

Resolution 2023-10

A RESOLUTION AUTHORIZING THE VILLAGE ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES, DIVISION OF FORESTRY ON BEHALF OF THE VILLAGE OF SWANTON AND THE SWANTON FIRE & DEPARTMENT

WHEREAS, the Village of Swanton and the Swanton Fire & Rescue Department recognizes the Division of Forestry request to have interest in the of protection of forests in the State of Ohio from wildfire; and

WHEREAS, the Village of Swanton and the Swanton Fire & Rescue Department provides fire protection services, including structural and wildfire; and

WHEREAS, the Division of Forestry, pursuant to ORC 1503.011, through the Ohio Department of Natural Resources, is authorized to participate on behalf of the State of Ohio in such agreements.;

NOW THEREFORE BE IT RESOLVED, by the Council of the Village of Swanton, Fulton County, Ohio, three-fourths of the members elected thereto concurring and as follows:

Section One: The Fire Department does hereby agree to:

1. Respond to wildfires within its area of jurisdiction and capability.
2. Provide a timely, accurate report of each wildfire responded to by the Fire Department to the Division through the ODNR Forestry online wildfire reporting system. The system is located at: <https://ohiodnr.gov/discover-and-learn/safety-conservation/about-ODNR/forestry/fire-management-program/02-fire-program>.
3. Ensure that a profile exists in the Ohio Pays portal for the financial entity that supports the Fire Department. Ensure that payment addresses associated with the Fire Department are kept up to date within the Ohio Pays portal. Ohio Pays portal site: <https://ohiopays.ohio.gov/>. The Division cannot transfer any financial support to fire departments who are not associated with an Ohio Pays account.

4. Designate an official within the Fire Department to function as the liaison between the Fire Department and the Division.
5. Apply the principles of an Incident Command System to wildfire management.
6. Participate in periodic wildfire related training as presented or approved by the Division.
7. Notify the local Division office at the earliest opportunity of any wildfire meeting the following criteria:
 - i. Wildfire response exceeding six (6) hours duration at the time of the incident;
 - ii. Wildfire of 100 acres or larger;
 - iii. Injury on a wildfire response resulting in hospitalization of a responder or citizen;
 - iv. Fatality on a wildfire response; and/or
 - v. Destruction of a primary residence by wildfire
8. DRUG FREE WORKPLACE. Fire Department agrees to comply with all applicable federal, state, and local laws regarding smoke-free and drug-free workplaces and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the Work purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way.
9. NONDISCRIMINATION OF EMPLOYMENT. Pursuant to O.R.C. Section 125.111 and the State's policy, Fire Department agrees that Fire Department, any subcontractor, and any person acting on behalf of Fire Department or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the Work. Fire Department further agrees that Fire Department, any subcontractor, and any person acting on behalf of Fire Department or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of the Work on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.
10. AFFIRMATIVE ACTION PROGRAM. Fire Department represents that it has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons pursuant to O.R.C. Section 125.111 (B) and has filed an Affirmative Action Program Verification form with the Equal Employment Opportunity and Affirmative Action Unit of the Department of Administrative Services.
11. ETHICS COMPLIANCE. Fire Department represents, warrants, and certifies that it and its employees engaged in the administration or performance of this Agreement are knowledgeable of and understand the Ohio Ethics and Conflict of

Interest laws set forth in O.R.C. Chapter 102 and in O.R.C. Sections 2921.42 and 2921.43. Fire Department further represents, warrants, and certifies that neither Fire Department nor any of its employees will do any act that is inconsistent with such laws.

12. CAMPAIGN CONTRIBUTIONS. Fire Department hereby certifies that neither Fire Department nor any of Fire Department's partners, officers, directors, or shareholders, nor the spouse of any such person, has made contributions to the ODNR Division of Forestry in excess of the limitations specified in O.R.C. Section 3517.13.

13. OHIO RETIREMENT SYSTEM RETIRANT. Fire Department acknowledges and agrees any individual providing personal services under this Agreement is not a public employee of the Division for purposes of O.R.C. Chapter 145 such that the Division will not be responsible for making any contributions to the Public Employee's Retirement System on behalf of any of the individuals employed by the Fire Department or its subcontractors or other agents.

14. COMPLIANCE WITH EXECUTIVE ORDER 2019-12D. The Fire Department certifies that no services or performance shall be undertaken in any location outside of the United States.

Section Two: The Division does hereby agree to:

1. Provide grant opportunities to Fire Department.
2. Provide or offer periodic wildfire related training for the Fire Department.
3. Provide the opportunity to participate in Federal Excess Property Program (FEPP) and Firefighter Property Program (FFP). These programs require the Fire Department to sign an additional MOU / Agreement.
4. Support wildfire prevention / education campaigns within the ODNR Division of Forestry wildfire protection area.
5. Reimburse the Fire Department with primary jurisdiction for each wildfire report timely and accurately submitted and approved by the Division, including a reasonable determination of wildfire cause in accordance with the following schedule or current schedule as identified in ORC 1503.141:
 - a. For wildfires originating on private lands within the State fire protection area:

Minimum Payment: Seventy Dollars (\$70.00)

Applies to: Wildfires of two (2) hours or less suppression time

- b. For wildfires originating on lands owned by the Wayne National Forest or Ohio Department of Natural Resources within the State fire protection area:

Minimum Payment: One Hundred Dollars (\$100.00)

Applies to: Wildfires of two (2) hours or less suppression time

- c. For wildfires within the State fire protection area exceeding two (2) hours of suppression duration, regardless of ownership at origin:

Minimum Payment: Thirty-Five Dollars (\$35.00) per hour of suppression time

Applies to: Suppression time greater than two (2) hours, up to a maximum of ten (10) additional hours (12 hours total) rounded to the nearest whole hour.

- d. Payments for mutual assistance shall be at the sole discretion of the Division.

Section Three: The Parties further agree as follows:

1. CONTROLLING LAW. This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in the accordance with the laws of the State of Ohio. Fire Department consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.
2. WAIVER. A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.
3. SUCCESSORS and ASSIGNS. Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part by Fire Department, without the prior written consent of the Division.

4. NOTICES. Except to the extent expressly provided otherwise herein, all notices, consents, and communications required hereunder (each, a "Notice") shall be in writing and shall be deemed to have been properly given when: 1) hand delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; 4) sent by fax or email. Notices shall be deemed given upon receipt thereof and shall be sent to the addresses first set forth above. Notwithstanding the foregoing, notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. Any party may change its address for receipt of Notices upon notice to the other party. If delivery cannot be made at any address designated for Notices, a Notice shall be deemed given on the date on which delivery at such address is attempted.

5. CONFLICT. In the event of any conflict between the terms and provisions of the body of this Agreement and any exhibit hereto, the terms and provisions of the body of this Agreement shall control.

6. HEADINGS. The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.

7. SEVERABILITY. The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

8. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended, or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.

9. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

10. ELECTRONIC SIGNATURES. Any part hereto may deliver a copy of its counterpart signature page to this Agreement electronically pursuant to O.R.C. Chapter 1306. Each party hereto shall be entitled to rely upon an electronic signature of any other party delivered in such a manner as if such signature were an original.

Section Four: That this resolution is hereby declared to be an emergency measure necessary for the preservation of the village peace, health and safety; wherefore this resolution shall be in full force and effective immediately upon passage.

Vote on Passage

Moved: Kania

Second: S. Disbrow

YEAS: 5

NAYS: 0

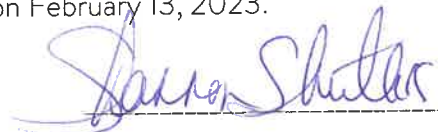
Date of Passage: February 13, 2023



Neil Toeppe, Mayor

Attest:

I, Shannon Shulters, Village Administrator of the Village of Swanton, do hereby certify that this is a true and accurate copy of Resolution 2023-10, passed on February 13, 2023.



Shannon Shulters, Village Administrator