

GEORGIA WATER & WASTEWATER AGENCY RESPONSE NETWORK

MUTUAL AID AGREEMENT

RECITALS

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WHEREAS, certain Georgia water and wastewater agencies (the "Parties") have formed the "Georgia Water & Wastewater Agency Response Network," ("Georgia WARN"), to share resources and to assist each other in the event of emergencies that disrupt utility services; and

WHEREAS, the Parties have agreed to enter into this "Georgia Water & Wastewater Agency Response Network Mutual Aid Agreement," (hereinafter, the "Agreement"), to set forth the terms and conditions by which emergency assistance may be requested and provided; and WHEREAS, by executing this Agreement, the Parties hereto express their intent to participate in a program for Mutual Aid and Assistance within the State of Georgia, as authorized by the Georgia Emergency Management Act, O.C.G.A. Chapter 38-3, (the "Act"); and

WHEREAS, the Act was enacted to protect public health and safety and to preserve the lives and property of the people of this state; and

WHEREAS, the Act authorizes political subdivisions of the State of Georgia to enter into mutual aid plans and agreements with other public and private agencies for the furnishing or exchange of equipment, personnel, services and supplies and for reimbursement of costs and expenses incurred in responding to emergencies, including temporary restoration of public utility services and other functions related to civilian protection.

NOW, THEREFORE, in consideration of the promises and the mutual undertaking as hereinafter set out, the Members of the Georgia WARN, each acting by and through their duly authorized officials and governing authorities, pursuant to resolutions duly, legally and properly adopted all as same appear of record on the official minutes of the respective governing authorities, mutually agree as follows:

ARTICLE I.

PURPOSE

The Parties recognize that emergencies may overwhelm the ability of a Georgia WARN member utility to provide services to its customers and may require assistance in the form of personnel, equipment, services and supplies from outside the area of the impact of the emergency. Therefore, the Georgia WARN member utilities hereby establish within the State of Georgia an Intrastate Program for Mutual Aid and Assistance. Through the Mutual Aid and Assistance Program, the Parties shall coordinate response activities and shall share resources during emergencies. This Agreement sets forth the procedures and standards for the administration of the Intrastate Mutual Aid and Assistance Program.

ARTICLE II.

DEFINITIONS

A. Emergency—A natural or manmade catastrophic event that threatens life or property and that is, or is likely to be, beyond the control of the services, personnel, equipment, and facilities of a Mutual Aid and Assistance Program Member.

B. Member—Any Party to this Agreement.

C. Authorized Official—An employee of a Member that is authorized by the Member's governing board or management to request assistance or offer assistance under this Agreement.

D. Requesting Member—A Member who requests assistance in accordance with the terms and conditions of this Agreement and of the Mutual Aid and Assistance Program.

E. Responding Member—A Member that responds to a request for assistance under the terms and conditions of this Agreement and the Mutual Aid and Assistance Program.

F. Period of Assistance—A specified period of time when a Responding Member assists a Requesting Member. The period commences when personnel, equipment, or supplies depart from a Responding Member's facility and ends when all personnel of the Responding Member return to their residence or place of work, whichever is first, (portal to portal). All protections identified in the agreement apply during this period. The specified Period of Assistance may occur during response to or recovery from an emergency, as previously defined.

G. National Incident Management System (NIMS)—A national, standardized approach to incident management and response that sets uniform processes and procedures for emergency response operations.

H. WORK OR WORK-RELATED PERIOD – Any period of time in which either the personnel or equipment of the Responding Member are being used by the Requesting Member to provide assistance. Specifically included within such period of time are rest breaks when the personnel of the Responding Member will return to active Work within a reasonable time. Also, included is mutually agreed upon rotation of personnel and equipment.

ARTICLE III.

ADMINISTRATION

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The Mutual Aid and Assistance Program shall be administered through Regional Committees, as needed, and a Statewide Committee. The purpose of a Regional Committee is to provide local coordination of the Mutual Aid and Assistance Program before, during, and after an emergency. The designated regions are consistent with the existing public health or emergency management regions of the state. Each Regional Committee, under the leadership of an elected Chairperson, shall meet annually to address Mutual Aid and Assistance Program issues. Each Regional Committee shall also meet annually to review emergency preparedness and response procedures. The Chairperson of each Regional Committee represents their Regional Committee's interests on the Statewide Committee. In

addition to representing the interests of the Members, the Statewide Committee includes representatives from (list other organizations that may have a role to play in the Mutual Aid and Assistance Program, e.g., public health, emergency management, Rural Water Association, American Water Works Association, etc.). Under the leadership of the Chair, the Statewide Committee members shall plan and coordinate emergency planning and response activities for the Mutual Aid and Assistance Program.

ARTICLE IV.

OPERATIONAL AND PLANNING PROCEDURES

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In coordination with the Regional Committees, the Georgia Department of Emergency Management, and the public health system of the state of Georgia, the Statewide Committee shall develop operational and planning procedures for the Mutual Aid and Assistance Program. These procedures shall be updated at least annually. Each of the Members agrees that it shall participate in the development of operational and planning procedures that identify the critical parts of its own infrastructure. The Members recognize that the Committees, set forth in Article III, above, shall develop a Mutual Aid and Assistance Program Manual and a Mutual Aid and Assistance Handbook to set forth general procedures and standards that shall be followed by each Member. The general procedures and standards of the Mutual Aid and Assistance Program Manual and the Mutual Aid and Assistance Handbook are incorporated into the terms and conditions of this Agreement by reference.

ARTICLE V.

REQUESTS FOR ASSISTANCE

1. Member Responsibility: Within forty-eight (48) hours after execution of this Agreement, Members shall identify an Authorized Official and alternates; provide contact information including 24-hour access; and maintain resource information made available for mutual aid and assistance response. In the event of an Emergency, a Member's Authorized Official may request mutual aid and assistance from a participating Member. Requests for assistance can be made orally or in writing. When made orally, the request for assistance shall be prepared in writing as soon as practicable. Requests for assistance shall be directed to the Authorized Official of the participating Member. Specific protocols for requesting aid shall be provided in the procedures and standards to be adopted, (see Article IV).

2. Response to a Request for Assistance: After a Member receives a request for assistance, the Authorized Official evaluates whether resources are available to respond to the request for assistance. As soon as possible after completing the evaluation, the Authorized Representative shall inform the Requesting Member whether it has the resources to respond. If the Member is willing and able to provide assistance, the Member shall inform the Requesting Member about the type of available resources and the approximate arrival time of such assistance.

3. Discretion of Responding Member's Authorized Official: Each of the Members recognize and agree that execution of this Agreement does not create any duty to respond to a request for assistance. When a Member receives a request for assistance, the Authorized Official shall have absolute discretion as to the ability of that Member to respond to a request for assistance. An Authorized Member's decisions on the availability of resources shall be final.

ARTICLE VI.

RESPONDING MEMBER PERSONNEL

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National Incident Management System: When providing assistance under this Agreement, the Requesting Utility and Responding Utility should be organized and should function under the National Incident Management System.

The National Incident Management System (NIMS) provides a consistent nationwide approach that allows federal, state, local, and tribal governments as well as private sector and nongovernmental organizations to work together to manage incidents and disasters of all kinds. To be eligible for federal emergency management assistance, water and wastewater mutual aid and assistance programs must meet NIMS standards for emergency preparedness and response.

Control: Personnel sent by a Responding Member shall remain under the direct supervision and control of the Responding Member. The Requesting Member's Authorized Official shall coordinate response activities with the designated supervisor(s) of the Responding Member(s). Whenever practical, Responding Member personnel must be self-sufficient for up to 72 hours.

Food and Shelter: The Requesting Member shall supply reasonable food and shelter for Responding Member personnel. If the Requesting Member fails to provide food and shelter for Responding personnel, the Responding Member's designated supervisor is authorized to secure the resources necessary to meet the needs of its personnel. The cost for such resources must not exceed the per diem rates established by the State of Georgia for that area. The Requesting

Member remains responsible for reimbursing the Responding Member for all costs associated with providing food and shelter, if such resources are not provided.

Communication: The Requesting Member shall provide Responding Member personnel with radio equipment as available, or radio frequency information to facilitate communications with local responders and utility personnel.

Status: Unless otherwise provided by law, the Responding Member's officers and employees retain the same privileges, immunities, rights, duties, and benefits as provided in their respective jurisdictions.

Licenses and Permits: To the extent permitted by law, Responding Member personnel who hold licenses, certificates, or permits issued by the State of Georgia evidencing the meeting of qualifications for professional, mechanical, or other skills and when such assistance is sought by the Requesting Member, shall be allowed to carry out activities and tasks relevant and related to their respective credentials during the specified Period of Assistance.

Right to Withdraw: The Responding Member's Authorized Official retains the right to withdraw some or all of its resources at any time. Notice of intention to withdraw must be communicated to the Requesting Member's Authorized Official as soon as possible.

ARTICLE VII.

COST REIMBURSEMENT

Unless otherwise mutually agreed in whole or in part, the Requesting Member shall reimburse the Responding Member for each of the following categories of costs incurred while providing aid and assistance during the specified Period of Assistance.

Personnel: Responding Member personnel are to be paid for work completed during a specified Period of Assistance according to the terms provided in their employment contracts or other conditions of employment. The supervisor(s) designated by the Responding Member must keep accurate records of work performed by personnel during the specified Period of Assistance. Requesting Member reimbursement to the Responding Member must consider all personnel costs, including salaries or hourly wages, costs for fringe benefits, and indirect costs.

Equipment: The Requesting Member shall reimburse the Responding Member for the use of equipment during a specified Period of Assistance. As a minimum, rates for equipment use must be based on the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. If a Responding Member uses rates different from those in the FEMA Schedule of Equipment Rates, the Responding Member must provide such rates in writing to the Requesting Member prior to supplying resources. Mutual agreement on which rates are used must be reached in writing prior to dispatch of the equipment. Reimbursement for equipment not referenced on the FEMA Schedule of Equipment Rates must be developed based on actual recovery of costs.

Materials and Supplies: The Requesting Member must reimburse the Responding Member in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies. The Responding Member must not charge direct fees or rental

charges to the Requesting Member for other supplies and reusable items that are returned to the Responding Member in a clean, damage-free condition. Reusable supplies that are returned to the Responding Member with damage must be treated as expendable supplies for purposes of cost reimbursement.

Payment Period: The Responding Member must provide an itemized bill to the Requesting Member for all expenses it incurred as a result of providing assistance under this Agreement. The Requesting Member must send the itemized bill not later than ninety (90) days following the end of the Period of Assistance. The Requesting Member must pay the bill in full on or before the forty-fifth (45th) day following the billing date. Unpaid bills become delinquent upon the forty-sixth (46th) day following the billing date, and, once delinquent, the bill accrues interest at the rate of prime, as reported by the Wall Street Journal, plus two percent (2%) per annum.

ARTICLE VIII.

INSURANCE

Each Member shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry. Nothing herein shall act or be construed as a waiver of any sovereign immunity or other exemption or limitation on liability that a Member may enjoy.

In determining the insurance coverage to be purchased pursuant to this Article, each Member is directed to the provisions of Articles IX and X.

ARTICLE IX.

LIABILITY

Employees of a Responding Member rendering aid to a Requesting Member pursuant to this Agreement shall be considered agents of the Requesting Member for tort liability and immunity purposes, and no Member or its officers or employees rendering aid to a Requesting Member pursuant to this Agreement shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE X.

REQUESTING MEMBER'S DUTY TO INDEMNIFY

The Requesting Member shall assume the defense of, fully indemnify and hold harmless, the Responding Member, its officers and employees, from all claims, loss, damage, injury and liability of every kind, nature, and description, directly or indirectly arising from responding Member's work during a specified Period of Assistance. The scope of the Requesting Member's duty to indemnify includes, but is not limited to, suits arising from or related to, negligent or wrongful use of equipment or supplies on loan to the Requesting Member, of faulty workmanship or other negligent acts, errors, or omissions by Requesting Member or the Responding Member personnel.

ARTICLE XI.

DISPUTES

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All disputes between two or more Members arising from participation in this Agreement, which cannot be settled through negotiation, shall be submitted to binding arbitration before a panel of three persons chosen from the Parties to this Mutual Aid Agreement, excluding those Members that are parties to the dispute. Each party to the dispute shall choose one panel member and those panel members shall agree on one additional panel member. The panel shall adopt rules of procedure and evidence, shall determine all issues in dispute by majority vote and shall assess damages. Any court of competent jurisdiction may enter the judgment rendered by the arbitrators as final judgment that is binding on the parties.

ARTICLE XII.

SIGNATORY INDEMNIFICATION

Each and every Requesting Member shall and does hereby fully indemnify each and every Responding Member for each and every mutual aid assistance of any type or kind provided pursuant to the terms of this Mutual Aid Agreement or any emergency service provided herein. In consideration of the mutual covenants contained herein, each Requesting Member hereby does and will forever release, discharge and covenant to hold harmless the Responding Member and its officials, employees and agents from any and all claims, demands, damages, costs, expenses, attorneys fees, loss of services, actions and causes of actions arising out of any act or occurrence related to the providing of any service of aid or other service provided under the terms and conditions set forth in this Mutual Aid Agreement.

ARTICLE XIII.

WORKER'S COMPENSATION CLAIMS

The Responding Member is responsible for providing worker's compensation benefits and administering worker's compensation. The Requesting Member shall reimburse the Responding Member for all costs, benefits, and expenses associated with worker's compensation and other claims that arise from or are related to providing assistance under this Agreement. Reimbursement shall be made on a quarterly basis, or on other terms mutually agreed upon by the Requesting Member and Responding Member.

ARTICLE XIV.

NOTICE

A Member who becomes aware of a claim or suit that in any way, directly or indirectly, contingently or otherwise, affects or might affect other Members of this Agreement shall provide prompt and timely notice to the Members who may be affected by the suit or claim. Each Member reserves the right to participate in the defense of such claims or suits as necessary to protect its own interests.

ARTICLE XV.

EFFECTIVE DATE

This Agreement shall be effective after the Member's governing authority executes the Agreement and the applicable Regional Committee Chair receives the Agreement. The Regional Committee Chair shall maintain a list of all Members in the respective region. The Statewide Committee Chair shall maintain a master list of all members of the Mutual Aid and Assistance Program.

ARTICLE XVI.

WITHDRAWAL

A Member may withdraw from this Agreement by providing written notice of its intent to withdraw to the applicable Regional Committee Chair and the Statewide Chair. Withdrawal takes effect 60 days after the appropriate officials receive notice.

ARTICLE XVII.

MODIFICATION

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This Agreement may be modified to accommodate operational changes as the Members gain experience with the procedures established by the Agreement and the Georgia WARN. No provision of this Agreement may be modified, altered, or rescinded by individual Parties to the Agreement. Modifications require a simple majority vote of Members within each region and a unanimous agreement between the regions. The

Statewide Committee Chair must provide written notice to all Members of approved modifications to this Agreement. Approved modifications take effect 60 days after the date upon which notice is sent to the Members.

ARTICLE XVIII.

PRIOR AGREEMENTS

This Agreement supersedes all prior Agreements between Members to the extent that such prior Agreements are inconsistent with this Agreement.

ARTICLE XIX.

PROHIBITION ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS/DUTIES

This Agreement is for the sole benefit of the Members and no person or entity shall have any rights under this Agreement as a third-party beneficiary. Assignments of benefits and delegations of duties created by this Agreement are prohibited and shall be without effect.

ARTICLE XX.

INTRASTATE AND INTERSTATE MUTUAL AID AND ASSISTANCE PROGRAMS

To the extent practicable, Members of this Agreement may participate in Mutual Aid and Assistance activities conducted under the State of Georgia Intrastate Mutual Aid and Assistance Program and the Interstate Emergency Management Assistance Compact

(EMAC). Members may voluntarily agree to participate in an interstate Mutual Aid and Assistance Program for water and wastewater utilities through this Agreement if such a Program were established.

NOW, THEREFORE, in consideration of the covenants and obligations set forth in this Agreement, the Water and Wastewater Utility listed here manifests its intent to be a Member of the Intrastate Mutual Aid and Assistance Program for Water and Wastewater Utilities by executing this Agreement on this _____ day of _____ 2007.

Water/Wastewater Utility: _____

By: _____

By: _____

Title: _____

Title _____

Please Print Name

Please Print Name