

1 **Maryland Mutual Aid and Assistance Agreement for Intrastate**  
2 **Water/Wastewater Agency Response Network (WARN)**

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4  
5 **AGREEMENT**  
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7 This Agreement (the "Agreement") is made and entered into by public and private Water and  
8 Wastewater Utilities (the "Utilities") operating in Maryland, who, by executing this Agreement  
9 join the Maryland Water/Wastewater Agency Response Network ("MDWARN") and bind  
10 themselves to participate in Maryland's Intrastate Program for Mutual Aid and Assistance (the  
11 "Mutual Aid Program").  
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13 **ARTICLE I**  
14 **PURPOSE**  
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16 The Utilities hereby establish the Mutual Aid Program to coordinate response activities and  
17 share resources during emergencies, including without limitation providing on a cost basis  
18 personnel, equipment, and supplies. This Agreement sets forth the procedures and standards  
19 for the administration of the Mutual Aid Program across jurisdictional and county boundaries in  
20 the State of Maryland. This Mutual Aid Program is limited to Water and Wastewater Utilities,  
21 and in no way affects other mutual aid or other agreements relating to the provision of other  
22 types of services in Emergency situations.  
23

24 **ARTICLE II**  
25 **DEFINITIONS**  
26

- 27 A. "Authorized Official" means an employee or officer of a Member Utility (defined below)  
28 authorized to:  
29 1. Request assistance;  
30 2. Offer assistance;  
31 3. Refuse to offer assistance; or  
32 4. Withdraw assistance under this Agreement.  
33
- 34 B. "Emergency" means a natural or human caused event or circumstance causing, or  
35 imminently threatening to cause, loss of life, injury to person or property, human suffering or  
36 financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather,  
37 drought, earthquake, volcanic activity, spills or releases of oil or hazardous material,  
38 contamination, utility or transportation emergencies, disease, blight, infestation, civil  
39 disturbance, riot, intentional acts, sabotage and war that is, or could reasonably be, beyond  
40 the capability of the services, personnel, equipment, and facilities of a Member Utility fully  
41 manage and mitigate internally.  
42
- 43 C. "Member Utility" – Each of the undersigned Water and Wastewater Utilities.  
44  
45 1. "Requesting Member" shall mean a Member Utility who requests aid or assistance under  
46 the Mutual Aid Program.  
47  
48 2. "Responding Member" shall mean a Member Utility who responds to a request for aid or  
49 assistance under the Mutual Aid Program.  
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1 3. "Non-Responding Member" means a Member Utility who does not provide aid or  
2 assistance under the Mutual Aid Program.

3  
4 D. "Confidential Information" means all documents shared with any Member Utility that are  
5 marked confidential, including but not limited to any maps, reports, notes, papers, opinions,  
6 budget information or e-mails, which relate to the system vulnerabilities of a Member Utility.  
7 Confidential Information may be subject to disclosure under the Maryland Public Information  
8 Act and/or the Member Utility's governmental public information act.

9  
10 E. "Period of Assistance" means a specified period of time when a Responding Member assists  
11 a Requesting Member. The period commences when personnel, equipment, or supplies  
12 depart from the Responding Member's facility and ends when the resources return to their  
13 facility, or in other words the Period of Assistance runs from portal to portal. All protections  
14 identified in the Agreement apply during this period. The specified Period of Assistance may  
15 occur during response to or recovery from an emergency, as previously defined.

16  
17 F. "National Incident Management System (NIMS)" means a national, standardized approach  
18 to incident management and response that sets uniform processes and procedures for  
19 emergency response operations.

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21 **ARTICLE III**  
22 **ADMINISTRATION**

23  
24 The Mutual Aid Program shall be administered through a Statewide Committee. The Statewide  
25 Committee includes representatives from Maryland Emergency Management Agency ("MEMA"),  
26 The Maryland Department of the Environment, the Maryland Rural Water Association and 5  
27 Member Utilities members. Under the leadership of the Chair of the Statewide Committee, the  
28 Statewide Committee shall plan and coordinate emergency planning and response activities for  
29 the Mutual Aid Program. The purpose of the Statewide Committee is to provide local  
30 coordination of the Mutual Aid Program before, during, and after an emergency. The Statewide  
31 Committee under the leadership of an elected Chairperson, shall meet annually to address  
32 Mutual Aid Program issues and to review emergency preparedness and response procedures.

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34 **ARTICLE IV**  
35 **PROCEDURES**

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37 The Statewide Committee shall develop operational and planning procedures for the Mutual Aid  
38 Program (collectively the "Procedures Manual") within six (6) months from the date of this  
39 Agreement. The Procedures Manual upon completion shall be distributed to all Member Utilities  
40 and Advisory Members. The Procedures Manual shall be reviewed at least annually and  
41 updated as needed by the Statewide Committee.

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**ARTICLE V**  
**REQUESTS FOR ASSISTANCE**

- 4 A. Member Utility Responsibility. Member Utilities shall identify an Authorized Official and alternates, provide contact information including 24-hour access, and maintain resource information that may be available from the Member Utility for a Mutual Aid Program response. The name of the Authorized Official and the contact information shall be updated annually, or when changes occur, and provided to the Statewide Committee.

In the event of an Emergency, a Requesting Member's Authorized Official may request mutual aid and assistance from a Member Utility. Requests for assistance can be made orally or in writing. When made orally, the request for personnel, equipment, and supplies shall be delivered in writing as soon as practical. Requests for assistance shall be directed to the Authorized Official of the Member Utility from which assistance is being requested. Specific protocols for requesting aid shall be provided in the Procedures Manual.

- 17 B. Response to a Request for Assistance. Member Utilities are not obligated to respond to a request. After a Member Utility receives a request for assistance, the Authorized Official evaluates whether or not its Member Utility can respond, by considering whether resources are available to respond, or if there are circumstances that might hinder a response. Following the evaluation, the Authorized Representative shall inform, as soon as possible, the Requesting Member whether the Member Utility will respond. If the Member Utility is willing and able to provide assistance, the Member Utility shall inform the Requesting Member about the type of available resources and the approximate arrival time of such assistance.

- 27 C. Discretion of Responding Member's Authorized Official. – Execution of this Agreement does not create any duty or legal obligation on the part of a Member Utility to respond to a request for assistance. When a Member Utility receives a request for assistance, the Authorized Official shall have sole and absolute discretion as to whether or not to respond, and the availability of resources to be used in such response. An Authorized Member's decisions regarding responding and/or the availability of resources shall be final and shall not be challenged by any other Member Utility.

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**ARTICLE VI**  
**RESPONDING MEMBER PERSONNEL**

- 38 A. 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.

- 42 B. Control. When a Responding Member's employees provide mutual aid and assistance, the Responding Member's employees come under the direction and control of the Requesting Member, consistent with NIMS Incident Command System to address the needs identified by the Requesting Member. The Requesting Member's Authorized Official shall coordinate response activities with the Responding Member's supervisor of personnel (the "Supervisor"), as designated by the Authorized Official of the Responding Member. The Responding Member's Supervisor must keep accurate records of work performed by all personnel during the Period of Assistance.

- 1 C. Food and Shelter. Whenever practical, the Responding Member personnel must be self-  
2 sufficient for up to 72 hours. When possible, the Requesting Member shall supply  
3 reasonable food and shelter for Responding Member personnel. If the Requesting Member  
4 is unable to provide food and shelter for the Responding Member personnel, the  
5 Responding Member's Supervisor is authorized to secure the resources necessary to meet  
6 the needs of its personnel. Except as provided below, the cost for such resources must not  
7 exceed the State per diem rates for that area. To the extent food and shelter costs exceed  
8 the State per diem rates for the local area, the Responding Member must demonstrate that  
9 the additional costs were reasonable and necessary under the circumstances. Unless  
10 otherwise agreed to in writing, the Requesting Member remains responsible for reimbursing  
11 the Responding Member for all reasonable and necessary costs associated with providing  
12 food and shelter, if such resources are not provided.  
13
- 14 D. Communications. The Requesting Member shall provide Responding Member personnel  
15 with radio equipment as available, or radio frequency information to program existing radios,  
16 in order to facilitate communications with local responders and utility personnel.  
17
- 18 E. Status. Unless otherwise provided by law, the Responding Member's officials, officers and  
19 employees retain the same privileges, immunities, rights, duties and benefits as provided in  
20 their respective jurisdictions and under all applicable laws, ordinances and regulations.  
21
- 22 F. Licenses and Permits. To the extent permitted by law, Responding Member personnel that  
23 hold licenses, certificates, or permits evidencing professional, mechanical, or other skills  
24 shall be allowed to carry out activities and tasks relevant and related to their respective  
25 credentials during the Period of Assistance.  
26
- 27 G. Right to Withdraw. The Responding Member's Authorized Official retains the right to  
28 withdraw some or all of its resources at any time and for any reason in the Responding  
29 Member's sole and absolute subjective discretion. Notice of intention to withdraw must be  
30 communicated to the Requesting Member's Authorized Official as soon as practical under  
31 the circumstances.  
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33 **ARTICLE VII**  
34 **COST- REIMBURSEMENT**  
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36 To the extent permitted by law and subject to budget appropriations of a Member Utility that is a  
37 governmental body, the Requesting Member shall reimburse the Responding Member the  
38 reasonable costs for each of the following categories of costs incurred during the Period of  
39 Assistance as agreed by both parties; provided, that any Responding Member may assume in  
40 whole or in part such loss, damage, expense, or other cost, or may loan such equipment or  
41 donate such services to the Requesting Member without charge or cost.  
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- 43
- 44 A. Personnel. The Responding Member shall be reimbursed by the Requesting Member for  
45 personnel costs incurred for work performed during the Period of Assistance. Responding  
46 Member personnel costs shall be calculated according to the terms provided in their  
47 employment contracts or other conditions of employment. The Responding Member's  
48 Supervisor must keep accurate records of work performed by personnel during the Period of  
49 Assistance. The Requesting Member's reimbursement to the Responding Member should  
50 include all personnel costs, such as salaries or hourly wages, costs for fringe benefits, and  
51 indirect costs.

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2 B. Equipment. The Requesting Member shall reimburse the Responding Member for the use  
3 of equipment during the Period of Assistance, including, but not limited to, reasonable rental  
4 rates, all fuel, lubrication, maintenance and repair, transportation, and loading/unloading of  
5 loaned equipment. All equipment shall be returned to the Responding Member in good  
6 working order as soon as is practicable and reasonable under the circumstances. As a  
7 minimum, rates for equipment use must be based on the Federal Emergency Management  
8 Agency's (FEMA) Schedule of Equipment Rates. If a Responding Member uses rates  
9 different from those in the FEMA Schedule of Equipment Rates, the Responding Member  
10 must provide such rates in writing to the Requesting Member prior to supplying the  
11 equipment. Mutual agreement on which rates are used must be reached in writing prior to  
12 dispatch of the equipment. Reimbursement for equipment not referenced on the FEMA  
13 Schedule of Equipment Rates must be developed based on actual recovery of costs. If  
14 Responding Member must lease a piece of equipment while its equipment is being repaired,  
15 Requesting Member shall reimburse Responding Member for such rental costs.  
16

17 C. Materials and Supplies. The Requesting Member must reimburse the Responding Member  
18 in kind or at actual replacement cost, plus handling charges, for use of expendable or non-  
19 returnable supplies. The Responding Member must not charge direct fees or rental charges  
20 to the Requesting Member for other supplies and reusable items that are returned to the  
21 Responding Member in a clean, damage-free condition. Reusable supplies that are  
22 returned to the Responding Member with damage must be treated as expendable supplies  
23 for purposes of cost reimbursement.  
24

25 D. Payment Period. The Responding Member must provide an itemized bill to the Requesting  
26 Member for all expenses incurred by the Responding Member while providing assistance  
27 under this Agreement. The Requesting Member must receive the itemized bill within ninety  
28 (90) days following the end of the Period of Assistance. The Responding Member may  
29 request additional periods of time within which to submit the itemized bill, and Requesting  
30 Member shall not unreasonably withhold consent to such request. The Requesting Member  
31 must pay the bill in full on or before the forty-fifth (45<sup>th</sup>) day following the billing date. The  
32 Requesting Member may request additional periods of time within which to pay the itemized  
33 bill, and Responding Member shall not unreasonably withhold consent to such request,  
34 provided, however, that full payment shall occur no later than the extension of time agreed  
35 to by the Responding Member.  
36

37 E. Records. Each Responding Member and its Authorized Official and Supervisor shall have  
38 access to a Requesting Member's books, documents, notes, reports, papers and records  
39 which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of  
40 a cost bill or making a financial, maintenance or regulatory audit. Each Requesting Member  
41 and its Authorized Official and Supervisor, if applicable, shall have access to a Responding  
42 Member's books, documents, notes, reports, papers and records which are directly pertinent  
43 to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a  
44 financial, maintenance or regulatory audit. Such records shall be maintained for at least  
45 three (3) years or longer where required by law, and the review of such records shall be kept  
46 strictly confidential, unless otherwise required by law.

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2 **ARTICLE VIII**  
3 **DISPUTES**  
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5 If any controversy or claim arises out of, or relates to, the execution of the Agreement, including,  
6 but not limited to, an alleged breach of the Agreement, the disputing Member Utilities shall first  
7 attempt to resolve the dispute by negotiation, followed by mediation. If the matter is not  
8 resolved through negotiation or mediation, then suit may be brought in any court of competent  
9 jurisdiction in the State of Maryland.

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11 **ARTICLE IX**  
12 **REQUESTING MEMBER'S DUTY TO INDEMNIFY**  
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14 To the extent permitted by law and subject to budget appropriations of a Member Utility that is a  
15 governmental body, the Requesting Member covenants to defend, indemnify and hold harmless  
16 the Responding Member, its officials, officers and employees, from all claims, loss, damage,  
17 injury, death, expenses (including reasonable attorney's fees), and liability of every kind, nature  
18 and description, whatsoever, directly or indirectly arising from Responding Member's work  
19 during a Period of Assistance. The scope of the Requesting Member's covenant and obligation  
20 to indemnify includes, but is not limited to, suits arising from, or related to, negligent or wrongful  
21 use of equipment or supplies on loan to the Requesting Member, or faulty workmanship or other  
22 negligent acts, errors or omissions by Requesting Member or the Responding Member  
23 personnel during the Period of Assistance.

24  
25 As to the third parties making the claims that would be indemnified under this Article IX, nothing  
26 contained herein shall be construed as a waiver of any immunities or defenses to which a  
27 Member Utility may be entitled as to those third parties, and all immunities and defenses are  
28 hereby preserved.

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30 **ARTICLE X**  
31 **WORKER'S COMPENSATION CLAIMS**  
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33 The Responding Member is responsible for providing worker's compensation benefits and  
34 administering worker's compensation for its employees. The Requesting Member is responsible  
35 for providing worker's compensation benefits and administering worker's compensation for its  
36 employees.

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38 **ARTICLE XI**  
39 **NOTICE**  
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41 A Member Utility, who becomes aware of a threatened or filed claim or suit that in anyway,  
42 directly or indirectly, affects or might affect other Member Utility, shall provide prompt and timely  
43 notice to all Member Utilities. Each Member Utility reserves the right to participate in the  
44 defense of such claims or suits as necessary to protect its own interests.  
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1 **ARTICLE XII**  
2 **INSURANCE**

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4 Each Member Utility shall maintain an insurance policy or maintain a self insurance program  
5 that insures activities that a Member Utility might undertake by virtue of membership in the  
6 Mutual Aid Program and being a signatory of this Agreement.  
7

8 **ARTICLE XIII**  
9 **CONFIDENTIAL INFORMATION**

10  
11 To the extent allowed by law, each Member Utility shall maintain in the strictest of confidence  
12 and shall take all reasonable steps necessary to prevent the disclosure of Confidential  
13 Information disclosed under this Agreement. If any Member Utility, third party or other entity  
14 requests or demands, by subpoena or otherwise, that a Member or Associate Member disclose  
15 any Confidential Information, the Member Utility shall immediately notify the owner of the  
16 Confidential Information and shall take all reasonable steps necessary to prevent the disclosure  
17 of Confidential Information by asserting all applicable rights and privileges with respect to such  
18 information and shall cooperate fully in any judicial or administrative proceeding relating thereto.  
19 Confidential Information may be subject to disclosure under the Maryland Public Information Act  
20 and/or the Member Utility's governmental public information act.  
21

22 **ARTICLE XIV**  
23 **EFFECTIVE DATE and COUNTERPARTS**

24  
25 This Agreement shall be effective as to a Member Utility after the Member Utility's Authorized  
26 Official has been duly authorized to sign and then executes the Agreement and the Statewide  
27 Committee Chair receives the signed Agreement. The Statewide Committee Chair shall  
28 maintain a list of all Member Utilities. The Statewide Committee Chair shall maintain a master  
29 list of all members of the Mutual Aid Program. This Agreement may be signed in counterparts,  
30 with all counterparts being deemed to be legally effective and one Agreement binding all  
31 signatories.  
32

33 **ARTICLE XV**  
34 **WITHDRAWAL**

35  
36 A Member Utility may withdraw from this Agreement by providing written notice of its intent to  
37 withdraw to the Statewide Committee Chair. Withdrawal shall be effective 60 days after the  
38 date that the appropriate committee chairs receive said notice. Withdrawal from this Agreement  
39 by any Member Utility shall in no way affect a Requesting Member's duty to reimburse a  
40 Responding Member for cost incurred during a Period of Assistance or a Requesting Member's  
41 duty to indemnify a Responding Member, which duties shall survive any such withdrawal.  
42

43 **ARTICLE XVI**  
44 **MODIFICATION**

45  
46 No provision of this Agreement may be modified, altered or rescinded by individual Member  
47 Utilities. In accordance with the procedures set forth in this Article XVI, modifications to this  
48 Agreement may be made due to programmatic operational changes to support the Agreement,  
49 legislative action, creation of an interstate aid and assistance agreement, or other similar  
50 developments. Modifications require a simple majority vote of Members. The Statewide  
51 Committee Chair must provide written notice to all Member Utilities of approved modifications to

1 this Agreement. Approved modifications take effect 60 days after the date upon which notice is  
2 sent to the Member Utilities.  
3

4 **ARTICLE XVII**  
5 **SEVERABILITY**  
6

7 The parties agree that if any term or provision of this Agreement is declared by a court  
8 of competent jurisdiction to be illegal or in conflict with any law, the validity of the  
9 remaining terms and provisions shall not be affected, and the rights and obligations of  
10 the parties shall be construed and enforced as if the Agreement did not contain the  
11 particular term or provision held to be invalid.  
12

13 **ARTICLE XVIII**  
14 **PRIOR AGREEMENTS**  
15

16 This Agreement supersedes all prior agreements, of any kind, between Member Utilities to the  
17 extent that such prior agreements are inconsistent with this Agreement.  
18

19 **ARTICLE XIX**  
20 **NO THIRD-PARTY BENEFICIARIES**  
21 **AND NO ASSIGNMENT OF RIGHTS/DUTIES**  
22

23 This Agreement is for the sole benefit of the Member Utilities and no person or entity shall have  
24 any rights or remedies under this Agreement as a third-party beneficiary or successor or assign.  
25 Assignments of benefits and delegations of duties created by this Agreement are prohibited and  
26 shall have no legal effect.  
27

28 **ARTICLE XX**  
29 **INTRASTATE AND INTERSTATE MUTUAL AID PROGRAMS**  
30

31 To the extent practical, Member Utilities shall participate in Mutual Aid and Assistance Programs  
32 of the State of Maryland and the Interstate Emergency Management Assistance Compact  
33 (EMAC). Members may voluntarily agree to participate in an interstate Mutual Aid and  
34 Assistance Program for water and wastewater utilities through this Agreement if such a program  
35 is established.  
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37  
38 [Signatures follow on the next page.]  
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Now, therefore, in consideration of the terms, covenants, conditions and obligations set forth in this Agreement, the undersigned Water and Wastewater Utility evidences its intent to be a Member Utility of the Intrastate Mutual Aid and Assistance Program for Water and Wastewater Utilities by executing this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**HOWARD COUNTY, MARYLAND**

**ATTEST:**

\_\_\_\_\_  
Lonnie R. Robbins  
Chief Administrative Officer

By: \_\_\_\_\_(SEAL)  
Ken Ulman  
County Executive  
Howard County

APPROVED: DEPARTMENT OF  
PUBLIC WORKS

\_\_\_\_\_  
James M. Irvin, Director

APPROVED FOR SUFFICIENCY  
OF FUNDS:

\_\_\_\_\_  
Sharon Greisz, Director  
Department of Finance

APPROVED as to Form and Legal Sufficiency  
This \_\_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Margaret Ann Nolan  
County Solicitor

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**HARFORD COUNTY, MARYLAND**

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\_\_\_\_\_ (Seal)

David R. Craig  
County Executive

Approved as to form and legal  
sufficiency this \_\_\_\_\_ day of  
\_\_\_\_\_, 2009.

Recommended for approval this  
\_\_\_\_\_ day of \_\_\_\_\_,  
2009.

\_\_\_\_\_  
Margaret Hartka  
Senior Assistant County Attorney

\_\_\_\_\_  
Robert B. Cooper, P.E., Director  
Department of Public Works

Recommended for approval this  
\_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Joel V. Caudill, P.E., Deputy Director  
Department of Public Works

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Member Utility:

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By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Please Print Name

By: \_\_\_\_\_

Title \_\_\_\_\_

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Please Print Name

Approved as to form and legal  
sufficiency

By: \_\_\_\_\_

\_\_\_\_\_  
Please Print Name