**DEMOLITION REQUEST TEMPLATE**

**FEMA-DR-4630-KY**

**SUGGESTED ELEMENTS FOR APPLICANT LETTER**

**PRE-APPROVAL REQUEST: DEMOLITION OF PRIVATELY OWNED RESIDENTIAL STRUCTURES AND RESULTING DEBRIS REMOVAL WHEN USING PRIVATE CONTRACTOR, FORCE ACCOUNT, OR DIRECT FEDERAL ASSISTANCE**

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

**BEGIN LETTER WITH:**

[APPLICANT LETTERHEAD WITH ALL CONTACT INFORMATION]

[DATE]

John Brogan

Federal Coordination Officer

Federal Emergency Management Agency

FEMA-DR-4630-KY Joint Field Office

657 Chamberlain Avenue Frankfort, KY 40601

Subject: FEMA-DR-4630-KY, Request to Conduct Demolition of Private Residential Structures and Removal of Resulting Demolition Debris in [TOWN/CITY/COUNTY]

Dear Federal Coordinating Officer Brogan:

As a result of severe storms, straight line winds, and tornadoes on December 10-11, 2021 (hereinafter “the event”), numerous privately-owned residential structures were irreversibly damaged and made unsafe. Therefore, pursuant to Section 403(a)(3)(E) of the Stafford Act, 42 U.S.C. 5170b, FEMA Regulations as published at 44 C.F.R. 206.225, and the FEMA *Public Assistance Program and Policy Guide* FP 104-009-2, June 1, 2020, the [TOWN/CITY/COUNTY] hereby requests FEMA approve [IF DFA IS REQUESTED, ADD “AND ARRANGE FOR”] the demolition of certain privately-owned unsafe residential structures within [TOWN/CITY/COUNTY] which pose an immediate threat to life, public health, and safety in order that reimbursement can occur. The [TOWN/CITY/COUNTY] also requests approval for the subsequent removal of demolition debris and any eligible required post-demolition activity necessary to assure a safe site.

Determination of Public Interest

The [TOWN/CITY/COUNTY] has determined it is in the public interest to demolish and remove demolition debris from certain unsafe privately-owned residential structures damaged as a result of the above-referenced event in order [INSERT: “TO ELIMINATE IMMEDIATE THREATS TO LIFE, PUBLIC HEALTH AND SAFETY,” AND/OR “TO ELIMINATE THREATS OF SIGINFICANT DAMAGE TO IMPROVED PROPERTY”]. We have determined that such protection of the public cannot be met by any lesser remedy such as perimeter fencing. We understand that the final public interest determination necessary to entitle [TOWN/CITY/COUNTY] to reimbursement 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 the above-mentioned FEMA law, regulations and policy, in order to be eligible for FEMA Public Assistance funding we understand that the [TOWN/CITY/COUNTY] must have the legal responsibility to perform the work at issue. The work at issue includes entering private property to demolish privately-owned residential structures made unsafe by the December 10-11 severe storms, straight line winds, and tornadoes, removing demolition debris and completing any associated post-demolition work that is required. As noted above, the damage caused by the event was extensive. Therefore, as a result of [CHOOSE APPROPRIATE: “MY EXECUTIVE ORDER AS {OFFICIAL TITLE} DATED MONTH XX, 202\_” OR “A MEETING OF THE {TOWN/CITY/COUNTY COUNCIL/BOARD OF SUPERVISORS/FISCAL COURT/ETC.} ON MONTH XX, 202\_”] (Attachment A), the following determinations have been made:

1. Demolition of privately owned residential structures made unsafe by event, subsequent removal of demolition debris and associated required post-demolition work, is necessary and in the public interest to eliminate immediate threats to life, public health and safety as determined by [THE GOVERNOR’S AND/OR COMMONWEALTH/LOCAL DEPARTMENT OF PUBLIC HEALTH’S, LOCAL BUILDING DEPARTMENT’S] Declaration of a “Public Health and Safety Emergency Related to Event Damaged Structures,” dated [MONTH XX, 202\_] (Attachment B).
2. Under the laws of the Commonwealth of Kentucky and [THE TOWN/CITY/COUNTY, INCLUDING BUT NOT LIMITED TO {PROVIDE CITATIONS}], as attached, [THE TOWN/CITY/COUNTY] has the authority and legal responsibility to enter private property to perform emergency demolition of unsafe structures, when found to pose an immediate threat to life, public health, and safety and such a circumstance is individually and properly certified by the [TOWN/CITY/COUNTY CONDEMNATION AUTHORITY] (Attachment C).
3. Based upon “1.” and “2.” above, the [HERE AND THROUGHOUT, INSERT: “I” IF EXECUTIVE ORDER; OR “WE” IF COUNCIL/FISCAL COURT/ETC.] have determined to exercise these authorities to enter onto private property to abate the declared public health and safety emergency by demolishing unsafe privately-owned residential structures, undertaking associated required post-demolition work including removing demolition debris from the private property.
4. [I/WE] certify that before the [THE TOWN/CITY/COUNTY] initiates emergency demolition of unsafe, privately owned structures pursuant to the above specified authorities, the [THE TOWN/CITY/COUNTY] shall have satisfied all the legal procedures relating to such actions by using the [THE TOWN/CITY/COUNTY’S] legal process for emergency demolition, which includes a determination and formal certification by the [SPECIFY: TOWN/CITY/COUNTY CONDEMNATION AUTHORITY] that the structure is in imminent danger of collapse and that the exigency of the situation is such that any delay may cause further danger to the public health and safety.
5. [THE TOWN/CITY/COUNTY] understands that to qualify for FEMA reimbursement, it must have unconditional authorization to enter private property. {OPTIONAL: [SUBJECT TO NUMBER 6 BELOW]} We will obtain a Right of Entry signed by the property owner and lien holders that allows unconditional access for the purpose of carrying out demolition.
6. [OPTIONAL] There may be circumstances where the procedures of obtaining a Right of Entry, as set out in paragraph “5.” above, are too time consuming because of the immediate threats to life, public health and safety. In such circumstances, we will act under other emergency powers including but not limited to [TOWN/CITY/COUNTY EMERGENCY ORDINANCE [CITE] OR POLICE POWERS ACCORDED THE TOWN/CITY/COUNTY BY COMMONWEALTH OF KY ATTORNEY GENERAL’S OPINION OR OTHER AUTHORITY{CITE}] (Attachment C).
7. [I/WE] understand that we must also consider Federal, Commonwealth, and local laws that relate to the effects demolition 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 demolition 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 applicable agencies prior to approving the demolition application in order to carry out this necessity successfully.
8. An initial list of the non-commercial, privately-owned residential structures for which the [TOWN/CITY/COUNTY] is requesting demolition is attached (Attachment D). This list will be updated when additional structures are identified, and FEMA and the Commonwealth will be notified.

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 respective employees, agents, contractors, and subcontractors from any claims arising from demolition and subsequent removal of demolition debris. We 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 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 subject private property owners information and documentation relating to insurance coverage, proceeds and settlements and provide this to Kentucky Emergency Management.

Proper Procurement

The [TOWN/CITY/COUNTY] affirms that any contract entered into for demolition and debris removal will comply with the requirements of 2 C.F.R. § 200.318-200.336 and understands that a failure to comply with any required federal, state and local laws, regulations and permits necessary for lawful performance of demolition/debris removal could jeopardize FEMA funding.

Point of Contact

The [TOWN/CITY/COUNTY] point of contact for this request is [NAME] who may be contacted at [PHONE NUMBER AND/OR 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 TOWN/CITY/COUNTY COUNCIL/FISCAL COURT to make this request.

Sincerely,

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

[TOWN/CITY/COUNTY AUTHORIZED REPRESENATIVE]

cc:

Michael E. Dossett

Governor’s Authorized Representative

FEMA-DR-4630-KY

Kentucky Emergency Management

100 Minuteman Parkway

Frankfort, KY 40601-6120