

A utility or a community cannot be expected to have all of the equipment or facilities that will be needed to deal with most emergency situations. That is why you must take an active role in preparing agreements with other entities for supplies, contracted service, mutual aid, backup lifeline services, interconnections, etc. **According to Wisconsin Administrative Code, copies of these agreements must be included in your plan.** If you do decide to pursue agreements with other entities, we have included a sample **Mutual Aid Agreement** form for your use.

COMMUNITY WATER/WASTEWATER UTILITY MUTUAL ASSISTANCE AGREEMENT

This **Agreement** is entered into this _____ day of _____, _____ by the communities listed on Attachment A.

1. **PURPOSE.** Situations arise in the operation of a community's water and/or wastewater system when assistance from a nearby community would be beneficial in maintaining or restoring normal operations. The purpose of this Agreement is to formalize and define the conditions under which this assistance may be requested and granted as between the two communities identified above.
2. **TYPE OF ASSISTANCE AVAILABLE.**
 - 2.1 **Assistance from Certified Operator.** If a community's certified operator is or will be unavailable to that community's water or wastewater system for any reason, that community (the Requesting Community) may request the other community to this Agreement (the Requested Community) to permit one or more of the Requested Community's certified operators to be available to the Requesting Community's water or wastewater system during the absence of the certified operator of the Requesting Community.
 - 2.2 **Emergency Assistance.** If an emergency situation arises in a community, that community (the Requesting Community) may request the other community to this Agreement (the Requested Community) to provide support to the Requesting Community during the emergency, to the extent possible.
3. **REQUEST FOR ASSISTANCE.** Each community will provide the name(s), telephone numbers, and emergency telephone number(s) of personnel authorized to request and receive a request for assistance. When requesting assistance, Requesting Community shall specify, to the extent practicable under the circumstances:
 - a. The reason assistance is needed, and if assistance is needed for an emergency, the nature of the emergency;
 - b. The assistance requested (including equipment, material and estimates of hours of labor needed);
 - c. An estimate of the length of time such assistance may be required, and estimated time to return material; and
 - d. The site where the assistance should be rendered.

4. **DETERMINATION OF EXTENT OF ASSISTANCE.** If a request for assistance is received, the Requested Community, through its water utility superintendent, wastewater utility superintendent, director of public works, or another authorized individual, shall determine whether and the extent to which assistance will be provided. It is the intention of this Agreement to vest in each community the sole right to determine when its needs will permit it to respond to a request for assistance by another community, and it is further agreed by the communities to this Agreement, that if the Requested Community refrains from providing any assistance to the Requesting Community, that the Requested Community shall not be liable for any damages to the Requesting Community or any third party.
5. **TIME WHEN ASSISTANCE BEGINS.** The rendering of assistance by Requested Community in lending employees and/or equipment to Requesting Community will commence when the transportation of such employees and/or equipment to Requesting Community begins and will terminate when the transportation of such employees and/or equipment back to Requested Community has been completed.
6. **CONTROL OF ASSISTANCE.** The Requesting Community, acting through its water utility superintendent, wastewater utility superintendent, director of public works, or such person acting in that capacity, shall be in total command of the employees and/or equipment provided by the Requested Community. However whenever it is practical, such commands or orders for the use of the Requested Community's personnel and/or equipment shall be made by the Requesting Community through the person(s) in charge of the Requested Community's personnel and/or equipment. The Requested Community shall, at all times, have the authority to recall its personnel and/or equipment from the Requesting Community upon direct notice to the person(s) in authority for the Requesting Community.
7. **NO STANDBY.** It is understood that personnel and equipment of the Requested Community shall be used in the capacity for which they are intended, and further, shall not be held in "stand by" capacity unless agreed to by the Requesting Community and the Requested Community. If personnel and/or equipment are not needed, they will be returned to the Requested Community.
8. **EMPLOYEES.** Employees of Requested Community will at all times while providing assistance continue to be employees of Requested Community and will at no time and for no purpose be deemed employees of Requesting Community. Wages, hours, and other terms and conditions of employment applicable to employees providing assistance will be those of the Requested Community.

Each Community entering into this Agreement shall continue to provide the same salaries, compensation for death or disability, and retirement and furlough payments, to their respective employees or volunteers who are assigned to render assistance to the Requesting Community, as that employee or volunteer would receive if on duty within the jurisdictional limits of the Requested Community.

9. **REIMBURSEMENT FOR COSTS.** If requested, Requesting Community will reimburse Requested Community for all additional costs and expenses incurred by Requested Community in providing assistance. Such costs and expenses may include, but not be limited to, the following:

- a. Wages and benefits paid to loaned employees for paid time spent in Requesting Community's utility service area and during travel to and from such service area;
- b. Transportation to and from Requesting Community's utility service area;
- c. Food, lodging and personal expenses such as those for laundry and communication services, when such personal services are specifically agreed to between Requesting and Requested Communities;
- d. Charges and rates internally used by Requested Community for the use of transportation equipment and other requested equipment; and
- e. Reasonable overhead.

All timesheets and work records pertaining to loaned employees will be kept by the water or wastewater utility superintendent for the Requested Community.

All charges will be paid by the Requesting Community within 30 calendar days after receiving an invoice for such charges.

10. **REPAIRS AND MAINTENANCE OF EQUIPMENT.** If the Requesting Community requests to use equipment, requires use of equipment, or uses equipment, for a period of time which extends more than 24 hours from the time of the request, the Requesting Community shall assume the expense of any repairs and/or maintenance required for the equipment. Otherwise, the governmental unit owning the equipment will bear the cost of repairs and maintenance of equipment used or expended while rendering assistance under this Agreement. It is further agreed, that if the equipment is required by the Requesting Community for a period exceeding 24 hours, that the Requesting Community will be responsible for returning the requested equipment, in good condition, to the Requested Community.

11. **INDEMNIFICATION AND HOLD HARMLESS.**

- 11.1 **No Liability for Requested Community.** Requested Community shall not be held liable for any injury or damages incurred by or caused by personnel working, or equipment operated, under the authority of either Community while providing assistance in accordance with this Agreement.
- 11.2 **Indemnification and Hold Harmless.** Requesting Community will indemnify and hold harmless Requested Community from and against any and all liability for loss, damage, cost, expense, fines or penalties which Requested Community may suffer by reason of bodily injury, including death, to any person or persons, or by reason of damage to or destruction of any property, including the loss of use thereof, arising out of or in any manner connected with the provision of assistance by Requested Community under this Agreement whether or not due in whole or in part to any act, omission or negligence of Requested Community.

The indemnification and hold harmless provisions of this section, however, do not obligate Requesting Community to indemnify or hold harmless the Requested Community from liability, loss, cost, damage, expense, fines or penalties arising out of willful misconduct on the part of Requested Community or its employees, or

service interruption or other occurrence in Requested Community's service area as a result of the lack of availability of employees or equipment furnished to Requesting Community.

11.3 **Extent of Indemnification.** In the event of bodily injury, including death, to any employee of Requested Community, or in the event of damage to or destruction of any property of Requested Community for which Requesting Community must indemnify, the Requesting Community will indemnify the Requested Community as follows:

- i. when any loss of the nature described above occurs and it is covered by insurance carried by the Requested Community, the Requesting Community will make reimbursements to the extent such losses increase the Requested Community's insurance costs, whether such increase in costs occur in the form of an increase in premiums, or in the form of a reduction in dividends or premium refunds, or both, such reimbursement to be for a reasonable period agreed to between Requesting and the Requested Communities, but not to exceed 2 years from the date of such increase or reduction;
- ii. when any loss of the nature described above occurs and it is not covered by insurance carried by the Requested Community, the Requesting Community shall make reimbursement to the extent of claims or benefits actually paid or losses sustained by Requested Community, including the costs of litigation, and Requesting Community has the right to control any claims, litigation and settlement thereof.

11.4 **No Change in Existing Laws.** Nothing in this Section 11 constitutes a waiver by either Requesting or Requested Community of any of the provisions of sec. 893.80, Wis. Stats., any other municipal liability protection laws, or any insurance policy limitations, nor does it constitute an agreement to pay any form or type of damages not otherwise payable.

12. **INSURANCE.** It is the duty of Requesting Community to verify its own insurance coverage under these situations; as well as to verify that Requested Community has adequate insurance coverage.
13. **NOTIFICATION OF GOVERNMENTAL ENTITIES.** It shall be the responsibility of the requesting Community to notify the appropriate state or other agencies of governmental authority, in accordance with all applicable laws and/or policies, of the nature and extent of the emergency.
14. **UNION OR COLLECTIVE BARGAINING UNITS.** If any of the employees affected by this Agreement are members of a labor union and/or collective bargaining unit, the community that employs these members shall take whatever steps are necessary with the unit to assure the Community's ability to perform under this Agreement.
15. **AMENDMENT.** This Agreement may be amended in writing at any time upon written consent of all parties to this Agreement.
16. **TERMINATION OF AGREEMENT.** Either Community may, upon thirty days written notice to the other, terminate its participation in this Agreement.

17. **GOVERNING LAW.** This Agreement is governed by the laws of the State of Wisconsin as such laws and regulations currently exist and may hereafter be amended.
18. **COUNTERPARTS.** This Agreement shall be executed by each Community in identical duplicates and each duplicate shall, individually and taken together, constitute one and the same Agreement.

IN WITNESS WHEREOF, the Communities listed on the attached Attachment A, by their duly authorized officers, do sign and execute this Agreement.

Community Name

By:

Authorized Representative Name
Position

Attest:

**Communities Which Have Entered Into the
Community Water/Wastewater
Utility Assistance Agreement**

Name of Community

Address
