



Board of County Commissioners Agenda Request



Requested Meeting Date: 08/26/2014

Title of Item: MCCC Bylaws & Joint Powers Agreement

<input type="checkbox"/> REGULAR AGENDA <input checked="" type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input checked="" type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft) <i>*provide copy of hearing notice that was published</i>	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing*
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Submitted by: Kathleen Ryan	Department: H&HS & Other Co. Depts.
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Presenter (Name and Title): n/a	Estimated Time Needed: n/a
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Summary of Issue:
 The MCCC new bylaws and joint powers agreements were approved at the MCCC June 4th Membership Meeting. The new bylaws is complete and posted for your information. The new joint powers agreement will require approval by each of your boards along with a signature from your board chair. Signed documents should be returned to MCCC. (Per email dated June 24, 2014.)

Alternatives, Options, Effects on Others/Comments:

Recommended Action/Motion:
 Approve and sign MCCC Bylaws and Joint Powers Agreement.

Financial Impact:
Is there a cost associated with this request? Yes No
What is the total cost, with tax and shipping? \$
Is this budgeted? Yes No *Please Explain:*
 This is a current agreement that is just being updated/renewed.

**AMENDED AND RESTATED
JOINT POWERS AGREEMENT**

THIS AMENDED AND RESTATED JOINT POWERS AGREEMENT, made as of the 4th day of June, 2014, by and between the Minnesota Counties Computer Cooperative ("MCCC") and _____ ("Member"), to amend, restate and redefine the operation of MCCC, and the rights, benefits, obligations and liabilities of MCCC members.

WITNESSETH:

WHEREAS, MCCC and its participating members have established by agreement an organization through which the parties may jointly and cooperatively provide for the establishment, operation, and maintenance of data processing facilities, software and other information management systems for the use and benefit of the parties; and

WHEREAS, Minnesota Statutes, Section 471.59, authorizes two or more units of government jointly or cooperatively to exercise any power common to the parties or any other similar power and by agreement to provide for a joint board representing the parties to the agreement;

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and pursuant to Minnesota Statutes, Section 471.59, as amended, and any other applicable statutes, the parties hereto do hereby mutually agree, affirm and agree as follows:

**Article I
Purpose**

Member and the other members of MCCC have agreed to a cooperative mechanism, enabling them to jointly exercise powers common to each participating member to:

- A. Develop, maintain and enhance proprietary software programs and related information systems and services of interest to MCCC members and licensees, that can be registered and owned by MCCC, and which may also be offered to third parties for commercialization by license or other agreement outside of Minnesota;
- B. Acquire or license third party software programs and related information systems and services of interest to MCCC members;
- C. Provide for post-installation training, maintenance, support, enhancement and related managed professional services for MCCC software programs and related information systems;

- D. Pursue government and related technology grants and related opportunities to acquire or improve software programs and information systems of interest to MCCC members and eligible licensees;
- E. Assess, collect, hold and disburse dues, contract payments and other member contributions authorized by the Board;
- F. Employ a full time Executive Director to administer MCCC operations and directives of the Board, and such other employees as may be necessary or desirable to administer MCCC operations;
- G. Rent, purchase or otherwise acquire and hold property and other assets necessary or reasonably desirable for the successful operation of the MCCC;
- H. Organize and conduct annual regional and MCCC conferences, User Group training sessions, workshops and other meetings of members and licensees; and
- I. Establish and maintain a listing of such minimum acceptable contract terms to be included in any software license or managed services agreement, including such minimum required liability insurance obligations for all such licensors or service providers that meet or exceed the minimum standards as recommended from time to time by the Minnesota Counties Intergovernmental Trust (MCIT), or of any other primary insurer of MCCC.
- J. Engage in such other similar or related services and programs as determined by the Board as are incident to and proper or reasonable to carry out the foregoing.

It is further the intent of the members to establish procedures whereby additional qualifying members may be added to Agreement, and to establish a mechanism whereby additional and/or alternative programs and services may be developed for the benefit of MCCC members and eligible software licensees.

Article II Name

The name of this joint powers entity shall be the MINNESOTA COUNTIES COMPUTER COOPERATIVE, hereinafter sometimes referred to as the "MCCC".

Article III Membership

Membership in the MCCC shall be open to any governmental unit or other political subdivision of the State of Minnesota as contemplated by M.S. 471.59 Subdivision 1. The Board may impose such conditions on membership, and may create or modify different classes, levels or types of membership within MCCC, with differing member rights, privileges or obligations as it deems appropriate to protect the interest of the MCCC and to provide for the benefit of its

members; and in compliance with such conditions as are required by this Agreement, then-current Bylaws as amended ("Bylaws"), or by applicable statutes, administrative rules or other applicable Minnesota regulations for Minnesota joint powers organizations. During the term of membership, Member shall be entitled to use software and related managed professional services for all software in use by any User Group that Member belongs to, subject to payment of all applicable User Group fees or other associated charges relating to such software.

Member agrees that such access and use of software is also contingent upon and subject at all times to compliance with all then-current MCCC software and information systems rules and regulations (as well as those license and other covenants and obligations made by MCCC with any third party owners). Member shall maintain in strictest confidence any and all software source code, user documentation or other confidential asset of MCCC and/or any third party licensor, and acknowledges that such access and usage is reserved and authorized solely for Member's confidential internal use only, and that Member has no right to, and will not sell, license, distribute, transfer or otherwise make any unauthorized copy of any software source or object code or system or user documentation or any derivatives thereof, or to make any other unauthorized use of such assets without the prior written authorization of the MCCC Board or the Executive Director; and that all MCCC or third party licensor software or other property (including copies thereof) will be removed from such Member's computer system and returned to MCCC (or destroyed, if so requested by MCCC), promptly following such Member's withdrawal, other termination of membership, or following any uncured breach of such license or other software use agreement. In the event that any Member is authorized to and modifies the source code, such Member shall indemnify, defend and hold the MCCC, other members or licensees, harmless from any claims resulting from such modifications, as well as for any unauthorized disclosure or other unauthorized use of such source code.

Article IV Board of Directors

There is hereby created a Board of Directors of the MCCC, herein referred to as the "Board", which shall be empowered to oversee and administer the MCCC, in the manner provided in the Bylaws, as may be amended from time to time. The Board shall be fully empowered to oversee and direct all the affairs of the MCCC and to do all things necessary or convenient for the furtherance of the purposes of the MCCC, including but not limited to: expending and receiving funds; entering into contracts, leases, and other agreements and obligations; employing personnel either as employees or by contract, including consultants, such as technology advisors, attorneys, accountants or others. At all times as Member is an eligible Voting Member (as such term is defined in the Bylaws), Member and each other eligible MCCC Voting Member shall elect those Board representatives as provided in the Bylaws, who shall each serve for an indefinite term and until such Board representative dies, resigns, retires from employment with, or is otherwise removed or replaced by the affirmative vote of a majority of the Voting Members present and participating at the Annual Meeting, or at a special meeting of the Voting Members called, noticed and held for such purposes.

The Board shall have the full authority and direction of Member to oversee and manage the business of the MCCC, except:(a) as may be limited or otherwise modified from time to time by

any resolution duly approved by the majority affirmative vote of Voting Members in attendance at the Annual Meeting, or at a special meeting of Voting Members called, noticed and held for such purposes; or (b) and/or except for matters of long range policy, or any proposed amendment of this Agreement or of the Bylaws; or (c) the approval of the MCCC annual budget, which shall each be the exclusive province of the Voting Members. The MCCC Board shall be comprised of the officers, regional representatives, and the Information Service Support Group at-large Member, all as designated in the Bylaws, and a majority of all then-current Board members shall be necessary and sufficient to constitute a quorum for the transaction of business.

Article V User Groups

The Board shall be empowered to create, manage, modify, or terminate MCCC user groups, to be comprised of members and other licensed end users of similar software programs and other information systems ("User Groups"), to be operated under such standard User Group rules and regulations as have been approved from time to time by the Board (the "User Group Rules and Regulations"). Subject to Board approval, User Groups may elect and replace User Group officers; create and administer annual User Group budgets; and prepare recommendations for User Group software or information systems acquisitions, enhancements or related services of interest to that User Group's participants, or propose revisions to its User Group's Rules and Regulations.

Article VI Bylaws and Operating Policies and Procedures

MCCC's then-current Voting Members shall adopt, and shall have the sole power and authority to amend or replace the Bylaws, which shall provide for the operation and administration of the MCCC. The Voting Members, by resolution of the affirmative majority vote of eligible Voting Members in attendance at the Annual Meeting, or at any special meeting called, noticed and held for such purpose, or by electronic or mailed ballot in lieu of a meeting, may also adopt and modify User Group Rules, or any other operating policies and procedures, or other policies or agreements that may be created or utilized from time to time to direct and document the specific activities of the MCCC, consistent with this Agreement and the Bylaws.

Article VII Financial Matters/Limitation of Liability

MCCC shall have a calendar fiscal year beginning January 1 and ending each December 31. On or before June 1 of each year, the MCCC Board shall prepare and circulate to each Member a proposed annual budget for the following calendar fiscal year, comprised of budgeted operating costs, other expenses, capital costs and other revenues and expense categories, which budget will be subject to review, adjustment and/or approval for the next year by the affirmative majority vote of Voting Members at the Annual Meeting, to be held each June. During each fiscal year, the approved MCCC budget and individual line items therein may be adjusted by the Board in order to reflect actual costs incurred; changes in estimated expenses, costs or revenues; or reallocation of budgeted costs and expenses, with any such adjustments promptly reported to all

MCCC members. Each User Group shall be responsible for determining and providing amounts to MCCC's Executive Director by June 30 of each fiscal year, which will be invoiced to participating User Group members for the following year's participation and other shared fees and expenses and as otherwise provided in the Bylaws.

Member agrees to promptly pay its proportional share of all MCCC expenses, as well as its User Group fees or other contributions upon receipt of and in the manner designated in MCCC invoices, and to pay or reimburse MCCC for its reasonable attorney's fees or other costs incurred in enforcement of this Agreement (collectively, "Costs"). All software licenses and similar agreements will include comparable provisions for User Group Members, or for licensee User Group participants, who are not eligible for MCCC membership as defined in Article III above. Member will be temporarily ineligible to vote if and for as long as any invoice(s) and any interest or other expenses remain unpaid. Minnesota Statutes Chapter 118A shall govern all depositories and investments of MCCC funds.

The Board may, at its discretion and from time to time, determine that an assessment is necessary to insure the financial integrity of the MCCC, to operate and maintain the MCCC or to carry out other purposes of the MCCC pursuant to this Agreement. Such assessments shall be in a form, manner and amount as determined by the Board, and shall be payable to MCCC by Member and other members in the manner specified by the Board, provided that any proposed assessment of Member that exceeds the amount of \$50,000 will not be binding unless and until such assessment has also been ratified by a majority of the applicable County Board of Commissioners or other ultimate governing bodies of those Voting Members present and voting at the Annual Meeting, or at a special meeting of all MCCC Voting Members called, noticed and held for such purpose.

To the full extent permitted by law, actions by the 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, all as set forth in Minnesota Statutes, Section 471.59, Subd. 1(a); provided further that for purposes of that statute, Member expressly declines responsibility for the acts or omissions of MCCC, or of any other MCCC member. The parties to this Agreement are not liable for the acts or omissions of the other participants to this Agreement, except to the extent to which they have expressly agreed in writing to be responsible for acts or omissions of any other MCCC member(s).

Article VIII Withdrawal of Member

Member or any other MCCC members may only withdraw from this Agreement, or any MCCC User Group created pursuant to Article V, in the manner provided in this Article VIII. To withdraw from a User Group and/or the MCCC, Member must first give at least ninety (90) days prior written notice of its intent to do so to the MCCC's Executive Director, to be delivered by certified or registered mail or national overnight courier service or by facsimile or email, in cases where Member can provide verified, reliable proof of delivery, with such withdrawal to become effective as of the first day of the calendar quarter following the quarter in which such notice was given and the 90 day notice period expires.

Member shall remain jointly and severally liable for its full share of all fees, costs, expenses, debts, obligations and liabilities which were incurred by or on its behalf during the term of its membership, including, without limitation, any such amounts attributable to Member's participation in any User Group for then-current or pending software or other information system deliverable, service obligation, updates, enhancements or other participatory projects or other work then in progress through the expiration or conclusion of each such User Group program as approved by the User Group prior to Member's delivery of the termination notice specified in the prior paragraph. Member's financial withdrawal liability and payment arrangements therefor will be determined by the Board, who shall calculate and offer a present value discount if such liabilities are paid as a lump sum by the Member on or prior to the effective date of termination. Member shall also be liable for all MCCC enforcement Costs for any withdrawal obligation not paid within 10 days of invoice, or of such other payment deadline as specified by the Board.

Member's withdrawal shall not affect the continuance of the MCCC or any User Group by the remaining members and other participants. If Member terminates or ceases to qualify for participation in the MCCC, Member shall have no right or claim to the assets, reserves or other holdings of the MCCC on withdrawal or termination, unless deemed appropriate by the Board, who may, in its sole discretion, determine the nature and timing of any distribution of assets to a withdrawing member.

Member may apply for post-termination use of MCCC software in use by such Member as of withdrawal, in the same manner as provided in Article X below for termination of MCCC membership.

Article IX Insurance

From time to time, MCCC may purchase and maintain liability insurance coverage with carriers and such coverage terms as are approved by the Board, in order to insure the activities of MCCC and its joint software, information systems and services, with copies of such policies made available to members upon request.

- A. MCCC shall be considered a separate and distinct public entity to which the parties have transferred all responsibility and control for actions taken pursuant to this Amended and Restated Joint Powers Agreement. MCCC 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 Minnesota Statutes, Chapter 466.

- B. MCCC shall defend, indemnify and hold Member harmless against all claims, losses, liability, suits, judgment, costs and expenses by reason of the action or inaction of the Board and/or employees and/or the agents of MCCC. This Agreement to indemnify and hold harmless does not constitute a waiver by any participant of limitations on liability provided under Minnesota Statutes, Section 466.04.

Article X
Term of Agreement/Termination of All Member Agreements

This Agreement shall remain in effect indefinitely until:

- A. Terminated by the written agreement of Member and all other MCCC members;
- B. Suspended or superseded by a subsequent agreement between all MCCC members, adopted and approved at a duly called meeting or otherwise as provided by the Bylaws;
- C. Dissolution of MCCC by affirmative vote of a majority of its members;
- D. Otherwise terminated by operation of law;

In the event that the MCCC is terminated as specified in subsections (A)-(D) above, and subject to the provisions of Article XII below relating to potential future use of software products then in use by MCCC, any property or other assets acquired by the Board shall be distributed to Member and the then-current other members in a manner commensurate with their contributions, or otherwise as determined by the Board. However, sufficient reserves shall be retained and maintained consistent with the MCCC's obligations and known or foreseeable risks, under this Agreement, the Bylaws, and applicable laws or regulations.

Article XI
Term of Agreement/Termination of Member's Agreement

This Agreement shall remain in effect indefinitely until:

- A. Terminated by the mutual written agreement of MCCC and Member; or
- B. Terminated by MCCC following delivery of any exclusion notice issued by MCCC to Member under [Article VI] of the then-current MCCC Bylaws, or otherwise in any manner provided for therein.

Article XII
Post Termination Use of MCCC Software

Termination under Article X or Article XI will also terminate Member's rights and license to use MCCC software or related services, except with MCCC's express prior written consent. MCCC agrees to grant its consent upon request and provided that Member is no longer delinquent in any payment or other pre-termination obligations for the then-current version(s) of any software owned by MCCC, and/or licensed from third parties and sublicensable after termination of such membership. Any such post-termination use of software by a former Member will be on a nonexclusive, nontransferable basis; fully subject to the terms of any then-current license or sublicense agreements; and contingent on the execution of an assumption, release and indemnification agreement in a form specified by MCCC, acknowledging that such software is

being acquired without warranty and in "AS IS" condition, and that the user(s) thereof will indemnify, defend and hold MCCC, its other members, employees, licensees and other affiliates harmless from any liability for post- termination use thereof.

Article XIII
Entire Agreement; Amendments

This Agreement, the Bylaws and applicable User Group Rules and Regulations constitute the parties' entire agreement and understanding regarding the organization and general operation of the MCCC. This Agreement replaces all prior oral or written agreements or understandings regarding the common exercise of joint powers as contemplated by Minnesota Statutes § 471.59. Any Voting Member may propose one or more amendments to this Agreement, which shall be forwarded to all Members upon receipt. In order to amend this Agreement, at least fifty five percent (55%) of all eligible Voting Members attending the Annual Meeting or any special meeting called for such purpose, or voting by electronic or mailed ballot taken in lieu of a meeting, must affirmatively approve of such amendment, effective as of the date of the meeting or resolution, or such later affirmative date as may be specified therein.

Article XIV
Remedies

Amounts not paid by Member within 30 days of invoice (or such other time period as may be specified by the Board) shall bear interest on the unpaid balance from date of invoice at the lower of : (a) 9 percent per annum, compounded quarterly; or (b) the highest legal rate allowed by applicable law. MCCC shall also be entitled to recover or be reimbursed from Member for all Costs incurred in enforcement.

Article XV
Governing Law/Jurisdiction and Venue

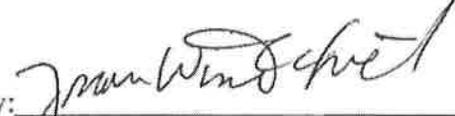
This Agreement will be governed by the laws of the State of Minnesota. Each party irrevocably submits to the jurisdiction of the applicable federal or state courts located in Ramsey County, Minnesota. Member and MCCC each agree that such courts shall be the exclusive venues for any disputes arising hereunder.

IN WITNESS WHEREOF, the undersigned Member and MCCC have caused this agreement to be signed in duplicate or counterpart originals, all of which are considered to be a single agreement dated and effective as of the date hereof and delivered on their behalves.

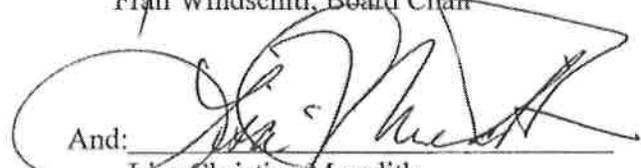
_____ (MEMBER)

MINNESOTA COUNTIES
COMPUTER COOPERATIVE (MCCC)

By: _____
Name: _____
Board Chair

By: 

Fran Windschitl, Board Chair

And: 

Lisa Christine Meredith
Executive Director

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**MINNESOTA COUNTIES
COMPUTER COOPERATIVE**

BYLAWS

As adopted March 2, 1978
As amended November 30, 1978
As amended June 8, 1979
As amended June 11, 1982
As amended September 9, 1983
As amended June 8, 1984
As amended October 4, 1984
As amended June 13, 1986
As amended June 12, 1987
As amended November 15, 1988
As amended June 9, 1989
As amended June 8, 1990
As amended June 14, 1991
As amended June 12, 1992
As amended June 6, 2002
As amended June 9, 2004
As amended June 8, 2005
As amended June 6, 2007
As amended June 4, 2008
As amended June 4, 2014

**MINNESOTA COUNTIES
COMPUTER COOPERATIVE**

AMENDED AND RESTATED BYLAWS

June 4, 2014

**ARTICLE I
PURPOSE**

Section 1. The purpose of the Minnesota Counties Computer Cooperative (“MCCC”) is to jointly and cooperatively provide for the establishment, operation, and maintenance of data processing systems, facilities, training services, managed professional services and management information systems for the use and benefit of the parties, as well as the commercialization of its proprietary software for licensed use by third parties.

**ARTICLE II
POWERS**

Section 1. The Minnesota Counties Computer Cooperative shall take such action, as it deems necessary and appropriate to accomplish the general purposes of the organization as set forth in the Amended and Restated Joint Powers Agreement of even date.

**ARTICLE III
DEFINITIONS**

Section 1. "Board" shall mean the MCCC’s Board of Directors, to be organized and operated as provided herein.

Section 2. "Charges" shall mean any and each of: (a) annual Dues or other periodic charges billed to a Member and/or Licensee for services provided or to be provided to that party as a result of membership in a User Group; (b) such other charges billed to a Member and/or Licensee for goods or services specifically requested by such participant; and (c) an equitable share of the cost of the MCCC's Annual Meeting.

Section 3. "Dues" shall mean each Member's and/or Licensee’s annual payment to MCCC, consisting of an equitable share (as determined by the Board) of the annual budget approved by the Board at the Annual Meeting.

Section 4. “ISSG” shall mean the Information Services Support Group, comprised of Member or Licensee information technology/data processing professional employees who meet to provide technical assistance to the MCCC staff and User Groups; coordinate MCCC information systems training; and evaluate and advise on software, hardware, documentation, education and managed professional services.

Section 5. "Joint Powers Agreement" shall mean the Amended and Restated Joint Powers Agreement, as adopted by each eligible Member as provided in Minnesota Statutes 471.59, and as may be amended from time to time.

Section 6. "Licensee" shall mean any other governmental subdivision, agency, group, or any non-governmental entity or group that is not eligible to be a Member, including, without limitation, an agency of a non-county governmental entity, or a nonprofit corporation, or a trade association, or such other eligible participant that may be authorized from time to time by the Board to participate in one or more User Groups, and that has entered into a Licensee Agreement with the MCCC.

Section 7. "Licensee Agreement" shall mean an agreement defining the rights, responsibilities and obligations between MCCC and a Licensee that wishes to participate in MCCC programs for the purpose of licensing MCCC software, acquiring managed professional services, and participating in one or more User Groups and/or the ISSG.

Section 8. "Member" shall mean a Minnesota county or other Minnesota governmental subdivision that is eligible to enter into a joint powers agreement under Minnesota Statute § 471.59, and that has ratified and executed the Joint Powers Agreement and has paid those membership Dues and other Charges established by the MCCC from time to time.

Section 9. "Non-Voting Member" shall mean a Minnesota-based Member county or other Minnesota governmental subdivision that participates in only one or two User Groups, but not the ISSG, or one User Group and the ISSG. Non-Voting Members shall be entitled to receive notice of and attend all Member meetings, but shall not vote, or be counted for determining a quorum for voting purposes.

Section 10. "User Group" shall mean a group of Members and/or Licensees who use common software application(s) and who meet regularly to provide direction to the Board regarding selection of vendors for software development, maintenance, marketing, training, modifications, and enhancements for such software applications and services, as well as the ISSG, other than for voting qualification purposes of Section 9 above. User Groups fall into two categories: a) Large User Groups with 40 or more users; or b) Small User Groups with less than 40 users. For purposes of User Group voting, and for defining User Group size, each Member or Licensee shall be counted as a single user, regardless of the number of internal licensed seats, authorized users, etc. held by such Member or Licensee.

Section 11. "Voter(s)" are those full time or part time employee representatives of Voting Members that attend Member or User Group meetings and that vote on behalf of such Voting Member. Each Voting Member may, at its option, and from time to time, rank and prioritize the Voter participation for any meeting or other Voting Member resolution by delivering written notice thereof to the Executive Director, which ranking shall control for all purposes until revoked or replaced. In the absence of such ranking, any employee(s) of such Voting Member in attendance at a meeting shall determine internally how such ballots shall be cast, and who is entitled and authorized to deliver any Voting Member's ballot card distributed at a Member meeting. For electronic or

emailed ballots, all Voter ballots will be tabulated, and the majority number of Voter votes of eligible employees shall determine the vote of such Voting Member, with any ties counted as a “no” vote, unless and to the extent such Voting Member has ranked and prioritized its Voters. In such event, the then-current ranking shall be followed in determining who is entitled to vote on behalf of such Voting Member.

Section 12. “Voting Member” shall mean a Member county or other governmental entity located within Minnesota that participates in at least three User Groups, or at least two User Groups and the ISSG.

ARTICLE IV **MCCC OFFICE**

Section 1. The principal office of the MCCC shall be at a location determined from time to time by the Board.

ARTICLE V **RULES AND REGULATIONS**

Section 1. From time to time, the Board may adopt Rules and Regulations to govern the business and operation of all User Groups regarding membership fees, Charges for software applications, managed services agreements and/or other jointly authorized projects that the group is concerned with, and any other group-related matters not specifically addressed by Articles I through XIII of these Bylaws. Such Rules and Regulations shall be considered supplementary to the Bylaws, and cannot conflict with or be inconsistent with these Bylaws, and may at any time be modified, replaced or repealed by majority vote at any meeting of the Board at which a quorum is present, or by affirmative vote of a majority of written or electronic ballots cast, with the total number of ballots so cast being at least equal to the number as would be sufficient to constitute a quorum for a Board meeting.

Section 2. The Board shall also adopt, maintain and from time to time, update a set of core contract principles and minimum standards that must be included within any software or service agreements (e.g. development, enhancement, licenses, maintenance, support or other service agreements) or other MCCC contracts. Any deviation from such core principals or minimum standards by any User Group will require the Board’s prior written consent.

ARTICLE VI **MEMBERSHIP RIGHTS**

Section 1. (a) Voting Members shall be the only Members entitled to vote on Member resolutions, and each Voting Member shall be entitled to cast one (1) vote for each Member resolution, as well as one (1) vote in each User Group for purposes of managing the application(s) and conducting other business therein, with all voting to be conducted by the Voting Member’s Voter(s), subject to any then-current ranking and prioritization of record with the MCCC’s Executive Director.

(b) Each Non-Voting Member is also entitled to participate in and cast one (1) vote in each User Group it belongs to, but shall have no vote on any Member resolution. Its User Group votes shall be cast by the then-current designated User Group representative, if one has been appointed by the Non-Voting Member by giving written notice to the Executive Director, or by those full or part time employees of such Non-Voting Member in attendance at any User Group meeting, or exercising the right, in the absence of any designated representative, to cast an electronic or mailed ballot. In the absence of any designated representative, votes of a Non-Voting Member shall be counted as cast by the majority of its employees attending such User Group meeting or participating in any electronic or mailed User Group ballot, with any ties counted as a “no” vote. Non-Voting Members shall also have the right to receive notices of and are entitled to attend any Member meetings, but shall have no voting rights, and shall not be counted for any quorum requirement.

(c) Each Licensee shall have the right to receive notice of and attend each User Group or Member meetings, but shall have no voting rights, and shall not be counted for any quorum requirement.

Section 2. (a) A joint powers entity, either as a Member or Licensee, may serve as the representation and fiscal agent for entities belonging to it, but each individual member of such joint powers entity that is not and never has been a Member or Licensee of the MCCC is liable for and must pay the Dues, One-Time Fee and all other then-current applicable Charges set by the Board, in order to use software and otherwise participate in MCCC through a joint powers entity.

(b) For each User Group in which it uses MCCC software or otherwise participates, each Non-Voting Member and Licensee shall pay the then-current annual User Group Dues set by the Board, which Dues shall not exceed the amount of then-current Member Dues set by the Board.

Section 3. A Member or Licensee shall cease to qualify for further use of MCCC software applications and other participation, and will be excluded and terminated therefrom when it fails to comply with the provisions of the Joint Powers Agreement, a Licensee Agreement, these Bylaws, or such Rules and Regulations as may be issued from time to time by the Board. An essential and material condition of participation is also the timely payment of all One-Time Fees, Dues, Charges, Costs (as defined in the Joint Powers Agreement) or other assessments made by the MCCC from time to time. Exclusion shall be effective on delivery of termination action by the Board, whose determination shall be final, binding and non-appealable.

Section 4. Any Member or Licensee that ceases to qualify for participation in the MCCC shall remain liable for its full share of any Dues, Charges or other costs accrued prior to its termination of participation, payable as and when due, or otherwise as designated by the Board, together with any attorney’s fees or other costs incurred in collecting past due amounts, enforcing these Bylaws, the Joint Powers Agreement, any Licensee Agreement, or other agreement or obligation between MCCC and a Member or Licensee. In lieu of continued payments by such terminated Member or Licensee, the Board reserves the right to assess a lump sum termination payment against such Member or Licensee, to be computed by subtracting the stated value (or such value as may be determined in good faith by the Board) of any accrued, but unpaid Member joint ownership share, if applicable, of MCCC software applications or other assets co-owned and

developed by such Member, from such Member's remaining aggregate future payments due for all Dues, Charges and other amounts owed, and then reducing such sum to present value (using the then-current Wells Fargo Bank NA prime lending rate). Terminated Members shall in no event be entitled to any refund or other credit if the amount due after present value calculations is negative. Except as may be available by application and in the manner expressly identified in the Joint Powers Agreement or Licensee Agreement for software, or as otherwise may be granted by the Board from time to time and in its sole discretion, no such Member shall retain any ownership, and no such Member or any terminated Licensee shall retain any usage rights or other interest in any MCCC software, assets, properties or revenues following termination as specified herein.

ARTICLE VII **MEMBER VOTING**

Section 1. Each Voting Member shall be entitled from time to time to designate or rank and prioritize those Voters entitled to vote on such Voting Member's behalf, for any Member resolution, whether at a Member meeting, or by electronic or mailed ballot, in the manner identified in Article I, Section 11.

Section 2. At each annual Member meeting, as called and noticed by the Board and to be held in the manner provided in Article XI, the Voting Members shall elect the officer(s) and other Board representative designated in Article VIII. Voting Members shall also be entitled to vote at any special meetings called by the Board, or via any electronic or mailed ballots approved and circulated by the Board in accordance with these Bylaws.

Section 3. The Voting Members, to the exclusion of the Board, shall have the sole and exclusive rights to authorize: (a) amendment of the Joint Powers Agreement or the Bylaws; (b) adoption of the MCCC budget; or (c) changes to the MCCC staff.

Section 4. Special meetings of the Voting Members may be called at any time by the Board, or upon the written request of at least 25% of Voting Members. Upon receipt of such request, the Secretary-Treasurer shall give notice of the meeting, setting forth the time and purpose thereof, and to be held as soon as practicable, but in all cases within 60 days of receipt of such request. Business at any special meeting shall be limited to the purpose(s) stated in the meeting notice, and any Member may attend, regardless of voting status.

Section 5. The presence of at least fifty percent (50%) of all Voting Members shall constitute a quorum to transmit business at any meeting thereof.

Section 6. Any meeting among Members may be conducted wholly or in part by one or more means of remote communication (conference telephone, webcast or such alternate means as may be authorized by the Board from time to time, and where all attendees physically present at the meeting and those participating remotely may hear and communicate with each other during the meeting), provided that timely, valid notice is given, and the number of Voting Members so participating in such meeting is sufficient to constitute a quorum.

Section 7. Any action that may be taken at a meeting by Voting members may be taken without a meeting by written action, evidenced by the affirmative majority of electronic or mailed ballots cast by at least the number of Voting Members that would constitute a quorum for meeting purposes.

ARTICLE VIII
BOARD OF DIRECTORS

Section 1. At each Annual Meeting, commencing with the Annual Meeting at which the Voting Members approve the amendment and restatement of these Bylaws, the Voting Members shall elect the office of Secretary-Treasurer, together with any other office occupied in the immediately preceding term by any person filling an office vacancy by appointment, and who had not been elected as an officer within the preceding two years by majority vote of the Voting Members. Subject at all times to the preceding rule requiring all officers to be elected by the Voting Members, at the next Annual Meeting, and at each Annual Meeting thereafter the Board shall appoint the then-current Vice Chairperson as new Chairperson, the then-current Secretary-Treasurer as new Vice Chairperson, and a the Voting Members shall elect new Secretary-Treasurer. New officers shall take office at the adjournment of the Annual Meeting in the year in which they are elected.

Section 2. In addition to the officer(s) elected by the Voting Members as set forth in Section 1 above, there shall be elected four (4) Regional Representatives of the Board, who shall serve from four (4) geographic regions as may be designated from time to time by the Board. Each Regional Representative shall be elected by the Voting Members of such region, and shall each serve for a term of two (2) years following election. The Regional Representatives of Regions I and III shall be elected in even-numbered years; the Regional Representatives of Regions II and IV shall be elected in odd-numbered years, with all such elections conducted at the designated annual regional meetings.

Section 3. Following the approval of these Amended and Restated Bylaws at the 2014 Annual Meeting, and at each Annual Meeting held in even years thereafter, the Voting Members shall also elect an at-large Board member, who shall be an information technology professional employee and then-current ISSG member.

Section 4. The Board shall consist of the then-current Board officers, the four (4) Regional Representatives, the ISSG at-large Board member, and the immediate past Chairperson, who shall each have one vote on all Board matters.

Section 5. A vacancy in the Board shall immediately occur in the office of any officer or other director upon his/her resignation, retirement or death, or upon otherwise ceasing to be a qualified full or part-time employee of a Voting Member.

Upon any vacancy occurring in any office with less than six months remaining in the then-current term, the Board shall appoint a successor, to serve out the remainder of the then-current term, with a new election for each such vacated office to be held at the next Annual Meeting.

Upon any such vacancy occurring in any office with at least six months remaining in the then-current term, it shall be filled by a special election of the Voting Members, after giving effect to the normal progression of remaining officers from Secretary-Treasurer to Vice Chair, and Vice Chair to Chair, with the special election to fill each office for the balance of the then-current term, and with such officers so elected subject to normal progression rules as identified in Section 1 above for succeeding terms.

Upon vacancy occurring among the Regional Representatives, the Region shall fill such position for the balance of the then-current term, and pursuant to Article VIII, Section 2.

Section 6. The presence of a majority of the members of the Board shall constitute a quorum at any meeting thereof, but the members present at any meeting, although less than a quorum, may adjourn the meeting from time to time. At all meetings of the Board, each director shall be entitled to cast one vote on any question coming before the meeting. A majority vote of the directors in attendance at any meeting at which there is a quorum shall be sufficient to transact any business, unless a greater number of votes is required by law or these Bylaws. A director shall not appoint a proxy for himself or herself or vote by proxy at a meeting of the Board. For purposes of determining whether a director has met his or her fiduciary duties as a director, but for no other purpose, a director who is present at a meeting of the Board when an action is approved by the Board is presumed to have assented to the action, unless the director votes against the action or is prohibited from voting on the action.

Section 7. The Chairperson shall preside at all meetings of the Board, and shall also serve as MCCC's principal spokesperson.

Section 8. The Vice Chairperson shall act as the Chairperson by written direction of the Chairperson, and/or in the absence of the Chairperson at any meeting that the Chairperson cannot attend.

Section 9. The Secretary-Treasurer shall be responsible for keeping a record of all the proceedings of the Board, for custody of all funds, for the keeping of all financial records of the organization and for such other matters as shall be delegated him/her by the Board.

Section 10. The Board may appoint a recording secretary, who, if appointed, shall assist the Secretary-Treasurer in making a written record of all MCCC meetings, and with such other duties or assignments as the Chairperson or Secretary-Treasurer may designate.

Section 11. The Board may create, modify or disband User Groups, the ISSG or any special groups or committees, and may also appoint persons as deemed appropriate to serve on special committees.

Section 12. The Board may be delegated any special responsibilities and authority at the discretion of the Board, unless otherwise specifically provided for by the Joint Powers Agreement or these Bylaws.

Section 13. The Board or its designees shall participate in the negotiation of contracts with vendors chosen by majority vote of the appropriate User Group or special committee for goods or services and may execute contracts only after approval of a majority of the Members and Licensees participating in the User Group or special group or committee.

Section 14. The Board shall also negotiate and execute contracts for goods and services already approved in MCCC's annual budget.

Section 15. Any meeting among Members may be conducted wholly or in part by one or more means of remote communication (conference telephone, webcast or such alternate means as may be authorized by the Board from time to time, and where all attendees physically present at the meeting and those participating remotely may hear and communicate with each other during the meeting), provided that timely, valid notice is given, and the number of Voting Members so participating in such meeting is sufficient to constitute a quorum.

Section 16. Any action required or permitted to be taken at a meeting of the Members may be taken by written action signed (or electronic ballot cast) by the number of Voting Members that would be required to take the same action at a meeting of the Members at which all Voting Members were present. All Members shall be notified immediately of the text and effective date of any such written action that is duly taken. Such written action is effective when signed by the requisite number of Voting Members, unless a different effective time is provided for in the written action.

ARTICLE IX STAFF

Section 1. The Board may employ or contract for appropriate full time or part time professional, administrative, technical or other staff members. Changes in the number of staff positions shall be approved by the Voting Members.

ARTICLE X COST SHARING AND FUNDS

Section 1. The fiscal year of MCCC shall be the calendar year, beginning January 1 and ending December 31.

Section 2. Subject to approval by the majority of the Voting Members at the Annual Meeting, the Board shall calculate and propose annual Dues and Charges through an equitable cost-sharing formula and annual budget. Upon approval at the Annual Meeting, the cost-sharing formula and annual budget for the next fiscal year shall be final and binding, and a summary thereof shall be prepared and made available to each Member and Licensee no later than July 15th of each year.

Section 3. In the absence of a specific agreement stating otherwise, MCCC's development costs will be shared equally by those Members and Licensees participating in and belonging to the applicable User Group. In development programs where all members are participating, new User Group members shall participate and share equally by making an initial payment calculated to cover its pro-rata, equitable share of the development costs accrued to the

point of becoming a User Group member. In development programs where all User Group members are not participating, new User Group members have the option to participate or not to participate. Where a specific agreement has been approved by majority vote of any User Group, that agreement shall govern the methods used by the Board to allocate and invoice for cost sharing.

Section 4. Dues or other Charges are payable in full upon receipt of invoice from MCCC and are nonrefundable.

Section 5. Failure to pay, within forty-five (45) days of date of invoice, any MCCC Dues, Charges, or other amounts billed by MCCC shall result in a late-payment penalty charge at the lower rate of: (a) one percent (1%) per month, or (b) the highest legal rate allowed by law, compounded monthly on the unpaid balance. The Board shall have authority to waive any late-payment penalty charge, upon a showing of excusable neglect or other good cause, as determined in its sole discretion. Each Joint Powers Agreement and Licensee Agreement shall contain provisions obligating each Member (or Licensee) to pay or reimburse MCCC for its reasonable attorney's fees and other expenses incurred in the enforcement of any MCCC right or remedy thereunder.

Section 6. The Secretary-Treasurer shall be authorized to establish one or more bank accounts for MCCC, with preference given to federally insured financial institution.

Section 7. Expenditures of MCCC shall not exceed the total approved budget for any one-year; with the exception of the equipment budget which can be carried over year-to-year to be used for equipment purchases only.

ARTICLE XI MEETINGS

Section 1. The annual meeting of Members (the "Annual Meeting") shall be held each June at a date and location determined by the Board in accordance with these Bylaws. The Annual Meeting shall be held for the election of officer(s), the establishment of an equitable Dues structure and adoption of an annual budget for the following next year, and any other business as deemed appropriate by the Board. All Members and Licensees shall receive notices of the Annual Meeting, as well as access to those reports prepared for the Annual Meeting, although voting is limited to Voting Members.

Section 2. The Board shall present an annual report to members of the activities of MCCC. The Board shall keep true and accurate accounts and records of all of its activities.

Section 3. Meetings of the regional membership may be held quarterly or at the call of the duly elected Regional Representative, but shall be held at least annually in all cases.

Section 4. A special meeting of Members may be called by the Chairperson upon giving at least ten (10) days written notice to all Members. Notice of a special meeting may be waived by any Voting Member before, at, or after such meeting, by a writing signed on behalf of such Voting Member.

Section 5. The regular monthly meeting of the Board shall be held on the second Thursday of each month, which time may be rescheduled in any month for good cause by the Chairperson.

Section 6. A quorum shall consist of 50% or more of the members of the Board, and a vote by the majority present shall determine each Board action.

Section 7. Roberts Rules of Order shall be followed in the conduct of each meeting unless suspended by the members of the Board in attendance at the meeting.

ARTICLE XII
AMENDMENT OF BYLAWS

Section 1. These Bylaws may be amended by affirmative vote of a majority of Voting Members in attendance at the Annual Meeting or any other duly-called meeting of the Voting Members, or by any or by any electronic or mailed ballot circulated in lieu of such meeting, and approved in the manner identified in Article VII, provided that notice of such proposed amendment shall have been given in writing at least ten (10) days in advance to all Members. The Board shall forthwith notify the Members of any and all amendments adopted.

ARTICLE XIII
FINANCIAL OBLIGATION

Section 1. Pursuant to each Member's Joint Powers Agreement, a Member must provide MCCC with written notice of its objection to any new proposed financial obligation, other than future Dues, which are exclusively subject to the provisions of Article X above, or One-time Fees, Charges, previously assessed to such Member. Written notice of such objection must be provided within forty-five (45) days of initial notification of the financial obligation by giving written notice to the Executive Director. Declination of any proposed financial obligation may result in suspension or termination of Member rights in the User Group where the financial obligation was approved. Delinquent payment of any amounts owed may also result in suspension and/or termination of any Member or Licensee, in each case, as determined by the Board in its sole discretion.

These Amended and Restated Bylaws have been dated and are effective as of the ___th day of June, 2014.

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Summary of the Bylaws & Joint Powers Agreement Changes as approved by the MCCC Membership on June 4, 2014:

As requested, this memorandum will summarize the major business and legal issues that have been addressed and refined in the proposed Amended and Restated Joint Powers Agreements and Amended and Restated Bylaws submitted for approval at next week's MCCC Annual Meeting. These changes were largely made to reorganize and establish the MCCC Board of Directors as the principle decision making body; to conform the governing documents to actual MCCC operations and practices; and to help fulfill MCCC's best practices objectives going forward.

I. JOINT POWERS AGREEMENT

Article I – Purpose

- The scope of MCCC's organizational purpose and objectives has been updated and expanded to match its current activities, including the new requirement to negotiate and obtain certain minimum acceptable terms that MCCC will expect in all future licenses and other contracts.

Article III – Membership

- Confidentiality and other obligations for each member's use of software code, documentation and other confidential or sensitive materials have been clarified.

Article IV – Board of Directors

- MCCC is proposing that its Executive Committee be abolished and reorganized, expanded and authorized to act as its Board of Directors, in order to reflect current practice, as well as to better control and govern MCCC operations between Annual Meetings.
- Certain current Board decisions have been reserved for Voting Members, as noted in Articles IV, VI (revision of Bylaws); VII (approval of budget and major assessments) XIII (future amendments to Joint Powers Agreement).

Article V – User Group

- Gives the MCCC board power to standardize all User Group rules, as well as to amend or modify them.
- Clarifies user expectations regarding the protection and use of software code, documentation and other sensitive materials.

Article VI – Bylaws and Operating Policies and Procedures

- Confirms the sole authority and right of Voting Members to approve or amend the Bylaws by majority vote of those Voting Members in attendance at MCCC's Annual Meeting, in order to improve and streamline the ability to obtain a quorum and approve actions effectively and efficiently.
- Creates an alternate, oversight right of Voting Members to amend User Group rules (*NOTE: consider deleting this, to preserve sole control by the new Board of User Group operation and governance*).

Article VII – Financial Matters/Limitation of Liability

- Updates the MCCC annual budget approval process (initial preparation and approval by Board of Directors; adoption by majority of Voting Members attending the Annual Meeting).
- Clarifies the procedure for approving member assessments in excess of \$50,000.
- Incorporates the statutory liability exclusion for acts or omissions of fellow members (MS § 471.59 Subd. 1.a.).
- Adds cost recovery remedies for delinquent members' payments.

Article VIII – Withdrawal of Member

- Clarifies and expands the rules, procedures and post-withdrawal obligations for members who want to withdraw from a User Group and/or from MCCC.
- Confirms a departing member's post-withdrawal financial obligations, and adds MCCC enforcement remedies.

Article IX – Insurance

- Adds MCIT – recommended MCCC Member indemnification language.

Article X – Term of Agreement/Termination

- Reorganizing of those circumstances that trigger the ability to terminate the joint powers agreement and/or MCCC's existence, and the consequences and post-termination steps to be taken.
- Streamlines and separates the procedures for any complete termination and liquidation of MCCC and distribution of its assets from those that allow and govern termination of the Joint Powers Agreement only.

Article XI – Terms of Agreement/Termination of Member's Agreement

- A new Article XI has been added to provide two means to terminate a Member, and to clarify and expand the post-termination procedures, obligations liabilities and MCCC remedies for any Member's failure to follow post-termination processes and obligations.

- New Article XI also defines the limited, internal use, post-termination software licenses available to a departing Member in certain cases for object code versions of MCCC software.

Article XII – Post Termination Use of MCCC Software

- Expands and defines the circumstances that would also terminate a former member’s MCCC software access rights.

Article XIII – Entire Agreement; Amendments

- Amends the current two-thirds supermajority of all Voting Members to a 55% majority of those attending and voting at the MCCC Annual Meeting, including the right to approve such amendments by written or electronic ballots in lieu of holding a meeting.

II. BYLAWS

Article I – Purpose

- Updated to include all current core activities and purposes.

Article III – Definitions

- Reorganized to eliminate “Delegates”, “Alternate Delegates”, “Representatives” and “Support Group”.
- Adds a new definition for “ISSG”, and also for “Voters”, in order to facilitate prioritization and voting by those in attendance at the Annual Meeting.
- Redefines MCCC “Members” as qualifying counties or other governmental subdivisions that belong to at least 3 User Groups, including ISSG.

Article V – Rules and Regulations

- Newly expanded procedures for adopting, enforcing and amending User Group rules.
- New minimum standards and core principles to be negotiated and included in all vendor agreements.
- New User Group voting procedures, and confirmation of a Licensee’s rights to attend, but not vote, at User Group meetings.

Article VI – Membership Rights

- New procedures to specify who is authorized to cast a member’s vote, including formal adoption of MCCC’s longstanding practice of determining majority/plurality positions of a Voting Member when multiple votes are cast by its representatives.

- Clarifies obligations of departing MCCC members, and available MCCC remedies on breach of any MCCC obligations.

Article VII – Member Voting

- Replaces current Delegate and Alternate Delegate rules and procedures with new rules to prioritize and count any multiple votes of a Voting Member's meeting attendees.
- Enables 25% or more of Voting Members to call for special meetings and take action by majority vote of those in attendance.
- Authorizes remote communications for all meetings, and electronic or written ballots, in lieu of holding a meeting.

Article VIII – Board of Directors

- Reorganizes and expands Executive Committee as the new nine member MCCC Board, comprised of its Chairman, Vice Chairman, Treasurer, four regional directors, one ISSG board representative and MCCC's past Chairman.
- Establishes provisions for filing director vacancies.
- New 50% Quorum rules for Board meeting.
- Authorization of meetings to be conducted by telephone or other remote communications, and approving actions taken by written or electronic ballots in lieu of holding a meeting.

Article X – Cost Sharing and Funds

- Requires annual budget documentation be given to both Members and Licensees.
- Adds interest obligations for late or nonpayment of Member or Licensee obligations.
- Updates and conforms amendment procedures similar to those proposed for any amendment of the Joint Powers Agreement.

Article XII – Amendment of Bylaw

- Allows amendments of Bylaws by majority vote of written or electronic ballots of MCCC members, in lieu of holding a meeting.