

APPENDIX C: 433-Agreements

- C.1** 433-Agreement to Establish a New Drain
- C.2** 433-Agreement to Add Branches and Lands to Existing Drainage District
- C.3** 433-Agreement to Add Lands to Existing Drainage District
- C.4** Engineer's Certification for Adequate Outlet
- C.5** Example of Route and Course Exhibit

AGREEMENT TO ESTABLISH AN EXISTING
PRIVATE DRAIN UNDER SECTION 280.433 (5),
OF THE DRAIN CODE OF 1956, ACT 40

For the consideration of less than one hundred dollars (\$100.00) this agreement was entered into on the ___ day of _____, 20__, between _____ and (spouse), whose address is _____ (hereafter referred to as the "Owner"), and _____ whose address is _____ (hereafter referred to as the "Developer") and Douglas Spote, Kent County Drain Commissioner, whose address is 1500 Scribner, NW, Grand Rapids, MI 49504, (hereafter referred to as the "Drain Commissioner").

WHEREAS, the Developer's plan for a _____ calls for the construction of certain drainage facilities, and

WHEREAS, the only lands to be served by the proposed drainage facilities are those held entirely by the Owner and described as follows:

, and

WHEREAS, it is desirable that proposed drainage facilities be established as a county drain, upon their completion, in accordance with Section 280.433 (5), of the Drain Code of 1956, State of Michigan.

NOW THEREFORE, it is agreed that the Drain Commissioner shall establish the county drain, the route and course of which is described as follows:

SEE "EXHIBIT A"

, and

IT IS FURTHER agreed that a certificate from a professional engineer to the effect that the existing outlet for the drain is the only reasonable available outlet for the drain and that there is sufficient capacity in the outlet for the existing drain to serve as an adequate outlet without detriment to or diminution of the drainage service which the outlet presently provides, *(see attached certification that shall be signed and recorded with agreement)*

IT IS FURTHER agreed that the Developer shall construct at his expense the proposed drain in accordance with the plans and specifications prepared by and approved by the Drain Commissioner, and

IT IS FURTHER agreed that the Developer shall obtain in the name of the drainage district the necessary right-of-ways for the construction and maintenance of the drain, and forward the same, including necessary fees, to the Drain Commissioner for recording with the Kent County Register of Deeds. Easements shall be in a form acceptable to the Drain Commissioner.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the ___ day of _____, 20__.

OWNER:

DEVELOPER:

STATE OF MICHIGAN)

) ss:

COUNTY OF _____)

On this ___ day of _____, 20__, before me, a Notary Public in and for said County, personally appeared _____ and _____ to me to be the same person(s) who signed and is described in the above instrument, and acknowledged the same to be their free act and deed.

Notary Public, _____ County, MI
My commission expires:

AGREEMENT TO ADD BRANCHES OF AN EXISTING
COUNTY DRAIN UNDER SECTION 280.433 (1-3),
OF THE DRAIN CODE OF 1956, ACT 40

For the consideration of less than one hundred dollars (\$100.00) this agreement was entered into on the ___ day of _____, 20__, between _____ and (spouse), whose address is _____ (hereafter referred to as the "Owner"), and _____ whose address is _____ (hereafter referred to as the "Developer") and Douglas Sporte, Kent County Drain Commissioner, whose address is 1500 Scribner, NW, Grand Rapids, MI 49504, (hereafter referred to as the "Drain Commissioner").

WHEREAS, the Developer's plans for a (residential subdivision, condominium development, commercial, etc) calls for the construction of certain drainage facilities to add branches to the _____ County Drain, and

WHEREAS, it is desirable that the proposed drainage facilities be established as part of the _____ County Drain upon completion, in accordance with Section 280.433, (1-3) of the Drain Code of 1956, State of Michigan,

NOW THEREFORE, it is agreed that the following described lands shall be added to the _____ Drainage District, which is described as follows:

NOW THEREFORE, it is agreed that the Drain Commissioner shall add branches to the _____ county drain, the route and course of which is described as follows:

, and

IT IS FURTHER agreed that a certificate from a professional engineer to the effect that the existing outlet for the drain is the only reasonable available outlet for the drain and that there is sufficient capacity in the outlet for the existing drain to serve as an adequate outlet without detriment to or diminution of the drainage service which the outlet presently provides, (*see attached certification that shall be signed and recorded with agreement*)

Bold text indicates what has been modified from original 433-agreement

IT IS FURTHER agreed that the Developer shall construct at his expense the proposed drain in accordance with the plans and specifications prepared by and approved by the Drain Commissioner, and

IT IS FURTHER agreed that the Developer shall obtain in the name of the drainage district the necessary right-of-ways for the construction and maintenance of the drain, and forward the same, including necessary fees, to the Drain Commissioner for recording with the Kent County Register of Deeds. Easements shall be in a form acceptable to the Drain Commissioner.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the ___ day of _____, 20__.

OWNER:

DEVELOPER:

STATE OF MICHIGAN)

) ss:

COUNTY OF _____)

On this ___ day of _____, 20__, before me, a Notary Public in and for said County, personally appeared _____ and _____ to me to be the same person(s) who signed and is described in the above instrument, and acknowledged the same to be their free act and deed.

Notary Public, _____ County, MI
My commission expires:

AGREEMENT TO ESTABLISH AN EXISTING
PRIVATE DRAIN UNDER SECTION 280.433 (5),
OF THE DRAIN CODE OF 1956, ACT 40

For the consideration of less than one hundred dollars (\$100.00) this agreement was entered into on the ___ day of _____, 20__, between _____ and (spouse), whose address is _____ (hereafter referred to as the "Owner"), and _____ whose address is _____ (hereafter referred to as the "Developer") and Douglas Spote, Kent County Drain Commissioner, whose address is 1500 Scribner, NW, Grand Rapids, MI 49504, (hereafter referred to as the "Drain Commissioner").

WHEREAS, the Developer's plan for a (residential subdivision, condominium development, commercial development, etc.) calls for the construction to enlarge the district of the _____ County Drain, and;

NOW THEREFORE, it is agreed that the following described lands shall be added to the _____ Drainage District, which is described as follows:

, and

IT IS FURTHER agreed that a certificate from a professional engineer to the effect that the existing outlet for the drain is the only reasonable available outlet for the drain and that there is sufficient capacity in the outlet for the existing drain to serve as an adequate outlet without detriment to or diminution of the drainage service which the outlet presently provides, *(see attached certification that shall be signed and recorded with agreement)*

IT IS FURTHER agreed that the Developer shall assume payment of all expenses incurred by the Drain Commissioner to enlarge the existing drainage district, and

IT IS FURTHER agreed that the Developer shall obtain in the name of the _____ drainage district the necessary right-of-ways for the construction and maintenance of the drain, and forward the same, including necessary fees, to the Drain Commissioner for recording with the Kent County Register of Deeds. Easements shall be in a form acceptable to the Drain Commissioner.

Bold text indicates what has been modified from original 433-agreement

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the ___ day of _____, 20__.

OWNER:

DEVELOPER:

STATE OF MICHIGAN)

) ss:

COUNTY OF _____)

On this ___ day of _____, 20__, before me, a Notary Public in and for said County, personally appeared _____ and _____ to me to be the same person(s) who signed and is described in the above instrument, and acknowledged the same to be their free act and deed.

Notary Public, _____ County, MI
My commission expires:

Appendix C.4: Engineer's Certification

A sample certification letter is displaced below. This certification shall be recorded with the 433-agreement:

Date

Mr. Douglas Spote
Kent County Drain Commissioner
1500 Scribner, NW
Grand Rapids, MI 49504

RE: *Plat Name*

"I, _____, a Licensed Professional Engineer is the State of _____
_____,
certify that:

1. The lands to be developed naturally drain into the area served by the existing drain, or that the existing drain is the only reasonably available outlet for the drainage from the lands to be developed.
2. There is adequate capacity in the existing drain to service lands to be developed without detriment or diminution of drainage service provided or to be provided in the foreseeable future to the area in the proposed district.

Joe Smith, P.E.
Registration No. XXXXX

