

MUTUAL AID AGREEMENT

This Agreement, made and entered into this _____ day of _____, 20____, among those parties listed beginning on page 14, *et seq.*, that by the signature on duplicate original copies of this agreement have consented to the terms of the agreement. Any agency/utility that has signed this agreement and submitted a copy to the Nevada Water/Wastewater Agency Response Network (NVWARN) representative is a party to this agreement (collectively, “Participating Agency”).

WITNESSETH:

WHEREAS, the United States Environmental Protection Agency and the Nevada Department of Environmental Protection have expressed a mutual interest in the establishment of a plan to facilitate and encourage mutual assistance agreements between water/wastewater agencies in Nevada; and

WHEREAS, the existing Mutual Aid Agreement between the Southern Nevada Water Authority member agencies is well over ten years old and is in need of updating; and

WHEREAS, the NVWARN is being created to provide a forum for the development of mutual assistance agreements between water/wastewater agencies in the Southern Nevada Region; and later expand to all water/wastewater agencies in the State of Nevada; and

WHEREAS, each of the parties to this Agreement provide water service or wastewater service within their respective service area limits; and

WHEREAS, it is important that all parties coordinate their efforts in order to assure their customers that all reasonable efforts are being expended to provide them with adequate water/wastewater service during emergency situations; and

WHEREAS, the parties hereto are empowered to enter into an agreement for mutual aid under Chapter 277 of the Nevada Revised Statutes;

NOW THEREFORE, in consideration of the mutual terms, conditions and covenants, the parties agree as follows:

1. Definitions.

- 1.1 “Agreement” means the Water/Wastewater Mutual Aid Agreement.
- 1.2 “Participating Agency” means any Water/Wastewater Agency which executes this Mutual Aid Agreement, and is a government entity or political subdivision of the State of Nevada.
- 1.3 “Requesting Agency” means any party to this Agreement requesting assistance from any other party to this Agreement hereto under the terms of this Agreement. The Requesting Agency will typically serve as the Incident Command.
- 1.4 “Assisting Agency” means any party to this Agreement rendering assistance to a Requesting Agency under the terms of this Agreement.
- 1.5 “Officer-in-Charge” means that person, or his/her designee, who is a District, Department, Agency or Authority Director or General Manager with the authority and primary responsibility for water/wastewater service within the service area limits of a party hereto.
- 1.6 “Third Party” means a person or entity not a party to this Agreement.
- 1.7 Agency “Work or Work Related Period” means any period of time in which either the personnel or equipment of the Assisting Agency are being used by the Requesting Agency to provide assistance. Specifically included within such period of time are rest breaks when the personnel of the Assisting Agency will return to active work.

- 1.8 “Schedule of Equipment Rates” means the latest rates published by the Federal Emergency Management Agency (FEMA) under the response and recovery directorate applicable to major disasters and emergencies.
- 1.9 "Emergency" means a condition of disaster or calamity arising within the area of operation of the parties, caused by fire, flood, storm, earthquake, civil disturbance, or other condition which is, or is likely to be, beyond the control of the services, personnel, equipment, and facilities of a party hereto and requires mutual assistance. Such emergencies may include, but are not limited to, water main breaks, facility breakdowns creating a demand for water/wastewater greater than capacity, power outages, explosions, floods, earthquakes, man-made disasters or other acts of God.
- 1.10 “Assistance” means providing general resources, such as equipment, supplies, and personnel. Assistance shall be given only when Assisting Agency determines that its own needs can be met while also rendering assistance. The execution of this Agreement shall not create any duty to respond on the part of any party hereto. A potential Assisting Agency shall not be held liable for failing to provide assistance. A potential Assisting Agency has the absolute discretion to decline to provide any requested assistance. Resources are to be made available on a loan basis with reimbursement terms varying with the type of resource.
- 1.11 “NATIONAL INCIDENT MANAGEMENT SYSTEM” (NIMS) means a Presidential Directive that 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. All state and local governments must have adopted NIMS in 2005 in order to receive federal assistance.

2. Membership.

2.1 By becoming a Participating Agency under the terms of this Agreement, the Governing Body or Board of the Participating Agency will be deemed to have read and agreed to be bound by the terms of this Agreement.

2.2 A Participating Agency shall also provide a staff member who will attend the NVWARN meetings as a voting member and adhere to the NVWARN Committee By-Laws.

3. Procedure.

3.1 When contacted by a Requesting Agency, the Officer-in-Charge of a Participating Agency shall assess his/her agency's situation to determine whether it is capable of providing assistance. The rendering of assistance under the terms of this Agreement is not mandatory and this Agreement creates no duty on the part of any signatory hereto, but the Assisting Agency should immediately inform the Requesting Agency if for any reason, assistance cannot be rendered, or cannot continue to be rendered. If the Officer-in-Charge determines that the Assisting Agency is capable of and willing to provide assistance, the Assisting Agency shall so notify the Officer-in-Charge of the Requesting Agency and provide the following information:

3.1.1 A complete description of the personnel, equipment and materials to be furnished to the Requesting Agency including any fueling requirements for equipment or any other special needs;

- 3.1.2 The estimated length of time the personnel, equipment and materials will be available;
 - 3.1.3 The work experience and ability of the personnel and the capability of the equipment to be furnished;
 - 3.1.4 The name of the person or persons to be designated as supervisory personnel;
 - 3.1.5 The estimated time when the assistance provided will arrive at the location designated by the Officer-in-Charge of the Requesting Agency;
 - 3.1.6 The identification of work conditions and special constraints such as any possible hazards, and the availability of fuel supplies, lodging/meal support, medical facilities, security, communications, etc.
- 3.2 Each Participating Agency hereby agrees to provide, upon request from another party hereto, aid and assistance in responding to water/wastewater related emergency situations occurring within the service area limits of the Requesting Agency; however, assistance shall be contingent upon the availability of the Assisting Agency's water resources, equipment, and personnel. Such aid shall consist of support by provision of personnel, equipment, supplies of water, or other emergency assistance for an Emergency occurring within the service area limits of the Requesting Agency.
- 3.3 The determination of the amount, type, and extent of assistance to be extended upon request lies solely within the discretion of the Officer-in-Charge of the Assisting Agency. The Assisting Agency may order the

return of any or all of its personnel or equipment to its own jurisdiction at any time.

- 3.4 The personnel and equipment of the Assisting Agency shall remain, at all times, under the direct supervision and control of the designated supervisory personnel of the Assisting Agency. In instances where only equipment is provided by the Assisting Agency, the ownership of said equipment shall remain with the Assisting Agency and said equipment shall be returned to the Assisting Agency immediately upon request. Representatives of the Requesting Agency shall suggest work assignments and schedules for the personnel of the Assisting Agency; however, the designated supervisory personnel of the Assisting Agency shall have the exclusive responsibility and authority for assigning work and establishing work schedules for the personnel of the Assisting Agency in conjunction with the Incident Command or the Requesting Agency. The designated supervisory personnel shall maintain daily personnel time records, a log of equipment hours, be responsible for the operation and maintenance of the equipment furnished by the Assisting Agency, and report work progress to the Requesting Agency.
- 3.5 **FOOD, HOUSING, AND SELF-SUFFICIENCY:** Unless specifically instructed otherwise, the Requesting Agency shall have the responsibility of providing food and housing for the personnel of the Assisting Agency from the time of their arrival at the designated location to the time of their departure. However, Assisting Agency personnel and equipment should be, to the greatest extent possible, self-sufficient while working in the

emergency or disaster area. The Requesting Agency may specify only self-sufficient personnel and resources in its request for assistance.

4. Authority.

- 4.1 Each party's Chief Administrative Officer shall designate Officers-in-Charge who shall have the authority to request aid from the other party. Upon execution of this Agreement, each party shall notify the other parties of the names of the designated Officers-in-Charge and shall provide notice of any changes to the names. Any notices shall comply with the provisions set forth in Section 12.
- 4.2 The Participating Agencies agree that details concerning the methods of requesting assistance and such other planning as may be necessary to facilitate the purpose of this Agreement may be effectuated between the designated Officers-in-Charge, so long as the practice conforms to this Agreement and does not affect fiscal responsibility or change this Agreement with respect to public liability.
- 4.3 A Requesting Agency shall have and exercise joint control in conjunction with any Assisting Agency to assign personnel to places where they are needed; however, the Officer-in-Charge for any Assisting Agency shall be responsible for exercising exclusive control over his personnel in response to the jointly agreed general directions of the Requesting and Assisting Agencies. Further, parties of the Assisting Agency engaging in mutual aid retain all the rights and protection afforded to employees of said Assisting Agency.

5. Coordination.

5.1 If technically possible, the Participating Agencies hereby agree to coordinate and to consider similar additional conservation measures during a regional emergency or shortage. Emergencies include, but are not limited to, the following:

5.1.1 Full or partial failure experienced by regional facilities with the inability to meet the collective demands of the Participating Agencies.

6. Use of Equipment and/or Personnel.

6.1 Use of equipment, such as construction equipment, vehicles, tools, pumps and generators, shall be at the latest equipment rates published by FEMA under the response and recovery directive applicable to major disasters and emergencies and subject to the following conditions:

6.1.1 At the option of the Assisting Agency, loaned equipment may be loaned with or without an operator.

6.1.2 Loaned equipment shall be returned to Assisting Agency within 24 hours after receipt of an oral or written request.

6.1.3 Requesting Agency shall, at its own expense, supply all fuel, lubrication and maintenance for loaned equipment.

6.1.4 Assisting Agency's cost related to the transportation, handling and loading/unloading of equipment shall be chargeable to Requesting Agency.

6.1.5 In the event loaned equipment is damaged while being dispatched to Requesting Agency, or while in the custody and use of Requesting Agency, Requesting Agency shall reimburse Assisting

Agency for the reasonable cost of repairing said damaged equipment. If the equipment cannot be repaired, then Requesting Agency shall reimburse Assisting Agency for the cost of replacing such equipment with equipment that is of at least equal capability. If Assisting Agency must lease a piece of equipment while Assisting Agency's equipment is being repaired or replaced, Requesting Agency shall reimburse Assisting Agency for such lease costs.

- 6.2 Requesting Agency shall reimburse Assisting Agency in kind or at actual replacement costs, plus handling charges, for use of expendable or non-returnable supplies. Other supplies and reusable items are to be returned to Assisting Agency in a clean, damage-free condition shall not be charged to the Requesting Agency, and no rental fee will be charged; otherwise, they shall be treated as expendable supplies.
- 6.3 Assisting Agency will make such employees as are willing to participate available to Requesting Agency at Requesting Agency's expense equal to Assisting Agency's full cost (i.e., equal to the employee's applicable salary or hourly wage plus fringe benefits and overhead, and consistent with Assisting Agency's personnel union contracts or other conditions of employment). Employees so loaned will be under the direction of the Requesting Agency. Requesting Agency shall be responsible for all direct and indirect costs associated with workers compensation claims. Costs to feed and house loaned personnel, if necessary, shall be chargeable to and paid by Requesting Agency. Assisting Agency will not be responsible for

cessation or slowdown of work if Assisting Agency's employees decline or are reluctant to perform any assigned tasks.

6.4 Actual measures for dealing with such emergencies will be developed by the officers of the Participating Agencies and be compliant to NIMS.

7. Unrelieved Obligations.

7.1 This Agreement does not relieve any party from the necessity and obligation of furnishing adequate water/wastewater services within its own jurisdiction.

8. Responsibilities for Damages and Injuries.

8.1 The Requesting Agency shall be responsible for the acts or omissions of the employees of the Assisting Agency only to the extent that such acts or omissions were performed or failed to have been performed at the scene of an emergency and were performed or failed to have been performed at the specific direction of an officer or employee of the Requesting Agency.

8.2 The Assisting Agency shall not be responsible for any loss to the Requesting Agency, which may result from the delay or inability of the Assisting Agency to respond promptly, for whatever reason, to any request for mutual aid from the Requesting Agency.

9. Compensation.

9.1 Agency total costs under this Agreement may not exceed \$250,000 without the approval of the governing body of both the Requesting and Assisting Agencies. Assistance under this Agreement shall be limited to a 30-day, single event period unless a longer term is agreed upon by the governing bodies of both the Requesting and Assisting Agencies.

9.2 Assisting Agency is responsible for all costs, benefits, and expenses associated with workers compensation and other claims. Assisting Agency is responsible for providing workers compensation benefits and administering workers compensation claims subject to the reimbursement terms of this agreement. Requesting Agency will reimburse Assisting Agency for workers compensation costs, benefits, and expenses on a quarterly basis or on other terms mutually agreed upon by Assisting Agency and Requesting Agency. Billing shall be performed on a 30-day schedule. The Requesting Agency shall use diligence to make restitution within 30 days of billing.

10. Dispute Resolution

10.1 Any controversy or claim arising out of or relating to this Agreement or the breach thereof, shall be settled by arbitration in accordance with the Rules of the American Arbitration Association and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

11. Reports.

11.1 After an occurrence wherein mutual aid was requested and given, all parties participating in said occurrence of mutual aid shall make available to other participating parties all reports arising out of such operation; provided; however, nothing in this provision shall purport to waive, limit, or remove the duties of confidentiality imposed or allowed by law as to any such reports or the contents thereof.

12. No Third Party Rights.

12.1 This Agreement shall not be construed as, nor deemed to be, an agreement for the benefit of any third party or parties, and no third party or parties shall have a right of action hereunder for any cause whatsoever. No party to this Agreement intends to benefit any person who is not named as a party to this Agreement, to assume specific duty to provide for the safety of any person or to assume any other duty beyond that imposed by general law.

13. Term.

13.1 This Agreement shall commence as of the date first above mentioned and shall continue in force and effect until terminated by any party. Termination shall become effective by a party giving the other parties sixty (60) days written notice of its intent to terminate this Agreement to the current NVWARN chairperson.

14. Notices.

14.1 Any notice to one party from another under this Agreement shall be given either in writing and sent by certified mail, postage prepaid, with return receipt requested to such parties at the address designated below or to such other address as may hereafter be designated or in the case of an emergency, by phone or fax with record to the numbers designated by the Participating Agency.

14.2 As the notice information for the Participating Agencies may change, and as new members may join this Agreement, the notice information for the Participating Agencies shall be posted on the NVWARN website, secured by password.

15. Partial Invalidity.

15.1 Should any section or any part of any section of this Agreement be rendered void, invalid, or unenforceable for any reason by court of law, such a determination shall not render void, invalid, or unenforceable any other section or any other portion of any section of this Agreement.

16. Integration.

16.1 The preparation, delivery, and execution of this Agreement by the parties has not been induced by any agreements, representations, statements or warranties other than those expressed herein. This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to herein or expressly incorporated herein by reference thereto.

17. Modification.

17.1 This Agreement may not be modified unless such modification is in writing and signed by the parties to this Agreement.

17.2 An application to join this Agreement as a Participating Agency may be submitted to the Management Committee comprised of the current Participating Agencies, whereby the application will be reviewed and a decision will be made and the applicant notified.

17.3 Any entity requesting to join this Agreement must be in compliance with the membership requirements of Section 2.1 of this Agreement or the membership application will be denied.

18. Indemnification

18.1 The parties hereby agree to hold and save harmless the other parties to the Agreement from any claims to the fullest extent of Nevada law.

19. Counterpart Signatures

19.1 The parties hereby acknowledge that this Agreement may be executed in counterpart originals with like effect as if executed in a single original document.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

Organization

Signature/Title

Date