

1 **Mutual Aid Agreement for SoonerWARN**  
2 Private Utilities

3  
4 **AGREEMENT**

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

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9 Statutory Authority –This Agreement is authorized under 63 OS § 695.1 *et seq.* which provides  
10 that Water and Wastewater Utilities may contract with each other to provide services.

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12 **ARTICLE I.**  
13 **PURPOSE**

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15 Recognizing that emergencies may require aid or assistance in the form of personnel,  
16 equipment, and supplies from outside the area of impact, the signatory utilities hereby establish  
17 an Intrastate Program for Mutual Aid and Assistance. Through the Mutual Aid and Assistance  
18 Program, Members coordinate response activities and share resources during emergencies.  
19 This Agreement sets forth the procedures and standards for the administration of the Intrastate  
20 Mutual Aid and Assistance Program.

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22 **ARTICLE II.**  
23 **DEFINITIONS**

- 24  
25 A. Authorized Official – An employee or officer of a Member utility that is authorized to:  
26 1. Request assistance;  
27 2. Offer assistance;  
28 3. Refuse to offer assistance or  
29 4. Withdraw assistance under this agreement.  
30  
31 B. Emergency – A natural or human caused event or circumstance causing, or imminently  
32 threatening to cause, loss of life, injury to person or property, human suffering or financial  
33 loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought,  
34 earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination,  
35 utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot,  
36 intentional acts, sabotage and war that is, or could reasonably be beyond the capability of  
37 the services, personnel, equipment, and facilities of a Mutual Aid and Assistance Program  
38 Member to fully manage and mitigate internally.  
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40 C. Members – Any public or private Water or Wastewater Utility that manifests intent to  
41 participate in the Mutual Aid and Assistance Program by executing this Agreement.  
42  
43 1. Associate Member – Any non utility participant, approved by the State Steering  
44 Committee, that provides a support role for the WARN program, for example State  
45 Department of Public Health, or associations, who are members of the Regional or State  
46 Steering Committees 1 and do not officially sign the WARN agreement.  
47  
48 2. Requesting Member – A Member who requests aid or assistance under the Mutual Aid  
49 and Assistance Program.  
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- 1 3. Responding Member – A Member that responds to a request for aid or assistance under  
2 the Mutual Aid and Assistance Program.  
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4 4. Non-Responding Member - A Member or Associate Member that does not provide aid or  
5 assistance during a Period of Assistance under the Mutual Aid and Assistance Program.  
6  
7 D. Confidential Information - Any document shared with any signatory of this Agreement that is  
8 marked confidential, including but not limited to any map, report, notes, papers, opinion, or  
9 e-mail which relates to the system vulnerabilities of a Member or Associate Member.  
10  
11 E. Period of Assistance – A specified period of time when a Responding Member assists a  
12 Requesting Member. The period commences when personnel, equipment, or supplies  
13 depart from Responding Member’s facility and ends when the resources return to their  
14 facility (portal to portal). All protections identified in the agreement apply during this period.  
15 The specified Period of Assistance may occur during response to or recovery from an  
16 emergency, as previously defined.  
17  
18 F. National Incident Management System (NIMS): A national, standardized approach to  
19 incident management and response that sets uniform processes and procedures for  
20 emergency response operations.  
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22 **ARTICLE III.**  
23 **ADMINISTRATION**  
24

25 The Mutual Aid and Assistance Program shall be administered through a Statewide Committee.  
26 In addition to representing the interests of the Members, the Statewide Committee includes  
27 representatives from the Oklahoma Department of Environmental Quality, Oklahoma  
28 Emergency Management, The Oklahoma Rural Water Association, the Oklahoma Municipal  
29 League, the Oklahoma Association of Regional Councils and the Oklahoma Water Environment  
30 Association. Under the leadership of the Chair, the Statewide Committee members shall plan  
31 and coordinate the SoonerWARN website.  
32

33 **ARTICLE IV.**  
34 **PROCEDURES**  
35

36 The Statewide Committee shall develop operational and planning procedures for the  
37 SoonerWARN project. These procedures shall be reviewed at least annually and updated as  
38 needed by the Statewide Steering Committee.  
39

40 **ARTICLE V.**  
41 **REQUESTS FOR ASSISTANCE**  
42

- 43 A. Member Responsibility: Members shall identify an Authorized Official and alternates;  
44 provide contact information including 24-hour access. and maintain resource information  
45 that may be available from the utility for mutual aid and assistance response. Such contact  
46 information shall be updated annually or when changes occur on the SoonerWARN website.  
47

48 In the event of an Emergency, a Member’s Authorized Official may request mutual aid and  
49 assistance from a participating Member. Requests for assistance can be made orally or in  
50 writing. When made orally, the request for personnel, equipment, and supplies shall be  
51 prepared in writing as soon as practicable. Requests for assistance shall be directed to the

1 Authorized Official of the participating Member. Specific protocols for requesting aid shall  
2 be provided in the required procedures (Article IV).

- 3
- 4 B. Response to a Request for Assistance – Members of the agreement are not obligated to  
5 respond to a request. After a Member receives a request for assistance, the Authorized  
6 Official evaluates whether or not to respond, whether resources are available to respond, or  
7 if other circumstances would hinder response. Following the evaluation, the Authorized  
8 Representative shall inform, as soon as possible, the Requesting Member whether it will  
9 respond. If the Member is willing and able to provide assistance, the Member shall inform  
10 the Requesting Member about the type of available resources and the approximate arrival  
11 time of such assistance.
- 12
- 13 C. Discretion of Responding Member’s Authorized Official – Execution of this Agreement does  
14 not create any duty to respond to a request for assistance. When a Member receives a  
15 request for assistance, the Authorized Official shall have sole and absolute discretion as to  
16 whether or not to respond, or the availability of resources to be used in such response. An  
17 Authorized Member’s decisions on the availability of resources shall be final.
- 18

19 **ARTICLE VI.**  
20 **RESPONDING MEMBER PERSONNEL**

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- 22 A. National Incident Management System - When providing assistance under this Agreement,  
23 the Requesting Utility and Responding Utility shall be organized and shall function under the  
24 National Incident Management System.
- 25
- 26 B. Control - While employees so provided may be under the supervision of the Responding  
27 Member, the Responding Member’s employees come under the direction and control of the  
28 Requesting Member, consistent with the NIMS Incident Command System to address the  
29 needs identified by the Requesting Member. The Requesting Member’s Authorized Official  
30 shall coordinate response activities with the designated supervisor(s) of the Responding  
31 Member(s). The Responding Member’s designated supervisor(s) must keep accurate  
32 records of work performed by personnel during the specified Period of Assistance.
- 33
- 34 C. Food and Shelter – Whenever practical, Responding Member personnel must be self  
35 sufficient for up to 72 hours. When possible, the Requesting Member shall supply  
36 reasonable food and shelter for Responding Member personnel. If the Requesting Member  
37 is unable to provide food and shelter for Responding personnel, the Responding Member’s  
38 designated supervisor is authorized to secure the resources necessary to meet the needs of  
39 its personnel. Except as provided below, the cost for such resources must not exceed the  
40 State per diem rates for that area. To the extent Food and Shelter costs exceed the State  
41 per diem rates for the area, the Responding Member must demonstrate that the additional  
42 costs were reasonable and necessary under the circumstances. Unless otherwise agreed  
43 to in writing, the Requesting Member remains responsible for reimbursing the Responding  
44 Member for all reasonable and necessary costs associated with providing food and shelter,  
45 if such resources are not provided.
- 46
- 47 D. Communication – The Requesting Member shall provide Responding Member personnel  
48 with radio equipment as available, or radio frequency information to program existing radio,  
49 in order to facilitate communications with local responders and utility personnel.
- 50

- 1 E. Status - Unless otherwise provided by law, the Responding Member's officers and  
2 employees retain the same privileges, immunities, rights, duties and benefits as provided in  
3 their respective jurisdictions.  
4
- 5 F. Licenses and Permits – To the extent permitted by law, Responding Member personnel that  
6 hold licenses, certificates, or permits evidencing professional, mechanical, or other skills  
7 shall be allowed to carry out activities and tasks relevant and related to their respective  
8 credentials during the specified Period of Assistance.  
9
- 10 G. Right to Withdraw - The Responding Member's Authorized Official retains the right to  
11 withdraw some or all of its resources at any time for any reason in the Responding  
12 Member's sole and absolute discretion. Notice of intention to withdraw must be  
13 communicated to the Requesting Member's Authorized Official as soon as soon as is  
14 practicable under the circumstances..  
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16 **ARTICLE VII.**  
17 **COST- REIMBURSEMENT**  
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19 The Requesting Member shall reimburse the Responding Member for each of the following  
20 categories of costs incurred during the specified Period of Assistance as agreed in whole or in  
21 part by both parties; provided, that any Responding Member may assume in whole or in part  
22 such loss, damage, expense, or other cost, or may loan such equipment or donate such  
23 services to the Requesting Member without charge or cost.  
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- 26 A. Personnel – The Responding Member shall be reimbursed by the Requesting Member for  
27 personnel costs incurred for work performed during the specified Period of Assistance.  
28 Responding Member personnel costs shall be calculated according to the terms provided in  
29 their employment contracts or other conditions of employment. The Responding Member's  
30 designated supervisor(s) must keep accurate records of work performed by personnel  
31 during the specified Period of Assistance. Requesting Member reimbursement to the  
32 Responding Member could consider all personnel costs, including salaries or hourly wages,  
33 costs for fringe benefits, and indirect costs.  
34
- 35 B. Equipment – The Requesting Member shall reimburse the Responding Member for the use  
36 of equipment during the specified Period of Assistance, including, but not limited to,  
37 reasonable rental rates, all fuel, lubrication, maintenance, transportation, and  
38 loading/unloading of loaned equipment. All equipment shall be returned to the Responding  
39 Member in good working order as soon as is practicable and reasonable under the  
40 circumstances. As a minimum, rates for equipment use must be based on the Federal  
41 Emergency Management Agency's (FEMA) Schedule of Equipment Rates. If a Responding  
42 Member uses rates different from those in the FEMA Schedule of Equipment Rates, the  
43 Responding Member must provide such rates orally or in writing to the Requesting Member  
44 prior to supplying the equipment. Mutual agreement on which rates are used must be  
45 reached in writing prior to dispatch of the equipment. Reimbursement for equipment not  
46 referenced on the FEMA Schedule of Equipment Rates must be developed based on actual  
47 recovery of costs. If Responding Member must lease a piece of equipment while its  
48 equipment is being repaired, Requesting Member shall reimburse Responding Member for  
49 such rental costs.  
50

- 1 C. Materials and Supplies – The Requesting Member must reimburse the Responding Member  
2 in kind or at actual replacement cost, plus handling charges, for use of expendable or non-  
3 returnable supplies. The Responding Member must not charge direct fees or rental charges  
4 to the Requesting Member for other supplies and reusable items that are returned to the  
5 Responding Member in a clean, damage-free condition. Reusable supplies that are  
6 returned to the Responding Member with damage must be treated as expendable supplies  
7 for purposes of cost reimbursement.  
8
- 9 D. Payment Period – The Responding Member must provide an itemized bill to the Requesting  
10 Member for all expenses incurred by the Responding Member while providing assistance  
11 under this Agreement. The Requesting Member must send the itemized bill not later than  
12 (90) ninety days following the end of the Period of Assistance. The Responding Member  
13 may request additional periods of time within which to submit the itemized bill, and  
14 Requesting Member shall not unreasonably withhold consent to such request. The  
15 Requesting Member must pay the bill in full on or before the forty-fifth (45<sup>th</sup>) day following  
16 the billing date. The Requesting Member may request additional periods of time within  
17 which to pay the itemized bill, and Responding Member shall not unreasonably withhold  
18 consent to such request, provided, however, that all payment shall occur not later than one-  
19 year after the date a final itemized bill is submitted to the Requesting Member.  
20
- 21 E. Records - Each Responding Member and their duly authorized representatives shall have  
22 access to a Requesting Member's books, documents, notes, reports, papers and records  
23 which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of  
24 a cost bill or making a financial, maintenance or regulatory audit. Each Requesting Member  
25 and their duly authorized representatives shall have access to a Responding Member's  
26 books, documents, notes, reports, papers and records which are directly pertinent to this  
27 Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial,  
28 maintenance or regulatory audit. Such records shall be maintained for at least three (3)  
29 years or longer where required by law.  
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31 **ARTICLE VIII.**  
32 **DISPUTES**  
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34 If any controversy or claim arises out of, or relates to, the execution of the Agreement, including,  
35 but not limited to, alleged breach of the Agreement, the disputing Members shall first attempt to  
36 resolve the dispute by negotiation, followed by mediation and finally shall be settled by  
37 arbitration in accordance with the Rules of the American Arbitration Association. Any court of  
38 competent jurisdiction may enter the judgment rendered by the arbitrators as final judgment that  
39 is binding on the parties.  
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41 **ARTICLE IX.**  
42 **REQUESTING MEMBER'S DUTY TO INDEMNIFY**  
43

44 The Requesting Member shall assume the defense of, fully indemnify and hold harmless, the  
45 Responding Member, its officers and employees, from all claims, loss, damage, injury and  
46 liability of every kind, nature and description, directly or indirectly arising from Responding  
47 Member's work during a specified Period of Assistance. The scope of the Requesting  
48 Member's duty to indemnify includes, but is not limited to, suits arising from, or related to,  
49 negligent or wrongful use of equipment or supplies on loan to the Requesting Member, or faulty  
50 workmanship or other negligent acts, errors or omissions by Requesting Member or the  
51 Responding Member personnel.

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2 The Requesting Member's duty to indemnify is subject to, and shall be applied consistent with,  
3 the conditions set forth in Article X.  
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6 **ARTICLE X.**  
7 **SIGNATORY INDEMNIFICATION**  
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9 In the event of a liability, claim, demand, action, or proceeding of whatever kind or nature arising  
10 out of a specified Period of Assistance, the Members who receive and provide assistance shall  
11 have a duty to defend, indemnify, save and hold harmless all Non-Responding Members, their  
12 officers, agents and employees from any liability, claim, demand, action, or proceeding of  
13 whatever kind or nature arising out of a Period of Assistance.  
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15 **ARTICLE XI.**  
16 **WORKER'S COMPENSATION CLAIMS**  
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18 The Responding Member is responsible for providing worker's compensation benefits and  
19 administering worker's compensation for its employees. The Requesting Member is responsible  
20 for providing worker's compensation benefits and administering worker's compensation for its  
21 employees.  
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23 **ARTICLE XII.**  
24 **NOTICE**  
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26 A Member who becomes aware of a claim or suit that in anyway, directly or indirectly,  
27 contingently or otherwise, affects or might affect other Members of this Agreement shall provide  
28 prompt and timely notice to the Members who may be affected by the suit or claim. Each  
29 Member reserves the right to participate in the defense of such claims or suits as necessary to  
30 protect its own interests.  
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32 **ARTICLE XIII.**  
33 **INSURANCE**  
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35 Members of this Agreement shall maintain an insurance policy or maintain a self insurance  
36 program that covers activities that it may undertake by virtue of membership in the Mutual Aid  
37 and Assistance Program.

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**ARTICLE XIV.**  
**CONFIDENTIAL INFORMATION**

To the extent provided by law, any Member or Associate Member shall maintain in the strictest confidence and shall take all reasonable steps necessary to prevent the disclosure of any Confidential Information disclosed under this Agreement. If any Member, Associate Member, third party or other entity requests or demands, by subpoena or otherwise, that a Member or Associate Member disclose any Confidential Information disclosed under this Agreement, the Member or Associate 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 the Water and Wastewater Utility's authorized representative executes the Agreement. The Statewide Committee Chair shall maintain a master list of all members of the Mutual Aid Program.

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**ARTICLE XVI.**  
**WITHDRAWAL**

A Member may withdraw from this Agreement by providing written notice of its intent to withdraw to the the Statewide Chair. Withdrawal takes effect 60 days after the appropriate officials receive notice. Withdrawal from this Agreement shall in no way affect a Requesting Member's duty to reimburse a Responding Member for cost incurred during a Period of Assistance, which duty shall survive such withdrawal.

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**ARTICLE XVII.**  
**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, legislative action, creation of an interstate aid and assistance agreement, or other developments. Modifications require a simple majority vote of Members within each region and a unanimous agreement between the regions. The Statewide Committee Chair must provide written notice to all Members of approved modifications to this Agreement. Approved modifications take effect 60 days after the date upon which notice is sent to the Members.

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**ARTICLE XVIII.**  
**SEVERABILITY**

The parties 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

1 particular term or provision held to be invalid.

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3 **ARTICLE XIX.**  
4 **PRIOR AGREEMENTS**

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

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9 **ARTICLE XX.**  
10 **PROHIBITION ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS/DUTIES**

11  
12 This Agreement is for the sole benefit of the Members and no person or entity must have any  
13 rights under this Agreement as a third party beneficiary. Assignments of benefits and  
14 delegations of duties created by this Agreement are prohibited and must be without effect.

15  
16 **ARTICLE XXI.**  
17 **INTRASTATE AND INTERSTATE MUTUAL AID AND ASSISTANCE PROGRAMS**

18  
19 To the extent practicable, Members of this Agreement shall participate in Mutual Aid and  
20 Assistance activities conducted under the State of Oklahoma Intrastate Mutual Aid Law and the  
21 Interstate Emergency Management Assistance Compact (EMAC).

22  
23 Now, therefore, in consideration of the covenants and obligations set forth in this Agreement,  
24 the Water and Wastewater Utility listed here manifests its intent to be a Member of the Intrastate  
25 Mutual Aid and Assistance Program for Water and Wastewater Utilities by executing this  
26 Agreement on this \_\_\_\_\_ day of \_\_\_\_\_ 20XX.

27  
28 Water/Wastewater Utility: \_\_\_\_\_

29  
30 By: \_\_\_\_\_ Title: \_\_\_\_\_

31  
32 \_\_\_\_\_  
33 Please Print Name

34  
35 By: \_\_\_\_\_ Title \_\_\_\_\_

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37 \_\_\_\_\_  
38 Please Print Name

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41  
42 Approved as to form and legality

43  
44  
45 By: \_\_\_\_\_  
46 Attorney for Utility

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48 \_\_\_\_\_  
49 Please Print Name