



DANE COUNTY

Joe Parisi
County Executive

November 17, 2011

Dear Prospective "DaneCom" Radio System Partner:

We are writing to you to follow up on our letter of October 18, 2011 regarding the intergovernmental agreement (IGA) for the new countywide interoperable emergency radio communications network known as "DaneCom." Some of you, as members of the Cities and Villages Association and the Towns Association, met with us to request changes to the IGA that was forwarded with our previous letter. In an effort to be responsive to the request of our local government partners, we have made many of the suggested modifications to a revised version of the IGA that's enclosed with this mailing.

Because the IGA is being sent anew, the deadline for signing and returning the enclosed has been extended until December 22, 2011.

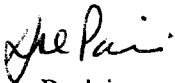
The County continues to be committed to covering the "fair share" of the operations and maintenance (O&M) costs (30%, as prescribed by the DaneCom Governing Board) and, of course, is still covering all capital costs for the system infrastructure (estimated at around an initial investment of \$16.5 million).

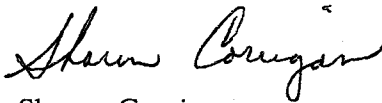
Enclosed is the new IGA and the spreadsheet (unchanged from the October 18th version) showing a close estimate for each jurisdiction's share of operations and maintenance cost based on the cost-sharing formula approved by the DaneCom Governing Board. As you may recall, that board includes three representatives of the Dane County Cities and Villages Association and two representatives from the Dane County Towns Association.

To ensure this important public safety improvement project is implemented in a timely fashion, we respectfully ask communities to please return the enclosed IGA by December 22, 2011.

If you have questions regarding the enclosed, please don't hesitate to contact us at: parisi@countyofdane.com or corrigan@countyofdane.com. You can also contact John Dejung, Dane County's Director of Public Safety Communications, at dejung@countyofdane.com.

Sincerely,


Joe Parisi
Dane County Executive


Sharon Corrigan
Chair, DaneCom Governing Board

Enclosures: IGA (updated), spreadsheet showing O&M costs for each community (unchanged)

**INTERGOVERNMENTAL AGREEMENT BETWEEN
DANE COUNTY AND OTHER MUNICIPALITIES WITHIN DANE COUNTY CREATING A COUNTY-WIDE
INTEROPERABLE VHF-BASED EMERGENCY RADIO SYSTEM KNOWN AS "DANECOM"**

This Intergovernmental Agreement ("Agreement") is made by and between Dane County ("County"), and the municipalities located within Dane County who are signatories to this Agreement, pursuant to § 66.0301, Wis. Stats.

WHEREAS, the Dane County Board has adopted Resolution 88, 2010-2011, endorsing an implementation of a trunked, digital, standards-based simulcast emergency radio system that features narrow-banding of the county's VHF system ("system"); that will include modernization of the microwave backbone of the system; and

WHEREAS, County has agreed to make an investment in the system infrastructure, not to exceed \$18 million; and

WHEREAS, the Governing Board established by Dane County Board of Supervisors Resolution 88, 2010-2011 has the authority delineated therein; and

WHEREAS, the County and participating municipalities have agreed to pay a proportionate share of the costs of the operating and maintenance costs of the system, with the annual total cost to municipalities other than the County not to exceed \$825,000.

NOW, THEREFORE, LET IT BE RESOLVED that the parties do mutually agree as follows:

1. **PURPOSE.** The parties find that it is in the interest of the residents of the County and of their respective municipalities to create an improved, narrow-banded VHF system. The intent of the parties is to provide fair use and adequate protection to their citizens through use of the DaneCom system.
2. **AUTHORITY.** This Agreement is entered into by the parties pursuant to Wis. Stats. §66.0301.
3. **EFFECTIVE DATE.** This Agreement shall commence upon the execution by all parties, which must include execution by Dane County's cities, towns, and villages, not including the City of Madison, that comprise 70% (seventy percent) of the combined population of all Dane County cities, towns, and villages, excluding the City of Madison; and upon execution by 80% (eighty percent, or 28) of the County's 34 towns. In the event this Agreement is not executed by the required number of municipalities or towns on or before December 22, 2011, it shall be void and no party shall have any obligation hereunder.
4. **RESPONSIBILITIES OF THE COUNTY.** The County shall:
 - A. Enter into a contract for design, construction and implementation of the infrastructure of the system, at a cost not to exceed \$18 million (\$18,000,000).

- B. Provide or secure needed facilities and own the system infrastructure, except for additions to the basic infrastructure constructed or installed in Fitchburg and any future additions by any party pursuant to separate agreements.
- C. Obtain and maintain all FCC licensing required for the system, provided, however, that if the County is unable to secure all necessary FCC licensing, the County may terminate this Agreement without implementing the system.
- D. Manage, administer, and control the system, including the additions in Fitchburg and in accordance with Public Safety Communications Center Board authority over telecommunications matters, except that the DaneCom Governing Board (hereinafter "Governing Board") will continue to oversee the cost-sharing model for recurring operations and maintenance expenses and related matters as set forth in this agreement.
- E. Bill municipal parties for their respective share of operating and maintenance costs as determined by the Governing Board established by County Resolution 88, 2010-2011 and the provisions of this Agreement. Attachment A is an estimate of anticipated charges. Exact charges will be determined and billed by the County no later than January 15th (for the February 15th payment) and July 15th (for the August 15th payment) each year. The County shall only include the operational and maintenance costs for goods and services that have been actually received by the County when calculating the amount of each invoice that is billed to the municipalities.
- F. If any municipality chooses not to join and pay its respective share of operating and maintenance costs, those costs will be re-distributed as follows:
 - a. If the municipality is a city or village, 70% of that municipality's costs will be re-distributed to the remaining cities and villages using the 50/50 formula described in Section 7A herein. The County will pay 30% of the non-participating municipality's costs.
 - b. If the municipality is a town, and if 80% (eighty percent, or 28) of the County's 34 towns have executed this agreement, 70% of that non-participating town's costs will be re-distributed to the remaining towns using the 50/50 formula described in Section 7A herein. The County will pay 30% of the non-participating town's costs.
- G. Allow eligible users in accordance with 47 C.F.R. §90.421.
- H. To the extent practicable, provide full access to, and allocate capacity of, the system to all parties to this Agreement for all communications needs of that party, without providing any special consideration to County agencies. Nothing herein is intended to prohibit the allocation of resources based on a reasonable prioritization based on a case-by-case evaluation of the level of public safety risk, or similar factors.

5. RESPONSIBILITIES OF MUNICIPAL PARTIES. The municipal parties shall:

- A. Cooperate with County efforts to license and use frequencies suitable for DaneCom and already authorized for use by municipalities. A municipal party will not, however, be required to cancel a current FCC license or sign a letter of concurrence for County use of any frequency.
- B. Connect no local additions to the system by wire without a separate written Intergovernmental Agreement ("IGA") with the County. County shall not unreasonably withhold its approval of such additions. Examples of additions include, but are not limited to, transmitter or receiver sites, dispatch consoles or interoperability gateways.
- D. Operate only authorized equipment on the system in accordance with reasonably established protocols and standard operating procedures.
- E. Pay operating and maintenance costs on a semi-annual basis payable on February 15 and August 15 of each year.

6. RESPONSIBILITIES OF ALL PARTIES. All parties to the Agreement shall:

- A. Pay their proportionate share of the operating and maintenance cost of the system as determined by the Governing Board on a semi-annual basis. All capital, operational and maintenance costs related to any additions by Fitchburg or other municipalities will be paid solely by that municipality.
- B. Follow all operating and technical requirements established by the County.
- C. Execute an amended agreement to reflect cost-sharing model changes reasonably based on equalized value, population, actual or estimated usage and/or other relevant and customary factors as established by the Governing Board if and when they are made.

7. OPERATIONS AND MAINTENANCE COST ALLOCATION.

- A. It is understood that annual operating and maintenance costs for municipalities will be apportioned using a 50/50 (half equalized value, half per capita, adjusted annually per Wisconsin Department of Revenue and Department of Administration websites) through the year 2015.
- B. The formula for allocating operation and maintenance costs will be reevaluated by the Governing Board and may be changed by the Governing Board for the years following 2015 to provide a more equitable allocation using the factors described in Section 6C.
- C. The annual total contribution by parties other than the County will not exceed \$825,000.

- D. Thirty percent (30%) of the total operating and maintenance expenses shall be allocated to the County each year through 2015 except as noted in Sections 4F (a) and 4F (b). Thereafter, any reallocation to the County shall not exceed 50% of the total operating cost.

8. GOVERNANCE.

- A. Except as provided in sub. B, the Governing Board shall, throughout the term of this Agreement, consist of three members appointed jointly by the Dane County Executive and County Board Chair, three members appointed by the Dane County Cities and Villages Association, two members appointed by the Dane County Towns Association, and one member each from the Dane County EMS Association, the Dane County Fire Chiefs Association, and the Dane County Chiefs of Police Association. Appointees must reside in entities that are participants in the interoperable radio communications system.
- B. In the event the percentage of the total contribution to operation and maintenance cost to be made by any of the three municipal groups having the right to appoint members to the Governing Board increases above its initial contribution percentage by fifteen (15) or more as a result of modifications to the contribution formula approved by the Governing Board, the appointing authority for that group shall have the right to appoint one additional member to the Governing Board for each 15% increase over the number of appointments provided in sub. A. If the contribution percentage of any group shall decrease by 10 or more, the appointing authority for that group shall have one fewer appointment for each 10% decrease from the number provided in sub. A. The number of appointments made by the Dane County EMS Association, the Dane County Fire Chiefs Association, and the Dane County Chiefs of Police Association shall remain unchanged. Appointments shall take effect on January 1 in the year the revised compensation formula takes effect.
- C. For the initial capital investment, if the cost of the system is less than \$18 million, the Governing Board shall make binding decisions regarding whether to allocate savings to purchase additional system elements or to expenditures designed to keep the cost of the system as low as possible so that the cost to local users for operating and maintenance would also be as low as possible. Further, the Governing Board has the authority to make decisions defining the initial and on-going operating and maintenance cost sharing methodology and payment structure. Final approval of all capital improvements in excess of \$18 million in total capital costs shall remain with the County Board and County Executive.
- D. The County will use operating, technical and equipment requirements established by the existing Wisconsin System for Interoperable Communications (WISCOM) wherever appropriate and possible.

9. WITHDRAWAL. A party may withdraw from this Agreement upon 18 months notice prior to the beginning of the calendar year in which withdrawal takes place, except that:

- A. The County may not withdraw from this Agreement; and
- B. No party may give notice to withdraw until after December 1, 2015.

10. LIABILITY. All parties, each and for itself, shall be responsible for any injuries, claims or losses arising from or caused by the acts or omissions of its agents or employees acting within the scope of their employment, in accordance with Wis. Stats. §§ 893.80 and 895.46(1).

11. DUTY TO COOPERATE. Each party hereto shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws.

12. NO WAIVER. In no event shall the making of any payment or acceptance of any service required by this Agreement constitute or be construed as a waiver by either party of any breach of the covenants of this Agreement or a waiver of any default of the other party and the making of any such payment or acceptance of any such service by the conforming party while any such default or breach on the part of the other party shall exist, shall in no way impair or prejudice the right of the conforming party with respect to recovery of damages or other remedy as a result of such breach or default.

13. ENTIRE AGREEMENT and AMENDMENTS. The entire Agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended by any fashion except in writing, executed by the parties. This section does not apply to separate IGAs entered into between the County and any other party with respect to additions made to the system by or for that party.

14. SEVERABILITY. The various provisions of this Agreement are declared to be severable and the findings of any court that any particular clause or clauses is or are unlawful or unenforceable shall not operate to invalidate the remainder of this Agreement and the same shall continue in effect unless modified by the parties.

15. NO THIRD PARTY RIGHTS. This is an Agreement between the parties, and nothing herein creates any rights in any third person.

DANE COUNTY

_____ (_____)
 Joseph Parisi Date
 County Executive

_____ (_____)
 Karen Peters Date
 County Clerk

_____ () _____ OF _____
(Name/Title) (Date) (Type of muni) OF (name of municipality)

(and for co-signer from same municipality)

_____ () _____ OF _____
(Name/Title) (Date) (Type of muni) OF (name of municipality)