

COUNCIL COPY

INTERGOVERNMENTAL RELATIONS COMMITTEE

10-0583R

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENTS TO
THE JOINT POWERS AGREEMENT FORMING THE NORTHEAST
REGIONAL RADIO BOARD.

CITY PROPOSAL:

WHEREAS, the city of Duluth is a participating member of the northeast regional radio board, a joint powers entity formed pursuant to Minnesota Statutes 403.39 and 471.59 and executed pursuant to city council resolution 08-0662R; and

WHEREAS, a joint powers agreement creating the northeast regional radio board was approved by the eleven counties and four cities comprising the board, including the city of Duluth; and

WHEREAS, the current joint powers agreement provides for membership by counties and cities within homeland security emergency management region two; and

WHEREAS, the Minnesota legislature has amended Minnesota Statute 471.59 to provide authority for federally recognized indian tribes to participate in joint powers agreements; and

WHEREAS compliance with this amendment to Minnesota statute requires modification of the existing joint powers agreement; and

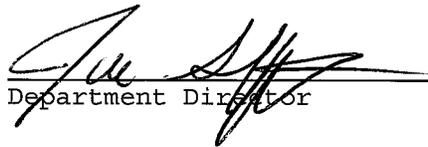
WHEREAS, the northeast regional radio board recommends amendment of the joint powers agreement governing the northeast regional radio board to provide for the authority for federally recognized indian tribes meeting the same requirements as counties and cities within homeland security emergency management region two to participate in the northeast regional radio board; and

WHEREAS, the northeast regional radio board further recommends amendment of the joint powers agreement to provide management and administration of regional emergency management functions by the regional radio board.

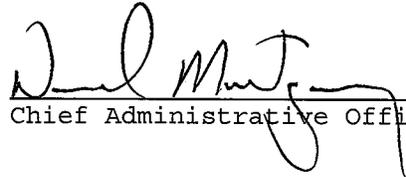
NOW THEREFORE, BE IT RESOLVED, that the city council hereby authorizes the proper city officials to execute an amendment to the joint powers agreement with

the northeast regional radio board, substantially the same as that on file in the office of the city clerk as Public Document No. _____.

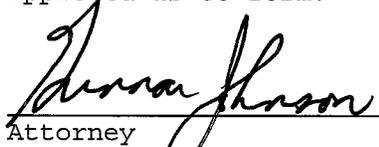
Approved:


Department Director

Approved for presentation to council:


Chief Administrative Officer

Approved as to form:


Attorney

Approved:


Auditor

CAO/ATTY/WIRE JS/GBJ:tmf 11/08/2010

STATEMENT OF PURPOSE: This resolution approves amendments to the joint powers agreement with the Northeast Minnesota Regional Radio Board. Changes include modifications to membership qualifications implementing statutory changes enacted by the legislature that provide the authorization for federally recognized Indian tribes to participate in joint powers in Minnesota. An additional change includes modifications that would allow the Board to provide a regional governance structure for emergency management.

Proposed Change to Northeast Regional Radio Board Joint Powers Agreement

The Northeast Regional Radio Board recommends modifications to Article II Section 2, Article III Section 1, Article VI Section 4 through 5, and Article X of the current Joint Powers Agreement to add membership of federally recognized Indian tribes to the allowed participants of the Joint Powers Agreement as provided by amendments to Minnesota Statute 471.59. The proposed amendments also modify the potential makeup of the Regional Advisory Committee (RAC) by vesting in the Board the authority to add representatives of Non-Government Organizations (NGO's) and non-participating tribal entities to the RAC.

The Board further recommends modifications to Article I Section 2 and 3, Article II Section 1 and Article III Section 4 (new) to modify the purpose and duties of the Board to include administration and management of Regional Emergency Management functions. These changes include creation of a new Emergency Management Advisory Committee (EMAC) with defined membership, duties and responsibilities, in a manner similar to the Radio RAC, and the ability of the EMAC to appoint one member to serve on the Board.

The Board further recommends modifications to the document of a housekeeping nature including numbering of sections and subdivisions consistent with implementation of the recommended changes and modifications to the table of contents.

Recommended Change:

ARTICLE I

Section 2. Purpose. ~~The parties to this Agreement wish to formulate a regional radio board to provide for regional administration of enhancements to the Statewide Public Safety Radio and Communication System (ARMER) owned and operated by the State of Minnesota and enhance and improve interoperable public safety communications. With that objective in mind, the Parties to this Agreement wish to collectively prepare and administer a plan which provides for the installation, operation and maintenance of local and regional enhancements to the Statewide Public Safety Radio and Communication System (ARMER).~~

The parties to this Agreement wish to formulate a regional emergency services board to provide for regional administration of emergency services related functions including:

- A. Establishing a regional radio board pursuant to Section 403.39 to implement, maintain and operate regional and local improvements and enhancements to the statewide, shared, trunked radio and communication system provided for in Section 403.36 to enhance and improve interoperable public safety communications. With that objective in mind, the Parties to this Agreement wish to collectively prepare and administer a plan which provides for the installation, operation and maintenance of local and regional enhancements to the Statewide Public Safety Radio and Communication System known as Allied Radio Matrix for Emergency Response (hereinafter ARMER).
- B. To the extent permitted by law, encourage the development of new resources and coordination of regional and sub-regional emergency services to efficiently and cost effectively respond to emergency situations and provide a high level of public safety throughout the region.
- C. Provide a governance structure for the operation and administration of shared emergency response services on both a regional and sub-regional basis that will enhance, improve and provide for efficient and cost effective delivery of public safety services throughout the region.
- D. Coordinate Emergency Management activities, consistent with the Minnesota Emergency management Act of 1996, Minnesota Statute Chapter 12, between and among local units of government within HSEM Region 2.

This Agreement may be utilized to provide joint purchase of ~~common individual~~ equipment ~~needs~~ or services. Joint purchase may occur when it is determined that such purchases ~~standardization of equipment is~~ are in the best interests of the Parties to this Agreement or when other advantages might be achieved by joint purchases.

Section 3. Duties of the Parties to this Agreement.

Subd. 1. Regional Radio Board. ~~A regional radio board composed as herein provided~~ When acting in its capacity as a regional radio board the Board shall have the responsibility for the planning, financing, development, design, construction, operation, management, control and administration of the regional enhancement to the statewide public safety radio and communications system (ARMER) in accordance with the Statewide Public Safety Radio Plan and the technical and operational standards of the Statewide Radio Board.

Subd. 2. Local Enhancements and Improvements. ~~The regional radio board~~ When acting in its capacity as a regional radio board the Board shall coordinate all local enhancements to the statewide public safety radio and communications system (ARMER) for jurisdictions and entities located within the region. All local enhancements and improvements must be consistent with local plans approved by the regional radio board, sub-regional and regional plans authorized and

approved by the regional radio board and the Statewide Public Safety Radio Plan adopted by the Statewide Radio Board pursuant to statute. Improvements and enhancements are defined in the State Plan adopted by the Statewide Radio Board.

Subd. 3. Emergency Management Services. When acting in its capacity as an emergency management board the Board shall coordinate planning, training, and the purchase and use of equipment in order to ensure the most effective response to emergencies and disasters, both natural and other, within HSEM Region 2.

Subd. 3 4. Individual Duties. Each party to this Agreement shall establish such policies and take such steps as may be necessary to ensure the integrity and continued operation of this Board and to implement this Agreement and all requirements herein contained.

Article II

Section 1. Creation and Powers.

Subd. 1. Creation. There is hereby created a regional radio emergency services board that shall be known as "The Northeast Minnesota Regional Radio Board", hereinafter, the "Board". The Board shall have such powers as are provided by Minnesota Statutes 403.39, and 471.59, Chapter 12 and this Agreement, including all powers necessary to plan, implement, maintain and operate regional and local improvements and enhancements to the Statewide Public Safety Radio and Communication System (ARMER) for the Northeast Minnesota ARMER region of development as determined by the Statewide Radio Board and identified in the State Plan as adopted by the Statewide Radio Board and provided by Minnesota Statute 403.39.

Subd. 2. Powers. The Board shall have the power to contract with ~~county and city units~~ counties, cities, tribal entities and non-governmental organizations that have built local sub-systems for the maintenance and operation of those systems. ~~County and city units~~ Counties, cities, tribal entities and non-governmental organizations that have built local sub-systems are not required to contract with the Board but may choose to manage, maintain and operate their own local sub-system. The Board shall have the responsibility to establish interoperability standards, policies and procedures that govern how local and regional sub-systems inter-operate. The Board shall not have the power or authority to establish standards, policies and procedures for the operation of local sub-systems except in those specific areas governing interoperability with regional systems except as provided by Agreement with local sub-system owners and operators.

Subd. 3. Additional Powers. In addition to the powers enumerated in Minnesota Statute Section 471.59, the Board shall have the following powers:

- The power to apply for and hold licenses for public safety frequencies to be used in regional and local improvements.
- The power to adopt regional performance and technical standards that do not interfere with the backbone or interoperability infrastructure administered by the Statewide Radio Board and subject to review of the Statewide Radio Board.

- The power to enter into any contract or memorandum of understanding (MOU) necessary to carry out its responsibilities.
- The power to acquire by purchase, lease, gift or grant, property, both real and personal, and interests in property necessary for the accomplishment of its purpose and to sell or otherwise dispose of property it no longer requires.
- The power to contract with the State of Minnesota, through the commissioner of transportation, for construction, ownership, operation, and maintenance of regional or local improvements to the statewide public safety radio and communication system.
- The power to apply for grants on behalf of one or more parties to this agreement ~~for interoperable communications systems and equipment~~ consistent with the purpose of the Board.
- The power to determine sub-regions within the region where enhancements to the backbone (coverage or capacity) provide substantial benefit to more than one political sub-division or entity within that sub-region.
- The power to provide for user fees in contracts with system users and to assess user fees upon system users within the region for capital and operational costs for regional and sub-regional enhancements and for administrative costs of the Board in accordance with any Agreements with system users.
- The Board may exercise other powers granted by the legislature to regional radio boards and to counties and cities under Minnesota Statutes, Chapter 403, or any other law related to emergency services systems.

Section 2. Membership, Appointment, and Term.

Subd. 1. Requirements for Participation. Participation in the Board is restricted to counties, ~~and~~ cities and federally recognized Indian tribes that meet the following minimum requirements:

1. A County within or immediately adjacent to the Northeast Minnesota HSEM Region 2 that has committed to participation in regional communications planning activities and planned, authorized, developed or implemented a local sub-system or integration of dispatch facilities into a cooperative communications system.
2. A City within or immediately adjacent to the Northeast Minnesota HSEM Region 2 that has committed to participation in regional communications planning activities and has planned, authorized, developed or implemented a local sub-system.
3. A Tribal Government located wholly or partially within the Northeast HSEM Region 2 that has committed to participation in regional communications planning activities and has planned, authorized, developed or implemented a local sub-system.

Subd. 2. Application for Participation. The Board will establish policies and procedures for application for participation in the Board.

Any County, or City or Tribal entity meeting the requirements and criteria for participation may request participation in the Board in accordance with policies and procedures established by the Board.

Subd. 3. Initial Participants. Initial participants include Aitkin, Carlton, Cass, Cook, Crow Wing, Itasca, Kanabec, Koochiching, Lake, Pine, and St. Louis counties and the cities of Duluth, Hibbing, International Falls and Virginia. Each of these agencies is deemed to meet the minimum requirements for participation in the Board.

Subd. 4. Membership. The members of the Board shall be:

- One County Commissioner from each county party to the Agreement.
- One City Council member from each city party to the Agreement.
- One representative appointed by the Tribal Council from each tribal entity party to the Agreement.

Subd. 5. Appointment - Members Representing Counties and Cities. The members representing counties and cities shall be appointed by their respective governing bodies from the membership of that governing body. A successor must be appointed no later than sixty (60) days following the date a member is no longer an elected official.

Subd. 6. Term - Members Representing Counties and Cities. The term shall be for one year and until a successor is duly appointed; however, a member so appointed shall serve at the pleasure of that member's appointing governing body. There shall be no limit on the number of terms a member may serve.

Subd. 7. Appointment and Term - Members Representing Tribal Entities. The members representing tribal entities shall be appointed by their respective governing bodies. A successor must be appointed no later than sixty (60) days following the date a member is removed by the tribal entity. The term shall be for one year and until a successor is duly appointed; however, a member so appointed shall serve at the pleasure of that member's appointing governing body. There shall be no limit on the number of terms a member may serve.

Subd. 7 8. Alternates - Members Representing Counties, and Cities and Tribal Entities. Each appointing authority may designate an alternate who shall be authorized to act in the absence of the member.

Subd. 8 9. Other Members of the Board. In addition to those members previously defined the following shall also be voting members of the board:

- A member of the Northeast Minnesota Regional Advisory Committee.
- A member of the Northeast Minnesota Regional Radio System User Committee.
- A member of the Northeast Minnesota Owners and Operators Committee.
- A member of the Northeast Minnesota Emergency Management Advisory Committee.

Subd. 9 10. Selection, Term, and Alternates - Other Members of the Board. The member of each of the committees designated to serve as members of the Board shall be selected by majority vote of the entire committee membership on an annual basis. There shall be no limit on the number of terms a committee member may serve on the board. Each of these committees shall select by majority vote, an alternate who shall be authorized to act in the absence of the member of the board. Committee members elected to serve as Board members and alternates shall serve a term of one year and until a successor is duly elected. If an individual elected to serve as a Board member or alternate ceases to be a member of the committee by resignation or action of the appointing authority or any other cause, the committee shall meet within sixty (60) days of notification of change and select, by majority vote, a replacement.

Subd. 10 11. User Committee Board Advisors. In addition to the positions defined herein the Board may authorize the Northeast Minnesota Regional Radio System User Committee to appoint not more than two additional representatives to advise the Board. Not more than one shall be a representative of a law enforcement agency and not more than one shall be a representative of a fire service or EMS agency. Any representative so appointed shall have the right to participate in discussion or debate and advise the Board on matters relative to pending issues but shall not be empowered to initiate any issue or matter or have a vote on any issue or matter before the Board.

Subd. 11 12. Modification to Board Composition. Modification of the composition of the Board subsequent to its initial creation shall only be through the process established for the amendment of this Agreement.

ARTICLE III - COMMITTEES

Section 1. Regional Advisory Committee. The Political Subdivision (Herein after "the Appointing Authority") of each party to this Agreement shall appoint one staff person with specialized technical, operational or administrative skills and responsibilities to represent that agency on the Regional Advisory Committee. The initial membership shall be the existing Regional Advisory Committee formed to develop a regional plan and recommend the creation of a Regional Radio Board. The Regional Radio Board may designate representatives of Non-Governmental Organizations (hereinafter NGO's) and tribal entities not members of the Board with specialized technical, operational or administrative skills and responsibilities to serve as voting members of the Regional Advisory Committee. The members of the Regional Advisory Committee will serve until replaced by the appointing authority. The Regional Advisory Committee shall establish by-laws and procedures for its operation. The Regional Advisory Committee shall designate, by majority vote, a member to serve as a voting member of the Board and an alternate. Such selection shall be on an annual basis. The Regional Advisory Committee shall be required to:

- To review all recommendations to the Board from all other committees regarding policies and procedures prior to Board action.
- To provide technical recommendations to the Board on matters affecting technology and system planning and development.

- To develop and recommend administrative procedures for the Board.
- To recommend an annual budget for the Northeast Minnesota Regional Radio Board.
- Such other duties as may be defined by the Board.

Section 4. Emergency Management Advisory Committee. The appointing Authority of each party to this Agreement shall appoint one staff person with specialized skills in the provision of Emergency Management Services focusing on policy, management and administration to serve as a voting member of the Emergency Management Advisory Committee. Alternates may also be appointed to act in the absence of the designated representative. The members of the Advisory Committee will serve until replaced by the appointing authority. The Advisory Committee shall establish by-laws and procedures for its operation. All such by-laws and procedures shall be ratified by the Board prior to taking effect. The Advisory Committee may designate and appoint sub-committees and work groups as required to accomplish its purpose. The Emergency Management Advisory Committee shall designate, by majority vote, a member to serve as a voting member of the Board and an alternate. Such selection shall be on an annual basis. The Emergency Management Advisory Committee shall have the following responsibilities and duties:

- To recommend to the Board such policies and procedures as may be required or necessary for consistent, reliable and coordinated quality emergency management services throughout the region.
- To recommend to the Board such policies and procedures as may be required or necessary for the efficient and effective management of grants and funding to improve emergency preparedness and public safety throughout the region.
- To develop recommendations to the Board for regional grant applications to improve emergency preparedness and public safety throughout the region.
- To develop recommendations to the Board for regional planning in order to better respond to emergencies and natural and other disasters within HSEM Region 2.
- To develop recommendations to the Board for regional training in order to better respond to emergencies and natural and other disasters within HSEM Region 2.
- To develop recommendations to the Board for the purchase and use of equipment and services in order to better respond to emergencies and natural and other disasters within HSEM Region 2.
- To develop recommendations to the Board for additional or alternative programs and services to enhance and improve emergency preparedness and public safety throughout HSEM Region 2.
- Such other duties and responsibilities as directed by the Board and consistent with appropriate principals, duties and obligations of effective Emergency Management.

ARTICLE VI - NOTICES, BREACH, WITHDRAWAL, AND TERMINATION

Section 4. Termination. This Agreement may be terminated by the adoption of resolutions approving such termination by 75% of the governing bodies of the parties ~~counties and cities~~ party to this Agreement. To the extent permitted by law the termination shall not affect the continuing liability of the parties to the Agreement for indebtedness incurred prior to the termination, or for other continuing obligations.

Section 5. Distribution of Property and Termination. All property, assets and funds of the Board shall be distributed to the parties to this Agreement upon termination in direct proportion to their participation and contribution. Sub-system resources owned and operated directly by the Board serving more than a single city, ~~or~~ county or tribal entity party to this Agreement shall be distributed in a manner most likely to provide for the continued operation and maintenance of the resource. The Board shall encourage and foster the joint operation of resources intended to provide sub-system services for multiple agencies upon its termination.

Upon the termination of the Board as herein provided any city, ~~or~~ county or tribal entity that has withdrawn from this Agreement prior to termination shall share in the distribution of property, assets and funds of the Board only to the extent they shared in the original expense.

Article X

This article is amended to provide for the required local signature pages approving the modified Joint Powers Agreement.

Signature Page

**Joint Powers Agreement
including
September 23, 2010
amendments**

**Northeast Minnesota
Regional Radio Board**

City of Duluth

Mayor

City Clerk/Administrator

City Attorney

Date

Signature Page