
CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council **DATE:** March 18, 2013

FROM: John McDonough, City Manager

AGENDA ITEM: Resolution authorizing change order ("Change Order") under contract with Motorola for the purchase of radio communications equipment, amending the contract to add the Cities of Alpharetta, Milton, and Roswell as parties and, accordingly, to make contract price adjustments, changes in equipment and modifications to the scope of the contract

MEETING DATE: For Submission onto the March 19, 2013, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Resolution
Exhibits

APPROVAL BY CITY MANAGER:  APPROVED

PLACED ON AGENDA FOR: 3/19/2013

CITY ATTORNEY APPROVAL REQUIRED: () YES () NO

CITY ATTORNEY APPROVAL: 

REMARKS:



To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission onto the March 19, 2013 City Council Meeting Agenda

Agenda Item: Resolution authorizing change order (“Change Order”) under contract with Motorola for the purchase of radio communications equipment, amending the contract to add the Cities of Alpharetta, Milton, and Roswell as parties and, accordingly, to make contract price adjustments, changes in equipment and modifications to the scope of the contract.

City Attorney’s Recommendation:

The City Attorney’s Office recommends that City Council approve the attached Resolution.

Background and Discussion:

In December, 2013, Sandy Springs entered into an agreement with Motorola (“Motorola Agreement”) for the purchase of certain equipment to begin phase 1 of a two (2) phase process for the development and implementation of a unified radio communications system (“System”). Pursuant to phase 1 of the Motorola Agreement, Sandy Springs agreed to purchase core System requirements for Sandy Springs. It was anticipated at that time that the City would enter into phase 2 shortly thereafter with the Cities of Alpharetta, Milton and Roswell becoming parties to the Motorola Agreement to purchase the remaining System requirements.

On January 30, 2013, Sandy Springs City Council authorized the City Manager to move forward with phase 2. The governing bodies of the Cities of Alpharetta, Milton, Roswell and Sandy Springs (“Participating Cities”) now have authorized and executed the Revised Intergovernmental Agreement (“Revised IGA”) presented to City Council on January 30, pursuant to which all Participating Cities agree to participate in the System. The Revised IGA specifies the terms and conditions of such participation, including governance and financial responsibility.

The City Manager and City Attorney have been working with Motorola and the Participating Cities to negotiate a change order (“Change Order”) to the Motorola Agreement for the purpose of, among other things, adding Alpharetta, Milton and Roswell as parties to the Motorola Agreement. Accordingly, other provisions of the Change Order were made to amend the Motorola Agreement to add equipment, increase the scope, and make contract price adjustments to meet phase 2 requirements. The Change Order designates Sandy Springs as the Participating City to serve as paying agent under the Motorola Agreement, but recognizes there is no joint and several liability of the Cities, with each Participating City responsible only for its weighted share under the Revised IGA. In addition, the Motorola Agreement recognizes the creation of the North Fulton Regional Radio System Authority by the Georgia General Assembly (“Authority”) and the Participating Cities’ ability to transfer and assign their interests in the System and the Motorola Agreement to the Authority when created, without further consent of Motorola.



Attachment:

Resolution, with the following exhibits:

Exhibit A – Change Order

Exhibit B – House Bill to create the North Fulton Regional Radio System Authority

**STATE OF GEORGIA
COUNTY OF FULTON**

RESOLUTION AUTHORIZING CHANGE ORDER UNDER CONTRACT WITH MOTOROLA FOR THE PURCHASE OF RADIO COMMUNICATIONS EQUIPMENT, AMENDING THE CONTRACT TO ADD THE CITIES OF ALPHARETTA, MILTON AND ROSWELL AS PARTIES AND, ACCORDINGLY, TO MAKE CONTRACT PRICE ADJUSTMENTS, CHANGES IN EQUIPMENT AND MODIFICATIONS TO THE SCOPE OF THE CONTRACT.

WHEREAS, on December 18, 2012, City Council authorized Sandy Springs (“City”) to enter into an Intergovernmental Agreement for the Development and Implementation of a Unified Radio System (“System”) by and among the Cities of Alpharetta, Johns Creek, Milton, Roswell and Sandy Springs (“IGA”); and

WHEREAS, the City of Johns Creek determined not to participate in the System, leaving the remaining Cities of Alpharetta, Milton, Roswell and Sandy Springs (“Participating Cities”) to develop and implement the System; and

WHEREAS, the IGA was revised (“Revised IGA”), to reflect the following: (a) the removal of Johns Creek from participation in the System; (b) the reallocation of contribution shares to absorb the contribution anticipated to be made by Johns Creek; and (c) additional minor changes; and

WHEREAS, the governing bodies of the Participating Cities each have authorized the Revised IGA; and

WHEREAS, on December 18, 2012, City Council by resolution authorized the City Manager to proceed with the purchase of equipment for the System by utilizing state contracts with Motorola, as provided by Georgia law, in order to take advantage of significant cost savings in equipment, as well as savings in the time and energy which would have been required by separate procurement; and

WHEREAS, Motorola agreed to provide additional cost savings pursuant to a phased approach, in which the first phase is the execution of an agreement with Motorola (“Motorola Agreement”) for the purchase of the core system for Sandy Springs (“Phase 1”) and the second phase is the execution by the remaining Participating Cities of the Motorola Agreement to purchase System requirements for unification of the System (“Phase 2”); and

WHEREAS, pursuant to Council’s authorization, the City Manager entered into Phase 1 of the Motorola Agreement; and

WHEREAS, pursuant to Council’s authorization on January 30, 2013, the City Manager proceeded to enter into discussions for implementation of Phase 2 of the Motorola Agreement, including the addition of the other Participating Cities as parties to the Motorola Agreement; and

WHEREAS, the Participating Cities negotiated a change order to the Motorola Agreement (“Change Order”), a copy of which is attached hereto as Exhibit A, pursuant to which the other Participating Cities would become parties and, accordingly, pursuant to which price adjustments, changes in equipment, and changes in scope of the Motorola Agreement would be made; and

WHEREAS, the Change Order further recognizes the ability of the Participating Cities to transfer and assign their interests in the System and the Motorola Agreement to an Authority to be created by the Georgia General Assembly entitled the “North Fulton Regional Radio System Authority,” in substantially the form attached hereto as Exhibit B, without further consent of Motorola; and

WHEREAS, each of the Participating Cities now seeks the approval of its respective Council to enter into the Change Order;

NOW THEREFORE, BE IT RESOLVED by the City Council of Sandy Springs as follows:

1. The Change Order, in substantially the form attached hereto as Exhibit A, is hereby approved and the City Manager is hereby authorized to execute the Change Order on behalf of the City; and

2. The City Manager and City Attorney are authorized to take such other action as may be necessary to effectuate the intent of this resolution.

APPROVED AND ADOPTED this ____ day of _____, 2013.

Approved:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk
(Seal)

EXHIBIT A
CHANGE ORDER



Change Order Number:	001
Date:	2/1/2013
Project Name:	North Fulton Unified Radio System
Customer Name:	City of Sandy Springs, GA
Customer Project Manager:	TBD
Motorola Project Manager:	Karen Rigsbee
Motorola Account Manager:	John Byrd

1. The purpose of this change order is to add parties to the Contract and to modify the scope of work as relates to the City of **Sandy Springs** MCC7500 installation.

Motorola Contract No.	11-29240/JHJ	Contract Date:	12-24-2012
Customer Contract No.	20130152	Customer No.	1036360395

In accordance with the terms and conditions of the Contract identified above between **Motorola Solutions, Inc** and the **City of Sandy Springs, Georgia**, on behalf of the Cities of Alpharetta, Johns Creek, Milton, Roswell and Sandy Springs (the "Cities"), Georgia, pursuant to their Intergovernmental Agreement for the Development and Implementation of a Unified Radio System ("System") by and among the Cities (the "IGA"). The changes described herein are approved:

2. Parties to the Contract

The parties to the Contract agree that the Cities of Alpharetta, Milton, and Roswell shall be added as parties to the Contract for the purchase and sale of the System, as evidenced by the signature of an authorized representative of each named City on this change order. The parties further agree that the City of Johns Creek is not a participant in the System. The IGA provides that the Cities will share the cost of Contract Price and maintenance of the System as follows:

Alpharetta	23.11%
Milton	15.21%
Roswell	32.00%
Sandy Springs	<u>29.68%</u>
Total	100.00%

Customer designates Sandy Springs as the City to serve as its paying agent, to receive notices and invoices and to submit payments, in full, in accordance with the Contract. Pursuant to Georgia law prohibiting municipalities from indemnifying the debt of another, there shall be no joint and several liability of the named Cities for the entire Contract price. Notwithstanding the foregoing and subject to Georgia law, Motorola retains any



and all rights and remedies available at law or equity against all Parties to the Contract. Any disputes between and among the named Cities will be resolved in accordance with the IGA.

Pursuant to Section 16.2. of the Contract entitled ASSIGNABILITY AND SUBCONTRACTING, it is contemplated an Authority will be created on or before July 1, 2013 by the Georgia General Assembly. Upon its creation, all Cities have agreed to transfer their interests in the System and the Contract to the Authority. The Cities shall continue to be responsible to the Authority for their stated share contributions under the IGA; however, the Authority will own the System and be responsible to Motorola for the entire Contract Price. Motorola shall accept assignment of the Contract to the Authority, substituting the Authority as Customer in lieu of the Cities of Alpharetta, Milton, Roswell and Sandy Springs, and the Authority shall accept the terms and conditions of the Contract with the same benefits and obligations thereunder as if it had originally been named a party.

3. Contract Price Adjustments

Original Contract Value:	\$4,907,747.00
Amounts of Previous Purchase Orders Numbered __000__	\$0.00
This Change Order:	\$7,870,386.00
New Contract Value:	\$12,778,133.00

4. Completion Date Adjustments

Original Completion Date:	No Change
Current Completion Date prior to this Change Order:	No Change
New Completion Date:	No Change

5. Changes in Equipment

Add 4 channels to each of the Sandy Springs sites (Morgan Falls, COA FS21, Riverwood). East Roswell Park is added as the master site and Morgan Falls is transitioned to a remote site

- Adds 1 tower, 1 building, 1 generator and 1 500 gallon fuel tank

Add remote sites at Jones Bridge, Verizon Amphitheater, Roswell FS 6 & Birmingham Park. The named sites will be available options for the remote sites contemplated in this change order. However, the specific identification of any site notwithstanding, nothing in this change order, shall preclude the Cities from identifying alternative locations for remote sites, subject to Section 6 of the Contract. To the extent specific sites are identified in Section 6 (and the associated Statement of Work), such identification shall also not preclude the identification and use of alternative locations.



MOTOROLA

Customer: Alpharetta, GA

By: _____
Printed Name: _____
Title: _____
Date: _____

Customer: Milton, GA

By: _____
Printed Name: _____
Title: _____
Date: _____

Customer: Roswell, GA

By: _____
Printed Name: _____
Title: _____
Date: _____

PROJECT MANAGER APPROVAL: The work described herein has [] / has not [X] been completed.

EXHIBIT B

BILL TO CREATE THE
NORTH FULTON REGIONAL RADIO SYSTEM AUTHORITY

_____ offers the following
substitute to HB 526:

A BILL TO BE ENTITLED
AN ACT

1 To create the North Fulton Regional Radio System Authority; to provide a short title; to
2 provide a declaration of need; to provide for membership of the authority; to provide for a
3 quorum and voting; to define certain terms; to provide for the powers of the authority; to
4 provide that indebtedness of the authority shall not constitute debt to the establishing local
5 governments; to provide for venue of actions relating to any provisions of this Act; to
6 provide for the purpose of the authority; to provide that the authority may establish rates and
7 collect revenues for services; to provide for rules, regulations, and policies; to provide for tort
8 immunity; to provide for exemptions from certain taxes; to provide for an effective date; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Short title.

13 This Act shall be known and may be cited as the "North Fulton Regional Radio System
14 Authority Act."

15 **SECTION 2.**

16 Declaration of need.

17 It is declared that there exists a need for a North Fulton Regional Radio System Authority
18 to function without profit in developing and promoting for the public good certain
19 communication facilities and services in order to provide an interoperable, high quality, and
20 reliable and uninterrupted communication signal for public safety and public services and for
21 the other purposes expressed in this Act.

SECTION 3.

North Fulton Regional Radio System Authority.

(a) There is hereby created a public body corporate and politic to be known as the "North Fulton Regional Radio System Authority," which shall be deemed to be a political subdivision of the state and a public corporation, and by that name, style, and title said body may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts of law and equity. The authority shall have perpetual existence.

(b) The authority shall consist of four members, to include the following: (1) the city manager of the City of Sandy Springs, Georgia, or his or her designee; (2) the city manager of the City of Milton, Georgia, or his or her designee; (3) the city administrator of the City of Alpharetta, Georgia, or his or her designee; (4) and the city administrator of the City of Roswell, Georgia, or his or her designee. Additional members who are city managers or city administrators of other municipalities, or their designees, may be added to the authority by unanimous agreement of the existing members, subject to such additional municipalities paying a share of capital investment as approved by the existing members, in which event such additional municipalities shall be included within the area in which the authority has operational capability. To be eligible to serve as a member of the authority, a person shall be at least 21 years of age, shall have been a resident of this state for at least 12 months prior to the date of his or her appointment and shall continue such residency during his or her term of office, and shall not have been convicted of a felony.

(c) The authority may provide by resolution for compensation for the services of the members of the authority in such amounts as it may deem appropriate; provided, however, that such members shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

(d) The members of the authority shall elect one of their number as chairperson and another as vice chairperson. The chairperson shall preside over the regular and special meetings of the authority. In the event that the chairperson is not in attendance, the vice chairperson shall preside. The members of the authority shall also elect a secretary, and may also elect a treasurer, who need not be members of the authority. The secretary and treasurer shall not be the chairperson or vice chairperson. The secretary may also serve as treasurer. If either the secretary or the treasurer is not a member of the authority, such officer shall have no voting rights. Each of such officers shall serve for a period of one year and until their successors are duly elected and qualified.

(e) A majority of the members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of the quorum to exercise all of the rights and perform all

58 of the duties of the authority. Any action which requires approval of the authority shall be
 59 by majority vote of those members present, provided that a quorum is present. In the event
 60 of a tie vote, the vote of each member who cast a vote on the question shall be weighted
 61 according to the share of total capital investment made in the authority by the municipality
 62 such member represents as compared to the total capital investment made by all
 63 municipalities represented by members of the authority, and the votes as so weighted shall
 64 be recalculated accordingly to determine the approval or failure of the motion.

65 **SECTION 4.**

66 Definitions.

67 As used in this Act, the term:

- 68 (1) "Authority" means the North Fulton Regional Radio System Authority created by this
 69 Act.
- 70 (2) "Capital investment" means the amount of funds contributed to the purchasing and
 71 installation of start-up equipment for the authority.
- 72 (3) "Costs of the project" means and embraces the cost of construction; the cost of all
 73 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
 74 equipment; financing charges; interest prior to and during construction and for six months
 75 after completion of construction; the cost of engineering, architectural, fiscal agents' and
 76 legal expenses, plans and specifications, licensing fees and costs, and other expenses
 77 necessary or incidental to determining the feasibility or practicability of the project;
 78 administrative expenses and such other expenses as may be necessary or incident to the
 79 financing herein authorized; working capital; and all other costs necessary to acquire,
 80 construct, add to, extend, improve, equip, operate, and maintain the project.
- 81 (4) "County" means any county created under the Constitution or laws of this state.
- 82 (5) "Establishing local governments" shall mean the mayors and councils of the Cities
 83 of Alpharetta, Milton, Roswell, and Sandy Springs, Georgia.
- 84 (6) "Local government" or "local governing authority" means any municipal corporation
 85 or county or any state or local authority, board, or political subdivision created by the
 86 General Assembly or pursuant to the Constitution and laws of this state.
- 87 (7) "Obligation" means any indebtedness, including, without limitation, any note, lease,
 88 contract, or other evidence of indebtedness.
- 89 (8) "Project" means the acquisition, construction, installation, modification, renovation,
 90 repair, extension, renewal, replacement, or rehabilitation of land, interest in land,
 91 buildings, structures, facilities, or other improvements and the acquisition, installation,
 92 modification, renovation, repair, extension, renewal, replacement, rehabilitation, or

93 furnishing of fixtures, machinery, equipment, furniture, or other property of any nature
94 whatsoever used on, in, or in connection with any such land, interest in land, building,
95 structure, facility, or other improvement, all for the essential public purpose of providing
96 facilities and services permitted by the obligation to meet needs and standards for radio
97 communication for public safety and public services within the area of operational
98 capability of the authority and to aid in the accomplishment of the purposes of the
99 authority.

100 (9) "State" means the State of Georgia.

101 SECTION 5.

102 Powers.

103 The authority shall have the power:

104 (1) To have a seal and alter the same at its pleasure;

105 (2) To acquire by purchase, lease, gift, or otherwise and to hold, operate, maintain, lease,
106 and dispose of real and personal property of every kind and character for its corporate
107 purposes;

108 (3) To acquire in its own name by purchase, on such terms and conditions and in such
109 manner as it may deem proper, real property or rights or easements therein or franchises
110 necessary or convenient for its corporate purposes, to use the same so long as its
111 corporate existence shall continue, to lease or make contracts with respect to the use of
112 the same, or to dispose of the same in any manner it deems to the best advantage of the
113 authority;

114 (4) To appoint, select, and employ officers, agents, and employees, including
115 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix
116 their compensations;

117 (5) To execute contracts, leases, installment sale agreements, and other agreements and
118 instruments necessary or convenient in connection with the acquisition, construction,
119 addition, extension, improvement, equipping, operation, or maintenance of a project; and
120 any and all persons, firms and corporations, local governments, and any other political
121 subdivision of the state located within the operational area of the authority are hereby
122 authorized to enter into contracts, leases, installment sale agreements, and other
123 agreements or instruments with the authority upon such terms and for such purposes as
124 they deem advisable and as they are authorized by law;

125 (6) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease,
126 and dispose of projects;

- 127 (7) To pay the costs of the project with the proceeds of any grant or contribution from
128 the United States of America or any agency or instrumentality thereof or from the state
129 or any agency or instrumentality or other political subdivision thereof or from any other
130 source whatsoever;
- 131 (8) To finance projects and facilities of the authority for the furtherance of the purposes
132 of the authority within the geographic area over which the authority has operational
133 capability by loan, loan guarantee, grant, lease, or otherwise and to pay the cost of such
134 from any funds of the authority or from any contributions or loans by persons,
135 corporations, partnerships, whether limited or general, or other entities, all of which the
136 authority is authorized to receive, accept, and use. The authority shall be deemed to have
137 operational capability within the geographic boundaries of each establishing local
138 government as well as within the geographic boundaries of any local government that
139 subsequently becomes a member of the authority or contracts for services with the
140 authority;
- 141 (9) To sell or pledge any obligation acquired by it whenever it is determined by the
142 authority that the sale thereof is desirable;
- 143 (10) To accept loans and grants of money or materials or property of any kind from the
144 United States of America or any agency or instrumentality thereof, upon such terms and
145 conditions as the United States of America or such agency or instrumentality may
146 require;
- 147 (11) To accept loans and grants of money or materials or property of any kind from the
148 state or any agency or instrumentality or political subdivision thereof, upon such terms
149 and conditions as the state or such agency or instrumentality or political subdivision may
150 require;
- 151 (12) To borrow money for any of its corporate purposes and to provide for the payment
152 of the same and for the rights of the holders thereof;
- 153 (13) To exercise any power granted by the laws of this state to public or private
154 corporations which is not in conflict with the public purpose of the authority, including
155 the power to incur short-term debt and to approve, execute, and deliver appropriate
156 evidence of any such indebtedness; and
- 157 (14) To do all things necessary or convenient to carry out the powers expressly given in
158 this Act.

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SECTION 6.

160

Credit not pledged.

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Obligations of the authority shall not be deemed to constitute a debt of the establishing local governments nor a pledge of the faith and credit of said establishing local governments. The issuance of such obligations shall not directly, indirectly, or contingently obligate said establishing local governments to levy or to pledge any form of taxation whatsoever for payment of such obligations or to make any appropriation for their payment, and all such obligations shall contain recitals on their face covering substantially the foregoing provisions of this section. Notwithstanding the foregoing provisions, this Act shall not affect the ability of the authority and any political subdivision or municipality to enter into an intergovernmental contract pursuant to which the political subdivision or municipality agrees to pay amounts sufficient to pay operating charges and other costs of the authority or any project including, without limitation, the principal of and interest on obligations in consideration for services or facilities of the authority.

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SECTION 7.

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Venue.

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Any action to protect or enforce any rights under the provisions of this Act or any suit or action against the authority shall be brought in the Superior Court of Fulton County, Georgia.

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SECTION 8.

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Moneys received considered trust funds.

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All moneys received pursuant to the authority of this Act, whether as grants or other contributions, or as revenue, income, fees, and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Act.

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SECTION 9.

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Purpose of the authority.

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Without limiting the generality of any provision of this Act, the general purpose of the authority is declared to be that of providing for the development of a regional communication system for public safety and public service use to guarantee interoperability, high quality, and reliable and uninterrupted communication signals through facilities, equipment, and services for the establishing local governments by contract, including other persons, entities,

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189 and local governments who may hereinafter contract and agree for services from the
 190 authority. The general purposes of the authority shall not restrict the authority from
 191 developing and servicing any persons, entities, or local governments who may contract for
 192 the authority to develop communication services or facilities, or both, in other areas where
 193 operational capacity is deemed necessary or desirable.

194 **SECTION 10.**

195 Rates, charges, and revenues; use.

196 The authority is hereby authorized to prescribe and fix rates and to revise the same from time
 197 to time and to collect revenues, tolls, fees, and charges for the services, facilities, and
 198 commodities furnished, and in anticipation of the collection of the revenues, to incur
 199 indebtedness as herein provided to finance, in whole or in part, the costs of the project.

200 **SECTION 11.**

201 Rules, regulations, service policies, and procedures for operation of projects.

202 It shall be the duty of the authority to prescribe or cause to be prescribed rules, regulations,
 203 service policies, and procedures for the operation of any project constructed or acquired
 204 under the provisions of this Act. The authority may adopt bylaws.

205 **SECTION 12.**

206 Tort immunity.

207 To the extent otherwise permitted by law, the authority shall have the same immunity and
 208 exemption from liability for torts and negligence as a political subdivision of the state; and
 209 the officers, agents, and employees of the authority when in the performance of the work of
 210 the authority shall have the same immunity and exemption from liability for torts and
 211 negligence as the officers, agents, and employees of a political subdivision of the state when
 212 in the performance of their public duties or work for a political subdivision of this state.

213 **SECTION 13.**

214 Tax-exempt status of authority.

215 The properties of the authority, both real and personal, are declared to be public properties
 216 used for the benefit and welfare of the people of the state and not for purposes of private or
 217 corporate benefit and income, and such properties and the authority shall be exempt from

218 taxes and special assessments of the state or any political subdivision thereof to the extent
219 allowed by general law.

220 **SECTION 14.**

221 Effect on other governments.

222 This Act shall not and does not in any way take from the establishing local governments or
223 any political subdivision of the state the authority to own, operate, and maintain public
224 facilities or to issue obligations.

225 **SECTION 15.**

226 Liberal construction of Act.

227 This Act, being for the welfare of various political subdivisions of the state and their
228 inhabitants, shall be liberally construed to effect the purposes hereof.

229 **SECTION 16.**

230 Effective date.

231 This Act shall become effective on July 1, 2013.

232 **SECTION 17.**

233 Repealer.

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