

**AGREEMENT FOR MEMBERSHIP IN
MINNEAPOLIS-DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE**

THIS AGREEMENT, entered into by and between Minneapolis-Duluth/Superior Passenger Rail Alliance ("Alliance") and City of Cambridge, Minnesota, a political subdivision under the laws of the State of Minnesota ("Cambridge"), respectively, entered into effective June 22, 2016.

RECITALS:

WHEREAS, Alliance has been established by agreement of its members pursuant to that certain Joint Powers Agreement Establishing the Minneapolis-Duluth/Superior Passenger Rail Alliance, a copy of which is attached hereto and incorporated by reference as **Exhibit 1** ("Alliance Agreement"); and

WHEREAS, the parties to the Alliance Agreement directly border on, encompass or are in close proximity to a portion of the currently existing Minneapolis-Duluth/Superior rail corridor which is primarily owned and operated by BNSF Railway Company, commonly referred to as the Hinckley Subdivision, over which passenger rail service has historically operated ("Corridor"); and

WHEREAS, the Corridor serves as a critical link between the Twin Cities metropolitan area and northeast areas of Minnesota and further serving communities in the Corridor from Minneapolis, through Cambridge and northeast to Duluth, Minnesota and Superior, Wisconsin ("Twin Ports"); and

WHEREAS, the purpose of the Alliance is to collaboratively discuss, study, plan for, promote and facilitate the development of intercity passenger rail transportation along the corridor from Minneapolis to the Twin Ports; and

WHEREAS, Alliance, Cambridge are legally authorized to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

I. ALLIANCE AGREEMENT, MEMBERSHIP

Cambridge does hereby become a full voting member of Alliance and agrees to be bound as a party to and subject to all provisions of the Alliance Agreement.

II. AMENDMENT TO ALLIANCE AGREEMENT

Approval by Alliance to add Cambridge as a full voting member of Alliance shall constitute an amendment to the Alliance Agreement, pursuant to Article X, A of said Alliance Agreement, Exhibit 1.

III. NOTICES

For purposes of delivery of any notices under the Alliance Agreement, notice shall be effective if delivered in writing to:

City of Cambridge, Minnesota

LYNDA WOLFE
STAN GUSTAFSON
HOWARD LEWIS

Minneapolis-Duluth/Superior Passenger Rail Alliance

c/o Robert Manzoline, Executive Director
St. Louis-Lake County Regional Railroad Authority
111 Station 44 Road
Eveleth, MN 55734

IV. EFFECTIVE DATE

This Agreement shall be effective as of June 22, 2016.

City of Cambridge, MN

By: [Signature]
Its: Mayor

and

By: [Signature]
Its: City Administrator

**Minneapolis-Duluth/Superior
Passenger Rail Alliance**

By: [Signature]
Its: Chairperson

AMENDMENT TO JOINT POWERS AGREEMENT ESTABLISHING
THE MINNEAPOLIS-DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE

Hennepin County Regional Railroad Authority Approval

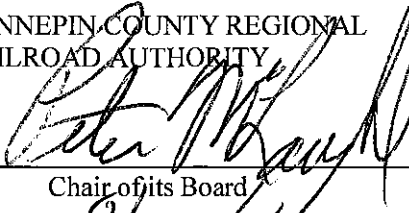
The Board of the Hennepin County Regional Railroad Authority having duly approved this Amendment on the 23 day of August, 2016 and pursuant to such approval, the proper officials having signed this Amendment, the parties hereto agree to be bound by the provisions herein set forth.

Reviewed by the
County Attorney's Office

Dan Ryan

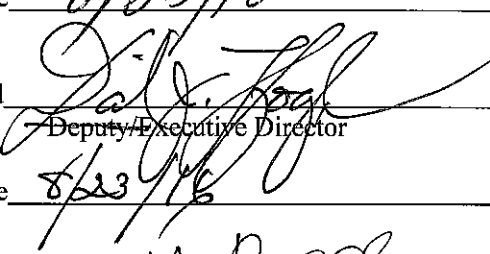
Date 8/23/16

HENNEPIN COUNTY REGIONAL
RAILROAD AUTHORITY

By: 

Chair of its Board

Date 8/23/16

And 

Deputy/Executive Director

Date 8/23/16

ATTEST M. P. O. S.

Deputy/Clerk of Authority Board

Date 8.23.16

AMENDMENT TO JOINT POWERS AGREEMENT ESTABLISHING
THE MINNEAPOLIS-DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE

St. Louis-Lake County Regional Railroad Authority Approval

The Board of the St. Louis-Lake County Regional Railroad Authority having duly approved this Amendment on the 29th day of July, 2016 and pursuant to such approval, the proper officials having signed this Amendment, the parties hereto agree to be bound by the provisions herein set forth.

Reviewed by the
County Attorney's Office

ST. LOUIS-LAKE COUNTY REGIONAL
RAILROAD AUTHORITY

By: _____

Chair of its Board

Date _____

Date 7/29/16

And _____

Deputy/Executive Director

Date _____

8/4/16

ATTEST _____

Deputy/Clerk of Authority Board

Date _____

AMENDMENT TO JOINT POWERS AGREEMENT ESTABLISHING
THE MINNEAPOLIS-DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE

City of Duluth Approval

The council of the City of Duluth having duly approved this Amendment on the ____ day of _____, 2016 and pursuant to such approval, the proper officials having signed this Amendment, the parties hereto agree to be bound by the provisions herein set forth.

CITY OF DULUTH
a Minnesota municipal corporation

By: _____
Mayor

Date _____

Attest:

By: _____
City Clerk

Date _____

Approved:

Countersigned:

Assistant City Attorney

City Auditor

Date: _____

Date: _____

AMENDMENT TO JOINT POWERS AGREEMENT ESTABLISHING
THE MINNEAPOLIS-DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE

City of Minneapolis Approval

The _____ of the City of Duluth having duly approved this Amendment on the ____ day of _____, 2016 and pursuant to such approval, the proper officials having signed this Amendment, the parties hereto agree to be bound by the provisions herein set forth.

Reviewed by the
County Attorney's Office

City of Minneapolis

By: _____

Date _____

Date _____

And _____

Date _____

ATTEST _____

Date _____

AMENDMENT TO JOINT POWERS AGREEMENT ESTABLISHING
THE MINNEAPOLIS-DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE

Mille Lacs Band of Ojibwe Approval

The Band Assembly of the Mille Lacs Band of Ojibwe having duly approved this Amendment on the ____ day of _____, 2016 and pursuant to such approval, the proper officials having signed this Amendment, the parties hereto agree to be bound by the provisions herein set forth.

Reviewed by the
Solicitor General's Office

MILLE LACS BAND OF OJIBWE

By: _____
Chief Executive

Date _____

Date _____

And _____
Speaker of the Assembly

Date _____

ATTEST _____
Commissioner of Administration

Date _____

EXHIBIT 1

HCRRRA Contract No. A70353-3
(07-HCRRRA-12 and _____)

JOINT POWERS AGREEMENT ESTABLISHING THE MINNEAPOLIS-DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE

This Joint Powers Agreement ("Agreement") is made by and between the Anoka County Regional Railroad Authority, a political subdivision under the laws of the State of Minnesota ("Anoka RRA"); the Hennepin County Regional Railroad Authority, a political subdivision under the laws of the State of Minnesota ("Hennepin RRA"); the Isanti County Regional Railroad Authority, a political subdivision under the laws of the State of Minnesota ("Isanti RRA"); the Pine County Regional Railroad Authority, a political subdivision under the laws of the State of Minnesota ("Pine RRA"); the St. Louis-Lake County Regional Railroad Authority, a political subdivision under the laws of the State of Minnesota ("St. Louis-Lake RRA"); the City of Duluth, a municipal corporation created and existing under the laws of the State of Minnesota ("Duluth"); the City of Minneapolis, a political subdivision under the laws of the State of Minnesota ("Minneapolis"); the Mille Lacs Band of Ojibwe, a federally recognized Indian Tribe ("Mille Lacs Band"); and Douglas County, Wisconsin, a political subdivision under the laws of the State of Wisconsin ("Douglas") (each individually, a "Party"; and collectively, the "Parties"). This Agreement is effective as of January 20, 2011 ("Effective Date").

WITNESSETH:

WHEREAS, the Parties to this Agreement directly border on, encompass or are in close proximity to a portion of the currently existing Minneapolis-Duluth/Superior rail corridor which is primarily owned and operated by BNSF Railway Company, commonly referred to as the Hinckley Subdivision, over which passenger rail service has historically operated ("Corridor");

WHEREAS, the Corridor serves as a critical link between the Twin Cities metropolitan area and northeast areas of Minnesota and further serving communities in the Corridor from Minneapolis, northeast to Duluth, Minnesota and Superior, Wisconsin ("Twin Ports");

WHEREAS, the Parties desire to collaboratively discuss, study, plan for, promote and facilitate the development of intercity passenger rail transportation between the Twin Cities Metropolitan and the Twin Ports areas;

WHEREAS, the Parties are authorized to enter into a joint powers agreement in accordance with Minn. Stat. Sec. 471.59 and Minn. Stat. Secs. 398A.04 and 398.06; and

WHEREAS, the Mille Lacs Band of Ojibwe (MLBO) is authorized to enter into this Agreement in accordance with 3 MLBSA § 2 as evidenced by its Joint Resolution 14-03-04-11.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

I. CREATION OF MINNEAPOLIS-DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE

In accordance with Minn. Stat. Sec. 471.59, Minn. Stat. Chap. 398A and other applicable authority, the Parties hereby establish the Minneapolis-Duluth/Superior Passenger Rail Alliance ("Alliance") to be governed by the terms of this Agreement.

II. PURPOSE

The purpose of this Agreement is to:

- A. Jointly and cooperatively plan for and maximize the opportunities for establishing high-speed intercity passenger rail service along the Corridor.
- B. Analyze the feasibility, environmental impacts, rail characteristics, station locations, train scheduling, operations and other necessary features for integrated transportation improvements along the Corridor, including intercity passenger and freight rail and to analyze safety and related issues.
- C. Provide a mechanism whereby the Alliance can facilitate systematic planning for and development of passenger rail transportation along the Corridor, including communication with and coordination of Alliance activities as necessary with BNSF Railway Company, other affected railroads, state agencies, counties, municipalities, the Federal Railroad Administration, other regulatory, planning and funding agencies, tribal authorities and other stakeholders for advancement of the Alliance's purposes.

III. JOINT POWERS BOARD

Section 1: Establishment and Composition of Joint Powers Board

- A. The Parties hereby establish a joint powers board to be known as the Minneapolis-Duluth/Superior Passenger Rail Alliance Board ("Board") to jointly exercise such powers and authorities as are necessary to achieve the purposes of this Agreement. The Alliance shall be a separate public entity separate from its Party bodies and shall not be deemed to be an agent or partner of the Parties to this Agreement, nor shall the Parties be liable for the actions of the Board.
- B. The Alliance shall act through its Board and representatives designated by the Board in accordance with the powers stated in this Agreement.
- C. The Board shall be made up of voting members, consisting of one elected official selected by each Party with the exception of the Mille Lacs Band and one elected or appointed official of the Mille Lacs Band; and alternate members, consisting of one individual selected by each Party. Alternate members may vote only in the absence of a Party's voting member. Each voting member shall be entitled to one vote weighted in accordance with this Article 3, Section 1, D.

D. Each member vote on an action before the Board will be weighted in accordance with this subdivision.

- (1) Matters \$20,000 or less. For all actions before the Board which involve the expenditure or receipt of funds of \$20,000.00 or less, each member's vote shall be weighted equally.
- (2) Matters over \$20,000. For all actions before the Board which involve the expenditure or receipt of funds of more than \$20,000, member votes shall be weighted in accordance with Party's percentage contribution to the Alliance for the respective budgetary year approved in accordance with Article V.
- (3) The weighting of votes, and method of weighting, may be reconsidered by action of a majority of the Board with each member's vote being weighted equally, but under no circumstances may the weighting of votes be changed unless this Agreement is amended in accordance with the terms herein.

Section 2: Terms of Board Membership

Board membership terms shall commence on January 1st of each calendar year or upon the addition of a Party to this Agreement and end on January 1st of the next succeeding year, or until a successor is appointed by the applicable Party.

Section 3: General Powers

The Alliance, acting through its Board, is hereby authorized to exercise such powers granted under the provisions of Minn. Stat. Ch. 398A that are common to each of the Parties, and such other statutory authority held in common by the Parties, including authority possessed by the Mille Lacs Band under federal and tribal law, that is necessary and proper to promote and facilitate development of intercity passenger rail on the Corridor and to otherwise fulfill its purposes and perform its duties as laid out in this Agreement. Such powers shall include those specific powers enumerated in Section 4 of this Article III. The Alliance shall not have the power to issue bonds or own, construct or operate rail facilities unless this Agreement is amended in accordance with the terms herein.

Section 4: Specific Powers

- A. The Alliance shall adopt an annual budget, together with a statement of the sources of funding and an estimate of the proportion of such amounts to be required of each Party or other contributor as provided for in Article V.

The Alliance may enter into any contract necessary or proper for the exercise of its powers or the fulfillment of its duties and enforce such contracts to the extent available in equity or at law, except that the Alliance may not enter into any contract that binds the Alliance to amounts in excess of the amount budgeted annually, in accordance with

Articles V and VI. The Alliance may enter into agreements and non-binding memoranda of understanding between the Alliance and the Mille Lacs Band, in accordance with applicable law. The contracting and purchasing requirements of such Party that is designated by the Board to be the Fiscal Agent of the Board in accordance with Article IV.B. shall apply. The Board may approve any contract relating to this Agreement up to the amount approved in the annual budget, and may authorize the Chair of the Board to execute those contracts.

- B. No payment on any invoice for services performed by a consultant or any other person or organization providing services in connection with this Agreement shall be authorized unless approved by the Chair or such officer designated by the Board to approve such payments. Any disbursement of funds shall agree to the extent practicable with the methods provided by law for such Party that is designated by the Board to be the Fiscal Agent of the Board in accordance with Article IV.B.
- C. The Alliance may employ agents and employees, and fix their compensation and all other terms and conditions of employment.
- D. The Alliance shall have the power to adopt such by-laws that it may deem necessary or desirable for the conduct of the business of the Alliance. Such by-laws shall be consistent with this Agreement and any applicable laws or regulations and shall address the requirements for a quorum of the Alliance Board, but, at a minimum, a majority of the Board shall constitute a quorum and no business shall be done unless voted for by a majority of the whole Board, but less than a majority may adjourn. The by-laws may provide for the appointment by the Board of ex officio, non-voting members to the Alliance Board.
- E. For any of its purposes, the Alliance may apply for and accept contributions, grants, gifts and loans of money or other funds or property and otherwise receive assistance from the United States Government, the State of Minnesota and its political subdivisions, the State of Wisconsin and its political subdivisions, the Mille Lacs Band, or any person, corporation, partnership, association or agency, public or private; may enter into any agreement in connection therewith in accordance with applicable law; and may hold, use and dispose of such money or other property in accordance with the terms of the contribution, gift, grant, lease or loan relating thereto, but shall not own or operate railroad facilities or other property as part of any developed intercity passenger rail system.
- F. The Alliance may hold only such property as may be required to accomplish the purposes of this Agreement and upon termination of this Agreement, make distribution of such property as is provided for in this Agreement.
- G. The Alliance may sue and be sued in its own name, purchase insurance as is deemed advisable and may otherwise take action to enforce its rights in equity or in law.

- H. The Alliance may incur debts, liabilities, or obligations which do not constitute a debt of any of the Parties. The Board does not have authority to incur debts, liabilities, or obligations which constitute a debt of any of the Parties.

IV. **OFFICERS, EMPLOYEES AND SERVICES PROVIDED BY PARTIES**

- A. **Officers.** The Board shall elect a Chair and Vice-Chair from its Membership at its first regular meeting each year. The Chair and Vice-Chair shall be elected by the Board from its membership for a term of one (1) year or the remainder of the one year term for which a vacancy is filled, with the term of office commencing on January 1 of each calendar year and ending on January 1st of the next succeeding year, or when a successor is elected. The Chair shall preside at all meetings of the Board, may establish such subcommittees as may be needed from time to time and shall perform other duties and functions as may be determined by the Board. The Vice-Chair shall preside over and act for the Board during the absence of the Chair. If both the Chair and Vice-Chair are absent, the Board may elect a temporary Chair to conduct its business, provided a quorum is present. The Board may elect other officers in accordance with its by-laws adopted in accordance with this Agreement.

Notwithstanding any provision to the contrary, following the Effective Date of this Agreement, and upon appointment of members to the Board by all Parties, a special election by the Board shall be held to elect the Chair and Vice-Chair from its membership. The Term of these elected officers shall commence upon election and continue until the first regular meeting of the following year, at which time elections will be held to elect officers in accordance with this Agreement, and any by-laws adopted by the Board.

- B. **Fiscal Agent, Staff and Provided Services.** The Board shall designate a Party to act as the Board's fiscal agent ("Fiscal Agent") to provide budgeting and accounting services and such other fiscal services necessary or convenient for the Board, including, but not limited to, management of all funds, including contributions and grant monies, payment for contracted services, and relevant bookkeeping and record keeping. The contracting and purchasing requirements of the Party so selected shall apply to transactions of the Board. Such Party shall identify the staff person to work as liaison with the Board. Further, the Board may contract with a Party to provide contract management and legal services necessary or convenient for the Board.
- C. **Vacancies.** If an appointment of any member of the Board or alternate is vacated before the end of his or her term, the vacancy shall be filled by appointment by the appropriate appointing governing body of the affected Party. Vacancies shall be filled within thirty (30) days of their occurrence. A vacancy in any appointment by a Party other than the Mille Lacs Band shall be deemed to have occurred when any of the conditions specified in Minn. Stat. § 351.02 exist. A vacancy in any appointment by the Mille Lacs Band shall be deemed to have occurred upon certification of a vacancy by the Band Assembly of the Mille Lacs Band.

D. Meetings. The Board shall meet at regular intervals at such times and places as the Board shall establish in its by-laws. Special meetings may be held on reasonable notice by the Chair or any two Parties upon terms and conditions as the Board may determine and that conform to the Minnesota Open Meetings Law, Minn. Stat. § 13D.

E. Committees. The Board may establish standing committees of the Board by providing for such committees by resolution. The Chair may establish ad hoc committees of the Board.

V. **ANNUAL BUDGET**

A. The Board shall approve a preliminary budget and cost sharing formula defining each Party's share of the budget for the succeeding fiscal year by no later than July 1 of each year.

B. The Board shall adopt a final budget and costs sharing formula by no later than September 30 of each year by unanimous vote of all voting members of the Board.

C. The budget shall include, but is not limited to, separate cost components for administrative, communications and technical work anticipated to be incurred by the Board during the fiscal year. The final budget and cost sharing formula shall be forwarded to each Party's governing body for approval.

D. The fiscal year shall be the same as the calendar year.

E. No funding or financial obligation to the Alliance shall be created against any Party until such Party's governing body approves the final budget and cost sharing formula.

F. The Board may amend the Budget by unanimous vote of all voting members of the Board, except for those members whose right to participate in the Board has been withheld pursuant to VI. E.

G. The Board may not incur debts except as provided for in Article III.

VI. **FUNDING**

A. The Parties shall contribute the funds necessary to carry out the purposes and powers of the Board, consistent with an annual budget and cost sharing formula adopted by the Board and approved annually by each Party's governing body. Each Party contributing funds is referred to in this Agreement as a "Contributing Party". For the initial fiscal year, each Party shall forward its respective share of the annual budget to the Board's Fiscal Agent by not later than the later of: February 1, 2011, or thirty (30) days following adoption of the Board of the annual budget and cost sharing formula for 2011. Thereafter, each Party shall forward their respective share of the annual budget to the Board's Fiscal Agent by not later than January 31st of each year.

-
- B. St. Louis-Lake Regional Railroad Authority shall serve as the initial Fiscal Agent for the Board and shall provide contract management and necessary legal services for said contract management, until such time the Board otherwise designates a Fiscal Agent or otherwise provides for contract management and legal services in accordance with Article IV.B.
 - C. The Fiscal Agent shall serve as sole administrator of all funds contributed by Parties to the Board or otherwise received by the Board, and in such capacity is authorized to receive all funds for deposit and make disbursements there from in accordance with generally accepted accounting principles.
 - D. The Fiscal Agent shall maintain current and accurate records of all obligations and expenditures of Board funds in accordance with generally accepted accounting principles. It shall also deliver an annual financial report to each Board Member. The Board shall maintain all such reports and related records for a period of six (6) years after dissolution of the Board, or for such longer period of time required by law.
 - E. In the event a Party's governing body does not approve the final budget and cost sharing formula or does not contribute its designated allocation to the Board, the Contributing Parties may vote to terminate the non-contributing Party's participation in the Board. Similarly if a non-contributing Party is requested to contribute to the Board by unanimous vote of all Board members other than the Board member from the non-contributing Party, and the Party's governing body declines to contribute, the Contributing Parties may vote to terminate the non-contributing Party's participation in the Board.

VII. WITHDRAWAL AND TERMINATION

- A. **Withdrawal.** Any Party may withdraw from this Agreement upon 90-days prior written notice to the Chair and Vice-Chair of the Board, evidenced by resolution of the Party's governing body. If the Chair and Vice-Chair of the Board represent the withdrawing Party, written notices shall be delivered to each member of the Board. In the event of withdrawal by any Party, this Agreement shall remain in full force and effect as to all remaining Parties.
- B. **Effect of Withdrawal, Disposition of Property, Funds and Obligations.** A Party withdrawing from the Agreement shall, prior to such withdrawal, pay its agreed to contribution to the Board for the fiscal year of the year of withdrawal. A Party withdrawing from this Agreement shall not receive a distribution of property or funds until such time as this Agreement is terminated by all Parties pursuant to this Article VII. Such disposition of property shall be in accordance with the provisions of Section D of this Article VII.
- C. **Termination.** This Agreement shall terminate upon the occurrence of any one of the following events:

-
- (1) When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction; or
 - (2) When a majority of the Parties agrees to terminate this Agreement.
- D. **Disposition of Property and Funds.** At such time as this Agreement is terminated, any property interest remaining in the Board, following discharge of all obligations owed by the Board, shall be disposed of and the proceeds of the property shall be returned to the Parties in proportion to their contributions.

VIII. NOTICE

For purposes of delivery of any notices hereunder, the notices shall be effective if delivered in writing to:

Anoka County Regional Railroad Authority
Anoka County Regional Railroad Authority
Executive Director
Government Center
2100 3rd Avenue, Suite 700
Anoka, MN 55303-5024

Hennepin County Regional Railroad Authority
Executive Director
A2300 Hennepin County
Government Center
300 South 6th Street
Minneapolis, MN 55487

Isanti County Regional Railroad Authority
Larry L. Southerland, Chair
555 18th Ave SW
Cambridge, MN 55008

Pine County Regional Railroad Authority
Pine County Coordinator
635 Northridge Drive NW, Suite 200
Pine City, MN 55063

St. Louis-Lake County Regional Railroad Authority
Chair
Steve Raukar
Suite 4
801 SW Highway 169
Chisholm, MN 55719

City of Duluth
City of Duluth
Office of the City Clerk
Room 326 City Hall
411 West First Street
Duluth, MN 55802

City of Minneapolis
City of Minneapolis
Attn.: President, City Council
City Hall
350 S 5th St. Rm 307
Minneapolis, MN 55415

Mille Lacs Band of Ojibwe
Attn.: Commissioner of Administration
43408 Oodena Drive
Onamia, MN 56359

Douglas County, Wisconsin
Chair of Douglas County Board
Douglas County Courthouse
1313 Belknap Street
Superior, Wisconsin 54880

IX. LIABILITY

- A. Each Party agrees that it will be responsible for its own acts and omissions, the acts and omissions of its commissions, officers and employees and any liability resulting therefrom to the extent authorized by law. No Party shall be responsible for the acts of the others and the results thereof. Each Party acknowledges and agrees that it is insured or self-insured consistent with the limits established in Minnesota State Statute 466.04. Each Party agrees to promptly notify all Parties if it becomes aware of any potential Board related claim(s) or facts giving rise to such claims.
- B. Each Party shall be responsible for injuries to or death of its own personnel. Each Party will maintain workers' compensation insurance or self-insurance coverage covering its own personnel while they are assigned to the Board or are otherwise participating in or assisting with Board operations or activities. Each Party waives the right to, and agrees that it will not, bring any claim or suit against the Board or any other Party for any workers' compensation benefits paid to its own employee or dependents, that arise out of participation in or assistance with Board operations or activities, even if the injuries were caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.

- C. Notwithstanding the foregoing, the terms of this Agreement are not to be construed as, nor operate as, waivers of a Party's statutory or common law immunities or limitations on liability, including, but not limited to, Minnesota Statutes Chapter 466 and tribal sovereign immunity. Further, the Parties' obligations set forth in this Article and otherwise in this Agreement, are expressly limited by the provisions of Minnesota Statutes Chapter 466, Minnesota Statutes Chapter 604, Minnesota Statutes Section 471.59, and any other applicable law or regulation providing limitations, defenses or immunities to the Parties and the Alliance, including, as to the Mille Lacs Band, tribal sovereign immunity.

X. MISCELLANEOUS PROVISIONS

- A. **Amendments.** This Agreement may be amended by unanimous agreement of the Parties as evidenced by resolutions adopted by the respective governing bodies.
- B. **Records, Accounts, and Reports.** The Board shall establish and maintain such funds and accounts as may be required by good accounting practices. The books and records of the Board shall be subject to the provisions of Minn. Stat. Ch. 13, the Minnesota Government Data Practices Act, and Minn. Stat. § 16C.05, subd. 5. The Board, within one hundred twenty (120) days after the close of each fiscal year, which shall be January 1 to December 31, shall give a complete written report of all financial activities for such fiscal year to the Board Members.
- C. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one and the same instrument. Notwithstanding the final date of the execution of each of the Parties, the Parties deem that this Agreement shall be effective as of February 1, 2011. Failure to execute this Agreement by February 1, 2008, shall exclude a Party from participation in the Board with voting rights until the following fiscal year, provided that the Mille Lacs Band may participate in the Board upon its addition to this Agreement.
- D. **Severability.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of the Agreement is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this Agreement.
- E. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior written or oral agreements relating to the formation of the Board. That certain Feasibility Study Funding Agreement between St. Louis and Lake Counties Rail Authority, Isanti County, St. Louis County, Hennepin County Regional Railroad Authority and the City of Duluth shall remain in full force and effect. That certain Cooperative Agreement between the Alliance and the Mille Lacs Band, entered into before Minnesota law authorized a federally recognized Indian tribe to be a member of a joint powers board, shall continue in effect to the extent not inconsistent herewith. The Mille Lacs Band's financial contributions to the Alliance in 2010 under the Cooperative

Agreement shall be deemed to satisfy its 2010 financial obligations to the Alliance under this Agreement. Commencing in 2011, the Mille Lacs Band's financial obligations to the Alliance shall be determined exclusively under this Agreement.

F. **Alternate Dispute Resolution.** In the event of a dispute arising under this Agreement, the Parties and the Board agree to attempt to resolve their dispute by following the process described below:

- (1) A Party shall provide written notice to the Board describing perceived conflict, positions, and underlying reasons.
- (2) The Board or Party shall provide written response to notice within seven (7) days of receipt of notice.
- (3) The Parties shall meet within 14 days of receipt of response with a neutral facilitator. The neutral facilitator will be a representative from the Minnesota Office of Dispute Resolution. Costs of such facilitator shall be shared equally by all Parties to the dispute.
- (4) At the first meeting, the neutral facilitator will assist the Parties in identifying the appropriate parties and participants in the dispute resolution process, their concerns, a meeting agenda and design for any subsequent meetings. The Parties shall agree on a process for resolving the problem that would involve additional negotiations, mediation, or arbitration.
- (5) In developing the process, the Parties will be guided by the following principles:
 - (i) the Parties will attempt in good faith to reach a negotiated settlement;
 - (ii) the Parties agree that there must be fair representation of the Parties directly involved in the dispute;
 - (iii) the Parties will use legal proceedings as a last resort; and
 - (iv) in the event the Parties are unable to resolve the dispute, each Party retains all rights, remedies, or defenses it had prior to entering the process, except that each Party shall be responsible for their own attorney's fees and costs.
- (6) The Parties will report to the Board within 60-days of their first meeting on the resolution of the dispute or a recommendation to commence legal proceedings.

G. **Data and Intellectual Property.**

- (1) The Parties, their officers, agents, owners, partners, employees, volunteers and subcontractors agree to abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, the Health Insurance

Portability and Accountability Act and implementing regulations, if applicable, and all other applicable State and Federal laws, rules, regulations and orders relating to data privacy or confidentiality, and as any of the same may be amended. Each Party shall be responsible for any claims resulting from its officers', agents', owners', partners', employees', volunteers', assignees' or subcontractors' unlawful disclosure and/or use of such protected data, or other noncompliance with the requirements of this Section. The terms of this Section shall survive the cancellation or termination of this Agreement.

- (2) Neither the Board nor any Party shall acquire any right, title or interest in any other Party's data that is restricted from public disclosure by any applicable law, including the MGDPA, HIPPA and all other laws protecting information.
- (3) All right, title and interest in all copyrightable material which the Board may conceive or originate and which arises out of the performance of this Agreement are the joint property of the Parties. The Parties also agree, upon request of another Party, to execute all papers and perform all other acts necessary to assist the other Parties to obtain and register copyrights on those materials.
- (4) Each Party grants the other Parties a perpetual, irrevocable, royalty-free, worldwide and nonexclusive license to use any copyrighted Material for any legal purpose including but not limited to using, disclosing, reproducing, modifying, preparing derivative works from, distributing, performing and displaying the copyrighted material.

H. Minnesota Laws Govern.

Subject to applicable Federal law (including Federal law recognizing the Mille Lacs Band's sovereign immunity from suit), the Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the parties and their performance. The appropriate venue and jurisdiction for any litigation will be those courts located within the County of Hennepin, State of Minnesota. Litigation, however, in the federal courts involving the parties will be in the appropriate federal court within the State of Minnesota. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

I. Future Agreements - Legal Considerations.

The parties acknowledge that issues of waiver of sovereign immunity are open to further discussion as part of future agreements and that the absence of any waiver of sovereign immunity in this Agreement shall not necessarily be considered precedent setting nor preclude further discussion of conjunction with future agreements.

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK
SIGNATURE PAGES FOLLOW

**JOINT POWERS AGREEMENT ESTABLISHING THE MINNEAPOLIS-
DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE**

Mille Lacs Band of Ojibwe Approval

The Band Assembly of the Mille Lacs Band of Ojibwe having duly approved this Agreement on the 20 day of January, 2011 and pursuant to such approval, the proper officials having signed this Agreement, the parties hereto agree to be bound by the provision herein set forth.

Reviewed by the
Solicitor General's Office

MILLE LACS BAND OF OJIBWE

Paul L

By: *Maureen Goodwin*
Chief Executive

Date: 1/20/11

Date: 1-13-11

And: *Pat Kolk* 1-20-11
Speaker of the Assembly

Date: _____

ATTEST: *Carolyn Shaw*
Commissioner of Administration

Date: 1/13/11

**JOINT POWERS AGREEMENT ESTABLISHING THE MINNEAPOLIS-
DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE**

Minneapolis-Duluth/Superior Passenger Rail Alliance

The Minneapolis-Duluth/Superior Passenger Rail Alliance, by and on behalf of each of its members, having unanimously approved this Agreement on the 26th day of January, 2011, and pursuant to such Agreement, the Chair of the Alliance having signed this Agreement, the parties hereto agree to be bound by the provisions herein set forth.

MINNEAPOLIS-DULUTH/SUPERIOR
PASSENGER RAIL ALLIANCE

By: _____
Its: Chair

Date: _____



THE MILLE LACS BAND OF
OJIBWE INDIANS
Legislative Branch of Tribal Government

JOINT RESOLUTION 14-03-04-11

**A JOINT RESOLUTION APPROVING THE PARTICIPATION OF THE
MILLE LACS BAND OF OJIBWE AS A PARTY TO THE
JOINT POWERS AGREEMENT ESTABLISHING THE
MINNEAPOLIS-DULUTH/SUPERIOR PASSENGER RAIL ALLIANCE**

- WHEREAS, the Mille Lacs Band Assembly is the duly-elected governing body of the Mille Lacs Band of Ojibwe; a federally-recognized Indian Tribe; and
- WHEREAS, according to 3 MLBSA § 2(d), the Band Assembly is empowered to adopt resolutions to promote the general welfare of the people of the Band; and
- WHEREAS, the Chief Executive of the Band is empowered to exercise the Executive Branch powers of the Band; and
- WHEREAS, the Chief Executive and Band Assembly acknowledge the importance of the existing Minneapolis-Duluth/Superior rail corridor as a critical link between the Twin Cities metropolitan area and the northern communities, including the Mille Lacs Band of Ojibwe community; and
- WHEREAS, the Chief Executive and Band Assembly hereby agree to participate as a full member to collaboratively discuss, study, plan for, promote and facilitate the development of intercity passenger rail transportation between the Twin Cities Metropolitan and the Twin Ports areas; and
- WHEREAS, the Mille Lacs Band of Ojibwe agree to participate as a party to the "Joint Powers Agreement Establishing the Minneapolis-Duluth/Superior Passenger Rail Alliance," a copy attached hereto as Exhibit A.
- NOW THEREFORE BE IT RESOLVED, that the Band Assembly and Chief Executive hereby approve the participation of the Mille Lacs Band of Ojibwe as a party to the "Joint Powers Agreement Establishing the Minneapolis-Duluth/Superior Passenger Rail Alliance."
- WE DO HEREBY CERTIFY, that the foregoing Joint Resolution was duly concurred with and adopted at a regular session of the Band Assembly in Legislative Council assembled, a quorum of legislators being present held on the 20th day of January, 2011, at Isle, Minnesota by a vote of 3 FOR, 0 AGAINST, 0 SILENT.

DISTRICT I

43408 Oodena Drive • Onamia, MN 56359
(320) 532-4181 • Fax (320) 532-4209

DISTRICT II

36666 State Highway 65 • McGregor, MN 55760
(218) 768-3311 • Fax (218) 768-3903

DISTRICT IIA

2605 Chiminising Drive • Isle, MN 56342
(320) 676-1102 • Fax (320) 676-3432

DISTRICT III

45749 Grace Lake Road • Sandstone, MN 55072
(320) 384-6240 • Fax (320) 384-6190

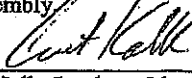
URBAN OFFICE

1433 E. Franklin Avenue, Ste. 7c • Minneapolis, MN 55404
(612) 872-1424 • Fax (612) 872-1257

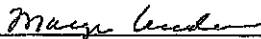
Joint Resolution 14-03-04-11

Page 2

IN WITNESS WHEREOF, we, the Band Assembly hereunto cause to have set the
signature of the Speaker of the Assembly


Curt Kalk, Speaker of the Assembly

IN CONCURRENCE, with the action of the Speaker of the Assembly, I, hereunto set my
hand to this resolution.


Marge Anderson, Chief Executive

OFFICIAL SEAL OF THE BAND



Minneapolis – Duluth/Superior
Passenger Rail Alliance
Wednesday, April 27, 2016
Pine County Courthouse
Pine City, MN

MINUTES

Appointed Representatives Present:

Steve Raukar, *St. Louis County, Chair
Gail T. Kulick, Mille Lacs Band of Ojibwe
Elissa Hanson, **City of Duluth

Alternate Representatives Present:

Appointed Representatives Not Present

John Quincy, ** City of Minneapolis
Linda Higgins, *Hennepin County, Vice Chair
Rick Goutermont, *Lake County

* County Commissioner

** Council Member

Other meeting attendees attached and made part of the minutes

1. Call to order / introductions

Commissioner Raukar called the meeting to order at 10:15 a.m., welcomed all and introductions were made. Commissioner Raukar then introduced Councilor Elissa Hanson with the City of Duluth as their representative on the Alliance Board. Three (3) representatives in attendance constituted a quorum.

2. Additions to agenda

None.

3. Public Forum / Appearances

None.

4. Communications

- A. Letter from City of Duluth to Mayor of Cambridge – Received. *(Attached and made part of the minutes).*
- B. Letter from City of Duluth to Mayor of Coon Rapids - Received. *(Attached and made part of the minutes).* Commissioner Raukar then thanked City of Duluth Mayor Emily Larson for her outreach to the Cities of Cambridge and Coon Rapids.
- C. Letter from Ken Buehler – Tech Advisory Committee to Duluth Chamber of Commerce - Received. *(Attached and made part of the minutes).*
- D. AFL / CIO Correspondence - Received. *(Attached and made part of the minutes).*

5. Consent agenda

A. Approve minutes from the of February 24, 2016 -

B. Expenditure & Budget Analysis of February & March 2016-

A **motion** by Councilor Hanson, **supported** by Representative Kulick to approve the February 24, 2016 meeting minutes and the February & March 2016 budget & expenditure reports as presented. Unanimous.

6. Reports

A. Media – Jill Brown –Jill reported on the AFL/CIO Correspondence previously listed under Communications. Jill further informed that the new NLX website is currently under construction and that NLX is also now on Facebook with all the articles in her media report linked on there. Jill then presented a Letter to the Editor from Commissioner Raukar regarding the survey results with 19,200 respondents that was done across nine Midwestern States regarding intercity passenger rail by the Midwest Interstate Passenger Rail Commission. *(Attached and made part of the minutes)*. Jill also presented an editorial article from the Duluth Budgeteer by Representative Jennifer Schultz, DFL-Duluth, District A on her support for passenger rail service. *(Attached and made part of the minutes)*.

B. State / Federal / Legislative Report – John Ongaro gave the respective legislative updates.

C. Administrative Report – Bob Manzoline - *(Attached and made part of the minutes)*. Bob informs that in March the Federal Rail Administration issued a notice of Request for Proposals for projects across the country to propose authorization of those projects which would be eligible for federal funds when they become available. NLX is fairly close to completion of the Tier II environmental work that would comply with the Request for Proposal and hopes are to be included with this Legislation. Application is lengthy and due in August.

D. Public Meetings – Frank Loetterle – Frank informs that Open Houses have been held in February and March with the cities of Fridley, Duluth, Cambridge and Hinckley with good attendance and reception was positive. The consultant team on the project is primarily focused on the grade crossings, with a near term objective to receive a proposal for each of the 169 grade crossings in the corridor. AECOM is working on the 40 critical crossings with substandard geometrics and how to improve them. Designs for all crossings should be complete by next month. If certain crossings reveal closures, local road authorities and affected residents will be consulted first.

Work is in progress for the Environmental Assessment Process, with a kickoff meeting scheduled for the third week in May with hopes of input from Burlington Northern Santa Fe on the proposal for track improvements along the corridor. Environmental Assessment Process should be complete in draft form by the end of the year.

Meetings have been held with Federal Rail Administration (FRA) staff in Minneapolis in the last two weeks and also with Passenger Rail Office and Freight Office on several projects that FRA is involved in and meeting with the NLX team. The \$8 million dollar grant needs to be exhausted by June 30, 2017 and seems to be on track. Approximately \$6 million has been obligated with another \$1.5 million scheduled for

future contractual work. FRA expressed that grant dollars on the project have been well managed.

- E. Technical Advisory Committee Report – Ken Buehler - Technical Advisory Committee Meeting minutes (*Attached and made part of the minutes*).

7. Unfinished business

A. None.

8. New business

- A. Annual Alliance Financial Statement for year ended December 31, 2014 - Received.
- B. Consider City of Cambridge as an Alliance Member – (Items #B & C were combined).
- C. Consider letters to Coon Rapids & Superior inviting them to become members of the NLX Alliance - Bob Manzoline informs that certain Counties that were involved with the project felt that their Cities representation would be more appropriate, particularly those with station locations (Isanti County to City of Cambridge). Cambridge City Council unanimously approved being part of the NLX Alliance on Monday, March 7, 2016 with payment of \$5,250.00 for annual dues. Howard Lewis will be the Appointed Representative. Meetings have been held with Coon Rapids regarding replacing Anoka County who was once a member of NLX Board.

NLX Attorney Roy Christensen explains the need to formally amend the Joint Powers Agreement. Following discussion, a **motion** by Representative Kulick, **supported** by Councilor Hanson supporting the inclusion of City of Cambridge as a member of the Alliance. A short two (2) page amendment will be circulated to all members of the Alliance as well as the Cities whom would then become members. Unanimous.

A **motion** by Councilor Hanson, **supported** by Representative Kulick to send letters to the Cities of Coon Rapids and Superior inviting them to become members of the Alliance, which was supported by the voting NLX members. Unanimous.

9. Other business

A. None.

10. Next meeting

May 25, 2016
Pine County Courthouse @ 10:00 a.m.
Pine City, MN

Adjournment

With no further business a **motion** by Representative Kulick, **supported** by Councilor Hanson to adjourn @ 11:15 a.m. Unanimous.

Respectfully submitted by Birdie Oddo.


Steve Raukar
Chair of the Alliance