

MEMORANDUM

TO: Bowie City Council

FROM: David J. Deutsch, City Manager

CC: R. James Henrikson, Public Works Director
Robert H. Levan, Esq.

DATE: December 3, 2009

RE: Approval of Mutual Aid and Assistance Agreement for Intrastate Water/Wastewater Agency Response Network (WARN) - R-1-10

The attached WARN Agreement, which is submitted with a recommendation for Council approval, is made among those agencies in the State of Maryland who are engaged in the business of providing public and private water and wastewater services. The entities agree to participate in a Mutual Aid program to coordinate response activities and share resources during emergencies. It sets forth the procedures and standards for the administration of the program across jurisdictional and county boundary lines within the State. It also includes the document entitled "Mutual Aid/Assistance Operational Plan" (the "Plan") which details the procedure pursuant to which the Agreement would be implemented.

This Agreement comes about as a result of the City's enactment of Resolution R-44-06 wherein the City agreed to and executed a Mutual Aid Agreement to participate in a broad program involving federal, state and local governments across the National Capital region to provide shared services during times of emergency and for other extraordinary events. The program is administered through a State-wide committee which includes representatives of the Maryland Emergency Management Agency ("MEMA"), the Maryland Department of Environment, the Maryland Laurel Water Association and Five Member Utilities members. The Committee is vested with planning and coordination authority and has formulated a program for response activities. The Agreement provides for procedures relating to requests for assistance and directs Responding Members to operate under a National Incident Management System ("NIMS") in which the Responding Member's employees come under the direction and control of the Requesting Member whose responsibility it is to coordinate the activities. By entering into the Agreement, the Responding Member is eligible for cost

reimbursement for its participation in the activities. The rates are established by the Federal Emergency Management Association ("FEMA"). The Agreement places responsibility on both the Responding and Requesting Member in connection with the maintenance of records of such activities.

Most important, the Requesting Member covenants to fully indemnify and hold harmless the Responding Member, its officials, officers, employees from any claims arising out of the participation in these emergency activities. Perhaps most significant for the City, is the fact that by entering into the Agreement, there is no requirement for the City to respond to a particular request. Moreover, any Member may withdraw from the Agreement upon 60 days written notice to the Committee. The Agreement also permits Members, to the extent practicable, to participate in interstate emergency management assistance programs. Finally it should be emphasized that the Agreement, not only provides participating entities with discretion for participating when requested in any emergency situation, but also allows the entity to withdraw its assistance in its discretion without any legal exposure (Article IV.5.C) upon notice of its intention to do so to the Requesting Member.

Since the program is the product of sustained efforts on the part of local jurisdictions to meet extraordinary needs in times of emergency and maintains the right of individual participants to govern its participation or the extent thereof, it would appear that the City's participation in this program would not only serve to meet the needs of its neighboring jurisdictions under extraordinary circumstances, but would provide a mechanism by which the City could expect to receive similar benefits in the event it was affected by an emergency which required outside assistance. In addition participation in the program enables participating jurisdictions to receive FEMA disaster grant assistance for repair, replacement and restoration of disaster damaged publicly owned facilities. Accordingly, approval of the WARN Agreement and the implementing Plan is recommended.

RESOLUTION
OF THE COUNCIL OF THE CITY OF BOWIE, MARYLAND
AUTHORIZING THE CITY OF BOWIE TO PARTICIPATE IN THE
MARYLAND MUTUAL AID AND ASSISTANCE AGREEMENT FOR
INTRASTATE WATER/WASTEWATER AGENCY RESPONSE
NETWORK (WARN)

WHEREAS, the City of Bowie, Maryland (the “City”) adopted Resolution R-44-06 in which it agreed to participate as a member government in the National Capital Region Mutual Aid Agreement (“NCR MAA”) which allows for interjurisdictional mutual aid for natural disasters, incidents of terrorism, major public events and other appropriate circumstances; and

WHEREAS, in Resolution R-44-06 the Bowie City Council authorized the Bowie City Manager to negotiation and execute specific operation plans for each of the functions or disciplines included in the NCR MAA; and

WHEREAS, the participating jurisdictions have negotiated a Maryland Mutual Aid and Assistance Agreement for Intrastate Water/Wastewater Agency Response Network (the “WARN Agreement”) which includes the establishment of a Mutual Aid/Assistance Operational Plan (the “Plan”); and

WHEREAS, the WARN Agreement and Plan permit the City to participate in such incidents as the City determines are feasible and provides opportunities for the City to receive assistance from neighboring jurisdictions during periods of crisis or other special needs; and

WHEREAS, the City is legally protected and indemnified for its participation in such program.

NOW, THEREFORE, BE IT RESOLVED by the Bowie City Council that the City Manager is authorized to execute the document entitled Maryland Mutual Aid and Assistance Agreement for Intrastate Water/Wastewater Agency Response Network (WARN) which will permit the City to provide for and to receive aid and assistance from other jurisdictions in the region during times of emergencies or other special needs; and

BE IT FURTHER RESOLVED that the City's participation shall be governed by the Mutual Aid/Assistance Operational Plan which is attached hereto and made a part hereof governing the terms and conditions of the City's participation in the program.

BE IT FURTHER RESOLVED that the City Manager or the City Manager's designee, as appropriate, are authorized to execute such documents as may be required to effectuate participation in this WARN Agreement.

INTRODUCED AND PASSED by the Council of the City of Bowie, Maryland at a meeting of the City Council on January 4, 2010.

ATTEST:

**THE CITY OF BOWIE,
MARYLAND**

Pamela A. Fleming
City Clerk

G. Frederick Robinson, Mayor

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