

**MEMORANDUM OF UNDERSTANDING
REGARDING PETITION FOR MEMBERSHIP
TO THE EDGERTON FIRE PROTECTION DISTRICT**

This **Memorandum of Understanding** (“Memorandum”) is made this ___ day of _____, 2022 by and between the Edgerton Fire Protection District, a Wisconsin municipal corporation, (the “District”) and City of Milton, Town of Milton, Town of Harmony, Town of Johnstown, and Town of Lima, (collectively the “Petitioning Parties”) (collectively, the “Parties”).

RECITALS

WHEREAS, the District is presently comprised of all or a part of the City of Edgerton, the Town of Albion, the Town of Fulton, the Town of Porter, and the Town of Sumner; and

WHEREAS, the District was formed initially under an agreement entered into by present members of the District on or about May 7, 1992 for the purpose of providing fire protection within certain portions of the District member’s territory (“District Agreement”); and

WHEREAS, the Petitioning Parties desire membership within the District so that they may receive similar benefits afforded to the Districts’ members for fire protection and similar emergency services (“Petition for Membership”); and

WHEREAS, the Petitioning Parties understand that membership in the District will entail certain responsibilities and they are prepared to accept those responsibilities; and

WHEREAS, the Parties wish to further explore the inclusion of the Petitioning Parties within the District to determine whether or not the inclusion of the Petition Parties within the District is fair, reasonable, and appropriate for all.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the foregoing Recitals which are fully incorporated herein, the Parties hereto intending to be legally bound, hereby agree as follows:

ARTICLE I

Section 1 - District Obligations

1.0 During the term of this Memorandum, the District shall provide such information as is requested by the Petitioning Parties, and is necessary for their reasonable evaluation of the appropriateness the determination to proceed with the Petition. Such information shall include but is not limited to call volume, staffing levels, planned capital investments, inventories of equipment, operating expenses, existing designated and undesignated funds, and existing and expected liabilities.

1.2. During the term of this Memorandum, the District shall provide such assistance as is reasonably requested by the Petitioning Parties as to the design, staffing, location, and other factors related to the New Stations.

1.3 The District agrees that it shall hold the Petitioning Parties individually and collectively harmless and indemnify each as it relates to any events, claims or occurrences that occur prior to the Petitioning Parties, collectively or individually, becoming members of the Successor District. The District agrees to provide prompt notice to the Petitioning Parties of any such events, claims or occurrences.

Section 2 – Petitioning Parties Obligations

2.1 During the term of this Memorandum, the Petitioning Parties shall continue the pursuit of the engineering, design and construction of a new fire station to be located on E. High St. the Town of Milton and the construction of an additional new fire station to be located in the area of S. John Paul Road and High Street within the City of Milton, or in the alternative upon the site of the current Milton Fire Department Station (“New Stations”).

2.2 The Petitioning Parties shall include representatives of the District in that planning process to ensure that the engineering, design and construction of the New Stations are to standards acceptable to the District.

2.3 The Petitioning Parties agree that any and all costs associated with the pursuit of the engineering, design and construction of the New Stations, including any capital expenditure related to the initial construction of the New Stations up to and through the each Station’s opening for service, shall be the sole and exclusive financial obligation of the Petitioning Parties. This obligation shall continue regardless of the eventual success or failure of the negotiations under this Memorandum.

2.4 The Petitioning Parties agree to reimburse the District for all legal and any other mutually agreed-upon expenses incurred by the district in the pursuit of the consideration of this Memorandum within sixty (60) days of receiving an invoice for same.

2.5 The Petitioning Parties understand and agree that any costs that they incur in the pursuit and consideration of their Petition, shall be the sole and exclusive responsibility of the Petitioning Parties.

2.6 The Petitioning Parties shall not be entitled to any privileges, including voting privileges, nor any other member benefits of the District, until such time, if any, that the Petitioning Parties, or member of the Petitioning Parties are accepted as members within the District.

2.7 During the term of this Memorandum, the Petitioning Parties shall provide such information as is requested by the District, and is necessary for the reasonable evaluation of the

appropriateness of the approval of the Petition. Such information shall include but is not limited to call volume, staffing levels, planned capital investments, inventories of equipment, operating expenses, existing designated and undesignated funds, and existing and expected liabilities of the Petitioning Parties individually and collectively which will or may, impact fire protection operations.

2.8 The Petitioning Parties agree to be responsible for all liabilities and claims, whether known or unknown, of the current Milton Fire Department or the Petitioning Parties, which occur prior to their becoming members of the District. Further, the petitioning parties agree to hold the existing members of the district harmless and indemnify the existing members a district as it relates to said potential liabilities and claims. The Petitioning Parties agree to provide prompt notice of any such events, claims or occurrences.

2.9 In the event a successor agreement is approved between the Parties, the Petitioning Parties agree to allow the current Milton Fire Department Station to be available for use by the Successor District until the New Stations are constructed and operational, or until otherwise determined by the District. Milton Fire Department Station shall be available at no cost to the members of the existing District.

2.10 If a successor agreement is approved between the Parties which includes the City of Milton and Town of Milton, those two parties shall acquire the Petitioning Parties existing firefighting and emergency medical related assets, and shall contribute and convey such assets free of cost and encumbrances to the Successor District for use by the Successor District.

ARTICLE II- GENERAL REQUIREMENTS

1.0 The failure of any member of the Petitioning Parties to sufficiently cost share with the other members of the Petitioning Parties in the costs associated with the engineering design and construction of the New Stations shall be a valid consideration of the District as to that petitioning member's eventual inclusion within the District.

2.0 Other than as outlined herein, or in any other separate agreement, no member of the District, nor any member of the Petitioning Parties, shall be financially responsible for any costs incurred by any party in the pursuit of, or during the consideration of, the Petition for Membership, nor for any costs associated with any existing fire protection services or operations of any member, including the District. The Parties hereto, and their respective governing bodies, do hereby agree to hold each other harmless and indemnify the others as it relates to any potential liabilities or claims.

3.0 Except as may be agreed upon in any new mutual fire protection agreement, the Petitioning Parties and the District, and its members, agree to hold the others harmless and indemnify each other as it relates to any claims, events, or occurrences which take place prior to the approval of any new fire protection agreement (if any).

4.0 The Parties agree to negotiate in good faith, and to provide such information, data, documents, and materials as may be reasonably necessary in order for each to conduct their due diligence in the consideration of the petition for membership and in the drafting and creating of any new fire protection agreement and the creation of a successor district ("Successor District").

5.0 In the event that a successor agreement is approved between the parties, the parties shall work together to establish a transition timeline that adequately assures that the petitioning parties will have no lapse in fire protection or EMS paramedic service coverage while switching coverages from the Milton fire department to the district. The parties understand that the petitioning parties shall be responsible for the cost of any such transition service including, but not limited to, the cost of staffing, supplies, maintenance, utilities, temporary facilities, etc.

6.0 Until the creation of a Successor District, and such time as the Petitioning Parties are contributing financially to the Successor District, the Parties understand that the Petitioning Parties shall not have voting privileges.

7.0 In the event of any default under this Memorandum or any of its terms or conditions by either party hereto (the "Defaulting Party"), the Defaulting Party shall have the right to cure or remedy such default or breach within thirty (30) days after the other party (the "Non-Defaulting Party") has delivered to the Defaulting Party written notice thereof, unless a longer term is specified or unless such default or breach requires more than the payment of money to cure and cannot reasonably be cured or remedied within such thirty (30) day period, in which case no default shall be deemed to exist if the Defaulting Party commences to cure within such thirty (30) days of written notice thereof and takes and continues to take such reasonable action to cure such alleged default thereafter. In case such action is not taken or is not pursued as described in the previous sentence, the Non-Defaulting Party may institute such proceedings as may be necessary or desirable in its opinion to cure the default, including, but not limited to, proceedings to compel specific performance by the Defaulting Party. Nothing in this Memorandum shall be construed to, in any way, affect or control the districts, or the petitioning parties authorities and responsibilities as to fire protection services.

8.0 Each Party shall have a right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Agreement, provided that any delay by such party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this section shall not operate as a waiver of such rights or deprive it of or to limit such rights in any way (it being the intent of this provision that neither party shall be limited in the exercise of any remedy by the concept of waiver, laches, or otherwise); nor shall either party's waiver with respect to any specific default by the other party constitute a waiver of any other defaults by the other party.

9.0 The rights and remedies of the parties to this Agreement whether provided by law or provided by this Agreement shall be cumulative and the exercise by any party of any

one or more of such remedies shall not preclude the exercise by it at the same or different times of any other such remedies for the same event of default or breach or of any of its remedies for any other event of default or breach by any other party.

10.0 This Agreement is binding, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

11.0 This Agreement has been made in the State of Wisconsin and its validity, construction, performance, breach, and operation shall be governed by the laws of the State of Wisconsin. Jurisdiction shall be in Rock County Circuit Court. No provision of this Agreement shall be construed to require either the Petitioning Parties or the District to take any action in violation of law.

12.0 Whenever under this Agreement, or under the District Agreement, approvals, authorizations, determinations, satisfactions, or waivers are authorized or required such approvals, authorizations, determinations, satisfactions, or waivers shall be effective and valid only when given in writing by the officers of the Petitioning Parties, the District or its member municipalities authorized by law to give such approval.

13.0 Except as otherwise expressly provided herein, this Agreement is made solely for the benefit of the Parties hereto and no other person, partnership, association, or corporation shall acquire or have any rights during construction hereunder by virtue hereof.

14.0 If any term or provision of this Agreement or any exhibit thereto or the application thereto to any person or circumstance, shall to any extent be invalid, unlawful, or otherwise unenforceable, the remainder of this Agreement and exhibits or the application of such term or provision to the persons or circumstances other than those to which it is invalid, unlawful, or otherwise unenforceable shall not be affected thereby and every other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

15.0 This Agreement may be executed in any number of counterparts, each of which shall constitute an original.

16.0 Nothing contained in this Agreement constitutes a waiver of the Parties' individual sovereign immunities under applicable law.

17.0 Any notice, payment, demand or other communication required or permitted under this Agreement shall be deemed to have been delivered and given for all purposes if delivered personally or if sent by registered or certified mail, return receipt requested, postage and charges prepaid or sent by overnight commercial courier, addressed as follows:

Edgerton Fire Protection District
617 North Main St.
Edgerton, WI 53534

Phone: (608) 884-3327

Petitioning Parties

IN WITNESS WHEREOF, the signatory bodies to this Agreement have caused their legal representative to execute this Agreement on the ____day of _____, 2022.

John Sherman, Chairperson
Edgerton Fire Protection District

Bryan Meyer, Town Chair
Town of Milton

Candy Davis, Secretary/Treasurer
Edgerton Fire Protection District

Jeff Klenz, Town Chair
Township of Harmony

Dave Kyle, Town Chair
Town of Lima

Rob Mawhinney, Town Chair
Town of Johnstown

Anissa Welch, Mayor
City of Milton