**APPLICANT PPDR APPROVAL REQUEST LETTER**

**BELOW IS A SUGGESTED TEMPLATE for FEMA-DR-4630-KY**

**REQUEST TO CONDUCT PRIVATE PROPERTY DEBRIS REMOVAL**

**[THROUGHOUT THIS DOCUMENT, PLEASE REMOVE AND REPLACE ALL RED “EXPLANATORY” TEXT AS APPROPRIATE]**

[LOCALITY LETTERHEAD WITH ALL CONTACT INFORMATION]

[MONTH XX, 202X]

Mr. John Brogan

Federal Coordinating Officer

Federal Emergency Management Agency

FEMA-DR-4630-KY Joint Field Office

657 Chamberlain Avenue Frankfort, KY 40601

Subject: FEMA-DR-4630-KY Authorization to Conduct Debris Removal from Non-Commercial Private Property in [TOWN/CITY/COUNTY]

Dear Federal Coordinating Officer Brogan

Pursuant to the terms and conditions of the Stafford Act, 42 U.S.C. Section 5121 et seq., FEMA Regulations as published at 44 C.F.R. Sections 206.222 - 206.224, the FEMA *Public Assistance Program and Policy Guide* FP 104-009-2 Version.4, June 1, 2020, and the FEMA *Public Assistance Debris Monitoring Guide*, March 1, 2021, the [TOWN/CITY/COUNTY] hereby requests FEMA approve [IF DFA IS REQUESTED, ADD “AND ARRANGE FOR”] the removal of debris from private property in [TOWN/CITY/COUNTY] caused by severe storms, straight line winds, and tornadoes on December 10-11, 2021 (hereinafter “the event”).

Determination of Public Interest

[TOWN/CITY/COUNTY] has determined that it is in the public interest to have event-caused debris removed from private property in order to [INSERT AS APPROPRIATE: “ELIMINATE IMMEDIATE THREATS TO LIFE, PUBLIC HEALTH AND SAFETY,” AND/OR “ ELIMINATE THREATS OF SIGNIFICANT DAMAGE TO IMPROVED PROPERTY” AND/OR “ENSURE ECONOMIC RECOVERY OF THE AFFECTED [COMMUNITY](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=ceeccbb92da7a04e1762665bde20cfe6&term_occur=999&term_src=Title:44:Chapter:I:Subchapter:D:Part:206:Subpart:H:206.224) TO THE BENEFIT OF THE [COMMUNITY](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=ceeccbb92da7a04e1762665bde20cfe6&term_occur=999&term_src=Title:44:Chapter:I:Subchapter:D:Part:206:Subpart:H:206.224)-AT-LARGE”]. We understand that the final public interest determination will be made by FEMA. [IF DFA IS REQUESTED, ADD: “DUE TO THE SEVERITY AND EXTENT OF THE DAMAGE FROM EVENT, {TOWN/CITY/COUNTY} IS UNABLE TO PERFORM OR CONTRACT TO PERFORM THIS WORK IN A TIMELY MANNER.”]

Documentation of Legal Responsibility

In accordance with 44 C.F.R. Section 206.223(a) and Public Assistance Program and Policy Guide FP 104-009-2 V.4, to be eligible for FEMA Public Assistance funding, we understand that the [TOWN/CITY/COUNTY] must have the legal authority and responsibility to perform the work at issue in the public interest which, in this case, involves the removal of tornado-generated debris from private property. As noted above, the damage caused by the event in [TOWN/CITY/COUNTY] was extensive. As a result of [CHOOSE APPROPRIATE: “MY EXECUTIVE ORDER AS {OFFICIAL TITLE} DATED MONTH XX, 202X” OR “A MEETING OF THE {TOWN/CITY/COUNTY COUNCIL/BOARD OF SUPERVISORS/FISCAL COURT/ETC.} ON MONTH XX, 202X”] (Attachment A), the following determinations have been made:

1. Removal of event-caused debris from residential private property is necessary and in the public interest to eliminate immediate threats to life, public health and safety as determined by [THE GOVERNOR OR COMMOMWEALTH/LOCAL DEPARTMENT OF PUBLIC HEALTH’S] Declaration of a [TITLE , E.G., “DEBRIS-RELATED PUBLIC HEALTH EMERGENCY,”] dated [MONTH XX, 202X] (Attachment B).

2. Under the laws of the Commonwealth of Kentucky. local ordinances and or opinions of the Attorney General [PROVIDE CITATIONS], as attached, [THE TOWN/CITY/COUNTY] has the authority and legal responsibility to enter private property to perform debris removal when it is found to pose an immediate threat to life, public health, and safety. (Attachment C).

3. Based upon “1” and “2” above, [HERE AND THROUGHOUT, INSERT: “I” IF EXECUTIVE ORDER; OR “WE” IF COUNCIL/BOARD/POLICE JURY/ETC.] have determined to exercise these authorities to enter onto private property.

4. [I/WE] certify that [IF USING PARAGRAPH 5, BELOW, INSERT “,TO THE EXTENT FEASIBLE,”] before we initiate such debris removal on these private properties, we will have unconditional authorization to do so, either through the use of Rights of Entry with indemnity and prevention of duplication of benefits clauses signed by each property owner or, if that is not possible, through satisfying all the legal processes as provided in our nuisance abatement and/or condemnation ordinances and/or through obtaining all legal permissions to carry out these actions.

5. [OPTIONAL PARAGRAPH] There may be circumstances however, where, because of the immediate urgency of the situation, the procedures of obtaining a Right of Entry or pursuing a condemnation proceeding, as set out in paragraph “4” above, may be too time consuming. [I/WE] then will act under the auspices of the laws, ordinances and/or opinion from the Commonwealth Attorney General set out in paragraph “2” (Attachment C) relying on the public health Declaration described in paragraph “1” (Attachment B). Together, these confirm the legal basis for the [TOWN/CITY/COUNTY] to remove the debris on these private properties utilizing its police power. [I/WE] certify that we have a process to regularize and determine which properties will require these extraordinary procedures to protect the public safety. In these urgent circumstances, a reasonable period will be afforded for public notification before private property debris removal will commence.

6. [I/WE] will not remove titled personal property such as cars, trucks or boats under this authorization. In addition, we will not remove any debris under this authorization generated by any new construction/reconstruction activities, any debris from commercial properties and will not perform any demolition.

7. [I/WE] understand that we must also consider Federal, Commonwealth, and local laws that relate to the effects debris removal, temporary and final disposal activities can have on historic properties, floodplains, wetlands, endangered and threatened species, critical wildlife habitats, soils, prime farmland, water and air quality, tribal, low-income and minority populations and other cultural resources. We understand that before debris removal can be approved, FEMA must ensure that the scope of work is compliant with Federal and Commonwealth laws, regulations and Executive Orders. FEMA’s Office of Environmental Planning and Historic Preservation (EHP) will need to coordinate with all applicable agencies prior to approving debris removal activities.

8. The subject private properties in the following areas are the subject of this debris removal approval request: [SPECIFY THE NEIGHBORHOODS AND STREETS. THE MORE SPECIFIC, THE FASTER THE FEMA PUBLIC ASSISTANCE DEBRIS TASK FORCE TEAM CAN INSPECT AND MAKE A PUBLIC INTEREST DETERMINATION AS TO ELIGIBILITY].

Indemnification

As required by section 407(b) of the Stafford Act (42 U.S.C. § 5173(b)), the [TOWN/CITY/COUNTY] hereby agrees that it shall indemnify and hold harmless the Federal Government and its employees, agents, contractors, and subcontractors from any claims arising from debris removal. The [TOWN/CITY/COUNTY] hereby acknowledges that in accordance with section 305 of the Stafford Act (42 U.S.C. § 5148), the Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Stafford Act.

Duplication of Benefits

To avoid duplication of benefits pursuant to section 312 of the Stafford Act (42 U.S.C. § 5155), the [TOWN/CITY/COUNTY] will obtain from the owner of the subject private property, any and all information and documentation relating to insurance coverage, proceeds and settlements and provide this to the [SPECIFY APPROPRIATE COMMONWEALTH OR LOCAL EMERGENCY MANAGEMENT AGENCY].

Proper Procurement

The [TOWN/CITY/COUNTY] affirms that any contract entered into for debris removal will comply with the requirements of 2 C.F.R. Part 200 and understands that a failure to comply with any required federal, state and local laws, regulations and permits necessary for lawful performance of debris removal could jeopardize FEMA funding.

Contact

The [TOWN/CITY/COUNTY/PARISH] point of contact for this request for PPDR authorization is [NAME] who may be contacted at [PHONE NUMBER AND EMAIL ADDRESS] if you require additional information.

Affirmation of Authority

By affixing my signature hereto, I represent that I am duly authorized as [TITLE THAT GIVES AUTHORITY IN INDIVIDUAL CAPACITY OR ON BEHALF OF THE TOWN/CITY/COUNTY COUNCIL/FISCAL COURT] to make this request.

Sincerely,

S/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[APPLICANT’S AUTHORIZED REPRESENTATIVE]

cc:

Michael E. Dossett

Governor’s Authorized Representative FEMA-DR-4630-KY Kentucky Emergency Management 100 Minuteman Parkway Frankfort, KY 40601-6120