

MUTUAL AID AGREEMENT

This agreement (the "Agreement") is entered into between Lexington-Fayette Urban County Government (herein referred to as "LFUCG"), and the Clark County Fire Department (hereinafter referred to as "CCFD") in order to provide mutual aid and assistance to each other under the terms and conditions contained herein.

WHEREAS, LFUCG and CCFD are both geographically vulnerable to a variety of emergencies and disasters;

WHEREAS, LFUCG and CCFD recognize the importance of having each other respond in a coordinated and efficient manner to restore the public safety, health, and welfare of either community stricken by an emergency or disaster regardless of location;

WHEREAS, the Agreement between LFUCG and CCFD is to secure mutual aid should an emergency arise requiring fire prevention, the protection of life and property, training and advancement of knowledge and skills, firefighting, rescue, and response to disasters, natural or manmade, which threaten the safety and welfare of residents within the respective jurisdictions of the LFUCG and CCFD.

NOW, THEREFORE, THAT FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AND CCFD AGREE AS FOLLOWS:

SECTION I. DEFINITIONS

"Disaster" means any incident or situation declared as such by local government, executive order of the Governor of Kentucky, or the President of the United States pursuant to federal law, as a result of an occurrence or imminent threat of widespread or severe damage, injury or loss of life or property, resulting from any natural, technological, or man-made emergency situation, including incidents caused by accident, military or paramilitary cause.

"Emergency" means any incident or situation which poses a major threat to public safety so as to cause, or threaten to cause, loss of life, serious injury, significant damage to property, or major harm to public health or the environment and which a local emergency response agency determines is beyond its sole capabilities.

"Party" or "Parties" means LFUCG and/or CCFD.

SECTION II. PRINCIPLES; AGREEMENT PROVIDES NO RIGHT OF ACTION FOR THIRD PARTIES

- A. The Parties shall attempt to render assistance if requested pursuant to the Agreement to the fullest extent reasonably possible; however, it is mutually understood that each Party's foremost responsibility is to its own residents. Therefore, the provisions of the Agreement shall not be construed to impose an

unconditional obligation on either Party to provide aid and assistance pursuant to a request. Accordingly, a Party may notify the requesting Party, and in good faith, deem itself unavailable when the resources being requested are necessary to provide reasonable and adequate protection to its own residents.

- B. When rendering mutual aid, a Party's personnel, equipment and/or other resources shall remain subject to recall in order to provide same for its own residents if circumstances so warrant. In these circumstances, the Party shall make a good faith effort to provide at least twenty-four (24) hours advance notice to the other Party of its intent to recall the mutual aid, unless such notice is not practicable.
- C. To the extent allowable by law, all functions and activities performed under the Agreement are declared to be governmental functions and are carried out for the benefit of the general public and not for the benefit of any specific individual(s). This Agreement shall not be construed as or deemed to be for the benefit of any third parties or persons and no third parties or persons shall have any right of action under the Agreement for any cause whatsoever. There is no waiver of any defenses or immunities provided by law.

SECTION III. PROCEDURES FOR REQUESTING ASSISTANCE

Mutual aid and assistance may be requested when the resources available within a Party's Disaster or Emergency area are deemed inadequate by that Party. That Party may request mutual aid and assistance by communicating a request to the other Party as follows:

- A. **REQUIRED INFORMATION:** Each request for aid and assistance shall be accompanied by the following information, to the extent known and applicable:
 - 1. **Stricken Area and Status:** A general description summarizing the condition of the community (i.e., whether the Disaster or Emergency is imminent, in progress, or has already occurred) and the damage sustained to date;
 - 2. **Services:** Identification of the service function(s) for which assistance is needed and the particular type of assistance needed;
 - 3. **Infrastructure Systems:** Identification of the type(s) of the public infrastructure system for which assistance is needed and type of work assistance needed;
 - 4. **Aid and Assistance:** The amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they will be needed;
 - 5. **Facilities:** The need for sites, structures or building outside a recipient's geographical limits to serve as relief centers or staging areas for incoming emergency goods and services; and

6. Meeting Time and Place: An estimated time and a specific place for a representative of the Party to meet with the personnel of the other Party.

B. STATE AND FEDERAL ASSISTANCE: Each Party shall be responsible for coordinating its own requests for any necessary state or federal assistance.

SECTION IV. RESOURCES AND ABILITY TO RENDER ASSISTANCE.

When a request is made of a Party to provide any assistance pursuant to the Agreement, the requested Party shall assess its ability to do so and, to the extent applicable, shall timely notify the other Party with the following information:

- A. In response to the items contained in the request, a description of the personnel, equipment and other resources available;
- B. The projected length of time such personnel, equipment and other resources will be available to assist;
- C. The estimated time when the assistance provided will arrive at the location designated by the other Party; and
- D. The person(s) to be designated as that Party's supervisory personnel.

Unless otherwise provided in this Agreement, the duration of a Party's assistance shall be for the period agreed upon by the Parties.

SECTION V. SUPERVISION AND CONTROL

The Party providing assistance pursuant to the Agreement shall designate supervisory personnel. As soon as practical, the assisted Party shall assign work tasks to these supervisory personnel and, unless specifically instructed otherwise, the assisted Party shall be responsible for coordinating communications. The assisted Party shall provide any necessary credentials authorizing personnel to operate.

Based upon the assignments set forth by the assisted Party, the supervisory personnel shall:

- a. Have the authority to assign work and establish work schedules for its personnel and have direct supervision and control of its personnel, equipment and other resources which shall, at all times, remain with the supervisory personnel. The assisting Party should be prepared to furnish communications equipment sufficient to maintain communications among its respective personnel; if this is not possible, it shall notify the other Party accordingly. It is expressly understood that this may involve the assisted Party providing radio frequencies to the responding Party;

- b. Maintain daily personnel time records, material records, and a log of equipment hours; and
- c. Report work progress to the assisted Party at mutually agreed upon intervals.

All of the assisting Party's personnel shall report to an agreed upon meeting place with their agencies on department apparatus and/or official vehicles per their organization's normal response procedures. The assisting Party will report to the supervisor of the incident upon arrival for assignment. While en route and on-scene, the assisting Party shall be subject to the orders of the requesting Party's supervisor in charge of the incident. Rank and title structures within each party will remain the same while on-scene to the extent reasonably possible. The assisting Party's personnel will be assigned by their supervisor, subject to the situational requirements.

SECTION VI. IMMUNITY & WAIVER OF LIABILITY

Each Party is solely responsible for the conduct and actions or inactions of its personnel. Except as otherwise permitted by law, neither Party shall be liable for any omission or act of commission or negligence while performing any fire prevention work under the Agreement that resulted in death of, or injury to, a person, for damages to property, or any other damages. This shall not be construed, and is not, any waiver of any other immunity protections afforded to either Party pursuant to the Constitution, statute, regulation, ordinance, rule or common law.

Each Party waives all claims against each other for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of Agreement.

SECTION VII. REIMBURSEMENTS

If the aid provided under the Agreement is not to be reimbursed by federal funding (i.e. Federal Emergency Management Agency (FEMA)), each Party waives all claims against the other Party for compensation for any services rendered or goods used.

Except as otherwise provided below, if the aid provided under the Agreement is declared a disaster, or is eventually elevated to a disaster, and is to be reimbursed by FEMA, the assisting Party shall be paid reasonable and documented expenses as a result of extending assistance. The terms and conditions governing reimbursement for any assistance provided under the Agreement shall be in accordance with the following provisions, unless otherwise agreed to in writing by the Parties.

Personnel - During the period of assistance, the assisting Party shall continue to pay its employees according to its prevailing ordinances, rules and regulations. To the extent applicable, it shall be reimbursed by federal funding for all direct and indirect payroll costs and expenses including travel expenses incurred during the period of assistance, including, but not limited to, employee retirement benefits.

Equipment – An assisting Party shall be reimbursed through federal funding for the use of its equipment during the period of assistance according to either a pre-established local or state hourly rate or according to the actual replacement, operation and maintenance expenses incurred.

Materials and Supplies – An assisting Party shall be reimbursed through federal funding for the reasonable and documented costs of all materials and supplies furnished by it and used or damaged during the period of assistance, except for the costs of equipment, fuel and maintenance materials, labor and supplies, unless such damage is caused by gross negligence, willful and wanton misconduct, intentional misuse or recklessness of a Party's materials and supplies used by them during the period of assistance.

Record Keeping – An assisted Party shall provide information, directions and assistance for record keeping to the assisting Party. An assisting Party shall maintain records and submit invoices for reimbursement by a recipient in accordance with the procedures and format used or required by FEMA publications.

Payment - The reimbursement costs and expenses with an itemized notice shall be forwarded as soon as practicable after the costs and expenses are incurred, but not later than sixty (60) days following the period of assistance, unless the deadline for identifying damage is extended.

SECTION VIII. ASSISTING PARTY EMPLOYEES COVERED AT ALL TIMES BY PROVIDER'S WORKER'S COMPENSATION POLICY

In accordance with KRS Chapter 39B, to the extent applicable, all pension, relief, disability, death benefits, worker's compensation benefits, and other benefits enjoyed by the assisting Party rendering mutual aid under this Agreement extend to the services the Party performs outside of their respective jurisdictions.

SECTION IX. INITIAL DURATION OF AGREEMENT; RENEWAL; TERMINATION

This Agreement shall be binding for not less than one (1) year from its effective date, unless terminated at least thirty (30) days through written notice by a Party. Thereafter, the Agreement shall continue to be binding upon the Parties and shall be considered to renew automatically from year to year, unless terminated by written notification as provided above. A Party terminating its participation in this Agreement shall submit a copy of its written termination notice to the other Party to the Agreement. A Party's termination of this Agreement shall not affect a Party's reimbursement obligations, or any other liability or obligation incurred under the terms of this Agreement.

SECTION X. EFFECTIVE DATE, APPROVAL AND ADOPTION.

This Agreement shall take effect upon its execution by each of the Parties to the Agreement.

Linda Gorton

Linda Gorton, Mayor
Lexington Fayette County Urban Government

6/6/2023

Date

Jason Wells

Jason Wells, Fire Chief
Lexington Fayette County Urban Government

June 6, 2023

Date

Les Yates

Mayor/Judge Executive
CLARK COUNTY

June 1, 2023

Date

Steve Asbury

Fire Chief
Steve Asbury

May 15, 2023

Date