

TITLE 21

SARATOGA SPRINGS CITY CENTER AUTHORITY

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1 § 2490-a. Short title. This title may be cited as the "Saratoga
2 Springs city center authority".

3 § 2490-b. Definitions. As used or referred to in this title, unless a
4 different meaning clearly appears from the context:

5 1. The term "authority" shall mean the corporation created by section
6 twenty-four hundred ninety-c of this title;

7 2. The term "city" shall mean the city of Saratoga Springs, Saratoga
8 county, New York;

9 3. The term "board" shall mean the members of the authority;

10 4. The term "mayor" shall mean the mayor of the city of Saratoga
11 Springs;

12 5. The term "city council" shall mean the city council of the city of
13 Saratoga Springs;

14 6. The term "bonds" shall mean the bonds and where applicable, the
15 notes authorized in this title;

16 7. The term "real property" shall mean lands, including air and
17 subsurface rights and lands under water, structures, franchises and
18 interests in lands and any and all things usually included within the
19 said terms, including not only fees simple absolute but also any and all
20 lesser interests, such as easements, rights of way, uses, leases,
21 licenses, and all other incorporeal hereditaments and every estate,
22 interest or right, legal or equitable, including terms of years, and
23 liens thereon by way of judgments, mortgages or otherwise, and also
24 claims for damage to real estate;

25 8. The term "project" shall mean the Saratoga Springs city center to
26 be constructed within the city for the purpose of providing convention
27 or trade show facilities and shall include all real and personal
28 property, driveways, roads, approaches, structures, parking lots,
29 mechanical equipment and all appurtenances and facilities either on,
30 above, or under the ground which are used or useable in connection with
31 such city center.

32 § 2490-c. Saratoga Springs city center authority. A board to be known
33 as the Saratoga Springs city center authority is hereby created. The
34 board shall be a body corporate and politic, constituting a public
35 benefit corporation, and its existence shall commence upon the
36 appointment of the members as herein provided. It shall consist of a
37 chairman and six other members all of whom shall be appointed by the
38 mayor with the consent of the city council. Initially, three members
39 shall be appointed for six years; two members for five years; and two
40 members for four years. At the expiration of such terms, the terms of
41 office of their successors shall be six years. Each member shall
42 continue to serve until the appointment and qualification of his
43 successor. Vacancies in such board occurring otherwise than by
44 expiration of term shall be filled for the unexpired term. The mayor, or
45 his designated representative from the city council, shall serve as an
46 ex officio, nonvoting member of the board while in office. The board may
47 delegate to one or more of its members, or to its officers, agents and
48 employees, such powers and duties as it may deem proper. Members of the
49 board shall be entitled to no compensation for their services, but shall
50 be entitled to reimbursement for their actual and necessary expenses
51 incurred in the performance of their official duties. The powers of the
52 authority shall be vested in and exercised by a majority of the voting
53 members of the board then in office. The authority, and its corporate
54 existence, shall continue only for a period of fifty years, and
55 thereafter, until all its liabilities have been met and its bonds have
56 been paid in full or such liabilities or bonds have been otherwise
57 discharged, except that no additional liabilities may be incurred after
58 the termination of its corporate existence. Upon its ceasing to exist,
59 all its rights and property shall pass to the city.

60 § 2490-d. Purposes and powers of the authority. The purposes of the

1 authority shall be to construct, operate and maintain the project
2 consisting of the Saratoga Springs city center authority and facilities
3 in connection therewith. To carry out the purposes the authority shall
4 have power:

- 5 1. To sue and be sued;
- 6 2. To acquire, hold and dispose of personal property for its corporate
7 purposes;
- 8 3. To have a seal and alter the same at pleasure;
- 9 4. To make by-laws for the management and regulation of its affairs
10 and, subject to agreements with bondholders, for the regulation of the
11 project;
- 12 5. With the consent of the city council, to use agents, employees and
13 facilities of the city, paying to the city its agreed portion of the
14 compensation or costs;
- 15 6. To appoint officers, agents and employees; and to describe their
16 qualifications and fix their compensation; subject, however, to the
17 provisions of the civil service law as hereinafter provided;
- 18 7. To make contracts and leases, and to execute all instruments
19 necessary or convenient;
- 20 8. To construct such buildings, structures, parking and other
21 facilities as may be necessary or convenient;
- 22 9. To reconstruct, improve, maintain and operate the project;
- 23 10. To collect rentals, fees and other charges for the use of the
24 project subject to and in accordance with such agreements with
25 bondholders as may be hereinafter provided;
- 26 11. To contract for the services of architects, engineers, lawyers,
27 financial and other professional advisers and to fix their compensation;
- 28 12. To construct, operate and maintain the project; to contract for
29 the construction, operation and maintenance of any part thereof, or for
30 services to be performed in connection therewith; to rent part thereof,
31 and to grant concessions, all on such terms and conditions as it may
32 determine; provided, however, that the location of the site of the
33 project and the plans thereof shall be subject to the prior approval of
34 the city council.

35 § 2490-e. Acquisition of land for the project. 1. The authority may
36 acquire lands by purchase or condemnation for the project. It shall have
37 the power to sell, lease or otherwise dispose of said real property and
38 shall retain and have the power to use the proceeds of sale, rental or
39 other moneys derived from the disposition thereof for its purposes.

40 2. Notwithstanding any law to the contrary the city may, by legal
41 instrument authorized by a resolution, lease real property owned by the
42 city to the authority, with or without consideration, for so long as the
43 authority's existence shall continue.

44 3. Notwithstanding any other provision of law, the city may by legal
45 instrument authorized pursuant to resolution, purchase, lease, license
46 or otherwise acquire the project or any interest therein, including
47 terms of years; and, by resolution, establish a capital reserve fund for
48 the purpose of financing all or a part of the cost of such purchase,
49 lease, license or other acquisition, including rent related to the
50 acquisition of a leasehold interest in the project, and make
51 expenditures from such fund for such purposes.

52 § 2490-f. Civil service status of employees. The appointment and
53 promotion of all employees of the authority shall be made in accordance
54 with the provisions of the civil service law and the rules of the city
55 of Saratoga Springs civil service commission, and such employees shall
56 be entitled to membership in the city pension and retirement system, and
57 shall be entitled to the same rights and obligations thereunder as the
58 employees of the city.

59 § 2490-g. Contracts. The authority shall let contracts for
60 construction and materials in the manner provided by law for contracts

1 of the city.

2 § 2490-h. Moneys of the authority. 1. All moneys of the authority
3 shall be paid to the commissioner of finance of the city of Saratoga
4 Springs as agent for the authority, who shall designate depositories and
5 who shall not commingle such moneys with any other moneys. The moneys in
6 such accounts shall be paid out on checks of the commissioner of finance
7 on requisition of the chairman of the authority or of such other person
8 or persons as the authority may authorize upon proper audit of the city.

9 2. At the end of every fiscal year, the authority shall pay all excess
10 funds to the city for its use. The term excess funds shall mean
11 authority moneys not required for the authority's budget in the next
12 fiscal year. In addition, the authority, with the consent of the city
13 council, can retain funds in a special capital account as a reserve fund
14 for possible future capital projects such as major repairs,
15 reconstruction or renovation of the civic center, additional equipment
16 or replacement of existing fixtures and equipment. The size of the
17 capital account shall be mutually agreed to by the authority and the
18 city, and no funds shall be expended from the said capital account
19 without the consent of the city council.

20 3. All deposits of such moneys shall, if required by the commissioner
21 of finance, be secured by obligations of the United States or of the
22 state of New York, of a market value equal at all times to the amount of
23 the deposit, and all banks and trust companies are authorized to give
24 such security for the deposits.

25 4. The city of Saratoga Springs commissioner of finance and his
26 legally authorized representative are authorized and empowered from time
27 to time to examine the accounts and books of the authority, including
28 all receipts, disbursements, contracts, leases, sinking funds,
29 investments and any other records and papers relating to its financial
30 standing.

31 5. The authority shall have power, notwithstanding the provisions of
32 this section, to contract with the holders of any of its bonds as to the
33 custody, collection, securing, investment and payment of any moneys of
34 the authority or any moneys held in trust or otherwise for the payment
35 of bonds or in any way to secure bonds, and to carry out any such
36 contract notwithstanding that such contract may be inconsistent with the
37 previous provisions of this section. Moneys held in trust or otherwise
38 for the payment of bonds and the deposits of such moneys may be secured
39 in the same manner as moneys of the authority, and all banks and trust
40 companies are authorized to give such security for such deposits.

41 § 2490-i. Bonds of the authority. 1. The authority shall have the
42 power and is hereby authorized from time to time to issue its negotiable
43 bonds in conformity with applicable provisions of the uniform commercial
44 code for its corporate purposes in the aggregate principal amount of not
45 exceeding fifteen million dollars. The authority shall have power from
46 time to time and whenever it deems refunding expedient to refund any
47 bonds by the issuance of new bonds, whether the bonds to be refunded
48 have or have not matured, and may issue bonds partly to refund bonds
49 then outstanding and partly for any other purpose hereinabove described.
50 In computing the total amount of bonds of the authority, which may at
51 any time be outstanding, the amount of the outstanding bonds to be
52 refunded from the proceeds of the sale of new bonds or by exchange for
53 new bonds shall be excluded. Except as may otherwise be expressly
54 provided by the authority, the bonds of every issue shall be general
55 obligations of the authority payable out of any moneys or revenues of
56 the authority, subject only to any agreements with the holders of
57 particular bonds pledging any particular moneys or revenues.

58 2. Bonds shall be authorized by resolution of the authority, be in
59 such denominations and bear such date or dates, mature at such time or
60 times, except that notes and any renewals thereof shall mature within

1 five years from the date of the original issuance and bonds and any
2 renewals thereof shall mature within thirty years from the date of the
3 original issuance. The bonds and notes shall be subject to such terms of
4 redemption, bear interest at such rate or rates payable at such times,
5 be in such form, either coupon or registered, carry such registration
6 privileges, be executed in such manner, be payable in such medium of
7 payment at such place or places, and be subject to such terms and
8 conditions as such resolution may provide. Bonds may be sold at public
9 or private sale for such price or prices as the authority shall
10 determine.

11 3. Any resolution or resolutions authorizing bonds or any issue of
12 bonds may contain provisions which may be a part of the contract with
13 the holders of the bonds thereby authorized as to:

14 (a) Pledging all or any part of the revenues, other moneys or property
15 of the authority to secure the payment of the bonds, including but not
16 limited to any contracts, earnings or proceeds of any grant to the
17 authority received from any private or public source;

18 (b) The setting aside of reserves and the creation of sinking funds
19 and the regulation and disposition thereof;

20 (c) Limitations on the purpose to which the proceeds from the sale of
21 bonds may be applied;

22 (d) The rates, rents, fees and other charges to be fixed and collected
23 by the authority and the amount to be raised in each year thereby and
24 the use and disposition of revenues;

25 (e) Limitations on the right of the authority to restrict and regulate
26 the use of the project or part thereof in connection with which bonds
27 are issued;

28 (f) Limitations on the issuance of additional bonds, the terms upon
29 which additional bonds may be issued and secured and the refunding of
30 outstanding or other bonds;

31 (g) The procedure, if any, by which the terms of any contract with
32 bondholders may be amended or abrogated, the amount of bonds, the
33 holders of which must consent thereto and the manner in which such
34 consent may be given;

35 (h) The creation of special funds into which any revenues or moneys
36 may be deposited;

37 (i) The terms and provisions of any trust deed or indenture securing
38 the bonds under which the bonds may be issued;

39 (j) Vesting in a trustee or trustees such properties, rights, powers
40 and duties in trust as the authority may determine which may include any
41 or all of the rights, powers and duties of the trustee appointed by the
42 bondholders pursuant to section twenty-four hundred ninety-j of this
43 title and limiting or abrogating the rights of the bondholders to
44 appoint a trustee under such section or limiting the rights, duties and
45 powers of such trustee;

46 (k) Defining the acts or omissions to act which may constitute a
47 default in the obligations and duties of the authority to the
48 bondholders and providing for the rights and remedies of the bondholders
49 in the event of such default, including as a matter of right the
50 appointment of a receiver, provided, however, that such rights and
51 remedies shall not be inconsistent with the general laws of the state
52 and other provisions of this title;

53 (l) Limitations on the power of the authority to sell or otherwise
54 dispose of any project or any part thereof;

55 (m) Limitations on the amount of revenues and other moneys to be
56 expended for operating, administrative or other expenses of the
57 authority;

58 (n) The payment of the proceeds of bonds, revenues and other moneys to
59 a trustee or other depository, and for the method of disbursement
60 thereof with such safeguards and restrictions as the authority may

1 determine; and

2 (o) Any other matters of like or different character which in any way
3 affect the security or protection of the bonds or the rights and
4 remedies of bondholders.

5 4. In addition to the powers herein conferred upon the authority to
6 secure its bonds, the authority shall have power in connection with the
7 issuance of bonds to enter into such agreements as the authority may
8 deem necessary, consistent or desirable concerning the use or
9 disposition of its revenues or other moneys or property, including the
10 mortgaging of any property and the entrusting, pledging or creation of
11 any other security interest in any such revenues, moneys or property and
12 the doing of any act (including refraining from doing any act) which the
13 authority would have the right to do in the absence of such agreements.
14 The authority shall have power to enter into amendments of any such
15 agreements within the powers granted to the authority by this title and
16 to perform such agreements. The provisions of any such agreements may be
17 made a part of the contract with the holders of bonds of the authority.

18 5. Any provision of the uniform commercial code to the contrary
19 notwithstanding, any pledge of or other security interest in revenues,
20 moneys, accounts, contract rights, general intangibles or other personal
21 property made or created by the authority shall be valid, binding and
22 perfected from the time when such pledge is made or other security
23 interest attaches without any physical delivery of the collateral or
24 further act, and the lien of any such pledge or other security interest
25 shall be valid, binding and perfected against all parties having claims
26 of any kind in tort, contract or otherwise against the authority
27 irrespective of whether or not such parties have notice thereof. No
28 instrument by which such a pledge or security interest is created nor any
29 financing statement need be recorded or filed.

30 6. Whether or not the bonds are of such form and character as to be
31 negotiable instruments under the terms of the uniform commercial code,
32 the bonds are hereby made negotiable instruments within the meaning of
33 and for all the purposes of the uniform commercial code, subject only to
34 the provisions of the bonds for registration.

35 7. Neither the members of the authority nor any person executing bonds
36 shall be liable personally thereon or be subject to any personal
37 liability or accountability by reason of the issuance thereof.

38 8. The authority, subject to such agreements with bondholders as then
39 may exist, shall have power out of any moneys available therefor to
40 purchase bonds of the authority, which shall thereupon be cancelled, at
41 a price not exceeding:

42 (a) If the bonds are then redeemable, the redemption price then
43 applicable, plus accrued interest to the next interest payment date;

44 (b) If the bonds are not then redeemable, the redemption price
45 applicable on the first date after such purchase upon which the bonds
46 become subject to redemption plus accrued interest to the next interest
47 payment date.

48 § 2490-j. Remedies of bondholders. Subject to any resolution or
49 resolutions adopted pursuant to paragraph (j) of subdivision three of
50 section twenty-four hundred ninety-i of this title. 1. In the event that
51 the authority shall default in the payment of principal of or interest
52 on any issue of bonds after the same shall become due, whether at
53 maturity or upon call for redemption, and such default shall continue
54 for a period of thirty days, or in the event that the authority shall
55 fail or refuse to comply with the provisions of this title or shall
56 default in any agreement made with the holders of any issue of bonds,
57 the holders of twenty-five percent in aggregate principal amount of the
58 bonds of such issue then outstanding, by instrument or instruments filed
59 in the office of the clerk of the county of Saratoga and proved or
60 acknowledged in the same manner as a deed to be recorded, may appoint a

1 trustee to represent the holders of such bonds for the purpose herein
2 provided.

3 2. Such trustee may, and upon written request of the holders of
4 twenty-five per centum in principal amount of such bonds outstanding,
5 shall in his or its own name:

6 (a) By action or proceeding in accordance with the civil practice law
7 and rules, enforce all rights of the bondholders, including the right to
8 require the authority to collect rents, rates and charges adequate to
9 carry out any agreement as to, or pledge of such rents, rates and
10 charges and to require the authority to carry out any other agreements
11 with the holders of such bonds to perform its duties under this title;

12 (b) Bring an action or proceeding upon such bonds;

13 (c) By action or proceeding, require the authority to account as if it
14 were the trustee of an express trust for the holders of such bonds;

15 (d) By action or proceeding, enjoin any acts or things which may be
16 unlawful or in violation of the rights of the holders of such bonds; and

17 (e) Declare all such bonds due and payable, and if all defaults shall
18 be made good, then with the consent of the holders of twenty-five per
19 centum of the principal amount of such bonds then outstanding, to annul
20 such declaration and its consequences.

21 3. Such trustee shall in addition to the foregoing have and possess
22 all of the powers necessary or appropriate for the exercise of any
23 functions specifically set forth herein or incident to the general
24 representation of bondholders in the enforcement and protection of their
25 rights.

26 4. The supreme court shall have jurisdiction of any action or
27 proceeding by the trustee on behalf of such bondholders. The venue of
28 any such action or proceeding shall be laid in the county of Saratoga.

29 5. Before declaring the principal of bonds due and payable, the
30 trustee shall first give thirty days notice in writing to the authority.

31 6. Any such trustee whether or not the issue of bonds represented by
32 such trustee has been declared due and payable, shall be entitled as of
33 right to the appointment of a receiver of any part or parts of the
34 project the revenues of which are pledged for the security of the bonds
35 of such issue and such receiver may enter and take possession of such
36 part or parts of the project and subject to any pledge or agreement with
37 holders of such bonds shall take possession of all moneys and other
38 property derived from such part or parts of the project and proceed with
39 any construction thereon or the acquisition of any property, real or
40 personal, in connection therewith which the authority is under
41 obligation to do, and to operate, maintain and reconstruct such part or
42 parts of the project and collect and receive all revenues thereafter
43 arising therefrom subject to any pledge thereof or agreement with
44 bondholders relating thereto and perform the public duties and carry out
45 the agreements and obligations of the authority under the direction of
46 the court. In any suit, action, or proceeding by the trustee the fees,
47 counsel fees and expenses of the trustee and of the receiver, if any,
48 shall constitute taxable disbursements and all costs and disbursements
49 allowed by the court shall be a first charge on any revenues derived
50 from the project.

51 7. The trustee shall, in addition to the foregoing, have and possess
52 all of the powers necessary or appropriate for the exercise of any
53 functions specifically set forth herein or incident to the general
54 representation of bondholders in the enforcement and protection of their
55 rights.

56 § 2490-k. State, city and municipalities not liable on authority
57 bonds. Neither the state, the city nor any other municipality or public
58 corporation shall be liable on the bonds of the authority and such bonds
59 shall not be a debt of the state, the city or any other municipality or
60 public corporation, and such bonds shall contain on the face thereof a

1 statement to such effect.

2 § 2490-l. Bonds legal investment for fiduciaries. The bonds of the
3 authority are hereby made securities in which all public officials and
4 bodies of the state and all municipalities, all insurance companies and
5 associations and other persons carrying on an insurance business, all
6 banks, bankers, trust companies, savings banks and savings associations,
7 including savings and loan associations, investment companies and other
8 persons carrying on a banking business, and administrators, guardians,
9 executors, trustees and other fiduciaries and all other persons
10 whatsoever, who are now or may hereafter be authorized to invest in
11 bonds or other obligations of the state may properly and legally invest
12 funds including capital in their control or belonging to them. The bonds
13 are also hereby made securities which may be deposited with and may be
14 received by all public officers and bodies of this state and all
15 municipalities for any purposes for which the deposit of bonds or other
16 obligations of this state is now or hereafter may be authorized.

17 § 2490-m. Agreement with the state. The state hereby pledges to and
18 agrees with the holders of any bonds issued by the authority pursuant to
19 this title, that the state will not alter or limit the rights hereby
20 vested in the authority to purchase, construct, maintain, operate,
21 repair, improve, increase, enlarge, extend, reconstruct, renovate,
22 rehabilitate or dispose of any project, or any part or parts thereof,
23 for which bonds of the authority shall have been issued, to establish
24 and collect rates, rents, fees and other charges referred to in this
25 title, to fulfill the terms of any agreement made with or for the
26 benefit of the holders of bonds or with any public corporation or person
27 with reference to such project or part thereof, or in any way impair the
28 rights and remedies of bondholders, until the bonds, together with the
29 interest thereon, with interest on any unpaid installments of interest
30 and all costs and expenses in connection with any action or proceeding
31 by or on behalf of such holders are fully met and discharged. The
32 authority is authorized to include this pledge and agreement of the
33 state in any agreement with bondholders.

34 § 2490-n. Exemption from taxes, assessments and certain fees. 1. It is
35 hereby determined that the creation of the authority and the carrying
36 out of its corporate purposes is in all respects for the benefit of the
37 people of the state and is a public purpose and the authority shall be
38 regarded as performing a governmental function in the exercise of the
39 powers conferred upon it by this title and shall not be required to pay
40 any taxes or assessments upon any property owned by it or under its
41 jurisdiction, control or supervision or upon its activities, or any
42 filing, recording or transfer fees or taxes in relation to instruments
43 filed, recorded or transferred by it or on its behalf. The construction,
44 use, occupation or possession of any property owned by the authority,
45 including improvements thereon, by any person or public corporation
46 under a lease, lease and sublease or any other agreement shall not
47 operate to abrogate or limit the foregoing exemption, notwithstanding
48 that the lessee, user, occupant or person in possession shall claim
49 ownership for federal income tax purposes. The authority shall be deemed
50 a public authority for the purposes of section four hundred twelve of
51 the real property tax law.

52 2. Any bonds issued pursuant to this title together with the income
53 therefrom as well as the property of the authority shall be exempt from
54 taxes, except for transfer and estate taxes. The state hereby covenants
55 with the purchasers and with all subsequent holders and transferees of
56 bonds issued by the authority pursuant to this title, in consideration
57 of the acceptance of and payment for the bonds, that the bonds of the
58 authority issued pursuant to this title and the income therefrom and all
59 revenues, moneys, and other property pledged to secure the payment of
60 such bonds shall at all times be free from taxation, except for transfer

1 and estate taxes.

2 § 2490-o. Actions against authority. 1. Except in an action for
3 wrongful death, no action or special proceeding shall be prosecuted or
4 maintained against the authority for personal injury or damage to real
5 or personal property alleged to have been sustained by reason of the
6 negligence or wrongful act of the authority or of any member, officer,
7 agent or employee thereof, unless:

8 (a) Notice of claim shall have been made and served upon the authority
9 within the time limit by and in compliance with section fifty-e of the
10 general municipal law;

11 (b) It shall appear by and as an allegation in the complaint or moving
12 papers that at least thirty days have elapsed since the service of such
13 notice and that adjustment or payment thereof has been neglected or
14 refused;

15 (c) The action or special proceeding shall be commenced within one
16 year and ninety days after the happening of the event upon which the
17 claim is based; and

18 (d) An action against the authority for wrongful death shall be
19 commenced in accordance with the notice of claim and time limitation
20 provisions of title eleven of article nine of this chapter.

21 2. Wherever a notice of claim is served upon the authority it shall
22 have the right to demand an examination of the claimant relative to the
23 occurrence and extent of the injuries or damages for which claim is made
24 in accordance with the provisions of section fifty-h of the general
25 municipal law.

26 3. The authority may require any person presenting for settlement an
27 account or claim for any cause whatever against the authority to be
28 sworn before a member, counsel or an attorney, officer or employee of
29 the authority designated for such purpose concerning such account or
30 claim and when so sworn, to answer orally as to any facts relative to
31 such account or claim. The authority shall have power to settle or
32 adjust all claims in favor of or against the authority.

33 4. The rate of interest to be paid by the authority upon any judgment
34 for which it is liable, other than a judgment on its bonds, shall be the
35 rate prescribed by section five thousand four of the civil practice law
36 and rules. Interest on payments of principal or interest on any bonds in
37 default shall accrue at the rate borne by such bonds from the due date
38 thereof until paid or otherwise satisfied.

39 § 2490-p. Title not affected if in part unconstitutional or
40 ineffective. If any section, clause or provision of this title shall be
41 unconstitutional or be ineffective in whole or in part, to the extent
42 that it is not unconstitutional or ineffective, it shall be valid and
43 effective and no other section, clause or provision shall on account
44 thereof be deemed invalid or ineffective.

45 § 2490-q. Inconsistent provisions in other acts superseded. Insofar as
46 the provisions of this title are inconsistent with the provisions of any
47 other act, general or special, or of any local law of the city, the
48 provisions of this title shall be controlling.