

# **RURAL WATER EMERGENCY ASSISTANCE COOPERATIVE AGREEMENT**

## **ARTICLE I. PURPOSE**

This Rural Water Emergency Assistance Cooperative Agreement (Agreement) is a mutual aid agreement to provide a program whereby water/wastewater utilities sustaining physical damage from natural or man made disasters in the state of Texas can obtain emergency assistance, in the form of personnel, equipment, and materials and other associated services necessary to protect the health and welfare of the utilities' customers. The purpose of this Agreement is to formally document this program.

## **ARTICLE II. CREATION OF RURAL WATER EMERGENCY ASSISTANCE COOPERATIVE**

This Agreement and similar agreements between the Texas Rural Water Association (TRWA) and other retail water and sewer utilities collectively constitute the Rural Water Emergency Assistance Cooperative (RWEAC). RWEAC is created in recognition of the fact that rural utilities and their communities are more effectively supported in times and circumstances of emergency by the collective pooling of their personnel, equipment, and materials and other associated services. By signing this Agreement, each rural water or wastewater utility acknowledges the mutual benefit which is received by that utility and, in turn, made available by that utility to other similarly situated utilities and their rural communities. RWEAC is administered by the TRWA for the purpose of providing emergency assistance in coordination with the community of rural utilities signing all such agreements, as more fully described herein.

## **ARTICLE III. DEFINITIONS**

- A. AGREEMENT – The Rural Water Emergency Assistance Cooperative Agreement, which is entered into by and between the Texas Rural Water Association (TRWA), a non-profit association organized and operating under the laws of the State of Texas and Section 501(c)(6) of the Internal Revenue Code, and the [Name of Utility].
- B. UTILITY - The [insert name of Utility signing the Agreement].
- C. RWEAC - The Rural Water Emergency Assistance Cooperative.

- D. ASSISTING UTILITY - Any water/wastewater utility, including the Utility, providing assistance to a Damaged Utility in coordination with TRWA through the RWEAC.
- E. DAMAGED UTILITY – A water/wastewater utility, including the Utility, sustaining damage to the utility’s water/wastewater system due to a natural or manmade disaster and seeking assistance through the RWEAC.
- F. TRWA – The Texas Rural Water Association, which administers the RWEAC and provides assistance to a Damaged Utility pursuant to this Agreement.
- G. AUTHORIZED REPRESENTATIVE – An employee or agent of TRWA, an employee or agent of the Utility, or an employee or agent of any Damaged Utility or Assisting Utility, authorized to act on behalf of TRWA, the Utility, a Damaged or Assisting Utility under this Agreement.
- H. PERIOD OF ASSISTANCE – The period of time beginning with the departure of any personnel or equipment of the TRWA or an Assisting Utility from any point for the purpose of travelling to a Damaged Utility in order to provide assistance, or to a staging area in preparation for providing assistance, and ending upon the return of all personnel or equipment of the TRWA or the Assisting Utility, after providing the assistance requested, to the applicable residence or place of Work, whichever is first to occur.
- I. PERSONNEL OR EQUIPMENT - The personnel or equipment, and any other materials or other associated services necessary to protect the health and welfare of utility customers, belonging to TRWA or an Assisting Utility or sponsored by TRWA or an Assisting Utility through the RWEAC or any other mutual aid agreement with any third party or parties.
- J. WORK OR WORK-RELATED PERIOD – Any period of time in which either the personnel or equipment of the TRWA or an Assisting Utility are being used by or for the benefit of a Damaged Utility to provide assistance.
- K. FEMA – The Federal Emergency Management Agency, or its agents, successors, or assigns.

#### ARTICLE IV. RESPONSIBILITIES OF TRWA AND UTILITY

- A. TRWA shall be responsible for management of RWEAC, including oversight and coordination of assistance to any Damaged Utility. In the discharge of this responsibility, TRWA shall:
1. Compile and update as necessary a list of personnel employed by or under contract with TRWA and employed by or under contract with all utilities executing RWEAC agreements with TRWA, including the Utility, who are available for providing assistance to any Damaged Utility.
  2. Compile and update as necessary an inventory of equipment and materials maintained by TRWA and maintained by all utilities executing RWEAC agreements with TRWA, including the Utility, which is available for providing assistance to any Damaged Utility.
  3. Determine whether assistance is to be made available to any Damaged Utility, including prioritizing RWEAC assistance among two or more Damaged Utilities, and the specific terms and conditions under which such assistance is to be provided.
  4. Coordinate, direct and maintain oversight of all RWEAC assistance.
  5. Coordinate and maintain oversight of all applications for reimbursement of costs incurred by TRWA and any Assisting Utility in providing RWEAC assistance, if appropriate (as determined by TRWA).
- B. The Utility shall comply with the terms of this Agreement as requested by TRWA. Specifically, the Utility shall:
1. Compile and update as necessary a list of all personnel employed by or under contract with the Utility who are available at the request and under the direction of TRWA for providing RWEAC assistance to any Damaged Utility, including the qualifications, training, licenses and expertise maintained by each person identified by the Utility.
  2. Compile and update as necessary an inventory of equipment and materials maintained by the Utility that are available at the request and under the direction of TRWA for providing RWEAC assistance to any Damaged Utility, including the design specifications, operating requirements and condition of all such equipment and materials identified by the Utility.

3. Comply with TRWA's direction and oversight in providing RWEAC assistance to any Damaged Utility when TRWA determines that such assistance is appropriate.
4. Provide complete and accurate documentation as requested by TRWA, including but not limited to completion of forms identifying specific equipment, materials and personnel deployed by the Utility, the time of use, and the specific purpose of use
5. Abide by TRWA's determination on all matters concerning reimbursement of costs incurred by the Utility in providing any RWEAC assistance, whether by the Damaged Utility, or FEMA, or other sources, including TRWA's decision on whether such reimbursement is to be provided and the amount of reimbursement to be provided.

#### ARTICLE V. PROCEDURE

In the event that a utility participating in the RWEAC becomes a Damaged Utility, the following procedure shall be followed to the extent practicable under the circumstances:

- A. An Authorized Representative of the Damaged Utility shall contact an Authorized Representative of the TRWA and provide the following information to the extent known:
  1. a general description of the damage sustained;
  2. the identity and location of the water/wastewater system or systems for which assistance is needed;
  3. the amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they will be needed;
  4. the identification of Work conditions and special constraints such as availability of fuel supplies, lodging/meal support, medical facilities, security and communications; and
  5. other information requested by TRWA
- B. When contacted by the Damaged Utility, the Authorized Representative of the TRWA shall assess the circumstance, including the availability of personnel, equipment and materials, to determine whether it is appropriate to provide the

assistance. Neither TRWA nor any utility participating in RWEAC shall be under any obligation to provide assistance to the Utility or any Damaged Utility. If TRWA's Authorized Representative determines that RWEAC is able and willing to provide assistance, the TRWA shall so notify the Authorized Representative of the Damaged Utility and provide the Damaged Utility with the specifics of the RWEAC assistance.

- C. The personnel and equipment of the TRWA or any Assisting Utility shall remain, at all times, under the direct supervision and control of the designated supervisory personnel of the TRWA, or an Assisting Utility as appropriate and as directed by TRWA. Any equipment or materials made available to a Damaged Utility shall be maintained by the Damaged Utility strictly as directed by TRWA, including the location at which the equipment is used and the service of the equipment during use. The ownership of any equipment shall remain with the TRWA or the Assisting Utility and said equipment shall be returned to the TRWA or the Assisting Utility immediately upon request or as otherwise directed by TRWA. Representatives of the Damaged Utility may suggest Work assignments and schedules for the personnel of the TRWA or any Assisting Utility; however, the designated supervisory personnel of the TRWA, or the Assisting Utility as authorized by TRWA, shall have the exclusive responsibility and authority for assigning Work and establishing Work schedules for the personnel of the TRWA or any Assisting Utility. The designated supervisory personnel shall maintain daily personnel time records and a log of equipment hours, be responsible for the operation and maintenance of the equipment furnished by the TRWA or any Assisting Utility, and report Work progress to the Damaged Utility.
- D. The Damaged Utility shall have the responsibility of providing daily communications between the personnel of the TRWA and any Assisting Utility and the Damaged Utility.

## ARTICLE VI. EXPENSES

**This Agreement is made without any expectation of reimbursement of expenses.** Where deemed appropriate by TRWA, reimbursement may be requested, either from the Damaged Utility or from FEMA or other public disaster

relief entity. Guidelines governing any reimbursement for assistance provided under this Agreement include:

- A. PERSONNEL – During the Period of Assistance, the TRWA or the Assisting Utility shall continue to pay TRWA's or the Assisting Utility's personnel according to current and reasonable salaries, including any applicable overtime. The Damaged Utility shall cooperate fully with TRWA in seeking or providing any reimbursement to the TRWA and any Assisting Utility for direct and indirect payroll costs and expenses incurred during the Period of Assistance, as determined by TRWA.
- B. EQUIPMENT – TRWA and any Assisting Utility may be reimbursed for the use of equipment during the Period of Assistance unless such loss or damage is caused by the negligence of TRWA or the Assisting Utility. The Damaged Utility shall cooperate fully with TRWA in seeking or providing any reimbursement for the use of equipment, as determined by TRWA. Reimbursement for the loss of, or damage to any equipment shall be the replacement cost of the equipment lost or damaged. In the alternative, TRWA may determine that the Damaged Utility will replace, with like kind and condition, the equipment lost or damaged.
- C. MATERIALS AND SUPPLIES – The TRWA and any Assisting Utility may be reimbursed for materials and supplies furnished by it and used or damaged during the Period of Assistance, unless such damage is caused by negligence of the TRWA's or the Assisting Utility's personnel. The measure of reimbursement shall be the replacement cost of the materials and supplies used or damaged. In the alternative, TRWA may determine that the Damaged Utility will replace, with a like kind and quality as determined by the TRWA, the materials and supplies used or damaged.
- D. It is acknowledged by and between the TRWA and the Utility that the foregoing guidelines are guidelines only, and are not enforceable by TRWA or any Assisting Utility against the Damaged Utility.

#### ARTICLE VII. INDEMNIFICATION

TRWA and the Utility shall each indemnify the other and hold the other harmless from any claims for any injury to personnel or for damage to or loss of

equipment or materials or for any loss of revenue or value arising from any actions taken or not taken in TRWA's administration, management and oversight of RWEAC or from any actions taken or not taken in providing RWEAC assistance to any Damaged Utility, including claims by any third parties.

#### ARTICLE VIII. INSURANCE

TRWA and the Utility shall each bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry. Nothing herein shall act or be construed as a waiver of any sovereign immunity or other exemption or limitation on liability that either TRWA or the Utility or any Damaged or Assisting Utility may enjoy.

The Utility should maintain insurance for any equipment which the Utility may use in providing assistance to a Damaged Utility. TRWA will maintain insurance covering TRWA's use of the Utility's equipment by TRWA.

#### ARTICLE IX. OTHER UTILITIES

The Utility acknowledges and agrees that other utilities not participating in RWEAC may request and receive assistance through RWEAC. The Utility understands that such other utilities will be accorded a lower priority for receiving assistance than those utilities signing RWEAC agreements with TRWA, including the Utility.

#### ARTICLE X. PERFORMANCE NOT OBLIGATORY

This Agreement is voluntary, and the responsibilities set forth under this Agreement expressly are not enforceable by either party against the other. This Agreement does not obligate TRWA to provide any and all assistance that may be requested by the Utility, nor is the Utility obligated to provide any or all assistance when requested by TRWA.

#### ARTICLE XI. EXCLUSIVITY

This Agreement is not exclusive and does not preclude or limit either TRWA or the Utility from executing other mutual aid agreements, whether under RWEAC or

otherwise, provided any such other mutual aid agreement should not be inconsistent with the parties' respective responsibilities under this Agreement. In the event the Utility executes any other mutual aid agreement, the Utility shall provide a copy of same to TRWA.

## ARTICLE XII. TERMINATION OF AGREEMENT

This agreement may be terminated by either TRWA or the Utility by written notice to the other party at the sole option of either TRWA or the Utility.

NOW, THEREFORE, in consideration of the covenants and obligations contained herein, authorized representatives of the TRWA and the Utility duly execute this Rural Water Emergency Assistance Cooperative Agreement. This Agreement is effective upon execution by each authorized representative.

[Name of Utility]

Texas Rural Water Association

\_\_\_\_\_  
[Name of Authorized  
Representative]

\_\_\_\_\_  
Tom Duck  
Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date