

Ordinance 2019-22

AN ORDINANCE ACCEPTING ANNEXATION AGREEMENT FOR PROPERTY LOCATED  
AT 300 N. HALLETT AVE., SWANTON OHIO AND DECLARING AN EMERGENCY

BE IT ORDAINED by Council of the Village of Swanton, two thirds or more of its members elected thereto concurring as follows:

Section One. An Area of land in Swanton Township, County of Lucas, in the State of Ohio and described as follows:

See Attached Exhibit A

Section Two. The above mentioned area of land was previously accepted for annexation

Section Two. The Village Administrator, who is the municipal officer having supervision and management of such property, is hereby authorized to execute a purchase agreement for said generator;

Section Three. The annexation Agreement on file with the Administrator of the Village is hereby accepted.

Section Four. That it is found and determined that all formal actions of this Village Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Village Council, and that all deliberations of this Village 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 Four. That for the reason that the agreement is immediately necessary this Ordinance is declared to be an emergency measure, immediately necessary for the preservation of the public peace, property, health, safety and welfare of said Village of Swanton.

Motion to Suspend the Rules

Moved: Kreuz          Second: Westhoven          YEAS: 5          NAYS: 0

Vote on Passage

Moved: Pilliod          Second: Westhoven          YEAS: 5          NAYS: 0

Date of Passage: May 28, 2019

Ann Roth

Ann Roth, Mayor

Attest:

I, Jennifer Harkey, Fiscal Officer of the Village of Swanton, do hereby certify that this is a true and accurate copy of Ordinance 2019-22, passed on May 28, 2019

Jennifer Harkey  
Jennifer Harkey, Fiscal Officer

## ANNEXATION AGREEMENT

THIS AGREEMENT is made and entered into this 28 day of May, 2019, by and between Mary A. Smith, Trustee, hereinafter referred to as "Property Owner", and the Village of Swanton, a municipal corporation organized and existing under and by virtue of the laws of the State of Ohio, hereinafter referred to as "Swanton".

### WITNESSETH:

**WHEREAS**, Property Owner is the owner of the property described in Exhibit A attached hereto (hereinafter referred to as "Property"), and has annexed the Property into Swanton.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### ARTICLE 1. DEFINITIONS

As used in this agreement, the following terms shall have the meanings set forth below.

"Agreement" means this Agreement.

"Effective Date" means the effective date of action by the Swanton Village Council approving the execution of this agreement. On such date, this Agreement shall become binding upon and enforceable by the parties hereto.

"Property" means the real property described and depicted on Exhibit A.

"NonAgricultural Use" means any use or development of land not directly related to agricultural purposes; such as residential, noncommercial agricultural, nonagricultural industrial, religious, educational or governmental uses. Agricultural uses such as dairying, animal husbandry, or the raising and maintaining of livestock are prohibited under this agreement.

"CAUV" means Current Agricultural Use Valuation.

#### ARTICLE 2. ANNEXATION PUBLIC IMPROVEMENTS

Public Improvements. At the time the Property is developed or converted to a nonagricultural use, the Property Owner agrees to design and fully improve to Swanton standards, or pay for such design and improvements, as required by Swanton, all public

streets or portions of public streets, as applicable, that are adjacent to and abutting the exterior boundaries of the Property, all public streets within the property, landscaping and other public improvements. The cost of designing and constructing all of the aforementioned public improvements shall be borne by the Property Owner, and the construction thereof shall be at the sole cost, risk, and expense of the Property Owner. All such public improvements must be built or completed in accordance with the Village of Swanton standards and specifications and such other adopted standards, as applicable and as may be amended from time to time.

### **ARTICLE 3. DEVELOPER'S AGREEMENT**

At the time the Property is developed or converted to a nonagricultural use, an agreement shall be signed by the Property owner defining roadway construction, landscaping requirements and any other dedicated public improvements. Those streets, landscaping improvements, and other dedicated public improvements constructed by the property owner or party under contract with the Property owner, shall initially be accepted by Swanton upon completion or construction in accordance with Swanton standards or other public improvements, whichever date shall last occur. The Property owner shall warrant construction of said streets, landscaping and other public improvements for one year after initial acceptance by Swanton at which time Swanton will commence maintenance of said streets, landscaping and other public improvements.

### **ARTICLE 4. PROPERTY TAXES AND OTHER FEES**

The Property Owner or Property owner agrees to pay the Village of Swanton property taxes and other Swanton fees on the annexed property as currently exist or as adopted by Swanton and uniformly charged for other property located in Swanton for drainage, parks, fire, recreation, and other purposes authorized by law. Swanton agrees to support the Property Owner's current CAUV on all annexed property and all future applications for CAUV designation, provided that the property is used exclusively for the agricultural purposes defined under the terms of this agreement. Swanton cannot guarantee that taxation will not be changed by Lucas County or the State of Ohio.

### **ARTICLE 5. SWANTON OBLIGATIONS**

In fulfillment of its obligations hereunder, Swanton shall: provide police, fire, and other municipal services to the Property to the same extent as those services are provided by Swanton elsewhere through Swanton, pursuant to Swanton's general and uniformly applied policies.

### **ARTICLE 6. WATER AND SEWER**

Water and sewer services shall be provided by the Village of

Swanton. Property Owner shall be responsible for extension of water lines, sewer lines, and any tap fees for said connections. Property Owner shall pay the charges for said water and sewer services at the current Village rates and shall pay such increases in said rates as may be imposed in the future by the Village of Swanton.

#### **ARTICLE 7A. ZONING**

Zoning of the Property shall be accomplished in accordance with Swanton's codes, regulations, and standards and in accordance with the Ohio Revised Code, as may be amended from time to time. The use of the Property for agricultural purposes or the construction or use of buildings or structures incidental to the use for agricultural purposes of the land on which such buildings or structures are located shall not require a zoning permit. New residential structures built on the Property not incidental to agricultural operations will require a zoning permit or approval in accordance with Swanton's codes, regulations, and standards. Upon the filing of a petition to annex to the Village of Swanton, the Annexor agrees to file an application for designation as an agricultural district under Ohio Revised Code Section 929.02. Swanton agrees to grant the application for agricultural district designation provided the Property Owner or Property owner agrees to pay the Village of Swanton property taxes and other Swanton fees on the annexed property as currently exist or as adopted by Swanton and uniformly charged for other property located in Swanton for drainage parks, fire, recreation, and other purposes authorized by law.

#### **ARTICLE 7B. ZONING**

Property, prior to annexation, had a Swanton Township Zoning classification of "A-Agricultural". As there is no such classification in Swanton, the parties agree that the parcel shall be classified as "Residential with a Non-Conforming pre-existing use.

#### **ARTICLE 8. MISCELLANEOUS**

Covenants. The provisions of this Agreement shall constitute covenants and servitudes which shall touch, attach to and run with the land comprising the Property, and the burdens and benefits of this Agreement shall bind and inure to the benefit of the Property, the Property Owner, its heirs, successors and assigns.

Amendment of Agreement. This Agreement may be amended or terminated only by mutual consent in writing by Swanton and the Property Owner of the Property, its heirs, successors or assigns following the public notice and public hearing procedures required for the original approval and execution of this Agreement.

Remedies. In the event of a breach of default in performance

of this Agreement, the parties shall have all remedies in law, or in equity including specific performance unless a court would hold this agreement to be invalid under current laws in the State of Ohio or laws as modified.

Titles of Sections. The titles of the several articles and sections of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

No Third-Party Beneficiary. No third-party rights are created in favor of any person not party to this Agreement. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to parties hereto, their heirs, successors and assigns, including successor owners of any lot(s) or other portion(s) of the Property, and nothing contained in this Agreement shall give rise to or allow any claim or right of action hereunder by any other person or party. Notwithstanding the foregoing, it is expressly understood and agreed by the parties hereto that the right of the Property Owner to receive, or be excluded from income tax as set forth herein and the obligation of Swanton to pay, any credits or reimbursements hereunder shall accrue exclusively to the original parties to this Agreement, but to no others.

Applicable Law. The laws of the State of Ohio shall govern the interpretation and enforcement of this Agreement.

Assignment. This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, assigns and the legal representatives of the parties hereto. Property Owner shall not have the right to assign or transfer all or any portion of its interest, rights or obligations under this Agreement to third parties acquiring an interest or estate in the Property including, but not limited to, purchasers or long term ground leases of individual lots, parcels or of any improvements now or hereafter located upon or within the Property.

Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall, unless amended or modified by mutual consent of the parties, continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the party against whom they are being enforced under the facts and circumstances then pertaining.

Counterparts. This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, Swanton and the Property Owner have caused this Agreement to be duly executed as of the day first above written.

By Miller  
W. Miller

By: [Signature]  
Swanton Village Administrator

Approved as to Form

By: [Signature]  
Alan J. Lehenbauer  
Attorney, Village of Swanton

W. Miller  
By Miller

By: [Signature]  
TTCF