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MEMORANDUM

To: Dane County Towns

From: Mark Hazelbaker, Dane County Towns Association Legal Counsel

Date: February 27, 2012

Re: Amendment to DaneCom Agreement

The DCTA recommends that towns sign a one-page amendment to the DaneCom agreement. The amendment will avoid challenges to the validity of the Agreement based on the assertion that not all of the 31 towns which approved the Agreement did so before the December 22, 2011 timeline in the Agreement. There have been questions about the validity of votes to approve the Agreement which were taken after December 22, 2011. I do not think those votes are invalid. Dane County has agreed to proceed with the radio system on the basis of the votes which occurred. It would be difficult for anyone to back out given the commitments made on all sides.

However, some attorneys have raised concerns. I don't know that anyone has been willing to opine in writing that the Agreement is invalid. Some are noting, however, that others may question the Agreement. It's my view that any lawyer who asks a question should be ready to present an answer. Happily, several have done so here.

This is a situation where signing a single page document can avoid a mountain of paper later. So that no one can question whether the deadline in the Agreement invalidates the votes of the last few towns, we suggest that everyone sign the amendment, which deletes that deadline. We have more than 28 towns voting to approve the Agreement; this amendment is a formality.

The Amendment is a procedural matter. It's comparable to signing an amendment to a real estate offer which changes the closing date. I believe the town chair and clerk can sign the amendment without further action if the board already approved the Agreement. However, there is nothing wrong with presenting the amendment to the Town Board if that is your town's pleasure.

Please feel free to contact me with questions.