

FIREFIGHTING FOAM BANK AGREEMENT

PARTIES

The Wisconsin Municipalities identified as City of Appleton, City of Kaukauna, City of Seymour, Town of Bovina (Shiocton-Bovina Fire Department), Town of Buchanan, Town of Center, Town of Dale, Town of Ellington, Town of Freedom, Town of Grand Chute, Town of Osborn (Seymour Rural FD), Town of Seymour (Seymour Rural FD), Village of Bear Creek, Village of Black Creek, Village of Combined Locks, Village of Greenville, Village of Kimberly, Village of Little Chute, Village of Shiocton (Shiocton-Bovina Fire Department) and Oneida (unincorporated) shall be individually referred to herein as a “Party”, and collectively as “Parties”.

RECITALS

WHEREAS, the parties each have and maintain fire departments within their respective jurisdictions; and

WHEREAS, the parties acknowledge that the use of Class B firefighting foam is necessary to extinguish certain types of fires; and

WHEREAS, the parties jointly desire to collaborate to establish a Class B firefighting foam bank.

THE AGREEMENT

NOW, THEREFORE, in consideration of the fulfillment of the obligations of the parties hereinafter set forth and for other good and valuable consideration, the receipt of which is hereby acknowledged, IT IS MUTUALLY AGREED AND PROMISED, by and between the above-referenced Parties as follows:

ACQUISITION OF FOAM

The City of Appleton Fire Department agrees to facilitate the purchase of 265 gallons of Class B Firefighting Foam (herein “Foam”) on behalf of the Parties.

The City of Appleton agrees to transport the Foam from point of purchase and store the Foam at the City of Appleton Fire Department for the duration of this Agreement at no additional cost to the Parties.

PAYMENT

The Parties agree to mutually share the cost of the Foam. The Parties agree that the purchase price for each Party shall be prorated, based on the population that

each party serves. The exact purchase price is set forth on attached Exhibit A and incorporated herein.

The City of Appleton shall invoice each Party pursuant to the rates set forth in Exhibit A for the initial price of the foam, as well as utilize the FEMA Schedule of Equipment rates for the cost of transporting the foam.

Each Party shall make payment to the Appleton Fire Department within ninety (90) days of the date of the invoice.

ADDITIONAL COSTS OF FOAM

The cost to the Parties shall be the upfront cost of the Foam detailed in Exhibit A as well as include the costs and fees for the disposal of the foam, to be determined at the time of disposal.

Each Party shall be responsible for any necessary maintenance, repair, and/or replacement of equipment and foam as the result of use. The City of Appleton reserves the discretion and right to bill parties for the necessary costs associated with this Agreement, with full payment made within ninety (90) days of the date of the invoice.

STORAGE AND TRANSPORTATION

The City of Appleton agrees that it will connect the foam to a City of Appleton Fire Department-owned TFT 350 eductor firefighting appliance at no additional cost to the parties.

The City of Appleton Fire Department further agrees that it will provide a trailer for storage of the Foam at no additional cost to the parties.

The City of Appleton Fire Department will maintain ownership of the storage trailer and the eductor and will store the trailer and foam at no cost to parties.

The City of Appleton additionally agrees to transport the trailer and foam to the Party requesting to use the Foam ("requesting agency"). The City of Appleton will also agree to transport the trailer and foam back to the City of Appleton after the requesting agency's use.

FOAM USAGE

Each Party that requests and/or uses the Foam has the responsibility to replace the quantity of foam used. The replacement foam shall be the same or similar and compatible product.

LIABILITY

The requesting agency shall assume all responsibilities associated with transportation, handling of, or other use of foam when the foam is within their possession. Foam is deemed to be in the possession of the requesting agency after the City of Appleton transports the trailer to the requesting agency, and until the City of Appleton takes possession of the trailer and foam after the requesting agency's use.

TERM OF AGREEMENT

All Parties to this Agreement must consent, in writing, to any changes to the Agreement.

MISCELLANEOUS

In the event that any part of this Agreement is found to be illegal, that part shall be stricken, and the Agreement interpreted as if that part did not exist.

This Agreement may be supplemented or amended only by written instrument executed by all Parties affected by such supplement or amendment.

This Agreement may be executed in counterparts, either by original signature or verified electronic signature, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. The headings in this Agreement are inserted for convenience of reference only and shall not constitute a part hereof.

INDEMNIFICATION

In exchange for the City of Appleton acquiring, storing, and transporting Class B firefighting foam on behalf of each of the Parties, each Party agrees to indemnify, defend and hold harmless the City of Appleton and its officers, officials, employees and agents from and against any and all liability, loss, damage, expenses, costs, including attorney's fees, arising out of the activities performed as described herein, caused in whole or in part by any negligent act or omission of the Party, anyone directly or indirectly employed by any of them

or anyone whose acts of them may be liable, except where caused by the sole negligence or willful misconduct of the City of Appleton.

Nothing in this Agreement shall abrogate the liability immunities and/or liability limitations available to the City of Appleton and each of the Parties individually available under §893.80 Wis. Stats., all of which immunities and liability limitations shall apply to any and all obligations between the City of Appleton and the Parties, and between each other despite any provisions in this Agreement to the contrary.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

City of Appleton

By: _____
Jacob A. Woodford, Mayor

By: _____
Kami Lynch, City Clerk

Approved as to form:

Christopher R. Behrens, City Attorney
CityLaw A22-0876 | Revised 02-14-2023

City of Kaukauna

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

City of Seymour

By: _____
Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

Approved as to form:

Printed Name: _____
Attorney

Town of Bovina (Shiocton-Bovina Fire Department)

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Town of Buchanan

By: _____
Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

Approved as to form:

Printed Name: _____
Attorney

Town of Center

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Town of Dale

By: _____
Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

Approved as to form:

Printed Name: _____
Attorney

Town of Ellington

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Town of Freedom

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Town of Grand Chute

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Town of Osborn (Rural Seymour FD)

By: _____
Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

Approved as to form:

Printed Name: _____
Attorney

Town of Seymour (Rural Seymour FD)

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Village of Bear Creek

By: _____
Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

Approved as to form:

Printed Name: _____
Attorney

Village of Black Creek

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Village of Combined Locks

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Village of Greenville

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Village of Kimberly

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Village of Little Chute

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Village of Shiocton (Shiocton-Bovina Fire Department)

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

Oneida (unincorporated)

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Printed Name: _____

Attorney

EXHIBIT A

As of January 24, 2023

<u>Agency</u>	<u>Population</u>	<u>Commitment</u>
Black Creek	3500	\$82.42
Appleton	76000	\$1,789.58
Ellington	3600	\$84.77
Freedom	6000	\$141.28
Grand Chute	23500	\$553.36
Kimberly	7137	\$168.06
Shiocton- Bovina	4125	\$97.13
Buchanan	7032	\$165.58
Bear Creek	2000	\$47.09
Seymour City	3500	\$82.42
Combined Locks	3500	\$82.42
Greenville	13067	\$307.69
Kaukauna	17089	\$402.40
Dale	4560	\$107.38
Oneida	4700	\$110.67
Center	3700	\$87.12
Seymour Rural	2466	\$58.07
Little Chute	12000	\$282.57
<i>Total Population Served</i>	197,476	<i>Total Cost \$4,650</i>