

ORDINANCE NO. 93-74 AC CMS

AN ORDINANCE APPROVING AN AGREEMENT FOR HAZARDOUS
MATERIALS RESPONSE AND MITIGATION IN LORAIN COUNTY

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, a majority of all members elected thereto concurring:

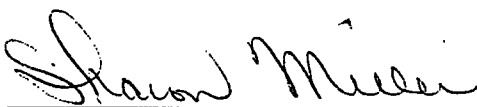
SECTION 1. That the proposed agreement for Hazardous Materials Response and Mitigation in Lorain County, a copy being attached hereto and incorporated herein by reference, is hereby approved, and the City Manager is hereby authorized and directed to execute same on behalf of the City.

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.

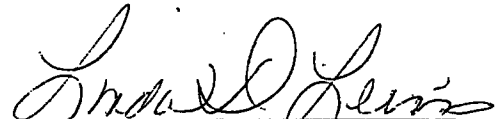
SECTION 3. That this ordinance shall take effect at the earliest date allowed by law.

PASSED: 1st Reading - 10/4/93
2nd Reading - 10/18/93
3rd Reading - 11/1/93

ATTEST:



CLERK OF COUNCIL



CHAIRMAN OF COUNCIL

POSTED: 11/5/93

EFFECTIVE DATE: 12/1/93

EXHIBIT A

ORDINANCE NO. 93-74 AC CMS

RESOLUTION NO. 93-670

In the matter of entering)
into contractual Agreements)
for Hazardous Materials)
Response and Mitigation in)
Lorain County.) August 19, 1993

WHEREAS, by Resolution No. 89-298, dated April 11, 1989, the Lorain County Board of Commissioners authorized the formation of the Lorain County Emergency Management Agency; and

WHEREAS, by Resolution No. 92-231, dated March 24, 1992, the Lorain County Board of Commissioners entered into agreement between the Lorain County Local Emergency Planning Committee (LCLEPC) and the Lorain County Emergency Management Agency (LCEMA) for a two (2) year period, effective April 1, 1992, terminating March 31, 1994; and

WHEREAS, each Political Subdivision has requested to participate in the Lorain County EMA for the developing of a cost recovery response for Hazardous Materials spills; and

WHEREAS, each jurisdiction has the duty to provide an immediate response to a hazardous materials emergency within their jurisdictional boundaries; and

WHEREAS, Lorain County already has a Hazardous Materials Response Unit as prescribed by standards adopted by the LEPC;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Lorain County, Ohio, that each political jurisdiction sign an agreement with Lorain County for Hazardous Materials Response from Lorain County's HazMat Response Team at a cost based upon population, number of reported Hazardous and Extremely Hazardous Chemicals, and State and Interstate road mileage and Railroad Tracks within the jurisdiction; and

WHEREAS, if a hazardous material incident occurs within a political jurisdiction and it is necessary to request assistance; the Lorain County HazMat Response Team will be the primary assisting responder to this request as prescribed in the County HazMat Response Team's SOP.

FURTHER BE IT RESOLVED that the Contractual Agreement for Hazardous Materials Response and Mitigation in Lorain County reads as follows:

LORAIN COUNTY EMERGENCY MANAGEMENT AGENCY

**CONTRACTUAL AGREEMENT FOR
HAZARDOUS MATERIALS RESPONSE & MITIGATION
IN LORAIN COUNTY**

This agreement is entered into by and among the following political subdivisions for the purpose of Hazardous Material Planning and the response capabilities of the Lorain County HazMat Response Team in your community for 1994 through 1996 when a new agreement will be either adopted or extended. This is a three year contract.

1. Amherst
2. Amherst Township
3. Avon
4. Avon Lake
5. Brighton Township
6. Brownhelm Township
7. Camden Township
8. Carlisle Township
9. Columbia Township
10. Eaton Township
11. Elyria
12. Elyria Township
13. Grafton
14. Grafton Township
15. Henrietta Township
16. Huntington Township
17. Kipton
18. LaGrange
19. LaGrange Township
20. Lorain
21. North Ridgeville
22. Oberlin
23. Penfield Township
24. Pittsfield Township
25. Rochester
26. Rochester Township
27. Russia Township
28. Sheffield
29. Sheffield Lake
30. Sheffield Township
31. South Amherst
32. Vermilion
33. Wellington
34. Wellington Township

WITNESSETH:

WHEREAS, each of the aforementioned parties have 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 to section 3745.13 of the Ohio Revised Code and 40 C.F.R. 300 of the Federal Registrar; and

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 threat to life and or property, and shall be expanded to include Hazardous Material Responses as part of this contract, and

WHEREAS, each of the political subdivisions shall meet and maintain proper and fitting hazardous materials training in accordance with the Hazardous Material Plan approved by the Board of County Commissioners and accepted by the State Emergency Management Agency; and

WHEREAS, failure to comply with the specified training requirements by December 31, 1993, as set forth in the Hazardous Material Plan shall result in a penalty of fifteen (15%) percent of the jurisdiction's contractual amount for each year not in compliance or \$250, whichever is greater; and

WHEREAS, the political subdivisions deem it to be in the public's best interest to contract with the Lorain County HazMat Response Team; and

WHEREAS, the political subdivisions 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 agreements for cost recovery not prescribed under 40 C.F.R. 300, IT IS NOW AGREED, between the parties as follows:

1. For the purposes of affording and maintaining the additional protection to mitigate and respond to hazardous materials spills within a jurisdiction in 1994 through 1996, each jurisdiction shall pay a set fee to Lorain County EMA for the sole purpose of funding the necessary activities and expenses of the Lorain County HazMat Response Team and these fees shall remain the same as determined for the 1993 contract for each year of the next three year contract period.

2. The cost per year for each each jurisdiction is the cost indicated in the 1993 contract exclusive of any penalties incurred.

3. That the Lorain County HazMat Response Team will respond to any and all requests made by the Incident Commander of the political jurisdiction having authority for a hazardous materials release whether that release is at an on-site facility or a transportation route.

4. 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 firefighters.

5. Lorain County EMA will assist the political jurisdictions where the hazardous materials incident took place in the cost recovery from the spiller or transporter as prescribed in section 3745.13 of the O.R.C. In the event the responsible party is unknown the responsibility ultimately remains with the political jurisdictions in which the incident occurred to pay for all equipment costs associated with said incident. The costs for equipment shall be paid within ninety (90) days of the incident, to the HazMat providers. Lorain County EMA will continue to pursue the responsible party with the assistance of the County Prosecutor and the political jurisdiction's legal representative where the incident occurred.

6. Lorain County through the County EMA, which is the contracted agency of the Lorain County LEPC, will administer the SERC Grant and civil penalty monies as prescribed in Section 3750.14 and Section 3750.20 respectively of the Ohio Revised Code; only to those jurisdictions participating in the Contractual Agreement for Hazardous Materials Response & Mitigation in Lorain County; Having a valid Cost Recovery Ordinance/Resolution, participating in the Lorain County All Hazards Plan Contract, and having sought the necessary, proper, and recommended training as defined in the Hazardous Material Plan.

7. Lorain County HazMat Response Team will continue to enhancing the overall response capabilities at the contractual level.

8. The Lorain County HazMat Response Team must demonstrate compatibility through a combined functional exercise at least two (2) times a year. Each exercise shall include HazMat Responder participation from the Lorain County HazMat Response Team and any necessary jurisdictional fire departments.

9. 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 on January 1 1994, and end on December 31, 1996.

10. Copies of this contract shall at all times remain in the office of the Lorain County Prosecutor, Lorain County Emergency Management Agency and the Political jurisdictions city or village law director or solicitor.

11. It is mutually understood and agreed that any party hereto may cancel and terminate its participating in this said contractual agreement by giving a sixty (60) day written notice to all said parties hereto at the time of said cancellation by registered mail, return receipt requested to the Lorain County Prosecutor's office and Lorain County Emergency Management Agency of its intention to do so.

12. That the political subdivision of City of Oberlin agrees to pay Lorain County Emergency Management Agency the sum of \$1000.00 for the Lorain County HazMat Response Team. This cost is the same as that cost calculated for the 1993 contract year and shall remain constant for the contract years 1994, 1995, 1996, exclusive of any penalties incurred. The said amount of money will be paid by April 10, 1994, and as per the attached cost analysis chart.

13. Any monies received after said date will be subject to a 15% of total fee late charge.

14. All contract monies received shall be used exclusively by the Lorain County HazMat Response Team and the Lorain County EMA for the purpose of enhancing response capabilities and administration of this contract. All contract monies shall be disbursed among the aforementioned parties as follows: Lorain County Hazmat Response Team 90%, and Lorain County EMA (on behalf of the Lorain County Local Emergency Planning Committee) 10%. All expenditures of the 90% portion shall be at the direction and discretion of the Lorain County HazMat Advisory Board.

15. Because of the initial and on-going investments for HazMat related training and equipment incurred by the Lorain, Elyria, and Avon Lake Fire Departments and the mutual aid provision among these HazMat teams and the Lorain County HazMat Response Team; a nominal contractual fee of \$1 per respective political jurisdictions shall be assessed for this contractual agreement period. Should any given department's HazMat response capability be significantly reduced from its present level, an assessment shall be made to adjust the \$1 contractual fee to represent an amount based on the standard contractual fee formula prorated on the remaining contract period.

16. Each contract participant exclusive of Elyria, Lorain, and Avon Lake shall provide immediate HazMat Technician Level capabilities based on the following schedule:

<u>Contract \$ Assessment (exclusive of any penalties)</u>	<u>Minimum Technician Level Responders Required</u>
\$1,000 or less *	1
Each additional*	1 per each additional
\$1,000 over \$1,000	\$1,000 value

*Fraction of the \$1,000 increments shall be rounded down to the nearest \$1,000 value.

17. Should a contract participant fall below the required Technician Level responders during the contractual period, the respective participant shall demonstrate they are attempting to replace the deficient members as follows:

1. Notify Advisory Committee of such deficiency within seven (7) days.
2. Present a plan within thirty (30) days, regarding how the deficiency will be filled for acceptance by the Advisory Committee.

Failure to comply will result in contract cancellation for said jurisdiction(s) through the specified contract cancellation process.

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

Oberlin City November 1, 1993
Name of Political Subdivision Date
By: [Signature] Title: City Manager
By: _____ Title: _____
By: _____ Title: _____

Board of Lorain County Commissioners 8-24-93
Date

By: E. C. Blair
By: M. J. Davis
By: Herbert J. Jacoby

Lorain County HazMat Advisory Board 9-2-93
Date
By: Roger Walters Title: Member
By: Robert J. Walker Title: Member

Local Emergency Planning Committee _____
Date
By: Richard C. Kinn Title: Emergency Services Director
By: George Brasch Title: Co. Chairman

Formula for determining HazMat Contract Costs per jurisdiction. All costs are based on the attached jurisdictional figures for Population, Total Hazardous and Extremely Hazardous Chemicals Reported, and total State and Interstate, and Railroad miles.

1. Population x \$.20 per person
2. Total Chemicals as reported in 1991 x \$25.00 each
3. Total mileage x \$23.42 per mile

The total of items 1, 2, and 3 equal the jurisdictions 1993 HazMat Contract Fee.

This amount shall remain fixed for the 1994, 1995, and 1996 contractual period.

The foregoing resolution was introduced upon a motion by Commissioner Mary Jo Vasi, seconded by Commissioner Elizabeth C. Blair and upon roll call, the vote taken thereon resulted as follows: Mrs. Vasi, "aye"; Mrs. Blair, "aye"; Mr. Jacoby, "aye".

I, Roxann Blair, Clerk to the Board of Commissioners of Lorain County, Ohio, hereby certify that this is a true copy of Resolution No. 93-670 as it appears in Journal No. 93 on the date of August 19, 1993.
