

# SAMPLE

AGREEMENT FOR THE ESTABLISHMENT OF A COUNTY DRAIN  
AND COUNTY DRAINAGE DISTRICT  
PURSUANT TO SECTION 433 OF ACT NO. 40 OF  
THE PUBLIC ACTS OF 1956, AS AMENDED

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, NEWAYGO COUNTY DRAIN COMMISSIONER, hereinafter referred to as "Drain Commissioner" on behalf of the proposed \_\_\_\_\_ Drain Drainage District; and \_\_\_\_\_, as owner(s) of land described in Exhibit A attached hereto, hereinafter referred to as "Landowner".

WITNESSETH:

WHEREAS, Section 433 of Act No. 40 of the Public Acts of 1956, as amended, authorizes the Drain Commissioner to enter into an Agreement with the Landowner and developer, if any, to establish a drain which was constructed by the Landowner or developer to service an area of its own land as a County Drain; and,

WHEREAS, Landowner, pursuant to Section 433 of Act No. 40 of 1956, as amended, wishes to provide drainage service to its own lands and has requested same to be established and dedicated as a County Drain under the jurisdiction of the Newaygo County Drain Commissioner; and,

WHEREAS, Landowner has been advised and understands and agrees to assume the total cost of the construction of the drain to include engineering, inspection, easement acquisition, legal, and administrative expenses and costs attendant to this Agreement; and,

WHEREAS, Landowner further understands that the Drain constructed, or to be constructed, pursuant to this Agreement, when finally accepted by the Drain Commissioner, will be known as the \_\_\_\_\_ Drain, and that the land to be known and constitutes as the \_\_\_\_\_ Drain Drainage District and will be subject to assessments, for costs of future operation, inspection, maintenance, and improvement; and,

WHEREAS, Landowner has agreed to assume and pay all costs as set forth herein; and

WHEREAS, Landowner has obtained, at its own expense, a certificate from a registered professional engineer satisfactory to the Drain Commissioner to the effect that the Drain has sufficient capacity to provide adequate drainage service without detriment to or diminution of the drainage service which the outlet currently provides. A copy of said certificate being attached hereto as Exhibit B.

NOW, THEREFORE, in consideration of the premises and covenants of each, the parties agree as follows:

1. The Landowner agrees to pay the costs of construction of said Drain and drainage facilities, including the acquisition of the necessary rights-of-way or easements, engineering, surveying, inspection, legal, and administration costs. In addition, the Landowner has deposited with the Drain Commissioner an amount of money equivalent to five (5%) percent of the costs of construction of the Drain, not to exceed Two Thousand Five Hundred and No/100 (\$2,500.00) Dollars, which monies are to be deposited in a special drain fund to be used for future maintenance of the Drain, hereinafter referred to as " \_\_\_\_\_ Drain Maintenance Fund".

2. Landowner shall secure all necessary permits or authorizations as may be required by local, state, or federal law and provide copies to the Drain Commissioner. The Drain Commissioner shall be provided copies of all correspondence and reports involving any governmental agency with respect to the Drain.
3. The \_\_\_\_\_ Drain Maintenance Fund is agreed and understood as being for the sole benefit of the \_\_\_\_\_ Drain and use thereof may be made by the \_\_\_\_\_ Drain Drainage District at large, or part thereof, and that such payment shall not relieve the subject property from any future assessments levied pursuant to the Drain Code of 1956, as amended.
4. Landowner agrees to indemnify and hold harmless the Drain Commissioner for any and all claims, damages, lawsuits, costs, and expenses arising out of or incurred as a result of the Drain Commissioner assuming responsibility for the drain under federal, state, and/or local environmental laws and standards and specification and the administrative and judicial interpretation thereof.
5. Modification, amendments, or waivers of any provision of the agreement may be made only by the written mutual consent of the parties.

This Agreement shall become effective upon its execution by the Landowner and the Drain Commissioner and shall be binding upon the successors and assigns of each party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

WITNESSES:

\_\_\_\_\_  
sign  
type/print:

\_\_\_\_\_  
sign  
type/print:

\_\_\_\_\_  
sign  
type/print:

\_\_\_\_\_  
sign  
type/print:

LANDOWNERS:

\_\_\_\_\_  
sign  
type/print:

\_\_\_\_\_  
sign  
type/print:

DEVELOPER:

\_\_\_\_\_  
sign  
type/print:

STATE OF MICHIGAN            )  
  ) ss.  
COUNTY OF                    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_ and \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_, Notary  
County, Michigan

My commission expires:

WITNESSES:

DRAIN DRAINAGE DISTRICT

sign \_\_\_\_\_  
type/print:

\_\_\_\_\_  
Newaygo County Drain Commissioner

sign \_\_\_\_\_  
type/print:

STATE OF MICHIGAN        )  
  ) ss.  
COUNTY OF                    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_,  
by \_\_\_\_\_, on behalf of the Drain Drainage District.

\_\_\_\_\_, Notary  
County, Michigan  
My commission expires: \_\_\_\_\_

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