

Suffolk County
Multi-Jurisdictional Debris Management Plan

APPENDIX G

Mutual Aid Agreement Template



Debris Mutual Aid Template

When local resources are inadequate to address disaster response needs, it is common practice to request assistance from other jurisdictions. In such circumstances, throughout the county local and state governments, along with professional organizations such as the National Emergency Management Association (NEMA), and the Federal Emergency Management Agency (FEMA) have cooperatively worked to promote and enhance mutual aid programs. In keeping with this, having mutual aid agreements in place in advance of disasters can help define and address such needs and issues as: i) whose responsibility it is to respond to a given assistance request ii) the appropriate reimbursement process and timeframe, iii) the role of workman’s compensation, and iv) licensing and insurance requirements.

The following document template provides language to be customized for the particular needs of a jurisdiction.

MUTUAL AID AGREEMENT

TEMPLATE

This document is a sample template intended to serve as a guide for the drafting of a Mutual Aid Agreement, and should be tailored to each jurisdiction’s circumstances and requirements. It is not intended to either represent a mandatory format, or to encompass every potential contract clause.

Debris Mutual Aid and Assistance Agreement

WHEREAS, the safety of the residents of the _____ (Village/Town/County) and of the _____ (Village/Town/County) is of the utmost importance to all levels of government; and

WHEREAS, New York State Executive Law, Article 2-b establishes each municipal subdivision’s authority to protect the health and welfare of its residents and their property; and

WHEREAS, the Chief Executive Officer of each municipal subdivision serves as the “Incident Commander” during time of emergency, with all responsibility and authority accorded the position pursuant to New York State Executive Law, Article 2-b; and

WHEREAS, the (Village/Town/County) of _____ (the “_____”) and _____ (“_____”) seek to enter a Debris Mutual Aid Agreement in order to provide for the sharing of resources, personnel and equipment in the event of a local disaster or other emergency;



WHEREAS, the (Village/Town/County) and FEMA have recognized the importance of written mutual aid agreements made among different levels of government, to facilitate their joint operations; and

WHEREAS, each municipality recognizes that a Debris Mutual Aid Agreements may be necessary, and could be entered into before, during, or after an event based on the assessments of emergency coordinators working at the Town level; and

WHEREAS, pursuant to the New York State Executive Law Article 2-b, jurisdictions are allowed to enter into mutual aid and assistance agreements which may include provisions for the furnishing and exchanging of supplies, equipment, facilities, personnel and services in response to a natural or man-made disaster and/or other emergency; and

WHEREAS, the President of the United States has declared the storm on _____ (the “Storm”) an emergency, and the (Village/Town/County) and the (Village/Town/County) each wish to offer assistance to the other to protect their respective residents.

THEREFORE, the parties hereto hereby agree as follows:

SECTION I

DEFINITIONS

- A. “Agreement” shall mean this document, the “Debris Mutual Aid Agreement”.
- B. “Aid and Assistance” shall include, but not be limited to, personnel, equipment, facilities, services, supplies, and other resources.
- C. “Authorized Representative” shall mean the chief elected official in his/her capacity as “Incident Commander” or his or her duly authorized designee pursuant to the terms of this Agreement, to request, offer, or provide assistance under the terms of this Agreement.
- D. “Disaster or other emergency” shall mean the occurrence or imminent threat of widespread or severe damage, injury, loss of life or property resulting from an intentional, accidental or unintended release of any substance or material in any form or quantity which poses an unreasonable risk to safety and health and to property when released, and natural incidents, explosions, fires, collapses or any other incident which directly affect public safety.
- E. “Provider” means a party to this Agreement that has received a request to furnish aid and assistance to a party in need (“Recipient”).
- F. “Recipient” means a party to this Agreement receiving aid and assistance from another party.
- G. “Template” means the suggested language to be customized for the particular needs of a jurisdiction.



Section II.

OBLIGATIONS OF THE PARTIES

- A. Provision of Aid and Assistance – Pursuant to the terms and conditions set forth in this Agreement, the parties hereto shall provide each other with aid and assistance in the event of a local disaster or emergency. It is mutually understood that each party’s foremost responsibility is to its own residents. This Agreement shall not be construed to impose an absolute obligation on any party to this Agreement to provide aid and assistance pursuant to a request from another party. Accordingly, when aid and assistance have been requested, a party may deem itself unavailable to respond, and shall promptly so inform the party setting forth the request.
- B. Procedures for Requesting Assistance – Requests for assistance shall be made by a party’s Chief Executive Officer/Incident Commander or his or her duly authorized designee, which request shall indicate that it is made pursuant to this Agreement. Such request may be made by telephone, to be followed as soon as practicable by a written confirmation of the request. The Template to be used shall be included as an appendix section to each municipal subdivision’s Debris Management Plan.
- C. Designation of Authorized Representative – Each party to this Agreement shall designate an Authorized Representative. Such designation shall be communicated, in writing, to the Chief Executive Officer of the other party upon the execution of this Agreement. Such designation may be amended at any time by the Chief Executive Officer of a party upon timely notice.
- D. Traveling Employees – All terms and conditions will be reviewed, and approved before executed, by the applicable union representative, if applicable. Unless otherwise specified by Recipient or agreed by the parties in writing, it is mutually understood that Recipient will directly provide for the needs of the Provider’s traveling employees, including all reasonable out-of-pocket costs, transportation expenses for travel to and from the disaster area, food and if necessary, lodging. If Recipient cannot provide such food and/or lodging at or near the disaster area, the Recipient shall so advise the Provider, and shall specify in its request for assistance that only personnel who can provide for their own needs are requested.
- E. Supervision and Control – The Provider shall designate supervisory personnel amongst its employees sent to render aid and assistance to the Recipient pursuant to the terms and conditions of any and all applicable union contracts. Recipient shall provide necessary credentials to the Provider’s personnel authorizing them to operate on behalf of the Recipient. Recipient shall assign work tasks to Provider’s supervisory personnel, and unless specifically instructed otherwise, Recipient shall have the responsibility for coordination between Provider’s supervisory personnel and Recipient. Based upon such assignments set forth by Recipient, Provider’s supervisory personnel shall have the authority to:
 - 1. Assign work and establish work schedules for Provider’s personnel; and
 - 2. Maintain daily personnel time records, material records, and a log of equipment hours; and
 - 3. Report work progress to Recipient at regular intervals as specified by Recipient.



- F. Period of Service; Renewability; Recall – Unless agreed otherwise, the duration of the Provider’s assistance shall be for an initial period of twenty-four (24) hours, starting from the time of arrival to the disaster area. Thereafter, assistance may be extended in increments agreed upon by the Authorized Representatives of Provider and Recipient. Provider’s personnel, equipment and other resources shall remain subject to recall at all times by Provider to provide for its own residents if circumstances so warrant, except, however, Provider shall make a good faith effort to provide at least 8 hours advance notification to Recipient of Provider’s intent to terminate such assistance, unless such notice is not practicable, in which case as much notice as is reasonable under the circumstances is to be provided. The foregoing terms and conditions shall be subject, however, to the terms and provisions of any and all applicable union agreements.

SECTION III.

REIMBURSEMENT

- A. Except as otherwise provided below, it is understood that Recipient shall reimburse Provider for the following documented costs and expenses incurred by Provider in its extending aid and assistance to Recipient.
1. Personnel – During the period of assistance, Provider shall continue to pay its employees according to its then prevailing ordinances, rules, regulations and agreements.
 2. Equipment – Provider shall be reimbursed by Recipient for the use of its equipment during the period of assistance according to established FEMA equipment rates.
 3. Material and Supplies – Provider shall be reimbursed for all materials and supplies furnished by it, used, or damaged during the period of assistance. The Recipient shall not be responsible for reimbursing Provider for the costs of any damage caused by the gross negligence, willful and wanton misconduct, intentional misuse, or recklessness of Provider’s personnel. Provider’s personnel shall use reasonable care at all times in the use and control of all materials and supplies used by them during the period of assistance. The measure for reimbursement for materials and supplies shall be determined in accordance with FEMA and New York State reimbursement policies. In the alternative, the parties may agree in writing that Recipient will replace the materials and supplies used or damaged, with materials and supplies of like kind and quality.
- B. Record Keeping – Recipient shall provide information, directions, and assistance for record keeping to Provider’s personnel, who shall maintain records and invoices for reimbursement.
- C. Billing and Payment – Provider shall send an invoice for reimbursable costs and expenses, together with appropriate documentation as required by Recipient, as soon as practicable after said costs and expenses are incurred, but not later than forty-five (45) days following the period of assistance. Recipient shall pay the bill, or advise of any disputed items, not later than forty-five (45) days following the billing date.
- D. Inspection of Records – Provider agrees that it shall make its records regarding costs and expenses for assistance provided under this Agreement available for audit and inspection



upon request by the Recipient and the federal government, and shall maintain such records for at least seven (7) years after the date of final payment under this Agreement.

SECTION IV.

PROVIDER’S EMPLOYEES

- A. Rights and Privileges - Whenever Provider’s employees are rendering aid and assistance pursuant to this Agreement, such employees shall remain the responsibility of the Provider and retain the same powers, duties, immunities, and privileges they would ordinarily possess if performing their duties within the geographic limits of the Provider. The foregoing terms and conditions shall be subject, however, to the terms and provisions of any and all applicable union agreements.
- B. Workers’ Compensation - Recipient shall not be responsible for reimbursing any amounts paid or due as benefits to Provider’s employees due to personal injury or death occurring during the periods of time such employees are engaged in the rendering of aid and assistance under this Agreement. The aforesaid notwithstanding, it is mutually understood that Recipient and Provider shall each be responsible for payment of such workers’ compensation benefits only to its own respective employees.

SECTION V.

NONDISCRIMINATION

In accordance with _____ [Insert any relevant statutes], and all other applicable local, State and Federal constitutional, statutory and administrative nondiscrimination provisions, the parties to this Agreement shall not discriminate against any employee or applicant for employment on account of race, creed, color, sex, national origin, disability, Vietnam Era Veteran status or marital status.

SECTION VI.

HOLD HARMLESS

To the extent permitted by law, each party (as “Indemnitor”) agrees to protect, defend, indemnify, and hold the other party (as “Indemnitee”), and its offices, 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 nature, and any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of Indemnitor’s negligence, acts, errors and/or omissions. 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 shall 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 party to this Agreement.



SECTION VII.

AMENDMENTS

This Agreement may be modified at any time upon the mutual written consent of the parties. Additional municipalities may become parties to this Agreement upon the acceptance and execution of this Agreement.

SECTION VIII.

DURATION OF AGREEMENT

- A. Term – This Agreement shall be for a period commencing upon the execution of said Agreement, through project completion, which project completion shall be confirmed in a writing made by the parties.
- B. Renewal – This Agreement may be extended in 45 day periods until recovery work is completed by written agreement of the parties hereto.
- C. Termination – Any party may terminate this Agreement upon thirty (30) days written notice. A termination shall not affect the obligation of any party to reimburse the other for the costs and expenses of rendering aid and assistance incurred prior to the effective date of termination.

SECTION IX.

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 X.

SEVERABILITY

Should any clause, sentence, provision, paragraph, or other part of this Agreement be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement. In the event that parties to this Agreement have entered into other aid and assistance agreements, those parties agree that, to the extent a request for aid and assistance is made pursuant to this Agreement, those other aid and assistance agreements are superseded by this Agreement,



SECTION XI.

EFFECTIVE DATE

This Agreement shall take effect upon its execution by both parties.

(Village/Town/County)

(Village/Town/County)

(SIGNATURE)

(SIGNATURE)

Printed Name, Title

Printed Name, Title

