



October 8, 2018

Friends and Members of NCVaterWARN,

It has been quite an eventful year for NCVaterWARN and I thank you all for your continued partnership as we build towards a more resilient North Carolina. More importantly, I want to thank the numerous volunteers who have answered the calls for help from past emergencies, and more recently with Hurricane Florence. This storm caused devastation to numerous communities and systems where recovery efforts still continue. We pray for the quick and full recovery of all those effected and are hopeful that the remainder of this hurricane season proves uneventful. However, I am consoled knowing that NCVaterWARN members remain steadfast in their commitment to respond wherever a call for help may come from.

It is with my deep gratitude to those who have worked on our Strategic Plan that I am also pleased to share with you an exciting proposal. NCVaterWARN has been working with our members and partners to forge a sustainable and long-term path for our organization. To this end, the NCVaterWARN Executive Committee and the North Carolina Rural Water Association (NCRWA) Board of Directors agreed to a new relationship which will augment both our quality of service for our members and our contribution to the State Emergency Response Team (SERT). We are also taking in new members. In the review of the 2006 NCVaterWARN mutual aid agreement we uncovered minor changes that are needed to bring the agreement up to date with current case law. This has lead us to approve slightly different NCVaterWARN mutual aid agreements for new members.

A thorough and comprehensive process took place this year culminating in this proposal that I now present to you. Our mutual aid agreement calls upon our members to provide majority voting support to ratify this new relationship and the subsequent changes in our common mutual aid agreements. These changes are geared to (1) support and memorialize the new relationship with NCRWA and (2) update the now decade old NCVaterWARN mutual aid agreement.

I am confident this proposal, coupled with NCVaterWARN's new website, will propel our organization to a new level of readiness and capability. The website and this proposal is the result of years of hard work, analysis, discussion, and consideration that I hope you find amenable as well.

Enclosed for your review and approval is an updated Mutual Aid and Assistance Agreement which reflects our new partnership with NCRWA. The proposal includes the voting methodology we will use.

I look forward to your thoughtful consideration and welcome your feedback.

Respectfully,

Kenneth Waldroup, PE

Kenny Waldroup, Chairman
P.O. Box 590
Raleigh, NC 27601

Eric Hatcher, Secretary
628 Groundwater Way
Wilmington, NC 28411

Visit Our New Website at ncwaterwarn.org

**Introduction and Announcement Packet for New Partnership Between
North Carolina Water & Wastewater Agency Response Network (NCWaterWARN)
and
North Carolina Rural Water Association (NCRWA)
October 8, 2018**

Enclosed for your review is the new Memorandum of Understanding (MOU) authorizing NCWaterWARN's official merging under NCRWA and newly proposed NCWaterWARN membership agreement for NCWaterWARN members to review and vote on its approval.

What led to this new relationship?

September 8, 2016 – The NCWaterWARN Executive Committee convened to discuss challenges and opportunities facing NCWaterWARN's future. It was determined to include other partner organizations such as NCRWA, EWWN and NCWOA into the discussion.

January 31, 2017 - NCWaterWARN held a strategy workshop which included the NCWaterWARN Executive Committee, sponsor agencies and members. The purpose of this meeting was to develop a recommendation and a process plan for long-term sustainability of the organization. The strategy sessions outlined NCWaterWARN's objectives and possible solutions. A full meeting summary is available upon request.

April 10, 2017 – The NCWaterWARN Executive Committee conducted further analysis of possible long-term solutions for management of NCWaterWARN. The NCWaterWARN Executive Committee then authorized NCWaterWARN's Chair and Vice-Chair to pursue negotiations with NC Rural Water Association about possible partnership to suffice NCWaterWARN's long-term needs. NCRWA was selected by the NCWaterWARN Executive Committee after extensive analysis and identified benefits for entirety of NCWaterWARN membership.

January 10, 2018 – Updated NCwaterWARN Mutual Aid and Assistance Agreement to reflect name changes (e.g. NCDENR to DEQ) and case law changes.

August 31, 2018 – Following extensive discussion between NCWaterWARN and NCRWA, terms and conditions of a partnership between the two entities are agreed upon and documented in a formal Memorandum of Understanding (attached).

October 5, 2018 – Memorandum of Agreement between NCWaterWARN and NCRWA signed and executed by both entities.

What You Need to Know

- The partnership between NCWaterWARN and NCRWA becomes effective January 1, 2019
- Under this new agreement between NCWaterWARN and NCRWA, current NCWaterWARN members who are not already members of NCRWA must become dues paying members of NCRWA (costs attached) to maintain active member status under NCWaterWARN.
 - This requires an update to the Mutual Aid and Assistance Agreement for NCWaterWARN Members (proposed draft attached) and requires your vote and two-thirds majority approval for formal adoption.

Important Dates

- **December 10-14, 2018** – NCWaterWARN Member vote (instructions below) for approval of updated NCWaterWARN Mutual Aid and Assistance Agreement are due no later than 12/14/2018.
- **December 14, 2018** - Written notice from NCWaterWARN Chairman sent to NCWaterWARN Members announcing approved changes to NCWaterWARN Mutual Aid and Assistance Agreement. Approved changes to the agreement go into effect 60 days after this date.
- **February 12, 2019** – NCWaterWARN members who are not already members of NC Rural Water Association must become due paying members of NCRWA to continue your membership with NCWaterWARN.

IMPORTANT - Voting Instructions

You must cast your vote for approval of the proposed updated NCWaterWARN Mutual Aid and Assistance Agreement before, but no later than, December 14, 2018 12:00PM. You will cast your vote by emailing ncwaterwarn2018vote@gmail.com. The Subject Line of your email should read “Your Agency Name – 2018 Vote.” For example, “City of Raleigh Public Utilities Department- 2018 Vote.”

To vote **YES**, email ncwaterwarn2018vote@gmail.com with the following message:

I, (insert your name), am authorized to represent (insert your organization’s name) and upon review of the proposed 2018 NCWaterWARN Mutual Aid and Assistance Agreement update do hereby vote to Approve these proposed changes.

To vote **NO**, email ncwaterwarn2018vote@gmail.com with the following message:

I, (insert your name), am authorized to represent (insert your organization’s name) and upon review of the proposed 2018 NCWaterWARN Mutual Aid and Assistance Agreement update do hereby vote to NOT Approve these proposed changes.

Please Note – In the event a NCWaterWARN member fails to reply to this vote request then their vote will be marked “absent” and therefore the vote will be designated as a default approval of said changes.

North Carolina Water and Wastewater Agency Response Network

Mutual Aid and Assistance Agreement For Water and Wastewater Utilities

This Agreement is made and entered into by public and private Water and Wastewater Utilities in North Carolina ~~that have, by executing this Agreement, manifested their intent to participate~~ in an Intrastate Program for Mutual Aid and Assistance.

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This Agreement is authorized under Section 160A-318 of the North Carolina General Statutes which provides that public and private Water and Wastewater Utilities may contract with each other to provide mutual aid and assistance in restoring water and sewer in the event of natural disasters or other emergencies.

ARTICLE I. PURPOSE

Recognizing that emergencies may require assistance in the form of personnel, equipment, materials, and supplies from outside the area of impact, the signatory utilities established an Intrastate Program for Mutual Aid and Assistance. Through the Mutual Aid and Assistance Program, Members coordinate response activities and share resources during emergencies ~~whether localized to the utilities or a declared disaster. This Agreement sets forth the~~ procedures and standards for the administration of the Intrastate Mutual Aid and Assistance Program.

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ARTICLE II. DEFINITIONS

A. Authorized Official— An employee or officer of a Member that is authorized by the Member's governing board or management to:

- request assistance;
- offer assistance;
- Refuse to offer assistance or;
- Withdraw assistance under this Agreement.

B. Disaster— ~~An emergency event that reaches a specific financial threshold related to~~ magnitude of loss and property damage.

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C. Confidential Information – Information defined NCGS 132-1.2 as confidential information or NCGS 132-1.7 as sensitive public security information.

D. Emergency— An unanticipated and/or sudden natural or manmade event that requires immediate action and is, or is likely to be, beyond the control of the services, personnel, equipment, and facilities of a Mutual Aid and Assistance Program Member.

E. Incident ~~Command System~~ (ICS) — A ~~standardized on-scene emergency management~~ system designed for use for all kinds of emergencies and is applicable to small as well as large and complex incidents. ICS is the combination of facilities, ~~equipment, personnel~~ procedures, and communications operating within a common organization structure, designed to aid in the management of resources during incidents.

F. Indemnity — ~~Security~~ Security against hurt, loss, or damage. An exemption from incurred penalties or liabilities.¹

G. ~~Indemnitee~~ Indemnitee — ~~A~~ A party to this Agreement that is entitled to be indemnified by another party to this Agreement pursuant to the terms of Article X.

H. Indemnitor — A party to this Agreement that is obligated to indemnify another party to this Agreement pursuant to the terms of Article X.

I. Large water and or wastewater utility — A utility that is represented with a population in excess of 10,000.

J. Member — Any public or private Water or Wastewater Utility that manifests intent to participate in the Mutual Aid and Assistance Program by executing this Agreement.

K. Mutual Aid and Assistance Agreement — A formal agreement among emergency responders to lend assistance across jurisdictional boundaries when required; either by an emergency that exceeds local resources or a disaster

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

M. The North Carolina Water and Wastewater Agency Response Network (NCWaterWARN) - A network of public and private water and wastewater utilities united under an agreement to provide and receive mutual aid and assistance to signatories to the agreement during emergencies ranging from those that may arise from declared disasters or are specific to a single utility.

N. Period of Assistance — A specified period of time when a Provider assists a Recipient. The period commences when personnel, equipment, materials, or supplies depart from a Provider'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.

O. Provider — A Member that responds to a request for assistance under the Mutual Aid and Assistance Program.

P. Recipient — A Member who requests assistance under the Mutual Aid and Assistance Program.

¹ Merriam-Webster. Retrieved August 22, 2007, from Merriam -Webster.com website: <http://www.merriam-webster.com/>

Q. Small water and or wastewater Utility— A utility is represented with a population less than 10,000.

R. Private Water Utility— An entity that is not a unit of government that owns or operates a water and/or wastewater utility, whether on a for-profit or not-for-profit basis.

S. Public Utility— A unit of government that owns or operates a water and/ or wastewater utility.

**ARTICLE III.
ADMINISTRATION**

The Mutual Aid and Assistance Program shall be administered through the North Carolina Water and Wastewater Agency Response Network (NCWaterWARN) Committee in coordination with the North Carolina Rural Water Association (NCRWA). The purpose of the NCWater-WARN Committee is to provide coordination of the Mutual Aid and Assistance Program before, during, and after an emergency. The NCWaterWARN Committee, under the leadership of an elected Chairperson, shall meet quarterly as deemed necessary by the Chair to address Mutual Aid and Assistance Program issues.

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The administration of NCWaterWARN will be through the NCWaterWARN Committee. The committee shall consist of a chair and vice chair, an eastern regional section, a western regional section, and (3) At-Large members. The NCWater-WARN Committee shall consist of an eastern regional section with three (3) seats representing large and small public water and wastewater utilities and private water systems. The western regional section shall consist of three (3) seats representing large and small public water and wastewater utilities and private water systems. Also, there shall be three (3) At-Large seats for additional representatives from either large and small public water and wastewater utilities or private water systems.

NCWaterWARN regional sections are divided along the NC Department of Environmental Quality and Natural Resources (NCDENR)(NCDEQ) regional office areas. A map of the regional sections is included in Appendix A of this agreement.

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Representatives from large and small public water and wastewater utilities and private utilities shall be elected at the NCWater-WARN Annual Meeting. Election and voting procedures will be described in the NCWater-WARN ~~Operational~~ Operational Procedures Ops Plan.

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Under the leadership of the NCWaterWARN Committee Chair, NCWaterWARN Committee Members shall plan and coordinate emergency preparedness and response activities for the Mutual Aid and Assistance Program. The NCWaterWARN Committee Chair (or his/her designee) shall maintain a master list of all members of the Mutual Aid and Assistance Program.

The NCWaterWARN Committee shall elect a Chair and a Vice Chair. The first Chair and Vice Chair will serve a two (2) year term and subsequent Chairs and Vice Chairs will serve one (1) year thereafter.

The NCWaterWARN Committee shall:

- A. Convene an annual meeting for members.
- B. Provide for the development and maintenance of a database of all participating utilities through one of the members, sponsor agencies, or participating agencies or associations.

- C. Meet as a NCWaterWARN Committee at least quarterly, as needed and at the discretion of the Chair, to address and resolve concerns, create and modify procedures and any additional policy or legal issues related to NCWaterWARN.
- D. Provide for the development and maintenance of a secure website.
- E. Include an advisory board in its meetings to provide input based on the expertise of their agency.

The additional responsibilities of the Chair are described throughout the agreement. Those duties will be highlighted in the agreement for review by the NCWaterWARN Committee and the Sponsors. Those duties will be listed together in the protocols.

The NCWaterWARN shall have an advisory board that consists of representatives from partner agencies and stakeholders. Representatives to the advisory board from the respective agencies shall be named by those agencies. The advisory board is not a voting member. NCWaterWARN Advisory Board may include at least one representative from the following agencies:

- ~~North Carolina Department of Environmental Quality; Division of Water Resources and Natural Resources; Public Water Supply Section~~
- ~~North Carolina Department of Environmental Quality; Division of Water Resources; Water Quality Regional Operations Section and Natural Resources Division of Water Quality~~
- North Carolina Section of the American Water Works Association and Water Environment Association
- North Carolina Rural Water Association
- North Carolina Waterworks Operators Association
- North Carolina Emergency Management
- North Carolina League of Municipalities
- Eastern Water and Wastewater Network
- Environmental Protection Agency Region IV
- Department of Homeland Security Protective Security Advisor

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Other agencies may be invited to join or have representation on the advisory board at the discretion of the NCWaterWARN Committee.

ARTICLE IV. PROCEDURES

In coordination with other response partner agencies, *the* NCWaterWARN Committee shall develop operational and planning procedures for the Mutual Aid and Assistance Program. These procedures shall be reviewed at least annually and updated as necessary.

ARTICLE V.
PRE-EVENT PLANNING

Members shall identify resources available for deployment and develop plans for housing and providing for the necessities and maintenance of personnel and equipment deployed to provide mutual aid and assistance when a request for assistance is made by the member.

In addition, Members shall provide training to their response personnel related to:

- NIMS compliance
- Mutual aid response protocols
- Required documentation for providing mutual aid and assistance and for receiving mutual aid and assistance

ARTICLE VI.
REQUESTS FOR ASSISTANCE

Member Responsibility: Members shall identify an Authorized Official and alternates, provide contact information including 24-hour access, and maintain 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 a participating Member. Requests for assistance can be made orally or in writing. When made orally, the request for personnel, equipment, materials, and supplies shall be prepared in writing as soon as practicable. Requests for assistance shall be directed to the Authorized Official of the participating Member. The Chair will be notified of all activations of the agreement. Specific protocols for requesting aid shall be provided in the required procedures (Article IV).

Prospective NCWaterWARN members must, if not already active, become and maintain an active membership with the North Carolina Rural Water Association (NCRWA) and must attach proof of its membership with NCRWA to this agreement. NCWaterWARN Members must also provide written notice to the acting NCWaterWARN Chairman of its termination of membership with NCRWA which also results in termination with its membership and benefits associated with NCWaterWARN. NCWaterWARN members are responsible for completing their system's profile information, once an account is assigned, in their member account on the current NCWaterWARN platform. Failure to comply may result in both an inaccurate member directory and omission from automated NCWaterWARN communications to the membership.

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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 Recipient whether it has the resources to respond. If the Member is willing and able to provide assistance, the Member shall inform the Recipient about the type of available resources and the approximate arrival time of such assistance.

Discretion of Provider'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 willingness to respond and/or availability of resources. An Authorized Member's decisions on the availability of resources shall be final.

**ARTICLE VII. PROVIDER
PERSONNEL**

National Incident Management System: When providing assistance under this Agreement, the ~~Requesting Utility Recipient and Responding Utility Provider~~ shall be organized and shall function under the National Incident Management System if State or Federal preparedness funding is desired.

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Control: Provider personnel shall remain under the direction and control of the Provider. The Recipient's Authorized Official shall coordinate response activities with the designated supervisor(s) of the Provider(s). Whenever practical, Provider personnel must be ~~self-sufficient~~self-sufficient for up to 72 hours.

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Food and Shelter: The Recipient shall supply reasonable food and shelter for Provider personnel. If the Recipient is unable to or fails to provide food and shelter for Responding personnel, the Provider's designated supervisor is authorized to secure the resources necessary to meet the needs of its personnel. The cost for such resources should not exceed the State per diem rates for that area without further justification of good faith efforts to secure accommodations within the per diem. The Recipient remains responsible for reimbursing the Provider for all costs associated with providing food and shelter, if such resources are not provided.

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Communication: The Recipient shall provide Provider personnel with radio equipment as available, or radio frequency information to program existing radio, in order to facilitate communications with local responders and utility personnel.

Status: Unless otherwise provided by law, the Provider'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, Provider personnel who hold licenses, certificates, or permits evidencing professional, mechanical, or other skills shall be allowed to carry out activities and tasks relevant and related to their respective credentials during the specified Period of Assistance. Members should comply with NIMS credentialing where applicable.

Right to Withdraw: The Provider'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 Recipient's Authorized Official as soon as possible.

ARTICLE VIII. COST REIMBURSEMENT

Unless otherwise mutually agreed in whole or in part, the Recipient shall reimburse the Provider for each of the following categories of costs incurred while providing aid and assistance during the specified Period of Assistance. Such cost may include damage or loss to equipment.

Personnel: Provider personnel are to be paid for assigned duty during a specified Period of Assistance (refer to definition of period of assistance in Article II) according to the terms provided in their employment contracts or other conditions of employment. Either Member may require Provider's personnel to observe a rest period prior to travel back to the Provider's base of operations to ensure safety of personnel. The Provider designated supervisor(s) must keep accurate records of work performed by personnel during the specified Period of Assistance. Recipient reimbursement to the Provider must consider all personnel costs, including salaries or hourly wages, costs for fringe benefits, and indirect costs.

Equipment: The Recipient shall reimburse the Provider for the use of equipment during a specified Period of Assistance, including but not limited to, reasonable rental rates, all fuel,

lubrication, maintenance, transportation, and loading/unloading of loaned equipment. All equipment shall be returned to the Provider in similar condition to its condition at the time of the request for mutual aid and 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 Provider uses rates different from those in the FEMA Schedule of Equipment Rates, the Provider must provide such rates in writing to the Recipient prior to supplying resources. Mutual agreement on rates other than FEMA Schedule of Equipment Rates 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. If Provider must lease a piece of equipment while its equipment is being repaired, Recipient shall reimburse Provider for such rental costs.

Materials and Supplies: The Recipient must reimburse the Provider in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies. The Provider must not charge direct fees or rental charges to the Recipient for other supplies and reusable items that are returned to the Provider in a clean, damage-free condition. Reusable supplies that are returned to the Provider with damage must be treated as expendable supplies for purposes of cost reimbursement.

Payment Period: The Provider must provide an itemized bill to the Recipient for all expenses it incurred as a result of providing assistance under this Agreement. The Provider must send the itemized bill to the authorized official not later than ninety (90) days following the end of the Period of Assistance. The Recipient must pay the bill in full on or before the one hundred eightieth (180th) day following the billing date. Unpaid bills become delinquent upon the one hundred eighty-first (181st) 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.

Records – Each Provider and their duly authorized representatives shall have access to a Recipient's books, documents, notes, reports, papers, and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance, or regulatory audit. Each Recipient and their duly authorized representatives shall have access to a Provider's books, documents, notes, reports, papers, and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance, or regulatory audit. Such records shall be maintained and made accessible for at least three (3) years or longer where required by law.

**ARTICLE IX.
DISPUTES**

Any claim arising out of or relating to this agreement shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by any Member. The parties shall share the mediator's fee and any filing fees equally. Mediation shall be held in the County of the Providing Member if a place has not been mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court of competent jurisdiction. Claims not resolved by mediation shall be decided by a court of competent jurisdiction unless the parties mutually agree otherwise.

**ARTICLE X.
LIABILITY**

Each Member shall be responsible for any and all claims, demand, suits, actions, damages and causes of action related to or arising out of or in any way connected with its own actions, and the actions of its personnel, in providing mutual aid and assistance rendered or performed pursuant to the terms and conditions of this Agreement.

**ARTICLE XI.
INDEMNIFICATION**

To the extent permitted by applicable law, ~~In~~ in the event of a liability, claim, demand, action, or proceeding of whatever kind or nature arises out of a specified Period of Assistance, the Members who receive and provide assistance during said Period of Assistance shall indemnify and hold harmless those other Members, NCWaterWARN Committee and Sponsor Agencies, ~~but which~~ had no involvement with the transaction or occurrence that is the subject of the aforementioned claim, action, demand, or other proceeding of whatever kind or nature is limited to execution of this Agreement.

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**ARTICLE XII.
WORKERS' COMPENSATION CLAIMS**

Recipient shall not be responsible for reimbursing any amounts paid or due as benefits to Provider's employees under the terms of the North Carolina Workers' Compensation Act, Chapter 97 of the General Statutes, due to personal injury or death occurring during the period of time such employees are engaged in the rendering of aid and assistance under this Agreement. It is mutually understood that Recipient and Provider shall be responsible for payment of such workers' compensation benefits only to their own respective employees. Further, it is mutually understood that Provider will be entirely responsible for the payment of workers' compensation benefits to its own respective employees pursuant to G.S. 97-51.

**ARTICLE XIII.
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 XIV.
CONFIDENTIAL INFORMATION**

Pursuant to NCGS 132-1.7, ~~and to the extent permitted by applicable law,~~ any Member shall maintain in the strictest confidence and shall take all reasonable steps necessary to prevent the disclosure of any confidential information shared between Members under this Agreement. If any Member, third party, or other entity requests or demands, by subpoena or otherwise, that a Member disclose any confidential information disclosed under this Agreement, the Member shall immediately notify the owner of the confidential information and ~~shall take all reasonable steps necessary to prevent the disclosure of any confidential information by asserting all applicable rights and privileges with respect to such information and shall cooperate fully in any judicial or administrative proceeding relating thereto.~~

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**ARTICLE XV.
EFFECTIVE DATE**

This Agreement shall be effective after ~~both~~ the Water and/or Wastewater Utility's authorized representative executes the Agreement ~~and presents proof of dual membership with North Carolina Rural Water Association (NCRWA).~~ An executed copy will be provided to the NCWaterWARN Committee Chair as soon as possible.

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**ARTICLE XVI.
WITHDRAWAL**

A Member may withdraw from this Agreement by providing written notice of its intent to withdraw to NCWaterWARN Committee Chair. Withdrawal takes effect sixty (60) days after the NCWaterWARN Committee Chair receives notice.

Membership may be suspended or revoked by the NCWaterWARN Committee for failure to comply with the Articles of this Agreement.

**ARTICLE XVII.
MODIFICATION**

Modifications to this Agreement may be made to incorporate programmatic operational changes to support the Agreement. Modifications require a two-thirds majority vote of Members. The NCWaterWARN Committee Chair must provide written notice to all Members of proposed modifications to this Agreement sixty (60) days in advance of the vote. The NCWaterWARN Committee Chair must provide written notice to all members of approved modifications to this Agreement. Approved modifications take effect sixty (60) days after the date upon which notice of the approved modifications are sent to the Members.

No provision of this Agreement may be modified, altered, or rescinded by individual parties to the Agreement.

**ARTICLE XVIII.
SEVERABILITY**

The Members agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

**ARTICLE XIX PRIOR
AGREEMENTS**

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

**ARTICLE XX. MULTIPLE
AGREEMENTS**

When multiple mutual aid and assistance agreements exist between two Members, if inconsistencies exist between the agreements, the conditions of this Agreement take precedence except by mutual written acceptance of an alternate agreement of both Members for that specific event.

**ARTICLE XXI.
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.

ARTICLE XXII.
INTRASTATE AND INTERSTATE MUTUAL AID AND ASSISTANCE PROGRAMS

To the extent practicable, Members of this Agreement shall participate in Mutual Aid and Assistance activities conducted under the North Carolina Statewide Mutual Aid and Assistance Agreement 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 _____ year of _____.

Legal Name of Water/Wastewater Utility: _____

Authorized Representative

Title

Please Print Name

Memorandum of Understanding (8.31.2018)

NCRWA/NCWaterWARN

WHEREAS, the North Carolina Rural Water Association (herein NCRWA) is a North Carolina corporation dedicated to the betterment of the North Carolina Water and Wastewater Industry and the North Carolina Water and Wastewater Agency Response Network (herein NCWaterWARN) is an unincorporated volunteer association dedicated to the emergency response needs of the North Carolina Water and Wastewater Industry; and

WHEREAS, the purpose of a NCWaterWARN is to provide a method whereby water/wastewater utilities that have sustained or anticipate damages from natural or human-caused incidents can provide and receive emergency aid and assistance in the form of personnel, equipment, materials, and other associated services as necessary from other water/wastewater utilities. NCWaterWARN is governed by a Board of Directors from the agencies members; NCWaterWARN's members are the parties to its mutual aid agreements; and

WHEREAS, NCRWA is a 501c6 classified non-profit organization dedicated to assisting their members attain the highest standard in drinking water and wastewater service. Serving members across the State of North Carolina, NCRWA is governed by a volunteer Board of Directors from the association's System Membership, whose members represent both community and non-community water and wastewater systems; and

WHEREAS, there is a mutual desire to solidify a closer relationship and partnership between NCRWA and NCWaterWARN, that will enhance emergency intrastate mutual aid between small, medium, and large water and/or wastewater utilities across North Carolina in terms of, but not limited to, efficiency, capability, and readiness to prepare for, mitigate, respond to and recovery from natural, technological, and human caused emergencies;

THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties as follows:

1) **Relationship.** NCWaterWARN and NCRWA agree upon these designated roles and responsibilities that define their agreement:

a) **NCRWA**

- i) Manage the NCWaterWARN website to include maintenance and administrative needs to ensure its functionality and usability for both visitors, as well as, operational use by actual NCWaterWARN members and partners.

- ii) Manage vital records of NCWaterWARN to include membership database, mutual aid & assistance agreements, training records, meeting minutes, election results, emergency plans, and all other records later identified.
- iii) Coordinate and manage official NCWaterWARN meetings to include executive committee meetings, board meetings, and the Annual Membership Meeting in compliance with the NCWaterWARN Bylaws as provided in the approved NCRWA Annual Budget. NCRWA retains the right to refuse to coordinate and manage any meeting that is subject to this agreement.
- iv) Lead education and solicitation efforts to prospective new members of NCWaterWARN to proactively augment North Carolina's mutual aid profile in advance of emergencies.
- v) Lead education and training efforts to existing NCWaterWARN members to mitigate impacts related to personnel turnover at member utilities such as status awareness.
- vi) Coordinate during events as deemed appropriate by NCRWA; and
- vii) Invoice and collect funding from NCWaterWARN members to fund NCWaterWARN activities which can include those managed by NCRWA; and
- viii) Provide fiscal management to include accounts payable, accounts receivable, reconciliation of bank statements, maintaining financial statements including profit/loss statements.
- ix) Provide a statement in support of funding applications from State of North Carolina and Federal sources as required but not inconsistent with or in conflict with NCRWA; State or Federal funding secured for NCWaterWARN activities shall be prioritized to first fund the responsibilities provided by NCRWA prior to being obligated for other purposes of NCWaterWARN; and
- x) Provide a statement in support of grant applications from all sources as required but not inconsistent with or in conflict with NCRWA. Grant funding secured for NCWaterWARN activities shall be prioritized to first fund the responsibilities provided by NCRWA prior to being obligated for other purposes of NCWaterWARN.
- xi) Advance NCWaterWARN goals and objectives as required by but not inconsistent with or in conflict with NCRWA and as included in the approved NCRWA Annual Budget.
- xii) Manage warehousing of mutual aid emergency equipment that might be acquired as a donation or obligated to, as approved by NCRWA.
- xiii) Negotiate and bind NCWaterWARN insurance to provide \$1M coverage for liabilities resulting from: Directors and Officers, Employment Practices Liability (for harassment and discrimination types of issues), and General Liability with premise coverage for NCWaterWARN events as provided for in the NCRWA Annual Budget.
- xiv) Provide staff support for responsibilities listed above.

b) NCWaterWARN

- i) Ensure NCRWA members are, or become within 90 days of the execution of this agreement, dues-paying members of NCRWA.
- ii) Provide volunteer resources such as:
 - 1. Executive Committee with approval authorities;
 - 2. Regional Coordinators;
 - 3. Deputy Regional Coordinators; and
 - 4. At-large representatives
- iii) Facilitate and attend meetings.
- iv) Designate an Executive Committee member as liaison to the NCRWA Emergency Response Planning Committee.
- v) Provide quarterly and annual reports to NCRWA Board of Directors.
- vi) Submit regular updates for NCRWA newsletters, publications, and e-updates at least quarterly.
- vii) Ensure NCRWA Goals and Objectives align with NCRWA agreed upon roles, responsibilities, and revenue collection.
- viii) Propose an annual budget to include review and approval by NCRWA as well as cooperation during audits and reviews of NCRWA; and
- ix) Educate NCRWA membership to member responsibilities.
- x) Support development of training and exercise material; and
- xi) Seek grant funding to include identification of and application for upon approval by NCRWA.
- xii) Maintain situational awareness during imminent emergencies to include:
 - 1. Staff infrastructure break out room at State EOC (SEOC) and provide technical assistance to the State Emergency Response Team (SERT) as needed.
 - 2. Monitor WebEOC, otherwise known as NCSPARTA, and report any NCRWA missions to the SERT Coordinate any needed Emergency Management Assistance Compact (EMAC) requests through SERT Logistics Chief
 - 3. Execute intelligence and information sharing to enhance situational awareness amongst NCRWA members.
 - 4. Communicate during events with NCRWA Staff
 - 5. Organize and participate in Table Top Exercises (TTX)
 - 6. Update NCRWA Op Plan
- xiii) NCRWA shall list NCRWA as additionally insured on all liability insurance plans.

NCRWA shall have no authority to bind NCRWA to any agreement, partnership, or other relationship.

c) Length of Term of Relationship

- i) This Agreement shall take effect for one calendar year upon signature of both parties with an annual automatic renewal for subsequent one-year terms to

commerce on Anniversary Date (the date by which both parties have executed this Agreement), unless terminated as provided in this agreement.

d) Termination

- i) NCWaterWARN may terminate this agreement, without cause, upon not less than 180 days written notice to NCRWA. NCRWA may terminate this agreement, without cause, upon not less than 180 days written notice to NCWaterWARN.
- ii) Upon termination, NCRWA shall make available for a period of 180 days after end of contract all membership data base, financial records, mutual aid assistance agreements, training records, meeting minutes, results of elections, and all other records as later mutually identified as property of NCWaterWARN.
- iii) Within 180 days of notice of termination, NCRWA shall obligate unspent monies collected by NCRWA on behalf of NCWaterWARN for NCWaterWARN activities, which shall not include any NCRWA Membership Dues collected from NCWaterWARN Members; NCRWA shall also return all non-monetary personal property of NCWaterWARN that it receives pursuant to this agreement on behalf of NCWaterWARN.

2) Additional Terms and Conditions

a) Membership Software. As needed, NCRWA shall obtain and provide to NCWaterWARN members a subscription for a low-cost software program for membership management database to be owned and administered by NCRWA for the benefit of NCWaterWARN. NCWaterWARN has a current website, which contains a membership database system prior to the date of this agreement. NCRWA shall continue to use NCWaterWARN's current website until it is deemed by both parties to not be efficient and productive to accomplish the goals and objectives of NCWaterWARN. Population of the database shall be a volunteer effort by the NCWaterWARN and its members. NCWaterWARN shall ensure that all member and contact information is accurate, complete, and current. NCRWA intends to use the information in the database to communicate with NCWaterWARN's members.

b) Administrative Mailing and Files. NCRWA will provide a central filing system for the files, books, records, and minutes of NCWaterWARN, which will consist of a secure filing cabinet(s) at the NCRWA office in Welcome, NC and use of the NCRWA Post Office Box in Welcome, North Carolina. NCRWA shall provide access to all electronic files to the Chair of NCWaterWARN via a cloud based server used by NCRWA. Currently, NCRWA uses Dropbox Business to accomplish this objective.

c) Communications. NCRWA will be the primary party responsible for production, sorting, and mailing or dissemination of correspondence, notices to members, and the like as provided in the approved NCRWA Budget. NCWaterWARN shall provide all content and shall timely proof all final content prior to mailing or distribution. NCRWA retains editorial control of all information distributed by NCRWA under this agreement, which includes content, messaging, and images. NCWaterWARN shall provide all content to NCRWA at least 15 days in advance of the date by which the mailing or distribution is scheduled to occur and shall specify in writing to whom the distribution or mailing shall be directed to, and the date by which the distribution or mailing shall

occur. NCRWA shall provide space in the quarterly magazine and newsletter for use by NCWaterWARN.

d) Disclosure of Organizational Activity/Governance. During the term of this Agreement, NCWaterWARN shall provide to NCRWA: any proposed incorporation; its bylaws, and any proposed or adopted changes thereto; its policies, and any proposed or adopted changes; its membership lists and any updates; its officers, board members, and Executive Committee members; and all meeting notices in advance of all meetings of NCWaterWARN members, committees, or board of directors, including minutes from any member, board of directors, Executive Committee meetings or other committee meetings, and provide advance notice of training sessions or educational seminars.

e) Income, Fees, and Receipt of Property. If NCWaterWARN establishes or collects any dues, assessment or other fee from its members or receives funds from any other source whatsoever, including training fees, sponsorship fees, advertisement fees, and grants, NCWaterWARN shall either direct the payer to pay NCRWA directly or shall promptly remit such payments to NCRWA. Any such payment received by NCRWA from or relating to NCWaterWARN shall be accounted for specifically for NCWaterWARN and utilized in furtherance of this Agreement. If NCWaterWARN receives any non-monetary personal property, such as equipment, materials, and in-kind contributions, NCWaterWARN shall either direct the grantor to convey the same directly to NCRWA or shall promptly transfer the same to NCRWA for use in furtherance of this Agreement; upon termination of this Agreement, NCRWA shall convey such non-monetary personal property remaining in its possession to NCWaterWARN or its designee. NCRWA retains the right to refuse any contribution or property received by NCWaterWARN.

f) Training. All training sessions or educational seminars ("training event") provided by the NCWaterWARN shall be coordinated and facilitated through NCRWA who shall be responsible for registering participants and collecting registration fees for the training event.

g) Chain of Command. NCWaterWARN's Chair shall be the primary point of contact and shall be responsible as the primary point of contact. Should the Chair be unavailable or unresponsive, the Vice Chair, Secretary and Past Chair, in that order, shall be primary point of contact. NCRWA's Executive Director or an appointed staff member of NCRWA shall be the primary point of contact for all communications with NCRWA.

h) Budget. NCWaterWARN shall annually develop and approve, and then propose to NCRWA for its approval, a line-item detailed budget for proposed receipts and expenditures. This process shall be coordinated with the NCRWA Budget Process and all proposed information shall be provided to NCRWA no later than September 1 each year. The NCRWA Fiscal Year is January 1- December 31.

i) Indemnification. NCWaterWARN will indemnify and hold harmless NCRWA, its officers, directors, members, and their respective agents and employees, from any and all claims, demands, suits, costs, expenses (including reasonable attorneys' fees) of whatever nature and description arising out of, related in any way, or in promotion, management, production, operation, installation, security, quality, safety, or service in connection with this Agreement by

NCWaterWARN's employees, agents, or subcontractors, for any negligence of NCWaterWARN arising out of or relating to this Agreement or the administration of NCWaterWARN, or for any breach of this Agreement. NCRWA will indemnify and hold harmless NCWaterWARN, its officers, directors, agents, and employees, from any and all claims, demands, suits, costs, expenses (including reasonable attorneys' fees) of whatever nature and description arising out of, related in any way, or in connection with NCRWA's obligations for this Agreement.

j) Miscellaneous. The parties each grant to the other, during the term of this Agreement, the right to use the other party's name and logo. The parties are not "partners" and no joint venture is created by this Agreement. NCWaterWARN and its officers, directors, members, and volunteers are not agents of NCRWA and have no authority to bind NCRWA. This agreement is not intended to create any rights of third party beneficiaries. NCRWA is not liable for the acts and omissions of NCWaterWARN, its officers, directors, members, or volunteers. Any person executing this Agreement on behalf of a party to this Agreement represents and warrants that they have the authority to do so on behalf of that party.

IN WITNESS WHEREOF, North Carolina Rural Water Association has executed the foregoing with the signature of its duly authorized Officer and North Carolina Water & Wastewater Agency Response Network has executed with the signature of its Chairman, attested by its Vice Chairman this the _____ day of _____, 2018.

By: _____

Daniel Wilson, PE

Executive Director/CEO, NCRWA

By: _____

Kenny Waldroup, PE

Chairman, NCWaterWARN

ATTEST:

By: _____

Vice Chairman, NCWaterWARN