

# **STATEWIDE EMERGENCY MANAGEMENT MUTUAL AID AND ASSISTANCE AGREEMENT**

**This Agreement is between each local entity in the Commonwealth of Kentucky that officially approves and adopts the Agreement and thereby becomes a party to the Agreement. Each party agrees to execute the Agreement and provide mutual aid and assistance to other parties under the terms and conditions contained herein.**

**WHEREAS**, the Commonwealth of Kentucky is geographically vulnerable to a variety of emergencies and disasters; and

**WHEREAS**, the local entities located in the Commonwealth of Kentucky recognize the importance of having each local entity respond in a coordinated and efficient manner to restore the public safety, health, and welfare of a community stricken by an emergency or disaster; and

**WHEREAS**, each local entity in Kentucky is encouraged to become a party to this Agreement to ensure the statewide availability of mutual aid and assistance to disaster or emergency impacted communities as quickly, efficiently, and effectively as possible; and

**WHEREAS**, pursuant to KRS 65.210, et seq, a local entity entering into a mutual aid and assistance agreement may include provisions for the furnishing and exchanging of supplies, equipment, facilities, personnel, and services; and

**WHEREAS**, each local entity that has chosen to become a party to this agreement wishes to provide mutual aid and assistance to other parties in time of emergency or disaster;

**NOW, THEREFORE, ALL PARTIES TO THIS AGREEMENT AGREE AS FOLLOWS:**

## **SECTION 1. DEFINITIONS**

"Agreement" means the Statewide Emergency Management Mutual Aid and Assistance Agreement.

"Aid and assistance" means supplies, equipment, facilities, personnel, services, and other resources.

"Authorized representative" means the employee of a party who has been authorized in writing by that party, or their designee, to request, offer, or otherwise provide aid and assistance under the terms of this Agreement.

"Disaster" means any incident or situation declared as such by executive order of the President of the United States pursuant to federal law, the Governor of the Commonwealth of Kentucky, the executive authority of local government, or executive authority of local emergency management, 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.

"Local emergency declaration" means the legal written document signed by the chief executive officer of a local entity that specifies and attests that a disaster or emergency has occurred or is imminent.

"Local emergency management agency" means the organizational unit of the executive branch of a city, or cities acting jointly, county, urban-county, or charter county government, or counties acting jointly, created

pursuant to Kentucky Revised Statutes Chapter 39B, with primary jurisdiction, responsibility, and authority for emergency management program activities within the geographical boundaries of a party.

"Local entity" means a county, urban-county, charter-county, city, or other general or special purpose unit of government created under Kentucky law with the express power and authority to enter into and execute a contract.

"Party" means a local entity that has officially approved and adopted this Agreement by resolution of its governing body.

"Provider" means a party that furnishes, or is requested to furnish, aid and assistance to a recipient pursuant to this Agreement.

"Recipient" means a party that requests or receives aid and assistance from a provider pursuant to this Agreement.

## **SECTION II. INITIAL RECOGNITION OF PRINCIPLES BY ALL PARTIES; AGREEMENT PROVIDES NO RIGHT OF ACTION FOR THIRD PARTIES—AGREEMENT ADMINISTRATOR**

- A. As this Agreement is a reciprocal contract, it is recognized that any party to this Agreement may be requested by another party to be a provider. It is mutually understood that each party's foremost responsibility is to its own citizens. The provisions of this Agreement shall not be construed to impose an unconditional obligation on any party to this Agreement to provide aid and assistance pursuant to a request from another party. Accordingly, when a party is requested to provide aid and assistance, it may in good faith deem itself unavailable to be a provider when the resources being requested are necessary to provide reasonable and adequate protection for its own citizens. A party unable to honor a request for aid and assistance will so inform the party initiating a request.

Given the finite resources of any party and the potential for each party to be unavailable for aid and assistance at a given point in time, the parties mutually encourage each other to enlist other local entities in mutual aid and assistance efforts and to enter into such agreements accordingly. Likewise, the parties fully recognize that there is ample public purpose for entering into this Agreement and accordingly shall attempt to render assistance in accordance with the terms of the Agreement to the fullest extent possible.

All functions and activities performed under this Agreement are hereby declared to be governmental functions. Functions and activities performed under this Agreement are carried out for the benefit of the general public and not for the benefit of any specific individual or individuals. Accordingly, this Agreement shall not be construed as or deemed to be an agreement for the benefit of any third parties or persons and no third parties or persons shall have any right of action under this Agreement for any cause whatsoever. All immunities provided by law shall be fully applicable.

- B. Kentucky Emergency Management shall serve as the Agreement Administrator. Kentucky Emergency Management shall not be a party to this Agreement or be liable for any actions taken by any party to this Agreement.

## **SECTION III. PROCEDURES FOR REQUESTING ASSISTANCE**

Mutual aid and assistance shall not be requested unless the resources available within a recipient's disaster or emergency impacted area are deemed inadequate by a recipient. In these instances, a recipient may request mutual aid and assistance by communicating a request to a provider, indicating the request is made pursuant to this mutual aid agreement and include the Kentucky Emergency Management incident number on any request. If the KYEM incident number is unknown, the requester shall provide the incident number as soon after as practicable. A request shall be followed as soon as practicable by a written

confirmation of the request, including a copy of a local emergency declaration and a statement or completed form describing the specific aid and assistance needed. Providers that self-deploy to an emergency must immediately contact the recipient's executive authority or authorized representative to receive an assignment. All requests for mutual aid and assistance shall be transmitted by a recipient's authorized representative or local emergency management agency as set forth below. A list of authorized representatives for each party shall be attached to the officially approved and adopted copy of this Agreement. In the event of a change in personnel, unless otherwise notified, the presumption will be that the successor to that position will be the authorized representative.

- A. **METHOD OF REQUEST FOR MUTUAL AID AND ASSISTANCE:** A recipient shall initiate a request as follows:
  - 1. **REQUESTS ROUTED THROUGH A RECIPIENT'S LOCAL EMERGENCY MANAGEMENT AGENCY:** A recipient may directly contact the local emergency management agency that serves the recipient's geographical area of operation and provide the information referenced in paragraph B of Section III. The local emergency management agency shall notify the area emergency manager and contact provider parties on behalf of a recipient to coordinate the provision of mutual aid and assistance.
  - 2. **REQUESTS MADE DIRECTLY TO A PROVIDER:** A recipient may directly contact a provider's authorized representative, setting forth the information referenced in paragraph B of Section III. All communications shall be conducted directly between a recipient and provider. A provider and a recipient using this option shall be responsible for keeping their respective local emergency management agencies advised of the status of response activities, in a timely manner. Nothing in this Agreement shall restrict a recipient's ability to provide documentation of requests after the emergency has occurred.
- B. **REQUIRED INFORMATION:** Each request for aid and assistance shall be accompanied by the following information, in writing or by other available means, to the extent known:
  - 1. **Impacted 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 of 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 the 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. **Provider's Traveling Employee Needs:** Unless otherwise agreed upon by the parties, it is mutually understood that a provider will provide for the basic needs of provider's traveling employees. Traveling employee salaries and benefits will be paid by the provider. The recipient shall assist the provider in obtaining any federal or state reimbursement for traveling employee salaries, benefits, or other expenses incurred, if applicable.
  - 6. **Facilities:** The need for sites, structures, or buildings outside a recipient's geographical limits to serve as relief centers or staging areas for incoming emergency goods and services; and

7. Meeting Time and Place: An estimated time and a specific place for a representative of a recipient to meet the personnel and resources of any provider.
- C. STATE AND FEDERAL ASSISTANCE: A recipient shall be responsible for coordinating all requests for state or federal assistance with the local emergency management agency with jurisdiction if applicable.
- D. List of Authorized Representatives: The list of Authorized Representatives for each party executing this Agreement shall be attached to the executed copy of this Agreement. In the event of a change in personnel, unless otherwise notified, the presumption will be that the successor to that position will be authorized representative.

#### **SECTION IV. PROVIDER'S ASSESSMENT OF AVAILABILITY OF RESOURCES AND ABILITY TO RENDER ASSISTANCE**

When contacted by a recipient or a local emergency management agency regarding a request for aid and assistance, a provider's authorized representative shall assess the provider's own local situation to determine the availability of personnel, equipment, and other resources. If a provider's authorized representative determines that the provider has available resources, a provider's authorized representative shall so notify the recipient or the local emergency management agency (whichever communicated the request). A provider shall submit a written acknowledgment of a request for aid and assistance received from a recipient or a local emergency management agency. The written acknowledgement must indicate a provider's decision to either render aid and assistance or to reject a request and shall be transmitted by the most efficient and practical means to a recipient or a local emergency management agency. A provider's acknowledgment shall contain 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 serve a recipient particularly if the period is projected to be shorter than one week (as provided in the "Length of Time for Aid and Assistance" section (Section VI) of this Agreement);
- c. The estimated time when the assistance provided will arrive at the location designated by the authorized representative of the recipient; and
- d. The name of the person(s) to be designated as the provider's supervisory personnel (pursuant to the "Supervision and Control" section (Section V) of this Agreement).

When a provider submits a written acknowledgement to a local emergency management agency, the local emergency management agency shall notify a recipient's authorized representative and forward the information received from a provider. A recipient or a local emergency management agency shall respond to a provider's written acknowledgment by executing and returning a copy of the request form to a provider by the most efficient practical means, maintaining a copy for its file.

#### **SECTION V. SUPERVISION AND CONTROL**

A provider shall designate supervisory personnel among its employees sent to render aid and assistance to a recipient. As soon as practical, a recipient shall assign work tasks to a provider's supervisory personnel and, unless specifically instructed otherwise, a recipient shall have the responsibility for coordinating communications between a provider's supervisory personnel and a recipient. A recipient shall provide necessary credentials to a provider's personnel authorizing them to operate on behalf of a recipient.

Provider's supervisory personnel shall consider the medical direction and scope of practice in assignments. Provider's personnel shall provide care under the procedures and protocols in effect from their agency and shall not provide care outside the agency's scope of practice as established by the Kentucky board of EMS. Disputes arising over the delivery of direct patient care will be decided by on-line medical control.

Based upon the assignments set forth by a recipient, a provider's supervisory personnel shall:

- a. Have the authority to assign work and establish work schedules for a provider's personnel. Further, have direct supervision and control of a provider's personnel, equipment and other resources which shall, at all times, remain with a provider's supervisory personnel. A provider should be prepared to furnish communications equipment sufficient to maintain communications among its respective operating units, and if this is not possible, a provider shall notify a recipient accordingly. It is expressly understood that this may involve a recipient providing radio frequencies to a provider while a provider is assisting a recipient;
- b. Maintain daily personnel time records, material records and a log of equipment hours; and;
- c. Report work progress to a recipient at mutually agreed upon intervals.

## **SECTION VI. LENGTH OF TIME FOR AID AND ASSISTANCE; REVIEWABILITY; RECALL**

The duration of a provider's assistance shall be for the period agreed upon by the authorized representatives of a provider and a recipient.

As noted in Section II of this Agreement, a provider's personnel, equipment and other resources shall remain subject to recall by a provider to provide for its own citizens if circumstances so warrant. A provider shall make a good faith effort to provide at least twenty-four (24) hours advance notice to a recipient of its (provider's) intent to terminate a mission, unless such notice is not practicable. In such a case, as much notice as is reasonable under the circumstances shall be provided.

## **SECTION VII. REIMBURSEMENTS**

Except as otherwise provided below, it is understood that a recipient shall pay to a provider reasonable and documented expenses incurred by a provider for extending assistance to a recipient. Such reimbursements shall commence 12 hours after the provider support is on scene and the recipient has signed a local emergency declaration. The terms and conditions governing reimbursement for any assistance provided under this Agreement shall be in accordance with the following provisions, unless otherwise agreed in writing by a recipient and a provider. A recipient shall be ultimately responsible for reimbursement of all eligible reasonable and documented expenses if subject to 44 C.F.R. Part 206.

- A. Personnel – During the period of assistance, a provider shall continue to pay its employees according to its then prevailing ordinances, rules, and regulations. A provider shall pay for all direct and indirect payroll costs and expenses including travel expenses incurred during the period of assistance unless otherwise agreed upon, including, but not limited to, employee retirement benefits as provided by Generally Accepted Accounting Principles (GAAP). However, as stated in Section IX of this Agreement, a recipient shall not be responsible for reimbursing any amounts paid or due as benefits to a provider's personnel under the terms of the Kentucky Worker's Compensation Law.
- B. Equipment – A provider shall be responsible for any equipment provided during the period of assistance, unless otherwise agreed upon. For those instances in which costs are reimbursed by the Federal Emergency Management Agency (FEMA), the FEMA-eligible direct costs shall be determined in accordance with 44C.F.R. 206.228. A provider shall pay for all repairs to its equipment as determined necessary by its on-site supervisor(s) to

maintain such equipment in safe and operational condition. At the request of a provider, fuels, miscellaneous supplies, and minor repairs may be provided by a recipient, if practical. The total equipment charges to a recipient shall be reduced by the total value of the fuels, supplies and repairs furnished by a recipient and by the amount of any insurance proceeds received by a provider.

- C. **Materials and Supplies** – A provider shall be responsible for all materials and supplies furnished by it and used or damaged during the period of assistance, unless otherwise agreed upon. The measure of any reimbursement the provider shall receive shall be determined in accordance with 44 C.F.R. 206.228.
- D. **Record Keeping** – A recipient or its representative local emergency management agency, personnel shall provide information, directions, and assistance for record keeping to a provider's personnel. A provider shall maintain patient care report records for patients treated by the agency's personnel, when applicable. The provider agrees to share incident and patient information that may be necessary to mitigate the incident, as authorized by state and federal law. A provider shall maintain records and submit invoices for reimbursement by a recipient in accordance with the procedures and format used or required by FEMA publications, including 44 C.F.R. Part 13 and applicable Office of Management and Budget (OMB) Circulars.
- E. **Payment; Other Miscellaneous Matters as to Reimbursement** – A provider shall forward an itemized statement of reimbursable costs and expenses to the recipient as soon as practicable after the costs and expenses are incurred, unless the deadline for identifying damage is extended in accordance with 44 C.F.R. Part 206. EMS services providers may bill the patient or the patient's third-party carrier, as appropriate, at the provider's prevailing rate for supplies, equipment, transport, and other applicable services in accordance with the assisting agency's patient billing practices.

## **SECTION VIII. RIGHTS AND PRIVILEGES OF PROVIDER'S EMPLOYEES**

Whenever a provider's employees are rendering aid and assistance pursuant to this Agreement, such employees shall retain the same powers, duties, immunities and privileges they would ordinarily possess if performing their duties within the geographical limits of a provider.

## **SECTION IX. PARTIES MUTUALLY AGREE TO HOLD EACH OTHER HARMLESS FROM LIABILITY.**

Each party (as indemnitor) agrees to protect, defend, indemnify and hold the other party (as indemnitee), and its officers, employees and agents, free and harmless from and against any and all losses, penalties, damages, assessments, costs, charges, professional fees and other expenses or liabilities of every kind and arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of actions of every kind in connection with or arising out of indemnitor's negligent acts, errors and/or omissions. Indemnitor further agrees to investigate, handle respond to, provide defense for and defend any such claims, etc. at indemnitor's sole expense and agrees to bear all other costs and expenses related thereto. To the extent that immunity does not apply, each party shall 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. Each party understands and agrees that any insurance protection obtained shall in no way limit the responsibility to indemnify, keep and save harmless the other parties to this Agreement.

Notwithstanding the foregoing, to the extent that each party purchases insurance, it shall not be deemed to have waived its governmental immunity by law.

## **SECTION X. INITIAL DURATION OF AGREEMENT; RENEWAL; TERMINATION; PROPERTY**

This Agreement shall be approved and adopted by the governing body of a party and the signed by the party's chief executive officer. There shall be no jointly held property under the provisions of this Agreement. This Agreement shall be binding for not less than one (1) year from its effective date, unless terminated upon at least sixty (60) days written notice by a party as set forth below. Thereafter, this Agreement shall continue to be binding upon the parties in subsequent years and shall be considered to renew automatically from year to year, unless terminated by written notification as provided above. A party may withdraw from this Agreement with at least 60 days notice. Once a withdrawal is effective, a withdrawn entity shall no longer be a party to this Agreement, but this Agreement shall continue to be in force among the remaining parties.

There shall be no jointly held property under the provisions of this Agreement.

## **SECTION XI. HEADINGS**

The headings of various sections and subsections of this Agreement have been inserted for convenient reference only and shall not be construed as modifying, amending or affecting in any way the express terms and provisions of this Agreement.

## **SECTION XII. SEVERABILITY; EFFECT ON OTHER AGREEMENTS**

Should any clause, sentence, provision, paragraph or other part of this Agreement be judged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Agreement. Each of the parties declares that it would have entered into this Agreement irrespective of the fact that any one or more of this Agreement's clauses, sentences, provisions, paragraphs or other parts have been so declared invalid. Accordingly, it is the intention of the parties that the remaining portions of this Agreement shall remain in full force and effect without regard to the clause(s), sentence(s), provision(s), paragraph(s) or other part(s) invalidated.

In the event that parties to this Agreement have entered into other mutual aid and assistance contracts, those parties agree that to the extent a request for mutual assistance is made pursuant to this Agreement, those other mutual aid and assistance contracts are superseded by this Agreement.

## **SECTION XIII. EFFECTIVE DATE, APPROVAL AND ADOPTION**

This Agreement shall take effect upon approval and adoption of the following resolution by the entity seeking to become a party to the Agreement:

## RESOLUTION

BE IT RESOLVED BY Lexington Fayette Urban County Government OF Lexington / Fayette Co.  
(Governing Body) (City or County)

that the Statewide Emergency Management Mutual Aid and Assistance Agreement is hereby approved and adopted, and

THAT Linda Gorton Mayor  
(Name of Primary Representative) (Official Title)

AND Kenneth Armstrong Commissioner of Public Safety  
(Name of Alternate Representative) (Official Title)

are hereby authorized to execute the agreement and to request, offer, or otherwise provide aid and assistance under the terms of the agreement for, and on behalf of, Lexington / Fayette Co.,  
(Name of City, County, or Entity)

a public entity established under the laws of the Commonwealth of Kentucky and for the purpose of entering into the agreement and thereby become a party to the Emergency Management Mutual Aid and Assistance Agreement.

Passed and approved this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Motion by: \_\_\_\_\_  
Name & Title

Second by: \_\_\_\_\_  
Name & Title

## CERTIFICATION

I, \_\_\_\_\_, duty appointed \_\_\_\_\_  
(Title)

of \_\_\_\_\_, do hereby certify that the above is a true and correct copy of the  
(City, County, or Other Entity)

resolution passed and approved by the \_\_\_\_\_ of \_\_\_\_\_  
(City, County, or Other Entity)

on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**STATEWIDE  
EMERGENCY MANAGEMENT MUTUAL AID AND ASSISTANCE AGREEMENT**

Part II. List of Authorized Representatives to Contact for Emergency Assistance

For Lexington Fayette Urban County Government  
(Political Subdivision)

**PRIMARY REPRESENTATIVE:**

Name: Linda Gorton Title: Mayor  
Address: 200 East Main Street City: Lexington State: KY  
Zip Code: 40507 Phone: 859-258-3100 FAX: 859-258-3194  
Pager: N/A E-Mail: mayor@lexingtonky.gov  
Cell Phone: 859-492-1745

**ALTERNATE REPRESENTATIVE:**

Name: Kenneth Armstrong Title: Commissioner of Public Safety  
Address: 200 East Main Street City: Lexington State: KY  
Zip Code: 40507 Phone: 859-258-3280 FAX: 859-258-3103  
Pager: N/A E-Mail: karmstrong@lexingtonky.gov  
Cell Phone: 859-576-3725