

For the purpose of the
WEST KENTUCKY STATE AID FUNDING FOR EMERGENCIES (SAFE) FUND

Between

**The Department of Military Affairs
Division of Emergency Management**

and

- 1. City, county, urban-county government, consolidated local government, unified local government, or charter county government;**
- 2. Nonprofit or public utility service provider;**
- 3. State agency; or**
- 4. School district.)**

This Memorandum of Agreement (this "Agreement") is entered into by and between the **Division of Emergency Management** (hereafter "Emergency Management"), an agency of the Commonwealth of Kentucky, and the [REDACTED] (hereafter "Recipient"), an **INSERT DESCRIPTION OF ENTITY CONSISTENT WITH HB 5.**

Collectively, Emergency Management and [REDACTED] shall be referred to as "the Parties."

WHEREAS, on December 11, 2021 Andy Beshear, Governor of the Commonwealth of Kentucky, in response to continuing, a powerful severe weather system generating heavy rain, thunderstorms, tornadoes, and strong straight-line winds impacting the Commonwealth of Kentucky, causing flash flooding, loss of power, damage to public infrastructure and private properties, issued Executive Order 2021-923, declaring that a State of Emergency exists in the Commonwealth of Kentucky;

WHEREAS, on December 13, 2021, President Joseph R. Biden Jr. approved a Major Disaster Declaration in the Commonwealth of Kentucky making federal funding available to affected individuals, state and local governments located in Barren, Breckinridge, Bullitt, Caldwell, Christian, Fulton, Graves, Grayson, Hart, Hickman, Hopkins, Logan, Lyon, Marion, Marshall, Meade, Muhlenberg, Ohio, Shelby, Spencer, Taylor, Todd and Warren counties;

WHEREAS, Executive Order 2021-923 orders and directs that the Division of Emergency Management within the Department of Military Affairs execute the Kentucky Emergency Operations Plan and, from the Kentucky Emergency Operations Center, shall coordinate the response and relief activities of all state agencies and private relief organizations in response to this emergency;

WHEREAS, Executive Order 2021-923 orders and directs that all state agencies shall coordinate any and all public and emergency information and/or activities/releases related to this emergency and the response efforts of state agencies with the Division of Emergency Management;

WHEREAS, Executive Order 2021-923 orders and directs that the Finance and Administration Cabinet to provide assistance with incident/disaster resource management, procurements and contracting and to fund the urgent operational and/or response of the Division of Emergency Management and the unbudgeted expenditures and obligations of other state agencies that are incurred in response to and recovery from this emergency incident and in executing the provisions of this Executive Order;

WHEREAS, the Kentucky General Assembly during the 2022 Regular Session enacted House Bill 5 ("HB 5"), an act creating the West Kentucky State Aid Funding for Emergencies ("SAFE") fund, making appropriations thereto, and declaring an emergency;

WHEREAS, HB 5 charges the Division of Emergency Management to administer the SAFE fund to provide financial assistance for those impacted and provide financial support to the west Kentucky region to recover from the devastation caused by the storms and tornadoes in accordance with the HB 5;

WHEREAS, HB 5 charges the Department for Local Government to assist in the administration of portions of the SAFE fund;

THEREFORE, the Parties agree as follows:

1. **Purpose of Memorandum** On behalf of the Commonwealth of Kentucky, the Division of Emergency Management, is responsible for administering the SAFE fund as authorized by the provisions of HB 5 enacted during the 2022 Regular Session of the Kentucky General Assembly. This Memorandum of Agreement ("MOA" or "Agreement") sets forth the responsibilities of the of the Parties regarding the administration, use, and reporting of the SAFE fund.
2. **Agreement Term.** This Agreement is effective beginning [REDACTED] and ending [REDACTED]. Any obligations placed upon the Recipient by HB 5, or otherwise provided by law, shall survive the termination of this MOA.
3. **Roles of the Parties.**
 - a. Emergency Management shall be responsible for the following:
 - i. **Eligible Entity:** The Division of Emergency Management shall require sufficient information and attestation to confirm that the Recipient has disaster-related needs as a result of the devastation experienced from the December 2021 storms and tornadoes and is a:
 1. City, county, urban-county government, consolidated local government, unified local government, or charter county government;
 2. Nonprofit or public utility service provider;
 3. State agency; or
 4. School district;
 - ii. **Eligible Location:** Emergency Management shall require sufficient information and attestation to confirm that the Recipient has disaster-related needs in response to the storms and tornadoes that occurred in December 2021 and maintains substantial operations in Barren, Breckinridge, Bullitt, Caldwell, Christian, Fulton, Graves, Grayson, Hart, Hickman, Hopkins, Logan, Lyon, Marion, Marshall, Meade, Muhlenberg, Ohio, Shelby, Spencer, Taylor, Todd and Warren counties. Any dispute regarding whether an entity maintains substantial contacts in one or more of the eligible Counties shall be in the sole discretion of Emergency Management.
 - iii. **Eligible Expenses:** Emergency Management shall require sufficient information and attestation to confirm that the Recipient's SAFE fund expenditures are used for disaster and recovery relief.
 - iv. **Reporting:** Emergency Management shall require a monthly report, due on the tenth day of each month following distribution of funds, with sufficient information and attestation to confirm the Recipient's continued eligibility to receive SAFE funds, that the Recipient's expenditures are consistent with the intent of the SAFE fund, and include, but are not limited to:
 1. The legal name of the Recipient;
 2. The dollar amount of SAFE funds received;

3. The dollar amount of SAFE funds repaid;
 4. A detailed description of how the monies were used; and
 5. Status of all request for reimbursement, grants requests or insurance claims relevant to projects identified in Recipient's award of SAFE funds.
- b. Recipient of SAFE funds shall:
- i. **Application:** Recipient hereby acknowledges that it submitted an application for SAFE funds to the Division of Emergency Management and that:
 1. Recipient's descriptions and representations contained in, attached to, or submitted in support of the Application are true and accurate; and
 2. Recipient shall immediately place the Division of Emergency Management on notice, utilizing the methods described herein, if any information submitted in the application is inaccurate or has materially changed.
 - ii. **Eligible Entity:** The Recipient shall provide sufficient information and attestation, as determined by the Division of Emergency Management, to confirm that the Recipient has disaster-related needs as a result of the devastation experienced from the December 2021 storms and tornadoes and qualifies as a:
 1. City, county, urban-county government, consolidated local government, unified local government, or charter county government;
 2. Nonprofit or public utility service provider;
 3. State agency; or
 4. School district;
 - iii. **Eligible Location:** The Recipient shall provide sufficient information and attestation, as determined by the Division of Emergency Management, to confirm that the Recipient has disaster-related needs in response to the storms and tornadoes that occurred in December 2021 and is located in Caldwell County, Fulton County, Graves County, Hopkins County, Marshall County, Muhlenberg County, Taylor County or Warren County;
 - iv. **Eligible Expenses:** The Recipient shall provide sufficient information and attestation, as determined by the Division of Emergency Management, to confirm that the Recipient's SAFE fund expenditures are used for disaster and recovery relief;
 - v. **Repayment of SAFE funds:** In accordance with HB 5, if after receiving moneys from the SAFE fund the Recipient receives moneys from any other source, the Recipient shall reimburse the Commonwealth of Kentucky up to the amount of disaster or recovery moneys received from another source within 30 days of receiving the moneys from another source.
 - vi. **Monthly Reporting:** The Recipient shall submit monthly reports, due on the tenth day of each month following distribution of SAFE funds, to the Division of Emergency Management or their designee to provide sufficient information and attestation to confirm the Recipient's continued eligibility to receive SAFE funds, that the Recipient's expenditures are consistent with the intent of the SAFE fund, and include, but are not limited to:
 1. The legal name of the Recipient;
 2. The dollar amount of SAFE funds received;
 3. The dollar amount of any SAFE funds repaid;
 4. A detailed description of how the monies were utilized; and
 5. Status of request for reimbursement, grants requests or insurance claims relevant to projects identified in Recipient's award of SAFE funds.

- vii. **Advancement Reporting:** If the Recipient receives an advancement of SAFE funds to address strained financial liquidity while awaiting FEMA or insurance claims as contemplated by HB 5, Section 4(8), the Recipient shall submit quarterly reports to the Division of Emergency Management and the Department for Local Government that include an accounting of the advancement and any amount of payment for reimbursement required by House Bill 5. Any accounting shall comport with the applicable standards published by the Governmental Accounting Standards Board (GASB) for the type of entity that received the funds;
- viii. The Recipient shall perform or cause to be performed all necessary acts to plan, design and complete the project in accordance with the application, which is hereby incorporated herein and made a part of this MOA;
- ix. The Recipient shall obtain all necessary permits, licenses, and approvals required for completion of the project from the appropriate governmental entities;
- x. The Recipient shall comply with all applicable federal and state statutes, executive orders, regulatory requirements, and policies;
- xi. The Recipient shall use its own procurement procedures that are compliant with all applicable state and local laws for all purchases of goods or services related to the Project; and
- xii. Any unauthorized or improper expenditure of funds, or expenditure of funds other than in accordance with the terms of this MOA shall be deemed a default of this MOA by the Recipient. The Recipient shall reimburse the Commonwealth all funds that are not spent in accordance with this MOA and applicable laws.

4. **Eligible expenses** - SAFE fund proceeds may only be expended to support disaster and recovery relief, including:

- a. **Non-Federal Cost Share** - Any portion of the state or local share of the non-federal cost share of FEMA eligible expenses or expenses covered by any other disaster related relief aid provided by the Federal Government of the United States;
- b. **Uninsured/Underinsured Costs** - Disaster and recovery related expenses that are either not covered by insurance, any portion that exceeds insurance coverage, or the Recipient is awaiting reimbursement from the insurance provider;
- c. **FEMA Ineligible** - Disaster or recovery related expenses that are not eligible for FEMA disaster relief or emergency aid; and
- d. **Strained Fiscal Liquidity** - Expenses of city, county, urban-county government, consolidated local government, unified local government, or charter county governments experiencing strained fiscal liquidity while awaiting reimbursement from federal emergency management assistance or insurance claims.

5. **SAFE funds Promissory Note, Transfer Repayment & Use.** The Parties anticipate the following use of the SAFE funds monies:

- a. Pursuant to this Agreement, Recipient has been determined to be eligible for and has been granted SAFE fund monies in the amount of _____ dollars (\$_____);
- b. SAFE fund Financing Pool. The SAFE fund monies listed above consist of:
- i. Non-Federal Cost Share –
 - ii. Uninsured/Underinsured Costs –
 - iii. FEMA Ineligible -
 - iv. Strained Fiscal Liquidity -

6. **Records.** The Parties will have sole responsibility as follows:
 - a. The Division of Emergency Management and the Recipient shall maintain their respective records necessary to fulfill any audit or other administrative responsibilities related to the SAFE fund until June 30, 2029 (five (5) years after any remaining SAFE funds lapse to the General Fund) unless a longer retention period is required by the parties respective records retention schedule;
 - b. The Parties agree to utilize data privacy and security practices that:
 - i. Include appropriate measures to ensure the protection of individual and household privacy;
 - ii. Provide SAFE fund information, including any personally identifiable information, is collected and used only to administer and provide required reports regarding the SAFE fund; and
 - iii. Provide confidentiality protections for data collected about any individual, including those who are survivors of intimate partner violence, sexual assault or stalking.
 - iv.
 - c. Each respective party shall be responsible for its response to any request regarding the Safe fund made pursuant to the Kentucky Open Records Act.
7. **Duty to Cooperate.** The Parties agree that they will cooperate to the extent necessary to comply with any lawful request received by any of the Parties with respect to the administration of the SAFE fund.
8. **Personal Information Security.** The Parties shall ensure that they and any of their employees, agents, successors or assigns, including, but not limited to, a contractor or subcontractor, shall maintain and protect Personal Information, as defined by KRS 61.931, in a manner consistent with KRS 61.931 through KRS 61.934.
9. **Misuse of Information.** Recipient shall be responsible for ensuring that all information collected under the administration SAFE funds and subsequently accessed by the Recipient, its employees, agents, or contractors, shall only be used for the purposes contemplated by this Agreement or for other purposes related to and authorized by the SAFE fund.
10. **Entire Agreement.** This Agreement shall constitute the entire agreement between the Parties concerning Recipient's access to SAFE funds. Except as set forth herein, this Agreement supersedes any prior written or oral agreement.
11. **Amendments.** The terms of this Agreement may not be waived, altered, modified, or amended except by written agreement of authorized representatives of both Parties.
12. **Assignments.** This Agreement is binding upon, and inures to the benefit of, the Parties and their respective successors and assigns. Assignment of the rights and responsibilities specified by this Agreement shall require the written consent of the non-assigning parties, with such consent not to be unreasonably withheld.

13. Jurisdiction and Venue. All questions as to execution, validity, interpretation, and performance of this Agreement shall be governed by the laws of the Commonwealth of Kentucky and applicable federal law. Venue shall lie in Franklin Circuit Court, Franklin County, Kentucky.

14. (List Parties Contacts and mode of contact/ Termination / Standard Terms & Conditions – incorporation paragraphs)

In witness whereof, the parties have caused this Agreement to be signed and delivered by their authorized representatives as of the dates set forth below.

DRAFT

Application to Request for Funds from the West Kentucky State Aid Funding for Emergencies (SAFE) Fund

Requestor Marshall County Fiscal court	Phone Number 270-206-2727	Email Address Kevin.neal@marshallcountky.gov ky_marshall@erassist.com
KY Finance & Administration Cabinet Vendor		
KY--0034013	Federal Tax ID # 61-6014175	
Request Type: <input checked="" type="checkbox"/> New Form <input type="checkbox"/> Modification to an Existing Form		

(Note: If modified, please include a brief summary of the changes made to the original request.)

Signature of an Applicant: Kevin Neal Date: 2/22/2022

Digitally signed
by Laurel Matula
Date: 2022.02.22
06:22:38 -06'00'

Type of Expense** (include detailed description of how funds will be used, including proposed use, the needs to be addressed, and the public benefit to be derived from the funds)	Insurance Reimbursement		FEMA Reimbursement		Date SAFE Funds Needed	Total Estimated Cost	Total SAFE Funding Request
	Requested (Yes or No) & Request Date	Status	Requested (Yes or No) & Request Date	FEMA Program			
Funding prior to FEMA obligation and local share for approximately 400,000 CY of debris in Marshall County by FEMA <small>ineligible concrete and other debris items not covered by FEMA</small> POC: Laurel Matula ky_marshall@erassist.com	no	n/a	Yes (RSM meeting 2/18/22)	FEMA PA Cat A PN: 66344	3/1/2022	\$4,000,000	\$480,000 updated amount: \$200,000
Funding prior to FEMA obligation, portions not covered by FEMA, and local share for asphalt repairs due to damage by response and recovery equipment POC: Laurel Matula ky_marshall@erassist.com	no	n/a	Yes (RSM meeting 2/18/22)	FEMA PA Cat A PN: 663350	3/1/2022	\$1,000,000	\$1,000,000 updated amount: \$200,000
Funding prior to FEMA obligation, portions not covered by FEMA, and local share for Cat G 1206 structural assessments POC: Laurel Matula ky_marshall@erassist.com	no	n/a	Yes (RSM meeting 2/18/22)		3/1/2022	\$400,000	\$400,000 updated amount: \$20,000

**This signature shall constitute certification of the Applicant's certification that the information provided is true and correct and that the proposed use of funds complies with House Bill 5, 2022 Ky. Acts ch. 2, sec. 4.

**Note if expense is reimbursable from the FEMA Public Assistance or Hazard Mitigation program.

*Continuation expenses for reimbursement.
Continuation of expense reimbursement requests.*

Type of Expense**	Insurance Reimbursement		FEMA Reimbursement		Date SAFE Funds Needed	Total Estimated Cost	Total SAFE Funding Request
	Requested (Yes or No) & Date of Request	Status	Requested (Yes or No) & Date of Request	FEMA Program			
4630 404 Hazard Mitigation for Storm Shelter at Miracle League (handicap access ballfield). Initial engineering costs for pre-application = \$30,000	No	n/a	not yet. Will be 4630	FEMA HMGP 4630	4/15/2022	\$1,000,000	\$130,000 updated amount: \$50,000
4630 404 Hazard Mitigation for County wide sirens (add'l sirens to cover area not sounded during storm). Advanced funding to be used for reimbursement process	No	n/a	no (not yet)	FEMA HMGP 4630	6/15/2022	\$1,000,000	\$1,000,000 updated amount: \$50,000
4630 Stream Debris Items not covered by FEMA, NRCS or TVA	No	n/a	yes 4/14/2022	FEMA PA 4630	6/15/2022	\$1,000,000	\$300,000

Approval of Application:

_____ Kentucky Division of Emergency Management

_____ Date

Application Process to Request for Funds from the West Kentucky State Aid Funding for Emergencies (SAFE) Fund

Application Requirements

Kentucky Regions that Qualify to Receive Funds:

- Must be located in the areas named in a Presidential Declaration of Emergency relating to the storms and tornadoes that occurred in December 2021; and
- Have disaster-related needs in response to the storms and tornadoes that occurred in December 2021.

Eligible Applicants:

- A city, county, urban-county government, consolidated local government, unified local government, or charter county government;
- Nonprofit or public utility service provider;
- State agency; or
- School district.

Requirements to Access Dollars from the Fund:

- Where applicable, Applicant must timely apply for federal emergency disaster grant assistance, other financial disaster assistance, and insurance proceeds, if available.
- Applicant must adhere to the terms of the fund regarding reimbursement to the Commonwealth if funds from other sources are subsequently received after the receipt of financial assistance from the state.
 - If a recipient of moneys from the fund subsequently receives moneys from any other source, the recipient shall reimburse the Commonwealth for the amount of the moneys received from the fund.
 - All moneys reimbursed to the Commonwealth shall be deposited in the general fund within thirty (30) days.
- Application may be completed by the Eligible Applicant's designated Emergency Contact with approval and signature of the Chief Local Government Official of the applicant, or the head of a nonprofit or public utility service provider.

Purpose of Fund:

- Moneys in the fund are allocated as a forgivable loan or a grant to be used in accordance with House Bill 5, 2022 Ky. Acts ch. 2, sec. 4.

Application shall be submitted to:

The Department of Military Affairs, Division of Emergency Management at emailname@ky.gov

The Division of Emergency Management shall ensure eligibility is determined according to the criteria established in Section 4 of House Bill 5, 2022 Ky. Acts ch. 2, sec. 4.

Instructions

All requests must be for disaster-related expenses only.

For New Form: Please complete all applicable sections.

For Modified Form: Please complete sections by specifying requested changes.

Multiple attachments may be submitted.

Mail or Email To: Kentucky Division of Emergency Management
100 Minuteman Parkway, Frankfort, KY 40601
pa.help@ky-em.org

Questions? Email: pa.help@ky-em.org

4630 Marsahll SAFE Grant Application signed ERA pm

Final Audit Report

2022-02-22

Created:	2022-02-22
By:	Laurel Matula (laurel@erassist.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA-eQtNbVcqEusrdF_ZAqgyUXHUO1fexqn

"4630 Marsahll SAFE Grant Application signed ERA pm" History

-  Document created by Laurel Matula (laurel@erassist.com)
2022-02-22 - 4:43:40 PM GMT- IP address: 70.182.163.83
-  Document emailed to Kevin Neal (kevin.neal@marshallcountyky.gov) for signature
2022-02-22 - 4:44:08 PM GMT
-  Email viewed by Kevin Neal (kevin.neal@marshallcountyky.gov)
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-  Document e-signed by Kevin Neal (kevin.neal@marshallcountyky.gov)
Signature Date: 2022-02-22 - 4:50:57 PM GMT - Time Source: server- IP address: 199.36.135.98
-  Agreement completed.
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