

**SECOND AMENDED AND RESTATED JOINT POWERS AGREEMENT
ESTABLISHING THE I-35W SOLUTIONS ALLIANCE**

Approved by the Board 10/14/10

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The parties to this Agreement are Governmental Units of the State of Minnesota which have land in the Interstate 35W corridor, or are impacted by I-35W. This Agreement is made pursuant to the authority conferred upon the parties by Minnesota Statute §471.59.

Section 1. Name. The parties hereby create and establish The I-35W Solutions Alliance.

Section 2. General Purpose. The purpose of this Agreement is for the Governmental Units to jointly and cooperatively provide an organized effort to facilitate traffic flow and capacity in the I-35W corridor.

Section 3. Definitions.

Subdivision 1. "Solutions Alliance" means the joint powers organization created by this Agreement the full name of which is "The I-35W Solutions Alliance."

Subdivision 2. "Board" means the Board of Directors of the Solutions Alliance.

Subdivision 3. "Ex-Officio Member" means a person or entity selected by the Solutions Alliance to have special status with the Solutions Alliance, with only the rights specified in this Agreement.

Subdivision 4. "Governing Body" means the council, board, body or persons in which the powers of a Governmental Unit which is a Member of this Solutions Alliance is vested.

Subdivision 5. "Governmental Unit" means any city, county or rail authority that is a party to this Agreement.

Subdivision 6. "Member" means a Governmental Unit that is a party to this Agreement.

4. Membership. The Members of the Solutions Alliance shall consist of the following Governmental Units:

- City of Burnsville
- City of Bloomington
- City of Elko New Market
- City of Lakeville
- City of Richfield
- City of Savage
- Dakota County
- City of Minneapolis
- Hennepin County Regional Railroad Authority
- Scott County

No change in governmental boundaries, structure, organizational status or character shall affect the eligibility of any Governmental Unit listed above to be represented on the Solutions Alliance as long as such Governmental Unit continues to exist as a separate political subdivision. Any other governmental entity may become a Member upon approval of the Board, execution of this Joint Power Agreement, and payment of the contribution prescribed by the Board.

5. Board of Directors.

Subdivision 1. The governing body of the Solutions Alliance shall be its Board of Directors, which shall be responsible for managing its affairs, exercising its powers, and performing its duties.

Subdivision 2. Each Member shall appoint two Directors and one Alternate. Directors shall serve at the pleasure of the appointing Member and may be removed only by the appointing Member. Vacancies shall be filled only by the appointing Member. Incumbent Directors serve until a successor has been designated. A Member shall provide written notice of appointments to the Secretary of the Solutions Alliance.

Subdivision 3. Directors shall serve without compensation from the Solutions Alliance. A Governmental Unit may provide compensation for a Director it appoints to the Board.

Subdivision 4. Each Director shall have one vote. All votes must be cast by Directors or Alternates in attendance at a Board Meeting. Voting by proxy is not permitted. An Alternate may vote only in the absence of a Director of the same Member.

Subdivision 5. A quorum shall consist of a majority of the Directors, including Alternates that are in attendance on behalf of absent Directors.

Subdivision 6. A vacancy on the Board shall be filled by the Governing Body that made the appointment.

Subdivision 7. The Board may create and appoint members to such committees as it determines necessary. Committee members, other than the chair of a committee, need not be a Director.

6. Ex-Officio Members. The Minnesota Department of Transportation, Metropolitan Council, Hennepin County, 494 Corridor Commission, the Minnesota Valley Transit Authority, and State Representatives, State Senators and Metropolitan Council Members whose districts include part or all of a Governmental Unit shall be Ex-Officio Members. The Solutions Alliance Board may designate additional Ex-Officio Members. Ex-Officio Members may participate in discussions of the Solutions Alliance Board but may not vote. The Solutions Alliance may establish such further rules for Ex-Officio Members as it deems fit and proper that are not inconsistent with this agreement.

7. Powers and Duties of the Solution Alliance. The powers and duties of the Solutions Alliance shall include the power or duty to:

Subdivision 1. Prepare and adopt a plan and seek passage of legislation by local, state and federal governments to enhance the movement of people and goods and relieve congestion in the I-35W corridor.

Subdivision 2. Cooperate with the Minnesota Department of Transportation and participate in preparation of environmental impact analyses of I-35W improvements, including preliminary geometric design and evaluation of high-occupancy vehicle lanes and transit on I-35W.

Subdivision 3. Research and recommend funding strategies to enhance the movement of people and good and relieve congestion in the I-35W corridor.

Subdivision 4. Research and recommend funding strategies and seek legislation to improve traffic to relieve congestion, to create alternatives to traveling on I-35W, and to increase and improve the transportation of people and goods in the I-35W corridor.

Subdivision 5. Research travel demand management strategies and ordinances, develop model ordinances and recommend joint action on such strategies and ordinances by the Members.

Subdivision 6. Research and make recommendations to the Members regarding other matters related to the Solutions Alliance's purpose.

Subdivision 7. Cooperate with the Minnesota Department of Transportation and the Metropolitan Council in the development of transit operation plans that impact I-35W.

Subdivision 8. Monitor land use development, traffic volumes and travel characteristics in the I-35W corridor.

Subdivision 9. Educate members and others on transportation issues regarding the movement of people and goods in the I-35W corridor.

Subdivision 10. Consult with persons knowledgeable in transportation, such as research organizations, educational institutions, other political subdivisions, regulatory organizations, technical experts and any other persons who can provide pertinent information.

Subdivision 11. Serve as a regional forum and cooperate or contract with the State of Minnesota or any subdivision thereof, the Metropolitan Council, or federal agency or private or public organization to accomplish the purposes for which The I-35W Solutions Alliance is organized.

Subdivision 12. Contract for or purchase such insurance as the Board deems necessary for the protection of the Solutions Alliance.

Subdivision 13. Accumulate reserve funds for the purposes herein mentioned and invest funds of the Solutions Alliance not currently needed for its operations.

Subdivision 14. Collect money, subject to the provisions of this Agreement, from its Members and from any other source approved by a majority of its Board.

Subdivision 15. Make contracts, employ consultants, incur expenses and make expenditures necessary and incidental to the effectuation of its purposes and powers. Contracts in excess of \$5,000 must be approved by at least one director from four (4) Members in addition to a majority of directors voting on the contract. Contracts let and purchases made by the Solutions Alliance shall conform to the bid and contracting requirements and policies of Dakota County.

Subdivision 16. Recommend changes in this Agreement to its Members. This Agreement may be amended by written agreement of all of the Governmental Units. The Effective Date of the Amendment shall be as provided in Section 13 of this Agreement.

Subdivision 17. Exercise all other powers necessary and incidental to the implementation of the purposes and powers set forth herein.

Subdivision 18. Cause to be made an annual audit of the books and accounts of the Solutions Alliance and to make and file a financial report to its Members at least once each year.

Subdivision 19. Keep books and records of The I-35W Solutions Alliance in accordance with Minn. Stat. Ch. 13 at the Administrative Center of the member designated by the Board as the repository for them subject to agreement by the member to serve as the repository.

8. Meetings.

Subdivision 1. The Board shall determine the time and place of regular meetings of the Board of Directors and shall hold such meetings as frequently as it determines necessary to carry out the purposes of the Solutions Alliance. At least three days written notice of Board meetings shall be provided to all Members.

Subdivision 2. Special meetings of the Board may be called by the Chair or upon written request of a majority of the Directors. Five days written notice of a special meeting shall be given to the Directors and Ex-Officio Members, unless waived in writing by each Director.

Subdivision 3. Meetings of the Board and Committees shall be open to the public as required by the Open Meeting Law, Minnesota Statutes Chapter 13D.

9. Officers.

Subdivision 1. Number, election, qualifications – The officers of the Board shall consist of a Chair, Vice-Chair, Secretary and Treasurer. Each officer shall be elected annually by the Board and shall hold office until their successor takes office, earlier disqualification, death, resignation, or termination of appointment as a Director. All officers must be Directors. No two officers may be from the same Member.

Subdivision 2. Chair; Vice-Chair - The Chair shall preside at all meetings of the Board and shall perform all duties incident to the office of Chair, and such other duties as may be delegated by the Board. The Vice-Chair shall act as Chair in the absence of the Chair.

Subdivision 3. Secretary - The Secretary shall be responsible for keeping a record of all the proceedings of the Solutions Alliance. The Secretary may designate a person or persons to assist the Secretary in performance of their duties. The Secretary shall send written notice of meetings and material pertaining to agenda items to each Director and Ex-Officio Members.

Subdivision 4. Treasurer - The Treasurer shall have custody of the Solutions Alliance's funds, shall collect its annual dues, pay its bills, shall keep its financial records, and generally conduct the financial affairs of the Solutions Alliance. The Treasurer shall be responsible for such other matters as shall be delegated by the Board.

Subdivision 5. Other Officers - The Board may appoint other officers as it deems necessary.

10. Finances.

Subdivision 1. The Solutions Alliance funds may be expended by the Board in accordance with this Agreement and in a manner determined by the Board. The Board may designate one or more national or state bank or trust companies authorized to receive deposits of public monies to act as depositories for the Solutions Alliance funds. It may contract with a Member to provide services and assistance regarding its funds. The Solutions Alliance shall designate up to four (4) Directors who shall be authorized to sign instruments. In no event shall there be a disbursement of Solutions Alliance funds without the signature of at least two of the designated authorized signatories.

Subdivision 2. Each Member agrees to contribute annual dues to a general fund of the Solutions Alliance, said fund to be used for general administration purposes including, but not limited to: contracts for services and goods, salaries, supplies, carrying out the purpose of this Agreement, insurance and bonds. The annual dues to be contributed by each Member shall be

determined in accordance with a funding formula approved by the Board, and shall be paid by March 1 of each year.

Subdivision 3. On or before July 1 of each year, the Board shall adopt a general administrative budget for the ensuing year and decide upon the total amount necessary for the general Fund. The Treasurer of the Board shall certify the budget on or before July 1 to the clerk of each Member Governmental Unit, together with a statement of the proportion of the budget to be contributed by each Member as annual dues.

Subdivision 4. Any Member may withdraw from the Solutions Alliance by giving notice to the Chair of the Solutions Alliance of such action by the Member's Governing Body prior to August 1. Any Member withdrawing under this provision shall have no further liability or obligation to the Solutions Alliance except for payment of its annual dues for the year in which it withdraws, and shall not be entitled to any refund from the Solutions Alliance. The withdrawal shall be effective on December 31 of the year of withdrawal, unless an earlier date is specified by the withdrawing Member.

Subdivision 5. Any Member that has withdrawn from the Solutions Alliance, may, with the approval of the Board continue as an Ex-Officio Member without further financial contribution to the Solutions Alliance.

11. Miscellaneous.

Subdivision 1. Any Member may conduct separate or concurrent studies on any matter under study by the Solutions Alliance.

12. Duration.

Subdivision 1. Each Member agrees to be bound by the terms of this Agreement until December 31, 2020. This Agreement may be continued thereafter upon the written agreement of all the Members.

Subdivision 2. This Agreement may be terminated prior to December 31, 2020, by the written agreement of 3/4 of the Members.

Subdivision 3. In addition to termination under Subdivision 2, above, any Member may petition the Board to dissolve the Solutions Alliance. Upon 30 days' notice in writing to the clerk of each Member, the Board shall hold a meeting and upon affirmative vote by 3/4 of all eligible votes of then existing Directors, the Board may pass a resolution recommending that the Solutions Alliance be dissolved. If such a resolution is passed by the Board, the resolution shall be submitted to each Member and if ratified by 3/4 of the Governing Bodies of all Members within 60 days of the date the Board passed the resolution, the Board shall dissolve the Solutions Alliance after completing work in progress and disposing of all property owned by the Solutions Alliance.

13. Dissolution. Upon dissolution of the Solutions Alliance, all property of the Solutions Alliance shall be sold and the proceeds thereof, together with monies on hand, shall be distributed to the Members of the Solutions Alliance. Such distribution of Solutions Alliance assets to the Members shall be made in proportion to the annual dues each contributed to the Solutions Alliance as required by the last annual budget. The Chair shall notify all Members of the Solutions Alliance when the dissolution process and distribution of property has been completed, and at that time the Solution Alliance shall be dissolved.

14. Separate Public Entity.

Subdivision 1. The I-35W Solutions Alliance is a separate and distinct public entity to which the parties have transferred all responsibility and control for actions taken pursuant to this Agreement. The I-35W Solutions Alliance shall comply with all laws and rules that govern a public entity in the State of Minnesota and shall be entitled to the protections of Minn. Stat. Ch. 466.

Subdivision 2. The I-35W Solutions Alliance shall fully defend, indemnify and hold harmless the parties against all claims, losses, liability, suits, judgments, costs and expenses by reason of the action or inaction of the Board of Directors and/or agents of the I-35W Solutions Alliance. This Agreement to indemnify and hold harmless does not constitute a waiver of limitations on liability provided under Minn. Stat. Sec. 466.04.

To the full extent permitted by law, action by parties pursuant to this Agreement are intended to be and shall be construed as a “cooperative activity” and it is the intent of the parties that they shall be deemed a “single governmental unit” for the purposes of liability, as set forth in M.S. §. 471.59, Subd. 1a(a), provided further that for purposes of that statute, each party to the Agreement expressly declines responsibility for the acts or omissions of the other parties. The parties to this Agreement are not liable for the acts or omissions of the other parties to this Agreement except to the extent they have agreed in writing to be responsible for the acts or omissions of the other parties.

15. Effective Date. This Amended and Restated Joint Powers Agreement shall be effective December 31, 2010, after all Members file a certified copy of a resolution approving the Amendment and upon the execution of this Agreement by all Members. All Members need not sign the same copy. Each Member shall file the resolution and signed Agreement with the

City Manager of the City of Burnsville, who shall notify the Members in writing when all Members have done so.

IN WITNESS WHEREOF, the undersigned Governmental Units, by action of their Governing Bodies, have caused this Agreement to be executed in accordance with the authority of Minnesota Statute §471.59.

CITY OF BLOOMINGTON

BY: _____
Attest _____

Approved by the City Council on
_____, 2010

CITY OF BURNSVILLE

BY: _____
Attest _____

Approved by the City Council on
_____, 2010

CITY OF ELKO NEW MARKET

BY: _____
Attest _____

Approved by the City Council on
_____, 2010

CITY OF LAKEVILLE

BY: _____
Attest _____

Approved by the City Council on
_____, 2010

CITY OF MINNEAPOLIS

BY: _____
Attest _____

Approved by the City Council on
_____, 2010

CITY OF RICHFIELD

BY: _____
Attest _____

Approved by the City Council on
_____, 2010

CITY OF SAVAGE

BY: _____
Attest _____

Approved by the City Council on
_____, 2010

DAKOTA COUNTY

BY: _____
Attest _____

Approved by the Dakota County Board
_____, 2010

HENNEPIN COUNTY REGIONAL RAIL AUTHORITY

BY: _____
Attest _____

Approved by the Hennepin County Board
_____, 2010

SCOTT COUNTY

BY: _____
Attest _____

Approved by Scott County Board
_____, 2010

TL: 124505v3