# Colorado's Water/ Wastewater Agency Response Network (CoWARN) Mutual Aid and Assistance Agreement

This CoWARN Mutual Aid and Assistance Agreement (Agreement) is made and entered into by public and private water and wastewater utilities that have, by executing this Agreement, manifested their intent to participate in Colorado's Water/Wastewater Agency Response Network (CoWARN).

This Agreement is authorized under Section 24-33.5-713 of the Colorado Revised Statutes.

## ARTICLE I.
## PURPOSE

Recognizing that emergencies affecting water and wastewater utilities may require assistance in the form of resources from other water and wastewater utilities located outside the area of impact, CoWARN was established by utilities. Through execution of this agreement, members coordinate response activities and share resources during emergencies. This agreement outlines the mutual aid and assistance requirements between requesting and responding members.

## ARTICLE II.
## DEFINITIONS

A. Emergency- A natural or manmade event placing a member's ability to provide water and/or wastewater service that is, or is likely to be, beyond the control of the resources of the affected Member and requires immediate action.

B. Member- Any public or private water or wastewater utility that manifests intent to participate in CoWARN by executing 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 CoWARN pursuant to this Agreement.

E. Responding Member- A member that responds to a request for assistance under CoWARN pursuant to this Agreement.

F. Resources- The personnel, equipment, materials and supplies of a responding member that are or may be the subject of a request for assistance by a requesting member.

G. Period of Assistance- A specified period of time when a responding member assists a requesting member. The period commences when resources depart from a responding member's facility and ends when the resources return to the responding member's 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.

H. 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.
## ADMINISTRATION

This Agreement shall be administered pursuant to the terms and conditions of this Agreement and any bylaws that have been duly adopted by the members.

## ARTICLE IV.
## REQUESTS FOR ASSISTANCE

A. *Member Contacts:* Upon execution of this Agreement, members shall identify an authorized official and alternates, provide contact information including 24-hour access, and maintain resource information made available by the member for mutual aid and assistance response.

B. *Requests for Assistance:* In the event of an emergency, a member's authorized official may request assistance from other participating members by submitting the request using the procedures set forth in the most current version of the CoWARN Operational Plan (Plan).

C. *Response to a Request for Assistance:* After a member receives a request for assistance, the authorized official of the responding member will evaluate whether resources are available to respond to the request for assistance. If a responding member is willing and able to provide assistance, the response shall be conducted in accordance with the Plan.

## ARTICLE V.
## RESPONDING TO REQUESTS FOR ASSISTANCE

A. *Discretion of Responding 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 of a member shall have absolute discretion for the purposes of this Agreement as to the availability and use of its organization's resources.

B. *Right to Withdraw:* The responding member's authorized official retains the right to withdraw some or all of its resources at any time. Notice of intention to withdraw must be communicated to the requesting member's authorized official as soon as practicable.

C. *National Incident Management System (NIMS):* When providing assistance under this Agreement, the requesting member and responding member shall be organized and shall function under NIMS.

D. *Control:* The resources of the responding member shall remain, at all times, under the direct supervision and control of the designated supervisory personnel of the responding member and shall be returned to the responding member immediately upon request. Representatives of the requesting member shall suggest work assignments and schedules for the personnel of the responding member; however, the designated supervisory personnel of the responding member shall have the exclusive responsibility and authority for assigning work and establishing work schedules for the personnel of the responding member. The designated supervisory personnel of the responding member 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 responding member, and report work progress to the requesting member.

E. *Food and Shelter:* The requesting member shall supply reasonable food and shelter for responding member personnel during the period of assistance. If the requesting member fails to provide food and shelter for responding member personnel, the responding member's designated supervisor is authorized to secure the resources necessary to meet the needs of its personnel. The requesting member remains responsible for reimbursing the responding member for all costs associated with providing food and shelter. The rates of reimbursement to the responding member for such resources shall not exceed

the state per diem rates for that area.

F. *Safety:* All personnel shall comply with established rules of their own member and all Federal, State and Local regulations. Additional safety rules may be established by mutual agreement of the requesting member and responding member as conditions require as long as they do not decrease the margin of safety. Any special safety requirements will be communicated to all personnel by the requesting member. This includes, but is not limited to, potential exposures due to the presence of chemicals, or other hazardous elements in the work environment. Members will establish minimum safety rules for all personnel performing work and will be responsible for ensuring compliance of these rules by their respective personnel.

G. *Communication:* The requesting member shall provide responding member personnel with applicable communication equipment and contact information as available, in order to facilitate communications with local responders and utility personnel.

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

I. *Licenses, Certifications and Permits:* To the extent permitted by law, responding member 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.

J. *Laws and Regulations:* Members shall be responsible for compliance with all Federal, State and Local laws and regulations related to the work they perform for the emergency and work associated therewith under this Agreement.

## ARTICLE VI.
## COST REIMBURSEMENT

The requesting member shall reimburse the responding member for each of the following categories of costs incurred while providing aid and assistance during the specified period of assistance. This does not preclude members from mutually agreeing, in writing, to an alternative reimbursement.

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

B. *Equipment:* The responding member 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 the Federal Emergency Management Agency (FEMA). Rates for equipment not referenced on the FEMA Schedule of Equipment Rates shall be developed based on recovery of actual costs incurred.

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

expendable supplies for purposes of cost reimbursement.

D. *Payment Period:* The responding member must provide an itemized bill to the requesting member for all expenses it incurred as a result of providing assistance under this Agreement. The responding member must send the itemized bill no later than ninety (90) days following the end of the period of assistance. The requesting member must pay the bill in full on or before the sixtieth (60th) day following the billing date. Unpaid bills become delinquent on the sixty-first (61st) day following the billing date, and once delinquent, the bill accrues interest at the bank prime loan rate, as reported in the Federal Reserve Statistical Release H.15, for the date the request is made, plus two percent (2%) per annum, computed on an actual days/actual days basis.

**ARTICLE VII.**
**INDEPENDENT CONTRACTOR, LIABILITY, INSURANCE, AND IMMUNITY**

The responding member shall be an independent contractor of the requesting member and wages, hours and other terms and conditions of employment of the responding member shall be applicable. The responding member shall procure and maintain in full force and effect at all times, unemployment insurance and workers' compensation insurance in accordance with the statutes of its respective home state, and wherever such benefits can be claimed. Notwithstanding Articles V, VI, and VII, each member shall bear the risk of its own actions, as it does with its day to-day operations.

If the responding member is a "Public Entity" within the meaning of the Colorado Governmental Immunity Act CRS 24-10-101, et seq., as amended ("Act'), the responding member shall at all times during the term of this agreement maintain only such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. Upon request by the requesting member, the responding member shall show proof of such insurance satisfactory to requesting member.

If the responding member is not a Public Entity, such responding member shall be subject to the minimum required insurance amounts in Exhibit A. Nothing contained herein will constitute a waiver by any member of the provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

**ARTICLE VIII.**
**SIGNATORIES**

In the event of a claim, demand, action, or proceeding of whatever kind or nature arising out of a specified period of assistance, those requesting and responding members who receive and provide assistance shall be totally responsible for any liability, damages, or costs. Those members whose involvement in the subject transaction or occurrence is limited to execution of this Agreement and the receipt of a request for assistance shall have no liability or responsibility whatsoever for any such claim, action, demand, or other proceeding.

**ARTICLE IX.**
**EFFECTIVE DATE AND TERM**

This Agreement shall be effective after the member executes the Agreement and the applicable Regional Committee Chairperson, Steering Committee member, or Statewide Committee member receives the Agreement. This Agreement shall continue in force and remain binding on each and every member until December 31st of 2035. This Agreement may be renewed for a period of twenty years upon the signature of those members who wish to participate. Any member may terminate its participation in this Agreement pursuant to Article X.

**ARTICLE X.**
**WITHDRAWAL**

A member may withdraw from CoWARN by providing written notice of its intent to withdraw to the Regional Committee Chairperson, Steering Committee member, or Statewide Committee member. Withdrawal takes

effect upon receipt of the notice. Withdrawal of participation in CoWARN by a member shall not affect the continued operation of this Agreement between and among the remaining members.

**ARTICLE XI.**
**MODIFICATION**

No provision of this Agreement may be modified, altered, or rescinded by individual members. Modifications to this Agreement may be due to programmatic operational changes to support the Agreement. Modifications require a simple majority vote of members within each region and a unanimous agreement among the regions. All members will be notified of approved modifications to this Agreement. Approved modifications take effect sixty (60) days after the date upon which members are notified.

**ARTICLE XII.**
**PRIOR AGREEMENTS**

This Agreement supersedes all prior agreements between members regarding mutual aid and assistance under CoWARN to the extent that such prior agreements are inconsistent with this Agreement.

**ARTICLE XIII.**
**PROHIBITON 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.

Now, therefore, in consideration of the covenants and obligations set forth in this Agreement, the Water and/or Wastewater Utility listed here manifests its intent to be a member of CoWARN by executing this Agreement on this_____day of_____20_____.

Water/Wastewater Utility: _____

By:_____

Title:_____

Authorized Officials:

Name:_____ Phone:_____

Name:_____ Phone:_____

Name:_____ Phone:_____

Name:_____ Phone:_____

24-hour Contact:_____ Phone:_____

# Colorado's Water/ Wastewater Agency Response Network (CoWARN) Mutual Aid and Assistance Agreement

## Exhibit A
## MINIMUM INSURANCE REQUIREMENTS FOR NON PUBLIC ENTITY MEMBERS

Non Public Entity Responding and Requesting Members shall procure and maintain in full force and effect at all times (during the " Period of Assistance" or "Emergency") the following insurance coverage's, with insurance companies qualified to do business in the State of Colorado:

1. Unemployment insurance and workers' compensation insurance in accordance with the statutes of its respective home state,

2. Commercial general liability insurance, and automobile liability insurance for owned, hired and non-owned vehicles. Each policy shall insure against claims for bodily injury (including death) and property damage. Each policy shall have a limit of not less than $1,000,000 per occurrence. Non Public Entity Member shall have the right to meet the primary insurance requirements of section (2), through its own self-insurance, provided the Non Public Entity Member is authorized to provide such self-insurance in its home state.

3. In addition, each Non Public Entity Member shall carry umbrella coverage that "follows form" and extends over the insurance policies within (2) above, of not less than $1 million.