

# **NEBRASKA WARN WATER AND WASTEWATER AND STORMWATER MUTUAL AID AGREEMENT**

## **PURPOSE**

The Water and Wastewater and Stormwater Mutual Aid Program is hereby established to provide a method whereby water, wastewater, and stormwater departments sustaining physical damage from natural or man made disasters can obtain emergency assistance, in the form of personnel, equipment, and materials and other associated services necessary, from other water, wastewater, and stormwater departments. The purpose of this Agreement is to formally document such program. The title of this agreement shall be the Nebraska WARN.

## **PARTIES**

This Mutual Aid Agreement (“Agreement”) is entered into by, \_\_\_\_\_, that by the signatures on duplicate original copies of this Agreement has consented to the terms of this Agreement. Any utility that has signed this Agreement and submitted a copy to the location designated by the Nebraska WARN governance Board is a party to this Agreement. Eligible participants shall be limited to any political subdivision of the State of Nebraska that owns and/or operates a water, wastewater and/or stormwater system.

## **PROCEDURE**

- In the event that a particular utility becomes a damaged utility, the following procedure shall be followed to the best extent possible:
- The Damaged utility may contact the Authorized representative of one or more of the Participating Utilities and provide them with the following information:
  - A general description of the damage sustained;
  - The part of the water/wastewater/stormwater system for which assistance is needed;
  - The amount and type of personnel, equipment, materials and supplies needed and a reasonable length of time they will be needed;
  - The present weather conditions and the forecast for the next twenty-four hours; and
  - A specific time and place for a representative of the damaged utility to meet the personnel and equipment of the assisting utility; and
  - The identification of work conditions and special constraints such as availability of fuel supplies, lodging/meal support, medical facilities, security, communications, etc.
- When contacted by a damaged utility, the authorized representative of a participating utility shall assess his utility’s situation to determine whether it is capable of

providing assistance. No participating utility shall be under any obligation to provide assistance to a damaged utility. If the authorized representative determines that the Assisting utility is capable of and willing to provide assistance, the assisting utility shall so notify the authorized representative of the damaged utility and providing the following information to the best extent possible:

- A complete description of the personnel, equipment and materials to be furnished to the damaged utility;
  - The estimated length of time the personnel, equipment and materials will be available;
  - The work experience and ability of the personnel and the capability of the equipment to be furnished;
  - The name of the person or persons to be designated as supervisory personnel; and
  - The estimated time when the assistance provided will arrive at the location designated by the authorized representative of the damaged utility.
- The personnel and equipment of the assisting utility shall remain, at all times, under the direct supervision and control of the designated supervisory personnel of the assisting utility. In instances where only equipment is provided by the assisting utility, the ownership of said equipment shall remain with the assisting utility and said equipment shall be returned to the assisting utility immediately upon request. Representatives of the damaged utility shall suggest work assignments and schedules for the personnel of the assisting utility; however, the designated supervisory personnel of the assisting utility shall have the exclusive responsibility and authority for assigning work and establishing work schedules for the personnel of the assisting utility. The designated supervisory personnel shall maintain daily personnel time records and a log of equipment hours, be responsible for the operation and maintenance of the equipment furnished by the assisting utility, and report work progress to the damaged utility.
  - Unless otherwise agreed to, the damaged utility must provide food and housing for the personnel of the assisting utility from the time of departure from their regularly scheduled work location until the time of return to their regularly scheduled work location. The food and shelter provided shall be subject to the approval by the Assisting utility's supervisory personnel. If not approved, food and shelter must be provided and paid for as determined by mutual agreement.
  - The damaged utility must provide communications between the personnel of the Assisting utility and the damaged utility.
  - When providing assistance under this Agreement, the damaged utility and assisting utility shall be organized and shall function under the National Incident Management System.

## REIMBURSABLE EXPENSES

To the best extent possible, the terms and conditions governing reimbursement for any assistance provided under this Agreement shall be agreed to prior to the providing of such assistance and shall be in accordance with the following provisions:

- **PERSONNEL** – During the period of assistance, the assisting utility shall continue to pay its employees according to its then prevailing rules and regulations. The damaged utility shall reimburse the Assisting utility for all direct and indirect payroll costs and expenses incurred during the period of assistance, including, but not limited to, employee pensions and benefits.
- **EQUIPMENT** – The assisting utility shall be reimbursed for the use of its equipment during the Period of Assistance according to the Schedule of Equipment Rates established and published by FEMA. If an assisting utility uses an alternate basis of rates for equipment listed on the FEMA Schedule of equipment rates, it shall provide such rates to the damaged utility prior to providing assistance. Rates for equipment not referenced on the FEMA Schedule of Equipment Rates shall be developed based on actual recovery of costs.
- **MATERIALS AND SUPPLIES** – The assisting utility shall be reimbursed for all materials and supplies furnished by it and used or damaged during the period of assistance, unless such damage is caused by negligence of the assisting utility's personnel. The measure of reimbursement shall be the replacement cost of the materials and supplies used or damaged, plus ten percent of such cost. In the alternative, the parties may agree that the damaged utility will replace, with a like kind and quality, as determined by the Assisting utility, the materials and supplies used or damaged.

## PAYMENT

Unless mutually agreed otherwise, the assisting utility shall bill the requesting utility for all expenses not later than 45 days following the period of assistance. Unless mutually agreed otherwise, the requesting utility shall pay the bill in full not later than 90 days following the billing date.

## INSURANCE

Each participating utility 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.

## INDEMNIFICATION

The utility requesting assistance shall indemnify, defend and hold harmless any assisting utility against any and all claims, demands and damages or expenses, including attorneys fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the assisting utility or anyone for whose acts any of them may be liable. However, this provision will not require the requesting utility to indemnify or hold harmless the assisting utility for any losses, claims, damages, and expenses arising out of or resulting from the gross negligence of the assisting utility.

## GOVERNANCE AND VOTING

The Nebraska WARN shall be governed by a Board of up to 11 persons selected by the participating utilities. One time in a 12 month period, the Board shall send a Board nomination form to all Nebraska WARN participating utilities. Following the submission of nominations, the Board shall send a ballot of Board candidates to all Nebraska WARN participating utilities. Each participating utility shall be entitled to complete one ballot. The persons receiving the most votes on the returned ballots shall be the Nebraska WARN Board. Board members do not have to be staff or elected officials of a participating utility.

## BOARD DUTIES

The Board shall have the authority to govern the general operations of the Nebraska WARN. The Board shall have the authority to appoint one or more Nebraska WARN administrators to assist in the general operations of the Nebraska WARN.

## FUNDING AND PROPERTY OWNERSHIP

The Nebraska WARN shall not collect dues, taxes or any type of revenue from the participating utilities. The Nebraska WARN shall not own property.

## TERM AND DURATION

This Agreement shall become effective as to each party on the date such party executes the Agreement and shall continue in force and remain binding until said party terminates the agreement. Termination of participation in this Agreement by a party shall not affect the continued operation of this Agreement between and among the remaining parties. This agreement shall remain effective until January 31, 2058.

TERMINATION

Any Party may at any time by written resolution or notice given to the administrator to decline to participate in the provision of mutual aid. The party shall give written notice of termination of participation in this Agreement.

**NOW, THEREFORE, in consideration of the covenants and obligations contained herein, the Participating Utility listed here, as a Participating Utility duly executes this Water/ Wastewater/Stormwater Mutual Aid Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.**

\_\_\_\_\_

Name of Utility

\_\_\_\_\_

Authorized Representative