

CITY OF LA CROSSE FIRE DEPARTMENT
And
HOLMEN AREA FIRE DEPARTMENT BOARD AND OWNERS
INTERGOVERNMENTAL SHARED ADMINISTRATION
MEMORANDUM OF UNDERSTANDING

RECITALS:

Whereas, this Memorandum of Understanding (hereafter the “MOU” or “Agreement”) concerning intergovernmental shared administration services is drafted and entered into by and between the Parties hereto on or about the 9th day of July, 2021, by their respective governing bodies; and

Whereas, the Parties hereto are the City of La Crosse (hereafter the “City”) and the Holmen Area Fire Association (hereafter the “HAFA”) (each respectively “Party” and collectively “Parties”); and

Whereas, HAFA requested certain temporary fire services and assistance from the City, including, without limitation, the City’s Fire Chief and subordinates to serve as the Acting Chief and management and administration of the Holmen Area Fire Department (hereafter the “HAFD”); and

Whereas, the City is willing to provide such temporary services under certain conditions and while the Parties explore and negotiate a long-term shared service contract; and

Whereas, this MOU enables each of the Parties to take whatever actions each may jointly or severally determine desirable and/or beneficial to effectuate the laudable intent and goals of this comprehensive, mutual approach to fire prevention, fire suppression, review, inspection services, emergency medical services, emergency hazardous substances response services, and other services incidental to the protection of person and property within their respective participating communities; and

Whereas, each Party hereto already has a longstanding history of working and assisting each other cooperatively in each of these activities; and

Whereas, this Agreement furthers the best interests of each community and governmental unit; and

Whereas, this Agreement shall facilitate greater efficiencies and economies of scale through unified management and cost sharing, while preserving the high level of fire, first responder, and other services each Party currently provides its citizens, residents, taxpayers, and businesses; and

Whereas, this MOU is intended by each of the Parties hereto to constitute a temporary yet flexible and living instrument that primarily implements the spirit, intent, and vision of the parties, as well as a signed document that memorializes and defines the present and reasonably foreseeable needs and desires of each Party. As such, this MOU may be updated and amended from time to time, and at any time, by written understandings, modifications, letters, and documents, which are signed by the Parties hereto; and

Whereas, this MOU attempts to describe, among other things, each of the Parties’ obligations with respect to 911 emergency communications, personnel, property, fire stations, fire vehicles, engines, other equipment, staffing, services, leases, cooperative efforts, and payments; and

Whereas, this MOU is not intended to establish, and does not establish, a separate governmental entity for the performance of any function. By entering this MOU, the City does not assume, and shall not be responsible for, any financial or other liabilities, whether known or unknown, with respect to the HAFD or HAFA, or any other person or entity that may currently and/or in the future exist as of the Effective Date of this MOU; and

Whereas, this MOU shall be construed and applied in accord with the laws of the State of Wisconsin.

NOW, THEREFORE, in consideration of the foregoing recitals, and the mutual promises and covenants contained in this MOU, each Party hereto promises and agrees as follows:

AGREEMENT:

1. Above Recitals Incorporated: Each of the above recitals is reiterated and incorporated herein by reference as if fully set forth verbatim.
2. Scope of Work: In concert with the La Crosse County Fire Department Mutual Aid Agreement and the Automatic Mutual Aid Agreement between the City and the HAFA, effective July 9, 2021, the Parties are prepared to move forward with one temporary joint administration.
3. "Fire Chief" shall mean the duly appointed and employed Fire Chief for the City.
4. The City shall provide the position of Fire Chief to provide temporary administrative services to HAFD for the purposes set forth herein.
5. The City has its own Board of Police and Fire Commissioners pursuant to Wis. Stat. § 62.13. The HAFA functions as a joint board of fire commissioners pursuant to Wis. Stat. §§ 60.55(1)(a)2 and 61.65(2)(b)2. For purposes of this MOU, each such board of commissioners shall retain its authority for its jurisdiction. To that end, the HAFA shall appoint the Fire Chief as Acting Fire Chief for the HAFD as well as the City's Assistant Fire Chiefs, Battalion Chiefs and Division Chiefs as Acting Assistant Fire Chiefs, Acting Battalion Chiefs and Acting Division Chiefs for the HAFD for the term of this MOU.
6. The Fire Chief and designees within the City's Fire Department (hereafter the "LCFD") organizational chain of command are responsible for oversight and management of operational and administrative services, fire prevention and investigation services, fire suppression services, first responder emergency medical and technical rescue services, training and professional standards services, public education and community risk management services, public relations, budgeting, and strategic planning.
7. The Fire Chief and designees within the LCFD organizational chain of command will respond to emergency incidents and be responsible to aid and assist in the mitigation of those emergency events to the best of the existing response force's capabilities.

8. The Fire Chief, or designee, is vested with the discretion to determine what service and equipment is necessary, and is further vested with discretion as to responding to simultaneous fires within the City of La Crosse, Village of Holmen, the Town of Holland, and the Town of Onalaska served by the HAFD. The City shall in no way be liable for the exercise of such discretion and the determination by the Fire Chief not to answer any alarm provided, the order of priority assigned to any alarms that are received, or the methods of responding to the alarm within the reasonable and available resources of the LCFD and HAFD, however, that an agent designated by the HAFA shall be notified by the Fire Chief (or designee) that the LCFD and/or HAFD are engaged in incident responses beyond available resource capacity within either agency's limits or any other town that the City or HAFA has a contract or mutual aid agreement with, and the Fire Chief has decided that LCFD and HAFD cannot safely respond to the alarm of the Village or Towns served by the HAFD. Existing mutual aid and MABAS agreements with neighboring agencies will be requested at the discretion of the Fire Chief, or designee, to respond to the potential of multiple simultaneous incidents that exceed available resources and response will be prioritized to the best abilities of available partnering mutual aid resources. These decisions will be made based on the priorities of life safety, incident scope and scale, and tactical capability considerations in balance with available emergency response resources.
9. The Fire Chief will inform the HAFA, the City's Mayor and Common Council, and the City's Police and Fire Commission of departmental shared services activities and operations as pertinent to each organization on a regular and scheduled monthly basis and as requested by each organization involved.
10. Funding: The HAFA shall provide annual funding to the City for the shared administrative services. Considering the broad scope of administrative and management services affected by this MOU and the work delegation capacity provided by the Fire Chief throughout the LCFD organizational chart, the initial associated cost for this shared administrative services MOU shall be based on an annual fee of one hundred seventy-five thousand dollars (\$175,000.00). This annual fee will include the costs to LCFD for one additional LCFD Fire Training Captain, whose position will be regularly assigned to the Holmen Area Fire District as a shift supervisor working a 112-hour bi-weekly shift schedule. This position will also provide flexibility to cover other off-shift HAFD training needs and be available to rotate with other LCFD officers as needed to the benefit of the HAFD and the Fire Chief.

The 2021 annual flat rate cost agreement that is identified in this MOU is offered in good faith by the Fire Chief based on the HAFA's commitment to immediately and continuously provide a minimum of three qualified personnel on-duty at the HAFD on a full-time basis, and to acknowledge these additional increased budget impacts of the investment into the increased staffing matrix. Subsequent negotiations working towards a long-term shared services agreement will evaluate the per capita cost ratio of services provided and/or any hybrid funding system agreeable by all Parties to be utilized for future shared services.

The HAFA shall pay to the City the initial 2021 annual administrative services fee prorated at \$14,583.33 per month. In 2021, the MOU covers six months (July 2021 – December 2021). The first 2021 payment for three months (\$43,750.00) will be due on August 15 of 2021. The second

payment for the remaining three months (\$43,750.00) will be due on October 15 of 2021. Unless changed by subsequent amendment to this MOU or a future shared services agreement, this annual calculation will be multiplied by a 3% annual increase from the 2021 base rate, and will be paid annually in two installments beginning in 2022 (1st installment by April 30th and 2nd installment by September 30th annually).

11. Working Relationship: The Fire Chief, Assistant Fire Chiefs, Battalion Chiefs, Division Chiefs and any other City employees, such as the Captain identified in Section 10, working in the Holmen Area Fire District pursuant to this MOU is an employee of the City, bound by the Policies of the City and the Rules and Regulations of the City's Police and Fire Commission, and will maintain compensation, fringe benefits, and workers compensation protection from the City during all times pertinent to this MOU. All fire personnel of the HAFA remain employees of the HAFA and will maintain compensation, fringe benefits and workers compensation protection from the HAFA during all time pertinent to this MOU.

12. The acts and/or omissions of the Fire Chief, Assistant Chiefs, Battalion Chiefs, Division Chiefs and any other City employees, such as the Captain identified in Section 10, working in the Holmen Area Fire District pursuant to this MOU are considered the acts and/or omissions of the HAFA employees. The HAFA shall indemnify, defend and hold the City harmless for any such acts and/or omissions.

13. The HAFA agrees to hold harmless and indemnify the City from any expenses incurred during any Hazardous Materials Incident. The City will bill the HAFA for these costs pursuant to the actual and necessary expenses incurred in responding to a hazardous materials incident in the Holmen Area Fire District. "Hazardous Materials Incident" means any cost or loss arising from the violation of the following:
 - i. Every person, firm or corporation using, storing, handling or transporting flammable or combustible liquids, chemicals, gasses or other hazardous materials, in the service area, shall comply with the requirements of OSHA 29 Code of Federal Regulations 1910, EPA 40, Code of Federal Regulations 311, and Chapter ATCP 93, Wis. Admin. Code, as the same is now in force and may hereafter be amended or superseded from time to time.

 - ii. Every person, firm or corporation using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials, in the service area are liable to the City for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or clean up any such hazardous material which is involved in any accidental spill or in threat of any fire or accidental spill.

14. The HAFA shall hold harmless and indemnify the City from any claim or loss, of the City, arising from any incident that occurs on properties that for the reason of slope, structure setback from roadway, lack of fire hydrant water supply, grade or weight capacity of driveway, width of driveway, overhang of buildings or trees, or other property design and access features that delay, impede or prohibit access to the property by the LCFD equipment or otherwise adversely affect or impede accepted LCFD's tactical procedures or policies.
15. Effective Date/Duration/Termination: This MOU shall take effect July 9, 2021, and shall end on June 30, 2022 at 11:59 pm.
16. Each Party expressly waives any and all claims against the other resulting from the discretionary commands or instructions and the decisions made by any Incident Commander in the course of responding to and managing any incident under this MOU, excepting only commands, instructions, or decisions made with malicious intent or with intentional disregard for the rights of others.
17. Nothing in this MOU shall be deemed to waive any governmental immunity or liability limitation to which any Party hereto is entitled by operation of law.
18. Default/Breach, Remedy: In the event that a Party defaults or breaches, on its part, in the performance or fulfillment of one or more term(s), promise(s), or condition(s) of this MOU ("Default") and shall fail to cure such Default within ninety (90) days following delivery of written notice from the other Party, specifying the Default and the date on which the right to terminate the MOU may be exercised if such Default is not cured within the ninety (90) day cure period. If the Default is not cured within ninety (90) days or some other resolution is not reached prior to the termination date stated in notice or a consensus for any extension date is not reached, as either the resolution or the extension date are mutually agreed to in a signed writing, then this MOU shall terminate in accordance with the terms and conditions of this MOU. If the Default is a failure of appropriation or other failure to make available funds or make a payment as required in this MOU or otherwise, the cure period shall be thirty (30) days from the date of written notice.
19. Order and Decision of Fire Chief Binding: In each and every instance of management and control, the decision, direction, and order of the Fire Chief shall be final, binding, and non-appealable, the same as if given by the fire chief of any other Party hereto.
20. The Fire Chief shall create and maintain Standard Policies, Procedures, and Guidelines for the mutually aligned management structure of the Departments. Emergency Medical Protocols will be approved by the Departments' mutual Medical Director. The Policies, procedures, guidelines, and medical director protocols shall allow qualified personnel of the Departments to utilize fire, rescue, and emergency medical equipment and supplies of each other's Departments according to the policies and protocols of the aligned Departments.
21. While directed and managed by the Fire Chief as part of this MOU, the HAFD reserves and will remain primarily responsible for fire prevention, fire suppression, technical rescue, and first

responder emergency medical services within the jurisdictional boundaries of the Holmen Area Fire District, as well as Fire District Fire and Building Codes, periodic fire safety inspections, and issuance of building permits and certificates of occupancy. Recognizing the importance of the LCFD being acquainted with structures in the Village of Holmen and the Towns of Onalaska and Holland, as well as being responsible for managing fire prevention measures that would protect the lives of LCFD and HAFD firefighters, the HAFD agrees to cooperate and coordinate with the LCFD administration with respect to fire prevention and inspection activities, and the LCFD will be notified and afforded the opportunity to participate in fire prevention and inspection activities upon sufficient prior notice.

22. **Applicable Codes:** The Parties agree that the Fire Codes and Building Codes for the Village of Holmen, the Towns of Onalaska and Holland, and the Fire District shall be compatible. The HAFD and HAFA jointly and severally agree to and shall, within ninety (90) days of the Effective Date of this MOU, adopt the current “International Building Code (IBC)” and the “National Fire Protection Association Fire Code (NFPA 1)”, and shall adopt any subsequent versions of the International Building Codes and NFPA 1 Fire Codes within six (6) months of the City’s adoption of said subsequent versions of said codes. If the Towns and/or Village fail to update their codes in accordance with this section, then the City may terminate this Agreement.
23. **No Conflicting Fire Codes:** The Village of Holmen, the Towns of Onalaska and Holland, and the HAFA each also agree to not adopt any laws or amendments to said building and fire codes that conflict with or are materially inconsistent with the applicable International Building Codes (IBC) and Fire Codes (NFPA 1) without obtaining the prior, written approval of the Fire Chief. The City has adopted amendments to the IBC and NFPA 1 which are already in effect for the City. Both the Village of Holmen and the Towns of Onalaska and Holland shall provide the Fire Chief copies of the adoption of ordinances, if and when so enacted, and all subsequent amendments thereto. If the Towns and/or Village fail to comply with this section of the MOU, then the City may terminate this Agreement.
24. **Emergency Medical Services and Technical Rescue Services:** The Fire Chief shall directly oversee and manage first responder emergency medical services and technical rescue services to be provided within the jurisdictional boundaries of the Holmen Area Fire District. The minimum level of first responder emergency medical services (Emergency Medical Technician level) will be equivalent to that provided to City residents during the Term of this MOU. This is in addition to what the HAFD already provides.
25. **Fire Cause Determination and Arson Investigations:** During the Term of this MOU, the LCFD shall oversee and coordinate on all “cause and origin” fire investigations within the Holmen Area Fire District, working together with qualified HAFD staff and consistent with the LCFD’s investigative practices and procedures within the City. The LCFD will work in conjunction with the HAFD and respective law enforcement agencies and the State Fire Marshal’s Office regarding all fire and arson investigations which involve, or result from, the commission of a criminal act in the Holmen Area Fire District.

26. Change of Quarters. In the event either Party's resources or ability to respond to emergency incidents are temporarily depleted as a result of deployment, equipment failure, or similar temporary impediments to service, the depleted Department may make a request for a "Change of Quarters Unit" through the La Crosse County Dispatch Center. When the other Department has available response apparatus and personnel, it shall move the equipment as directed by the Fire Chief or designee and shall be stage and be available for response as necessary and as directed.
27. Equipment and Vehicle Loans. Notwithstanding anything in this Agreement to the contrary, if either Department borrows or uses the other Department's equipment or vehicles, the borrowing Department shall be responsible for and shall timely pay for the cost of any repairs for damages sustained to such vehicles and equipment during the course and as a result of the temporary use, unless such damages were the result of the acts or negligence of the lending Department.
28. Other Shared Services Opportunities. The Parties agree to work together to negotiate and facilitate other forms of providing shared services, including, without limitation, joint staffing opportunities, shared stations and equipment, maintenance programs, aligned training and professional standards management, administrative support services, fire prevention services, public education efforts, community risk analysis and community risk reduction services, potentially improved ISO ratings, and eventual incorporation into the City Fire Department's existing accreditation by the Center for Public Safety Excellence and the Commission on Fire Accreditation International.
29. Rolling Stock, Buildings, Fixtures, Equipment, and Station Facilities: Each party shall retain and maintain ownership of its own current and future rolling stock, buildings, fixtures, equipment, and fire facilities, and at all times shall keep the same insured, solely at its own expense, for liability and comprehensive at replacement value. The Fire Chief shall make all management, direction, and use decisions as to the acquisition, maintenance, repair, replacement, and use of all rolling stock, buildings, fixtures, equipment, and fire facilities. Each Party, however, shall be solely responsible for all costs, expenses, fees, borrowing, and expenditures arising from and/or pertaining to same.
30. Each Party hereto shall be solely responsible for maintenance and ownership for all its own capital items.
31. This MOU is not intended to, and shall not be construed to, alter or amend any collective bargaining agreement now in effect. In addition, City shall have no responsibility or financial liability for and will not administer any differential pay or severance obligations that the HAFD and/or HAFA now has and/or may have for its paid and unpaid personnel, and shall have no responsibility or financial liability for any obligations that the HAFD and/or HAFA may have to said personnel and/or volunteers based upon their service to and employment and/or use by the HAFD including, but not limited to, payouts, leave, benefits, overtime, compensatory time, disability, workers compensation, merit pay, bonuses, pensions, litigation claims. In the event a firefighter union or person asserts or alleges that this MOU modifies, alters or amends any collective bargaining agreement, then either Party may terminate the Agreement.

- 32. Any references in this MOU to any particular agency, organization or officials shall be interpreted as applying to any successor agency, organization or official or to any other agency, organization or official to which contemplated functions are transferred by statute or ordinance. Any references in this MOU to any particular statute, ordinance or other law shall be interpreted as applying to such statute, ordinance or other law as recreated or amended from time to time.
- 33. Amendment: This MOU may be amended from time to time by written agreement of the Parties.
- 34. This MOU and any dispute arising from or related to this MOU shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. This MOU has been drafted by the combined efforts of all Parties to the Agreement and therefore shall not be construed against the drafter during a dispute.

Entered into this _____ day of _____, 2021.

CITY OF LA CROSSE

By: Mitch Reynolds, Mayor

By: Ken Gilliam, Fire Chief

By: Nikki Elsen, City Clerk

Entered into this _____ day of _____, 2021.

HOLMEN AREA FIRE DEPARTMENT, and
HOLMEN AREA FIRE ASSOCIATION

By: Chairperson, Patrick Barlow