

Massachusetts Water/ Wastewater Agency Response Network (WARN)

AGREEMENT

This Agreement is made and entered into by Massachusetts water and wastewater provider agencies (in accordance with MGL c40, s. 4a), that have, by the execution of this Agreement, manifested their intent to participate in an Intrastate Water/Wastewater Agency Response Network (WARN).

ARTICLE I. PURPOSE

The mission of the signatories is to support and promote statewide emergency planning, preparedness, disaster response, and mutual assistance among water and wastewater utilities during emergencies.

Recognizing that emergencies may require assistance in the form of personnel, equipment, and supplies from outside the area of impact, the signatory utilities hereby establish the Massachusetts WARN. Through the Massachusetts WARN, Members coordinate response activities and share resources during emergencies. This Agreement sets forth the procedures and standards for the administration of the Intrastate WARN.

ARTICLE II. DEFINITIONS

A. Emergency—Any event that is beyond the control of the services, personnel, equipment, and facilities of an individual member utility that signs the Massachusetts WARN and that is declared an emergency by the utility's chief municipal officer or equivalent.

B. Member—Any public Water or Wastewater Utility that manifests intent to participate in the Massachusetts WARN by becoming a signatory 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 under the Massachusetts WARN.

E. Assisting Member—A Member that responds to a request for assistance under the Massachusetts WARN.

F. Period of Assistance—A specified period of time when an Assisting Member assists a Requesting Member. The period commences when personnel, equipment, or supplies depart

from an Assisting Member's facility and ends when the resources return to their facility (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.

ARTICLE III. **COORDINATION**

The Massachusetts WARN shall be administered through a Leadership Committee made up of authorized representatives designated by each Member.

The members shall annually elect a chair, vice-chair, and a secretary to assist in establishing plans and procedures. The Leadership Committee will provide planning and coordination before, during, and after an emergency. The Leadership Committee, under the leadership of the elected Chairperson, shall meet at least annually to address Massachusetts WARN issues and to review emergency preparedness and response procedures. A quorum shall be an absolute majority of its voting members. In addition to representing the interests of the Members, the Leadership Committee may include ex-officio, non-voting representatives from other agencies such as public health, public safety, and associations.

ARTICLE IV. **PROCEDURES**

In coordination with the Massachusetts Emergency Management Agency, the Leadership Committee shall develop operational and planning procedures for the Massachusetts WARN. These procedures shall be reviewed and/or updated at least annually.

ARTICLE V. **REQUESTS FOR ASSISTANCE**

Member Responsibility: Members shall identify an Authorized Official and alternates; provide contact information including 24-hour access; and maintain and update annually resource information made available by the utility for mutual aid and assistance response.

In the event of an Emergency, a Member's Authorized Official may request mutual aid and assistance from participating Members. Requests for assistance can be made orally or in writing. When made orally, the request for personnel, equipment, and supplies shall be prepared in writing as soon as practicable. Requests for assistance shall be directed to the Authorized Official(s) of the participating Member(s). Specific protocols for requesting aid shall be developed by the Leadership Committee.

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. Following the evaluation, the Authorized Representative shall inform, as soon as possible, 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.

Discretion of Assisting Member's Authorized Official: 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 availability of resources. An Authorized Member's decisions on the availability of resources shall be final.

ARTICLE VI.

RESPONDING MEMBER PERSONNEL

National Incident Management System: Operations shall be conducted using the National Incident Management System.

Control: Assisting Member personnel shall remain under the direction and control of the Assisting Member and their on-scene supervisor, who shall report to the Requesting Member using the principles of the Incident Command System. The Requesting Member's Authorized Official shall coordinate response activities with the designated supervisor(s) of the Assisting Member(s).

Food and Shelter: The Requesting Member shall supply reasonable food and shelter for Assisting Member personnel. If the Requesting Member fails to provide food and shelter for assisting personnel, the Assisting 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 Assisting Member's per diem rates. The Requesting Member remains responsible for reimbursing the Assisting Member for all costs associated with providing food and shelter, if such resources are not provided.

Communication: The Requesting Member shall provide Assisting Member personnel with means of communication, as available.

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

Right to Withdraw: The Assisting 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 Assisting Member for each of the following categories of costs incurred while providing aid and assistance during the specified Period of Assistance.

Personnel: Assisting Member personnel are to be paid for work completed during a specified Period of Assistance according to the terms provided in their current pay rate structure or employment contracts or other conditions of employment. The Assisting Member designated supervisor(s) must keep accurate records of work performed by personnel during the specified Period of Assistance. Requesting Member reimbursement to the Assisting Member must consider all personnel costs, including salaries or hourly wages, costs for fringe benefits, indirect costs, overtime, travel expenses, food & shelter, and clothing. Note that these rates will vary from Member to Member.

Equipment: The Requesting Member shall reimburse the Assisting Member for the use of equipment during a specified Period of Assistance. At a minimum, rates for equipment use must be based on the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. The Assisting Member must not charge direct fees or rental charges to the Requesting Member for other supplies and reusable items that are returned to the Assisting Member in a clean, damage-free condition. An Assisting Member may choose to waive any and all reimbursement fees.

Materials and Supplies: The Requesting Member must reimburse the Assisting Member in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies. Reusable supplies that are returned to the Assisting Member with damage must be treated as expendable supplies for purposes of cost reimbursement.

Payment Period: The Assisting 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 Assisting Member must send the itemized bill not later than ninety (90) days following the end of the Period of Assistance.

ARTICLE VIII.
DISPUTES

Parties shall settle disputes via a court of competent jurisdiction in the superior court of the county of the Requesting Member's community. However, if all parties to a dispute agree in writing, they may opt to submit the dispute to an arbitration proceeding in accordance with the Rules of the American Arbitration Association.

ARTICLE IX.
WORKER'S COMPENSATION CLAIMS

Members are responsible for providing their own worker's compensation benefits and administering worker's compensation.

ARTICLE X.
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 XI.
EFFECTIVE DATE

This Agreement shall be effective after the Water and Wastewater Utility's authorized representatives execute the agreement.

ARTICLE XII.
WITHDRAWAL

A Member may withdraw from this Agreement by providing written notice of its intent to withdraw to the Leadership Committee Chair. Withdrawal will take effect 60 days after the appropriate officials receive notice.

ARTICLE XIII.
MODIFICATION

No provision of this Agreement may be modified, altered, or rescinded by individual parties to the Agreement. Modifications to this Agreement may be due to programmatic operational changes to support the agreement. Modifications require an absolute majority vote of the Members.

ARTICLE XIV.
PROHIBITION ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS/DUTIES

This Agreement is for the sole benefit of the Members and no person or entity must 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 must be without effect.

By: _____

Title: _____

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Date: _____

Utility Name and Address:

Contact Person: _____

E-mail: _____

Phone: _____