

**PUBLIC WORKS MUTUAL ASSISTANCE  
AGREEMENT**

This Agreement made and entered into the date set forth next to the signature of the respective parties, by and between the units of local government subscribed hereto (hereafter “Unit(s)”) that have approved this Agreement as provided in Section 11 and adopted same in manner as provided by law and are hereafter listed at the end of this Agreement or on file pursuant to Section 11.

**WHEREAS**, the parties hereto have determined because of geographical and regional considerations it is important for Wisconsin public works to coordinate mutual aid through the Public Works Mutual Assistance Agreement for the effective and efficient provision of Mutual aid between the Units; and

**WHEREAS**, it is recognized and acknowledged that emergencies, natural disasters, and man-made catastrophes do not conform to designated territorial limits and state boundaries; and

**WHEREAS**, the Wisconsin Statute 66.0301(2) authorizes any municipality to contract with other municipalities for the receipt or furnishing of services, such as public works services.

**WHEREAS**, section 323.03(2)(a)3., as amended, of the Wisconsin Statutes relates to standards for local emergency management programs, and

**WHEREAS**, pursuant thereto the Adjutant General of the Department of Military Affairs of the State of Wisconsin is authorized to furnish guidance, develop and promulgate standards for emergency management programs; and

**WHEREAS**, Public Works is recognized as a first responder pursuant to Homeland Security Personnel Directive (HSPD8); and

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**WHEREAS**, the American Public Works Association (APWA) recognizes and encourages the formation of statewide mutual assistance agreements which provide for public works support across the full spectrum of public works functions; and

**WHEREAS**, Emergency Management Assistance Compacts (EMAC), ratified by Congress and the State of Wisconsin, has been established to coordinate interstate response and is coordinated through Wisconsin Emergency Management (WEM); and

**WHEREAS**, the National Response Framework (NRF) presents the guiding principles that enable all public works response partners to prepare for and provide for a unified national response to disasters and emergencies and the NRF provides public works with a systematic proactive approach to prevent, protect against, respond to, recover from, and mitigate the effects of incidents in order to reduce the loss of life and property, and harm to the environment; and

**WHEREAS**, the parties hereto have determined that it is in their best interests to enter into this Agreement to secure to each the benefits of mutual aid in public works for the protection of life and property from an emergency or disaster; and,

**WHEREAS**, the parties hereto have determined that it is in their best interests to associate to provide for communications procedures, training and other necessary functions to further the provision of said protection of life and property from an emergency or disaster;

**NOW, THEREFORE**, in consideration of the foregoing recitals, the Unit's membership in the Public Works Mutual Assistance Agreement and the covenants contained herein,

**THE PARTIES HERETO AGREE AS FOLLOWS:**

## **SECTION ONE**

### **Purpose**

It is recognized and acknowledged that in certain situations, such as, but not limited to, emergencies, natural disasters and man-made catastrophes, the use of an individual Member

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Unit's personnel and equipment to perform functions outside the territorial limits of the Member Unit is desirable and necessary to preserve and protect the health, safety and welfare of the public. It is further expressly acknowledged that in certain situations, such as the aforementioned, the use of other Member Unit's personnel and equipment to perform functions within the territorial limits of a Member Unit is desirable and necessary to preserve and protect the health, safety and welfare of the public. Further, it is acknowledged that coordination of mutual aid through the Public Works Mutual Assistance Agreement is desirable for the effective and efficient provision of mutual aid.

## **SECTION TWO**

### **Definitions**

For the purpose of this Agreement, the following terms as used in this agreement shall be defined as follows:

- A. "Aiding Unit": A Member Unit furnishing equipment, personnel, and/or services to a Stricken Unit.
- B. "Authorized Representative": A party's employee who has been authorized, in writing by that party, to request, to offer, or to otherwise provide aid and assistance under the terms of this Agreement. The list of Authorized Representatives for each party shall be attached to the executed copy of this Agreement. In the event of a change of personnel, unless otherwise notified, the presumption will be that the successor to the employee's position will be the authorized representative.
- C. "Emergency": An occurrence or condition in a Stricken Unit's territorial jurisdiction which results in a situation of such magnitude and/or consequence that it cannot be adequately handled by the Stricken Unit, so that it determines the necessity and advisability of requesting aid.

- D. “Executive Board”: The statewide oversight board of PWMAS which is comprised of Region representatives.
- E. “Incident command system”: This system has the meaning specified in s. 323.02(6m), Stats., as amended, and follows the guidelines of the National Incident Management System, also known as NIMS.
- F. “Member Unit”: A unit of local government including but not limited to a county, city, village, town, tribe or band, or an intergovernmental agency and the units of which the intergovernmental agency is comprised which is a party to the Public Works Mutual Assistance Agreement and has been appropriately authorized by the governing body to enter into such agreement, and to comply with the rules and regulations of PWMAS.
- G. “Public Works”: The physical structures and facilities developed or acquired by a local unit of government or a federally recognized American Indian tribe or band in this state to provide services and functions for the benefit and use of the public, including water, sewerage, waste disposal, utilities, and transportation.
- H. “Public Works Mutual Assistance System” (hereinafter referred to as PWMAS): A definite and prearranged plan whereby emergency response and assistance is provided to a Stricken Unit by the Aiding Unit(s) in accordance with the system established and maintained by the Member Units and amended from time to time.
- I. “PWMAS or ‘Pubic Works Mutual Assistance System’ region” means the WEM regional areas as identified by the Adjutant General under ss. 323.03(2)(b)1., Stats., as amended.
- J. “Stricken Unit”: A Member Unit or a non-participating local governmental unit which requests aid in the event of an emergency.

### SECTION THREE

#### **Authority and Action to Effect Mutual Aid**

- A. The Member Units hereby authorize and direct their respective Authorized Representative or his/her designee to take necessary and proper action to render and/or request mutual aid from the other Member Units in accordance with the policies and procedures established and maintained by the PWMAS Member Units. The aid rendered shall be to the extent of available personnel and equipment not required for adequate protection of the territorial limits of the Aiding Unit. The judgment of the Authorized Representative, or his designee, of the Aiding Unit shall be final as to the personnel and equipment available to render aid.
- B. Whenever an emergency occurs and conditions are such that the Authorized Representative, or his designee, of the Stricken Unit determines it advisable to request aid pursuant to this Agreement he shall notify the Aiding Unit of the nature and location of the emergency and the type and amount of equipment and personnel and/or services requested from the Aiding Unit.
- C. The Authorized Representative, or his designee, of the Aiding Unit shall take the following action immediately upon being requested for aid:
1. Determine what equipment, personnel and/or services are requested according to the system maintained by PWMAS.
  2. Determine if the requested equipment, personnel, and/or services can be committed in response to the request from the Stricken Unit;
  3. Dispatch immediately the requested equipment, personnel and/or services, to the extent available, to the location of the emergency reported by the Stricken Unit in accordance with the procedures of PWMAS;

4. Notify the Stricken Unit if any or all of the requested equipment, personnel and/or services cannot be provided.

## **SECTION FOUR**

### **Jurisdiction Over Personnel and Equipment**

Personnel dispatched to aid a party pursuant to this Agreement shall remain employees of the Aiding Unit. Personnel of the Aiding Unit shall report for direction and assignment at the scene of the emergency to the Planning Section Chief, or his designee, of the Stricken Unit. The Aiding Unit shall at all times have the right to withdraw any and all aid upon the order of its Authorized Representative or his designee; provided, however, that the Aiding Unit withdrawing such aid shall notify the Incident Commander or his designee of the Stricken Unit of the withdrawal of such aid and the extent of such withdrawal.

## **SECTION FIVE**

### **Compensation for Aid**

Equipment, personnel, and/or services provided pursuant to this Agreement may be waived at the discretion of the Aiding Unit. It is the policy of the parties to this Agreement to seek compensation from a Stricken Unit only when the costs associated with the mutual assistance causes a financial burden upon the Aiding Unit. However, any expenses recoverable from third parties and responsible parties shall be equitably distributed among Aiding Units. Nothing herein shall operate to bar any recovery of funds from any state or federal agency under any existing state and federal laws.

## **SECTION SIX**

### **Insurance**

Each party hereto shall procure and maintain, at its sole and exclusive expense, insurance coverage, including: comprehensive liability, personal injury, property damage, worker's

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compensation, with minimum limits of \$1,000,000 auto and \$1,000,000 combined single limit general liability and professional liability. No party hereto shall have any obligation to provide or extend insurance coverage for any of the items enumerated herein to any other party hereto or its personnel. The obligations of the Section may be satisfied by a party's membership in a self-insurance pool, a self-insurance plan or arrangement with an insurance provider approved by the state of jurisdiction. The PWMAS may require that copies or other evidence of compliance with the provisions of this Section be provided to the PWMAS. Upon request, Member Units shall provide such evidence as herein provided to the PWMAS members.

## **SECTION SEVEN**

### **Indemnification Liability and Waiver of Claims**

Each party hereto agrees to waive all claims against all other parties hereto for any loss, damage, personal injury or death occurring in consequence of the performance of this Agreement; provided, however, that such claim is not a result of willful or reckless misconduct by a party hereto or its personnel. The Stricken Unit hereby expressly agrees to hold harmless, indemnify and defend the Aiding Unit and its personnel from any and all claims, demands, liability, losses, including attorney fees and costs, suits in law or in equity which are made by a third party that may arise from providing aid pursuant to this Agreement.

All employee benefits, wage and disability payments, pensions and worker's compensation claims, shall be the sole and exclusive responsibility of each party for its own employees provided, however, that such claim is not a result of reckless, wanton, or intentional misconduct by a party hereto or its personnel.

## SECTION EIGHT

### **Non-Liability for Failure to Render Aid**

The rendering of assistance under the terms of this Agreement shall not be mandatory and the Aiding Unit may refuse if local conditions of the Aiding Unit prohibit response. It is the responsibility of the Aiding Unit to immediately notify the Stricken Unit of the Aiding Unit's inability to respond, however, failure to immediately notify the Stricken Unit of such inability to respond shall not constitute evidence of noncompliance with the terms of this section and no liability may be assigned.

No liability of any kind or nature shall be attributed to or be assumed, whether expressly or implied, by a party hereto, its duly authorized agents and personnel, for failure or refusal to render aid. Nor shall there be any liability of a party for withdrawal of aid once provided pursuant to the terms of this Agreement.

## SECTION NINE

### **Non-Discrimination**

In the performance of the services under this Agreement each party agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, or student status. Each party further agrees not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex, or national origin.

## **SECTION TEN**

### **Term**

This Agreement shall be in effect for a term of one year from the date of signature hereof and shall automatically renew for successive one year terms unless terminated in accordance with this Section.

Any party hereto may terminate its participation in this Agreement at any time, provided that the party wishing to terminate its participation in this Agreement shall give written notice to the Board of their Region and to the Executive Board specifying the date of termination, such notice to be given at least 90 calendar days prior to the specified date of termination of participation. The written notice provided herein shall be given by personal delivery, registered mail or certified mail. In Wisconsin, a copy of such notice shall also be deposited with Legal Counsel, Wisconsin Emergency Management, 2400 Wright Street, Room 213, P.O. Box 7865, Madison, WI 53700-7865, telephone (608) 242-3232.

## **SECTION ELEVEN**

### **Effectiveness**

This Agreement shall be in full force and effective upon approval by the parties hereto in the manner provided by law and upon proper execution hereof. In Wisconsin, a copy of such agreement shall be deposited with Wisconsin Emergency Management, 2400 Wright Street, Room 213, P.O. Box 7865, Madison, WI 53700-7865, telephone (608) 242-3232.

## **SECTION TWELVE**

### **Binding Effect**

This Agreement shall be binding upon and inure to the benefit of any successor entity which may assume the obligations of any party hereto. Provided, however, that this Agreement may not be assigned by a Member Unit without prior written consent of the parties hereto.

## **SECTION THIRTEEN**

### **Validity**

The invalidity of any provision of this Agreement shall not render invalid any other provision. If, for any reason, any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, that provision shall be deemed severable and this Agreement may be enforced with that provision severed or modified by court order.

## **SECTION FOURTEEN**

### **Notices**

All notices to terminate or join hereunder shall be in writing and shall be served personally, by registered mail or certified mail to the parties at such addresses as may be designated from time to time on the PWMAS mailing lists or, to other such addresses as shall be agreed upon.

## **SECTION FIFTEEN**

### **Governing Law**

This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Wisconsin.

## **SECTION SIXTEEN**

### **Execution in Counterparts**

This Agreement may be executed in multiple counterparts or duplicate originals, each of which shall constitute and be deemed as one and the same document.

## **SECTION SEVENTEEN**

### **Executive Board of PWMAS**

An Executive Board is hereby established to consider, adopt and amend from time to time as needed rules, procedures, by-laws and any other matters deemed necessary by the

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Member Units. The Executive Board shall consist of a member elected from each Region within PWMAS who shall serve as the voting representative of said Region on PWMAS matters, and may appoint a designee. Such designee shall be from within the respective Region and shall have all rights and privileges attendant to a representative of that Member Unit.

A President and Vice President shall be elected from the representatives of the Member Units and shall serve without compensation. The President and such other officers as are provided for in the by laws shall coordinate the activities of the PWMAS.

## **SECTION EIGHTEEN**

### **Duties of the Executive Board**

The Executive Board shall meet regularly to conduct business and to consider and publish the rules, procedures and by laws of the PWMAS, which shall govern the Executive Board meetings and such other relevant matters as the Executive Board shall deem necessary.

## **SECTION NINETEEN**

### **Rules and Procedure**

Rules, procedures and by laws of the PWMAS shall be established by the Member Units via the Executive Board as deemed necessary from time to time for the purpose of administrative functions, the exchange of information and the common welfare of the PWMAS. In Wisconsin, PWMAS policies and general operating procedures shall be available on request without charge from Wisconsin Emergency Management, 2400 Wright Street, Room 213, P.O. Box 7865, Madison, WI 53700-7865, telephone (608) 242-3232. PWMAS policies and procedures may also be accessed from the Wisconsin Emergency Management webpage at <http://emergencymanagement.wi.gov>.

**SECTION TWENTY**

**Amendments**

This Agreement may only be amended by written consent of all the parties hereto. This shall not preclude the amendment of rules, procedures and by laws of the PWMAS as established by the Executive Board to this Agreement. The undersigned unit of local government or public agency hereby has adopted, and subscribes to and approves this Public Works Mutual Assistance Agreement to which this signature page will be attached, and agrees to be a party thereto and be bound by the terms thereof.

This Signatory certifies that this Public Works Mutual Assistance Agreement has been adopted and approved by ordinance, resolution, or other manner approved by law, a copy of which document is attached hereto.

\_\_\_\_\_  
Political Entry

\_\_\_\_\_  
President or Mayor, Chairman, Executive or Manager

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

(Note: Signature page may be modified to meet each individual jurisdiction's official signature(s) requirements.)

**ADDENDUM A TO PUBLIC WORKS MUTUAL ASSISTANCE AGREEMENT**

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, the Wisconsin Statute 66.0301(2) authorizes any municipality to contract with other municipalities and with federally recognized Indian tribes and bands in this state for the receipt or furnishing of services, such as public works services. Such a contract may be with municipalities of another state, as provided in Wisconsin Statute 66.0303(3)(b); and

**WHEREAS**, the (INSERT YOUR COMMUNITY) (GOVERNING BODY) believes that intergovernmental cooperation for purposes of public safety and protection should be encouraged and that the Public Works Mutual Assistance Agreement would afford these benefits to county residents by coordinating public works functions, as recommended in Resolution (INSERT RESOLUTION # AND DATE); and

**WHEREAS**, it is in the best interest of the (INSERT YOUR COMMUNITY) to enter into the proposed Public Works Mutual Assistance Agreement to provide for the coordination of public works services in the event of a large scale emergency, natural disaster, or man-made catastrophe.

**WHEREAS**, it is in the best interest to designate (INSERT POSITION) as the authorized Representative of (INSERT YOUR COMMUNITY) for the Public Works Mutual Assistance Agreement.

**NOW, THEREFORE, BE IT RESOLVED**, that the Public Works Mutual Assistance Agreement, a copy of which is attached hereto and incorporated herein by reference, is hereby approved and the (INSERT TITLE OF ELECTED OFFICIAL, AND (CITY, TOWN, VILLAGE) CLERK), be authorized to execute the same on behalf of the (INSERT YOUR COMMUNITY)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20XX

*(INSERT YOUR COMMUNITY)*

**By:** \_\_\_\_\_  
*(INSERT NAME OF ELECTED OFFICIAL)*

**Attest:** \_\_\_\_\_  
*(INSERT NAME OF CLERK)*