

# CITY OF OBERLIN, OHIO

## ORDINANCE No. 17-12 AC CMS

AN ORDINANCE APPROVING AN AGREEMENT FOR HAZARDOUS MATERIALS AND TECHNICAL RESCUE RESPONSE IN LORAIN COUNTY AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the proposed agreement for Technical Rescue Response in Lorain County, a copy being attached hereto and incorporated herein by reference, is hereby approved, and the City Manager is hereby authorized and directed to execute same on behalf of the City.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operations of a municipal department, to wit: to provide hazardous materials and technical rescue response services for the City of Oberlin as soon as possible in order to ensure the public safety and welfare of Oberlin residents", and shall take effect immediately upon passage.

PASSED: 1st Reading: March 6, 2017 (E)

2nd Reading: \_\_\_\_\_

3rd Reading: \_\_\_\_\_

ATTEST:



BELINDA B. ANDERSON, MMC  
CLERK OF COUNCIL



RONNIE J. RIMBERT  
PRESIDENT OF COUNCIL

POSTED: 03/07/2017

EFFECTIVE DATE: 03/06/2017



Matt Lundy Ted Kalo Lori Kokoski

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[www.loraincounty.us](http://www.loraincounty.us)

County Administrator  
James R. Cordes  
440-329-5760

Clerk of Board of Commissioners  
Theresa Upton  
440-329-5103

Animal Control Officer  
Timothy Pihlblad  
440-326-5997

Budget Director  
Lisa Hobart  
440-329-5201

Charles Berry Bridge Superintendent  
Al Zocchi  
440-244-2137

Children & Family Council Director  
Melissa Meyer-Flacher  
440-284-4467

Community Development Director  
Don Romancak  
440-328-2323

E-9-1-1 Director  
Tracy Shagle  
440-329-5444

Emergency Management & Homeland  
Security Director  
Thomas Kelley  
440-329-5117

Facilities Management Director  
Karen Davis  
440-329-5102

Human Resources Department  
440-329-5150

IT Director  
Ernie Smith  
440-329-5786

Lorain County Crime/Dmg Lab Director  
Emmanuel de Leon  
440-329-5436

Lorain County Transit  
440-329-5525

Office of Sustainability Coordinator  
Michael Challenger  
440-328-2361

Purchasing  
440-329-5240

Records Center Supervisor  
Denise Lindak  
440-326-4866

Solid Waste Director  
Keith Bailey  
440-329-5442

Visit Lorain County  
440-984-5282

Workforce Development Director  
Mike Longo  
440-284-1834

TO: Lorain County Political Subdivisions  
Lorain County Fire Chiefs (reference only)

FROM: Lorain County Local Emergency Planning Committee (LEPC)  
Technical Rescue Advisory Board  
Office of Emergency Management and Homeland Security

DATE: February 23, 2017

SUBJECT: Technical Rescue Response Contract, 2017 - 2021

Attached please find a copy of the Specialized Rescue Response Contract for the period beginning January 1, 2017 (retroactive) and continuing through December 31, 2021. This contract will replace the previous 2012-2016 contract that was in place.

The most significant change that evolved in this new contract is that we have combined the many Swift Water and Dive Teams that currently function in Lorain County into one countywide team. In addition to these two capabilities, the Specialized Rescue Team consists of the HazMat and Urban Search and Rescue (USAR) capabilities, which in addition to hazardous materials response, include trench and confined space, rope/high angle, wide area search, and structural collapse rescue. We are providing one completely trained team, equipped with hundreds of thousands of dollars' worth of equipment at a minimal cost to each jurisdiction, at a significant cost savings.

The contract fee structure is based on the 2010 U.S. Census population by jurisdiction.

Please note the *signed contract* (billing will follow - no fees are needed at this time) needs to be adopted and returned to the Emergency Management Agency as soon as possible. The first year *contract fee* from each jurisdiction is due by May 10, 2017. Payments are due each year by May 10<sup>th</sup> for the duration of the contract. An invoice for same will be sent to each jurisdiction in January of each year for contract fees. Please contact the EMA office at 440-329-5117 if there are any questions.

Many locations in the State of Ohio have adopted our response contracts and protocols. This is an accomplishment that we can all be proud of. On behalf of the Emergency Management Agency, The Lorain County Local Emergency Planning Committee, and the contract committee, we thank you for your continued support.

In the matter of entering into a contractual agreement for Lorain County Specialized Response Advisory Board contract, retroactive to January 1, 2017 – December 31, 2021 with various political subdivisions

WHEREAS. Each jurisdiction has the duty to provide an immediate response to a specialized response team emergency within their jurisdiction boundaries; and

WHEREAS, Lorain County has developed specialized response capabilities; and

WHEREAS, the Lorain County Technical Response Teams do meet the standards prescribed in the Code of Federal Regulations 1910.120, Federal EPA 311, NFPA 1670 Operations, and the technical requirements established by the State of Ohio.

NOW, THEREFORE BE IT RESOLVED, by the Lorain County Board of Commissioners that each political jurisdiction shall sign an agreement with Lorain County to participate in a Specialized Response program at a cost based upon the jurisdiction's current documentation from the U.S. Census population.

FURTHER BE IT RESOLVED that the Contractual Agreement for Lorain County Specialized Response is considered a part hereof by reference thereto and can be found on file in the Office of the Lorain County Commissioners and the Lorain County Office of Emergency Management and Homeland Security, and

BE IT FURTHER RESOLVED, said contract is effective January 1, 2017 and expiring December 31, 2021.

FURTHER BE IT RESOLVED that the Contractual Agreement for Specialized Response Teams in Lorain County reads as follows:

**CONTRACTUAL AGREEMENT FOR SPECIALIZED RESCUE RESPONSE  
IN LORAIN COUNTY**

This agreement is entered into by and among the following political subdivisions for the purpose of specialized response planning and emergency capabilities in your community for the period of 2017 through 2021, at which time the existing agreement will be amended, extended or cancelled.

1. Amherst City
2. Amherst Township
3. Avon City
4. Avon Lake City
5. Brighton Township
6. Brownhelm Township
7. Camden Township
8. Carlisle Township
9. Columbia Township
10. Eaton Township
11. Elyria City
12. Elyria Township

13. Grafton Village
14. Grafton Township
15. Henrietta Township
16. Huntington Township
17. Kipton Village
18. LaGrange Village
19. LaGrange Township
20. Lorain City
21. New Russia Township
22. North Ridgeville City
23. Oberlin City
24. Penfield Township
25. Pittsfield Township
26. Rochester Village
27. Rochester Township
28. Sheffield Village
29. Sheffield Lake City
30. Sheffield Township
31. South Amherst Village
32. Vermilion City
33. Wellington Village
34. Wellington Township

**WITNESSETH:**

WHEREAS, each of the aforementioned parties have either their own or contractual fire fighting capabilities and are political subdivisions within Lorain County; and

WHEREAS, each of the political subdivisions have submitted a signed Cost Recovery Ordinance/Resolution in accordance with federal regulations and R.C. 5502.29 Mutual Emergency Management Assistance or Aid Agreements.

WHEREAS, each of the political jurisdictions have existing mutual aid agreements between fire departments for the purpose of providing assistance during times of emergency including threats to life and/or property, and

WHEREAS, each of the political subdivisions shall ensure that their specialized response personnel meet and maintain required training in accordance with the Lorain County Specialized Response Advisory Board, the Lorain County Hazardous Materials Emergency Response Plan, the Lorain County Office of Emergency Management and Homeland Security (LCOEM&HS), the Lorain County Local Emergency Planning Committee (LCLEPC), the State Emergency Response Commission, the terms of this agreement, or any other governmental agency or regulation; and

WHEREAS, the political subdivisions deem it to be in their best interest to agree in accordance with the contract for specialized response support; and

WHEREAS, the incident commander representing each political subdivision will maintain direction and control of the incident site and will coordinate with any and all assisting agencies; and

NOW, THEREFORE, in consideration of the promises and agreements herein contained, and not rescinding any fire and emergency protection mutual aid agreements which may exist between any of the parties hereto, except those agreement for cost recovery not prescribed under 40 C.F.R. 300, IT IS NOW AGREED, between the parties as follows:

#### ADMINISTRATION

1. The Lorain County Specialized Response Advisory Board, hereinafter referred to as the "Advisory Board", shall administer the operations of Lorain County Specialized Response Teams, hereinafter referred to as the "Teams". The Teams, consisting of the hazardous materials, technical rescue units shall be organized and equipped to respond to incidents within Lorain County based upon current recognized common procedures, including but not limited to hazardous materials emergencies, confined space rescue, trench collapse rescue, rope rescue, high angle rescue, wide area search, structural collapse, swift water, and dive.

#### MONETARY FEES:

2. For the purposes of affording and maintaining the additional protection to mitigate and respond to Specialized Response incidents within a jurisdiction, each jurisdiction shall pay a fee based upon the jurisdiction's current documentation of the U.S. Census during the lifespan of this contract to the Advisory Board through the Lorain County Local Emergency Planning Committee, for the sole purpose of funding the necessary activities and expenses of the Teams. For the remaining years of this agreement (2017 – 2021), the jurisdictional fee shall be based upon the jurisdiction's current documentation of the U.S. Census (2017 \$0.31, 2018 \$0.32, 2019 \$0.33, 2020 \$0.34, 2021 \$0.35).
3. The political subdivision of Oberlin City agrees to pay the Advisory Board through the Lorain County Local Emergency Planning Committee the annual sum listed on the invoice for the operation of the Lorain County Specialized Response Teams. The annual contractual sum shall be received at the Lorain County Office of Emergency Management and Homeland Security on or before 4:30 PM, May 10<sup>th</sup> of each contract year as per the aforementioned cost analysis. Failure to pay the contractual fee on or before 4:30 PM, May 10<sup>th</sup> of each year shall result in a late charge of thirty (30%) percent of the jurisdiction's annual contractual amount or \$500, whichever is greater.
4. If any political subdivision elects not to participate in this contractual agreement, they shall be responsible for the full cost of all personnel, equipment, supplies, and any related incidentals used at any incident within such jurisdiction in which the Teams are requested to respond, to be calculated on the same basis as hazardous material cost recovery.

## RESPONSE TEAM MEMBER REQUIREMENTS/REQUIREMENT FORMULAS:

5. The following are the Response Team Member Requirement formulas:

<b>Hazardous Materials Response Team</b>	
Cost of Assessment Amount (Excludes any penalties)	Minimum Technician Level Responder Required
\$1,999.00 or less	1
Over \$2,000.00	2

<b>Specialized Response Teams</b>	
Cost of Assessment Amount (Excludes any penalties)	Minimum Combination of Technical Rescue, Swift Water, or Dive Team** Responder Required
\$1,999.00 or less	1
Over \$2,000.00	2

*\* Required Technical Rescue Team Responders must be trained to Level I in all disciplines (Rope, Trench, Collapse and Confined space) within 4 years on the team*

*\*\* Required Swift Water Team Responders must be trained to Technician Level*

*\*\*\* Required Dive Team Responders must be trained to the level of Certified Rescue Diver*

### **Example 1**

Canton Village would be in the \$1,999.00 or less category. Canton Village would have the following specialized Response Team Member Requirements:	
Hazardous Materials Team	1 Hazardous Materials Team Responder
Specialized Response Teams	1 Technical Rescue Team Responder or 1 Swift Water Team Responder or 1 Dive Team Responder

### **Example 2**

Sheffield Lake City would be in the over \$2,000.00 category. Sheffield Lake City would have the following specialized Response Team Member Requirements:	
Hazardous Materials Team	2 Hazardous Materials Team Responders
Specialized Response Teams	2 Minimum combination of 1 Technical Rescue Team Responder or 1 Swift Water Responder or 1 Dive Team Responder



Fire Departments serving multiple political subdivisions will only be required to supply team members based upon their home jurisdiction contractual amount, not the total contractual amount for all jurisdictions served. If a department wished to add additional personnel above the number required technicians, this action is voluntary and all costs associated with those persons shall be the obligation of the home department.

6. The Advisory Board has the authority and responsibility to ensure that all jurisdictions served by the Specialized Response Teams maintain their required amount of trained Specialized Team Responders. Should a contract participant fall below the required trained Specialized Team Responders at any time during the contractual period, the noncompliant jurisdiction Fire Chief shall notify the Board in writing, via certified mail. The noncompliant jurisdiction Fire Chief shall present a written plan within thirty (30) calendar days of receipt of the notification explaining how the deficiency will be filled, for acceptance by the Advisory Board. Failure to notify the board and/or submit a written plan within the 30-day time frame to replace the deficient number of Specialized Team Responders shall result in the following:

- A penalty of 30% of the contractual amount or \$500 (whichever is greater) shall be issued for failure to comply with the required number of Specialized Team Responders.

Failure to pay the penalty and provide the written plan within thirty (30) days of issuance of a penalty shall be a default of this Agreement. The Advisory Board may declare the contract participant to be in default and proceed with termination of the Agreement with that participant in accordance with Sections 20-24 of this Agreement, Termination for Default. A noncompliant jurisdiction which receives notice of a penalty remains obligated to fulfill its obligations in accordance with the Lorain County Standard Operating Procedures, and all other terms of this contract until termination is declared by the Advisory Board. **All jurisdictions will have a 1 1/2 year grace period in order to recruit and train the required Specialized Response Team Members. No jurisdiction will be penalized for noncompliance until July 1, 2018.**

#### TEAM MEMBER TRAINING/SPECIALIZED RESPONSE TEAMS:

7. It is the responsibility of the local jurisdiction to ensure that their team members attend scheduled training sessions. Training sessions for all Hazmat, Technical Rescue, Swift Water and Dive Team members shall be scheduled at the direction of the Advisory Board. Salaries or any other reimbursement received to attend any training session shall be the responsibility of the jurisdiction. Hazmat, Technical Rescue and Dive Team members shall be required to attend 50% of the scheduled training during a calendar year. Swift Water Team members are allowed to miss one (1) scheduled training during a calendar year. If the team member has a work commitment at his/her department and is unable to attend training, that member shall be required to submit a written explanation signed by their Chief as to why they cannot attend. The written documentation shall be sent via email or fax to the

LCOEM&HS. This documentation will provide the team member with proper documentation and he or she will be excused from that meeting. Two excused absences shall be the maximum allowed per calendar training year.

If all required specialized response team members from a jurisdiction meet the required training and submit their bi-annual physical designation form by December 31<sup>st</sup>, the fire department shall receive a 5% reduction in their scheduled specialized team costs in the following year.

Training sessions will be scheduled for approximately two or more hours. The member(s) must arrive promptly at the scheduled starting time and attend the entire scheduled session. Failure to do so will result in that member not receiving meeting attendance credit.

8. In the event that the member is part of a team response, the member shall be required to assist with the cleanup and return of the equipment to operational status before receiving credit for the response. This may include returning with the equipment to the place of storage for additional work

**TEAM MEMBER PHYSICALS:**

9. All Specialized Response team members shall be required to complete and pass a physical exam based on the Occupational Safety and Health Guidance Manual for the type of team for which they are members on a bi-annual (every two years) basis. Since physicals are mandated for all firefighters by the State of Ohio, the cost of the physical exam is the responsibility of the jurisdiction.

10. By December 31<sup>st</sup> of the year that the physical is completed, the fire chief shall submit in writing, a form provided by the Advisory Board stating/identifying the following:

- Each team member(s) for the jurisdiction
- A statement that the team member(s) have successfully completed and passed all aspects of the physical
- The team member is in compliance with National Incident Management System (NIMS) training mandates

If the jurisdiction fails to provide this information by December 31<sup>st</sup> of the physical year, the jurisdiction will not be eligible for a 5% reduction in their scheduled specialized team costs in the following year:

**MUTUAL AID/LIABILITY/FAILURE OR INABILITY TO RESPOND:**

11. When engaged in preparation for, response to, or recovery from an incident, disaster, exercise, training activity, planned event, or emergency, any of which requires additional resources, and in accordance with the applicable mutual assistance or aid agreement, personnel from political subdivisions outside this state shall be permitted to provide services within this state in accordance with this section and the terms of the mutual assistance or aid agreement.



12. In no case shall the party hereto called upon or rendering such services be liable for damages to any other party hereto or any of its residents, or contractual obligators, for failure to answer any call, or for lack of speed in answering any such call, or for any inadequacy of equipment, negligent operation of equipment, failure to mitigate said situation or for any cause whatsoever growing out of such use of said equipment and/or personnel.
13. Personnel rendering assistance or aid pursuant to a mutual assistance or aid agreement authorized by this section remain employees or agents of their respective political subdivisions, including for the purposes of tort liability and immunity from tort liability, and nothing in this section or any mutual assistance or aid agreement entered into pursuant to this section creates an employment relationship between the political subdivision requesting aid and the employees or agents of the political subdivision rendering aid.
14. The LCOEM&HS Director is hereby authorized to act as the contact person for activation of the Teams to respond to any request initiated through the State Emergency Response Plan (SERP), Intrastate Mutual Aid Compact (IMAC), and/or Emergency Management Assistance Compact (EMAC). Participation in emergency response of any team member out of the State of Ohio is subject to approval by their individual employer. (Specialized team members falling below the training requirements the previous year will not be allowed to respond out of county.)

**OPERATIONAL COST RECOVERY – SPECIALIZED RESPONSE/UNKNOWN SPILLER FUND:**

15. The LCOEM&HS and LCLEPC will assist the political jurisdiction(s) where the hazardous materials incident took place in cost recovery from the spiller or transporter as prescribed in section 3745.13 of the Ohio Revised Code (ORC). In the event of a technical rescue response, the LCOEM&HS will attempt to identify Any means available for response cost reimbursement. This may include state and/or federal disaster relief funds.

The Advisory Board shall maintain a HazMat Unknown Spiller Fund to help reduce a jurisdiction's financial burden for expended hazardous materials emergency response/abatement equipment in case of a HazMat incident where the spiller is unknown. Only those jurisdictions that are part of this contract are eligible for fund usage. The maximum amount that a jurisdiction may request from this fund would be \$2,000 per incident per calendar year. A written request for funds shall be submitted to the Advisory Board within sixty (60) days of the incident, with an explanation of the incident and a detailed cost list.

**AUTHORITY OF EXPENDITURES AND FUND USAGE:**

16. All contract monies collected shall be used exclusively by, and all expenditures and allocations of the contract funds shall be at the direction and discretion of the

Advisory Board for the purpose of enhancing specialized response capabilities at the county level and maintenance of the Hazmat Unknown Spiller Fund. Contractual monies shall be directly disbursed for the operation of the Team(s), with the exceptions noted below.

17. The Advisory Board shall maintain a balance of \$15,000 in the Hazmat Unknown Spiller Fund. Should the balance be reduced by authorized payments, the Advisory Board shall replenish the fund at a rate not to exceed 10% of the total yearly contractual fee per year until the fund reaches its maximum balance.
18. The Advisory Board shall maintain a Vehicle/Equipment Replacement Fund to help reduce the financial burden for expended emergency response/abatement equipment in case of an emergency incident where the cost recovery is not feasible, and/or repair or replacement of any vehicle operated by the board. Should the balance be reduced by board authorized payments, the Advisory Board shall replenish the fund at a minimum rate of 10% or more a year of contract fees.
19. Fifteen (15) percent of the yearly contractual funds received will be allotted to a fund administered by the LCLEPC.

#### TERMINATION FOR DEFAULT:

20. Upon the failure of any political subdivision which is participant to this Agreement to completely fulfill its obligations and duties as herein set forth, the Advisory Board may declare said participant to be in default and issue written notice to said participant setting forth the reasons for the default and the manner in which the participant is to cure the default.
21. The defaulting participant shall have sixty (60) days from the date of the notice to cure the default as set forth in the notice. During said time, the participant remains obligated to fulfill all other terms of this Agreement.
22. If the defaulting participant fails to cure the default within sixty (60) days of the Notice of default, the Advisory Board may terminate the Agreement as to that participant, and shall provide the participant with written notice of termination.
23. Any participant who has been terminated from this Agreement shall thereafter be responsible for the full cost of personnel, equipment, and supplies used at any incident within the jurisdiction in which the Team is requested to respond to be calculated on the same basis as hazardous materials cost recovery.
24. Any participant terminated from this Agreement by default may be reinstated by application and approval to the Advisory Board and upon cure of the violations that caused the default.

#### COMMUNICATIONS AND ALERTS:

25. The Advisory Board shall be responsible to provide an alerting system for the

recall of all Team members. It is the responsibility of the jurisdiction to immediately supply any changes in regards to contact numbers or any other items needed for the alerting system as soon as a change occurs.

**CANCELLATION OR REOPENING OF AGREEMENT:**

26. It is mutually understood and agreed to that any party hereto may request to reopen, for the purpose of renegotiation, or cancel its participation in this contractual agreement, by giving a sixty (60) day written notice to all said parties hereto by registered mail, return receipt requested to the Lorain County Prosecutor's Office and Lorain County Office of Emergency Management and Homeland Security. This contract shall be effective upon approval of the governing Bodies of Lorain County and the political jurisdictions entering into this contractual Agreement that is to commence at 12:00 AM, January 1, 2017 and ending 11:59PM, December 31, 2021.
27. At all times, copies of this contract shall remain in the offices of the Lorain County Prosecutor, Lorain County Office of Emergency Management and Homeland Security and the local political jurisdiction.

IN WITNESS WHEREOF, said political subdivisions have caused this agreement to be executed as provided by ordinance of resolution duly adopted for that purpose, a copy of which is hereto appended.

CITY of OBERLIN  
Name of Political Subdivision

3/6/17  
Date

By: Robert Miller

Title: City Manager

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**BY LORAIN COUNTY COMMISSIONERS**

By: Joe Kotarski, President of the Board

By: Ed Kib, Vice President of the Board

By: [Signature], Board Member

**LORAIN COUNTY OFFICE OF EMERGENCY MANAGEMENT AND HOMELAND SECURITY**

By: [Signature] Title: DIRECTOR

**LORAIN COUNTY LOCAL EMERGENCY PLANNING COMMITTEE**

By: [Signature] Title: CHAIRMAN

**LORAIN COUNTY FIRE CHIEF'S ASSOCIATION**

By: John B. MFO Title: PRESIDENT

**LORAIN COUNTY TECHNICAL RESCUE ADVISORY BOARD**

By: Chris MacKee Title: President

**LORAIN COUNTY PROSECUTOR:** (Approved as to legal content and form)

By: 

Title: Asst. Pros. AT 19