issued under the provisions of  
 17 this Act for any such project or projects and the proceeds of the sale of any contracts,  
 18 lease agreements, or installment sale agreements or the amounts payable under the  
 19 agreement, either directly or by the creation of interests therein.

20 (4) "Revenue bonds" shall mean revenue bonds issued by the authority pursuant to the  
 21 terms of this Act and Article 3 of Chapter 82 of Title 36 of the O.C.G.A., known as the  
 22 "Revenue Bond Law."

23 (5) Any project shall be deemed "self-liquidating" if, in the judgment of the authority,  
 24 the revenues and earnings to be derived by the authority from the project and all  
 25 properties used, leased, and sold in connection with the project will be sufficient to pay  
 26 the cost of operating, maintaining, and repairing the project and to pay the principal of  
 27 and interest on the revenue bonds which may be issued to finance, in whole or in part, the  
 28 cost of such project or projects.

## 29 **SECTION 6.**

### 30 Revenue bonds.

31 The authority shall have power and is authorized from time to time to provide by resolution  
 32 for the issuance of negotiable revenue bonds in the manner provided by Article 3 of Chapter  
 33 82 of Title 36 of the O.C.G.A., known as the "Revenue Bond Law," for the purpose of paying  
 34 all or any part of the cost of any one or more projects, including the cost of constructing,  
 35 reconstructing, equipping, extending, adding to, or improving any such project, or for the

1 purpose of refunding, as provided in Section 11 of this Act, any such bonds of the authority  
2 previously issued. The principal of and interest on such revenue bonds shall be payable  
3 solely from such part of the revenues and earnings of such project or projects as may be  
4 designated in the resolution of the authority authorizing the issuance of such revenue bonds.  
5 The revenue bonds of each issue shall be issued and validated under and in accordance with  
6 the provisions of Article 3 of Chapter 82 of Title 36 of the O.C.G.A., known as the "Revenue  
7 Bond Law."

8 **SECTION 7.**

9 Revenue bonds; negotiability and exemption from taxation.

10 All revenue bonds issued under the provisions of this Act shall have and are declared to have  
11 all the qualities and incidents of negotiable instruments under the negotiable instruments law  
12 of this state. Such bonds are declared to be issued for an essential public and governmental  
13 purpose and such bonds and the income thereof shall be exempt from all taxation within this  
14 state.

15 **SECTION 8.**

16 Credit not pledged.

17 Revenue bonds issued under the provisions of this Act shall not constitute a debt or a pledge  
18 of the faith and credit of the State of Georgia or of the City of Adairsville but such bonds  
19 shall be payable solely from such part of the revenues and earnings of such project or  
20 projects as may be designated in the resolution of the authority authorizing the issuance of  
21 such bonds. The issuance of such revenue bonds shall not directly, indirectly, or  
22 contingently obligate the State of Georgia or the City of Adairsville to levy or to pledge any  
23 form of taxation whatever for the payment thereof. No holder of any bond or receiver or  
24 trustee of such bond shall have the right to enforce the payment thereof against any property  
25 of the State of Georgia or the City of Adairsville, nor shall any such bond constitute a charge,  
26 lien, or encumbrance, legal or equitable, upon any such property. All such bonds shall  
27 contain on their face a recital setting forth substantially the foregoing provisions of this  
28 section. The City of Adairsville, however, may obligate itself to pay the amounts required  
29 under any contract entered into with the authority from funds received from taxes to be  
30 levied and collected for that purpose to the extent necessary to pay the obligations  
31 contractually incurred with the authority, and from any other source; and the obligation to  
32 make such payments shall constitute a general obligation and a pledge of the full faith and

1 credit of the City of Adairsville; but shall not constitute a debt of the City of Adairsville  
2 within the meaning of the Constitution of the State of Georgia, Article IX, Section V,  
3 Paragraph I; and, when the City of Adairsville contracts with the authority to make such  
4 payments from taxes to be levied for that purpose, then the obligation shall be mandatory to  
5 levy and collect such taxes from year to year in an amount sufficient to fulfill and fully  
6 comply with the terms of such contract.

## 7 **SECTION 9.**

### 8 Revenue bonds; trust indenture as security.

9 In the discretion of the authority, any issue of such revenue bonds may be secured by a trust  
10 indenture by and between the authority and a corporate trustee, which may be any trust  
11 company or bank having the powers of a trust company within or outside of the State of  
12 Georgia. Such trust indenture may pledge or assign fees, tolls, rents, revenues, and earnings  
13 to be received by the authority, including the proceeds derived from the sale or lease, from  
14 time to time, of any project. Either the resolution providing for the issuance of revenue  
15 bonds or such trust indenture may contain such provisions for protecting and enforcing the  
16 rights and remedies of the bondholders as may be reasonable and proper and not in violation  
17 of law, including covenants setting forth the duties of the authority in relation to the  
18 acquisition and construction of any project, the maintenance, operation, repair, and insurance  
19 of any project, and the custody, safeguarding, and application of all moneys, including the  
20 proceeds derived from the sale or lease of any project, may also provide that any project shall  
21 be acquired and constructed under the supervision and approval of consulting engineers or  
22 architects employed or designated by the authority and satisfactory to the original purchasers  
23 of the bonds issued therefor, may also require that the security given by contractors and by  
24 any depository of the proceeds of the bonds or revenues or other moneys be satisfactory to  
25 such purchasers, and may also contain provisions concerning the conditions, if any, upon  
26 which additional revenue bonds pledging all or any part of the revenues and earnings of such  
27 project or projects may be issued. Such indenture may set forth the rights and remedies of  
28 the bondholders and of the trustee. In addition to the foregoing, such trust indenture may  
29 contain such other provisions as the authority may deem reasonable and proper for the  
30 security of the bondholders. All expenses incurred in carrying out such trust indenture may  
31 be treated as a part of the cost of maintenance, operation, and repair of the project affected  
32 by such indenture.

**SECTION 10.**

## Revenue bonds; sinking fund.

The revenues, fees, tolls, and earnings derived from any particular project or projects, regardless of whether or not such revenues, fees, tolls, and earnings were produced by a particular project for which bonds have been issued, and any moneys derived from the sale of any properties, both real and personal, of the authority, unless otherwise pledged and allocated, may be pledged and allocated by the authority to the payment of the principal and interest on revenue bonds of the authority as the resolution authorizing the issuance of the bonds or the trust indenture may provide; and such funds so pledged, from whatever source received, which such pledge may include funds received from one or more or all sources not previously pledged and allocated, shall be set aside at regular intervals, as may be provided in the resolution or trust indenture, into a sinking fund which shall be pledged to and charged with the payments of:

(1) The interest upon such revenue bonds as such interest shall fall due;

(2) The principal of the bonds as the same shall fall due;

(3) The necessary charges of any paying agent or agents for paying principal and interest; and

(4) Any premium upon bonds retired by call or purchase.

The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be a fund for the benefit of all revenue bonds issued pursuant to such resolution or trust indenture without distinction or priority of one over another.

**SECTION 11.**

## Revenue bonds; refunding bonds.

The authority is authorized to provide by resolution for the issuance of revenue refunding bonds of the authority for the purpose of refunding any revenue bonds issued under the provisions of this Act and then outstanding, together with accrued interest thereon and any premium required for the payment of such bonds prior to maturity. The issuance of such revenue bonds and all the details thereof, the rights of the holders thereof, and the duties of the authority with respect to the same shall be governed by the provisions of this Act insofar as the same may be applicable.

**SECTION 12.**

Venue; jurisdiction; service.

The principal office of the authority shall be in the City of Adairsville and the venue of any action against it shall be in Bartow County. Any action pertaining to the validation of any bonds issued under the provisions of this Act and for the validation of any contract entered into by the authority shall be brought in the Superior Court of Bartow County, and such court shall have exclusive original jurisdiction of such actions. Service upon the authority of any process, subpoena, or summons shall be effected by serving the same personally upon any member of the authority.

**SECTION 13.**

Revenue bonds; validation.

Revenue bonds of the authority shall be confirmed and validated in accordance with the procedure set forth in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., known as the "Revenue Bond Law," as the same now exists or may hereafter be amended. The petition for validation shall also make a party defendant to such action the City of Adairsville if such city has or will contract with the authority with respect to the project for which bonds are to be issued and are sought to be validated; and the City of Adairsville shall be required to show cause, if any exists, why such contract and the terms and conditions thereof should not be inquired into by the court and the validity of the terms thereof be determined and the contract adjudicated as security for the payment of any such bonds of the authority. The bonds, when validated, and the judgment of validation shall be final and conclusive with respect to the validity of such bonds against the authority, and the validity of the contract and of the terms and conditions thereof, when validated, and the judgment of validation shall be final and conclusive against the City of Adairsville if it be a party to the validation proceeding.

**SECTION 14.**

Interest of bondholders and holders of interests  
in authority contracts protected.

While any of the bonds issued by the authority or any interests in contracts of the authority remain outstanding, the powers, duties, or existence of the authority or of its officers, employees, or agents shall not be diminished or impaired in any manner that will affect adversely the interest and rights of the holders of such bonds or such interests in contracts of the authority. The provisions of this section of this Act shall be for the benefit of the

1 authority and of the holders of any such bonds and interests in contracts of the authority and,  
2 upon the issuance of bonds or the creation of interests in contracts of the authority under the  
3 provisions of this Act, shall constitute a contract with the holders of such bonds or such  
4 interests in contracts of the authority.

5 **SECTION 15.**

6 Moneys received considered trust funds.

7 All moneys received by the authority pursuant to this Act, whether as proceeds from the sale  
8 of revenue bonds or contracts of the authority, as grants or other contributions, or as  
9 revenues, income, fees, and earnings, shall be deemed to be the trust funds to be held and  
10 applied solely as provided in this Act and in such resolutions and trust indentures as may be  
11 adopted and entered into by the authority pursuant to this Act.

12 **SECTION 16.**

13 Rates, charges, and revenues of projects.

14 The authority is authorized to prescribe and fix and collect rates, fees, tolls, rents, and  
15 charges; to revise, from time to time, and collect such revised rates, fees, tolls, rents, and  
16 charges for the services, facilities, or commodities furnished, including leases, concessions,  
17 or subleases of its projects; and to determine the price and terms at and under which its  
18 projects may be sold.

19 **SECTION 17.**

20 Exemption from taxation.

21 The exercise of the powers conferred upon the authority by this Act shall constitute an  
22 essential governmental function for a public purpose. The authority shall not be required to  
23 pay taxes or assessments upon any of the property acquired by it or under its jurisdiction,  
24 control, possession, or supervision; its activities in the operation and maintenance of property  
25 acquired by it or of buildings erected or acquired by it; any fees, rentals, or other charges for  
26 the use of such property or buildings; or other income received by the authority. The tax  
27 exemption provided by this section shall not include an exemption from sales and use tax on  
28 property purchased by or for the use of the authority.

**SECTION 18.**

Immunity from tort actions.

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 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. The authority may be sued the same as any private corporation on any contractual obligation of the authority.

**SECTION 19.**

Property not subject to levy and sale.

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

**SECTION 20.**

Scope of operations.

The scope of the authority's operation shall be limited to the territory embraced within the territorial limits of Bartow County, as the same now or may hereafter exist.

**SECTION 21.**

Powers declared supplemental and additional.

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.

**SECTION 22.**

Authority without taxing power.

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

**SECTION 23.**

Liberal construction of Act.

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

**SECTION 24.**

Effect of partial invalidity of Act.

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

**SECTION 25.**

Effective date.

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

**SECTION 26.**

Repeal.

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