

**JOINT POWERS AGREEMENT**  
**Lake County Fiber Network Project**

This JOINT POWERS AGREEMENT dated as of November 23, 2010 (this “Agreement”), is being entered into among:

- i. Lake County, Minnesota, a body politic and corporate and political subdivision organized and existing under the laws of the State of Minnesota (“Lake County”);
- ii. the City of Two Harbors, Lake County, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Two Harbors”);
- iii. the City of Beaver Bay, Lake County, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Beaver Bay”);
- iv. the City of Silver Bay, Lake County, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Silver Bay”);
- v. the Town of Beaver Bay, Lake County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Beaver Bay Township”);
- vi. the Town of Crystal Bay, Lake County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Crystal Bay”);
- vii. the Town of Fall Lake, Lake County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Fall Lake”);
- viii. the Town of Silver Creek, Lake County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Silver Creek”);
- ix. the Town of Stony River, Lake County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Stony River”);
- x. St. Louis County, Minnesota, a body politic and corporate and municipal subdivision organized and existing under the laws of the State of Minnesota (“St. Louis”);
- xi. the City of Ely, St. Louis County, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Ely”);

xii. the City of Aurora, St. Louis County, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Aurora”);

xiii. the City of Babbitt, St. Louis County, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Babbitt”);

xiv. the City of Hoyt Lakes, St. Louis County, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Hoyt Lakes”);

xv. the Town of Basset, St. Louis County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Basset”);

xvi. the Town of Colvin, St. Louis County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Colvin”);

xvii. the Town of Duluth, St. Louis County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Duluth Township”);

xviii. the Town of Embarrass, St. Louis County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Embarrass”);

xix. the Town of Morse, St. Louis County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Morse”);

xx. the Town of Waasa, St. Louis County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“Waasa”);  
and

xxi. the Town of White, St. Louis County, a public corporation and political subdivision organized and existing under the laws of the State of Minnesota (“White”);  
and

xxii. the Lake County Housing and Redevelopment Authority, a public body, corporate and politic organized and existing under the laws of the State of Minnesota (“Lake County HRA”).

(Lake County, the Lake County HRA, Two Harbors, Beaver Bay, Silver Bay, Beaver Bay Township, Crystal Bay, Fall Lake, Silver Creek, Stony River, St. Louis, Ely, Aurora, Babbitt, Hoyt Lakes, Basset, Colvin, Duluth Township, Silver Creek, Morse, Waasa and White are collectively referred to herein as the “Parties.” Two Harbors, Beaver Bay, Silver Bay, Beaver Bay Township, Crystal Bay, Fall Lake, Silver Creek, Stony River, St. Louis, Ely, Aurora, Babbitt, Hoyt Lakes, Basset, Colvin, Duluth Township, Silver Creek, Morse, Waasa and White are collectively referred to herein as the “Municipalities” or individually as a “Municipality”)

1. Recitals.

- a. This Agreement is being entered into pursuant to Minnesota Statutes, Sections 471.59 and 471.656 (collectively, the “Act”) and Chapter 238.
- b. Lake County wishes to finance the costs of a fiber-optic broadband network to provide advanced voice, video and data services to every home and business in Lake County and portions of Eastern St. Louis County, Minnesota (the “Project”), to be owned by Lake County and, at Lake County’s sole election, managed for Lake County by a third party under contract to Lake County.
- c. Lake County proposes to finance the Project through a grant and loan to Lake County from the Rural Utility Service’s Broadband Infrastructure Program (the “Loan/Grant”) and the issuance by the Lake County HRA of revenue obligations (the “Bonds”) pursuant to Minnesota Statutes, Chapter 475 (the Loan/Grant and the Bonds are collectively known as the “Obligations”). The Lake County HRA has agreed to issue the Bonds.
- d. Portions of the Project are located within the jurisdictional limits of each of the Parties.
- e. The Municipalities consent to have Lake County construct and operate the Project within their individual jurisdictional limits in order to provide the services on an equal basis to the residents of each of the Municipalities.
- f. Each of the Parties is a governmental unit under the Act. Section 471.656 of the Act does not allow the Lake County HRA to issue revenue obligations to finance the Project unless the Municipalities each consent to such financing in a joint powers agreement entered into pursuant to the Act.
- g. Lake County and the Lake County HRA have requested that the Municipalities consent, through this Agreement, to the financing of the Project through the issuance of the Obligations by the Lake County HRA and consent to operation of the Project.

2. Findings.

- a. It is in the best interests of the Municipalities to consent to the issuance of the Obligations by the Lake County HRA and the operation of the Project by Lake County.
- b. Each of the Municipalities will receive substantial benefit from the Project which will provide advanced voice, video and data services, accessible and available on an equal basis to residents of each of the Municipalities.

3. Statement of Purpose and Authority. This Agreement is entered into for the purpose of providing for the consent of the Municipalities to the construction of the Project by Lake County within their jurisdictions; to consent to the issuance of the Obligations by the

Lake County HRA to finance the Project; and to consent to the operation of the Project by Lake County.

4. Consent. Each Municipality consents to the issuance of the Obligations by the Lake County HRA. Each Municipality consents to the operation of the Project within its jurisdiction subject to the provisions of all applicable laws, rules, regulations and ordinances whether now or hereafter in effect.

5. Authorizations.

a. Each Municipality consents to the Lake County HRA issuing the portion of the Obligations allocable to that part of the Project located in its jurisdiction on its behalf in conformance with the terms and conditions set forth herein.

b. Each Municipality consents to Lake County and the Lake County HRA, subject to the provisions of this Agreement:

i. exercising the powers under the Act by adopting, approving and executing such resolutions, documents and agreements as are necessary or convenient to authorize, issue and sell the Obligations and such other resolutions, documents and agreements as are necessary or required in connection with the issuance of the Obligations and to give effect to or carry out the provisions of this Agreement and the documents under which the Obligations are issued and/or secured and

ii. to take all actions necessary or convenient in connection therewith and permitted by the Act.

6. Agreements.

a. Each of the Municipalities will consider, if necessary and requested by Lake County, adopting an ordinance, or modify an existing ordinance to allow such Municipalities to issue an extension permit to Lake County pursuant to Chapter 238 of the Minnesota Statutes and all other applicable laws, rules, regulations and ordinances now or hereafter in effect. Each of the Municipalities further agrees to consider issuing an extension permit to Lake County if necessary and requested by Lake County in accordance with all applicable laws, rules, regulations and ordinances now or hereafter in effect.

b. Lake County acknowledges that each of the Municipalities is required to comply with all applicable laws, rules, ordinances and regulations, federal, state and local, that are now or hereafter applicable to cable communications or the provision of services to be provided by Lake County pursuant to the Project.

c. Each of the Municipalities will allow Lake County to access all utility easements, as defined in Chapter 238 of the Minnesota Statutes, for the purpose of constructing and operating the Project subject to compliance by Lake County with

all laws, rules, ordinances and regulations now or hereinafter applicable to such utility easements and the grant of access to them.

- d. Each of the Municipalities controlling a public utility will consider entering into pole, duct and conduit agreements with Lake County, as allowed by Sections 238.37 to 238.42 of the Minnesota Statutes, in order to construct and operate the Project subject to all laws, rules, ordinances and regulations now or hereinafter applicable to such utility easements and the grant of access to them.
- e. Lake County bears all liability related to the Project and the Obligations as provided by Section 471.59, Subdivision 1a of the Minnesota Statutes. Lake County will indemnify, defend and hold harmless the Lake County HRA and each of the Municipalities from any and all claims arising from the Loan/Grant, construction, maintenance or operation of the Project. Lake County will indemnify, defend and hold harmless the Lake County HRA and each of the Municipalities from any and all claims arising from the Obligations. Nothing in this Agreement shall constitute a waiver of the statutory limits on liability available to the Municipalities as set forth in Minnesota Statutes Chapter 466 or a waiver of any available limits or defenses available to the Municipalities.

7. Special Limited Obligations.

- a. The Obligations shall be special, limited obligations of Lake County and the Lake County HRA and shall not be payable from nor charged against any funds of any of the Parties, other than Lake County, nor shall any of the Parties, other than Lake County be subject to any liability thereon, nor shall any holder of the Obligations ever have the right to compel any exercise of the taxing power of any of the Parties to pay the Obligations or the interest thereon, nor to enforce payment thereon against any property of any of the Parties, other than Lake County, nor shall the Obligations constitute a charge, lien or encumbrance, legal or equitable, upon any funds, assets or property of any of the Parties, other than Lake County, nor shall the Obligations constitute a debt of any of the Parties within the meaning of any constitutional or statutory limitation of indebtedness.
- b. Nothing in this Agreement shall be considered as assigning, pledging or otherwise encumbering any funds or assets of any Party other than Lake County to the payment of the Obligations.
- c. No agreement, covenant or obligation contained in this Agreement or in any of the documents evidencing or securing the Obligation (“Obligation Documents”) shall be deemed to be an agreement, covenant or obligation of any member of any Party, or of any officer, employee or agent of such Party in that person’s individual capacity. No member or officer of any Party shall be liable personally on the Obligations or be subject to any personal liability or accountability by reason of the issuance of the Obligations. Notwithstanding anything contained in the Obligation Documents or any other document referred to herein to the contrary, the Obligation Documents shall not otherwise constitute or give rise to a

pecuniary liability of any Party other than Lake County or any Party's officers, employees and agents. Accordingly, the Obligations shall not be payable from or charged upon any funds of any Party other than Lake County nor shall any Party other than Lake County be subject to any liability thereon.

- d. The Obligations will not constitute or give rise to an indebtedness, a pecuniary liability, moral or general obligation or a loan of the credit of any Party, other than Lake County or a charge, lien or encumbrance, legal or equitable, against any Party's property (other than Lake County), general credit or taxing powers and neither the full faith and credit nor the taxing powers of any Party are pledged for the payment of the Obligations or interest thereon.
8. Offering and Disclosure Materials. No Municipality has participated in the preparation of or reviewed any offering or disclosure materials with respect to the offer and sale of the Obligations and no Municipality makes any representations or warranties regarding the necessity, sufficiency, accuracy, fairness, completeness or adequacy of any disclosure with respect to such offer and sale. No authorization is given by any Municipality to the Lake County HRA to make any representations with respect to any Municipality and no Municipality will sign any consent or approved any offering or disclosure material with respect to the Obligations.
9. Term. This Agreement shall continue until Lake County no longer owns the Project.
10. Distribution of Assets. Upon termination of this Agreement, any property acquired pursuant to this Agreement and any surplus moneys shall be distributed: first, according to the documents entered into by Lake County and the Lake County HRA in connection with issuance of the Obligations, and second, pro-rata to each Party in proportion to the amount contributed by such party.
11. Amendments. This Agreement may not be amended while any portion of the Obligations remains outstanding, other than to add a Party, unless such amendment has been requested by Lake County, the Parties agree to such amendment in writing, and Lake County and the Lake County HRA have received the opinion of nationally-recognized bond counsel that such amendment will not adversely affect the validity of the Obligations. A Party may be added to this Agreement without the consent of any other Party, other than the Lake County HRA so long as the addition of a Party does not change any other terms or provisions of this Agreement.
12. Counterparts. This Agreement may be executed in counterparts, each of which will be an original, but which together will constitute one and the same instrument.

(Remainder of this page intentionally left blank.)

IN WITNESS WHEREOF, the Parties have caused their names to be signed by their respective officers thereunto duly authorized, as of the day and year first above written.

LAKE COUNTY MINNESOTA

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Auditor

LAKE COUNTY HOUSING AND  
REDEVELOPMENT AUTHORITY

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Secretary



ST. LOUIS COUNTY MINNESOTA

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Auditor

(Signature page to Joint Powers Agreement – Lake County Fiber Network Project)

CITY OF TWO HARBORS

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Administrator

CITY OF BEAVER BAY

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Administrator/Clerk

CITY OF SILVER BAY

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Administrator

CITY OF ELY

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Clerk/Treasurer

CITY OF AURORA

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Clerk/Treasurer

CITY OF BABBITT

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Administrator/Clerk

CITY OF HOYT LAKES

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Administrator/Clerk



TOWN OF BASSET

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk

TOWN OF BEAVER BAY

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk

TOWN OF COLVIN

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk

TOWN OF CRYSTAL BAY

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk

TOWN OF DULUTH

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk

TOWN OF EMBARRASS

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk

TOWN OF FALL LAKE

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk

TOWN OF MORSE

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk



TOWN OF SILVER CREEK

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk

TOWN OF STONY RIVER

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk

TOWN OF WAASA

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk

TOWN OF WHITE

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Clerk