

RECORDED

1999 NOV - 11 P 3:13

NANCY NAVILAND  
REGISTER OF DEEDS  
LIVINGSTON COUNTY, MI.  
48843

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**AGREEMENT FOR THE ESTABLISHMENT OF A COUNTY  
DRAIN AND COUNTY DRAINAGE DISTRICT  
FOR THE DERBYSHIRE FARMS DRAIN 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 1st day of NOVEMBER 1999, by and between BRIAN JONCKHEERE, LIVINGSTON COUNTY DRAIN COMMISSIONER; hereinafter referred to as "Drain Commissioner" on behalf of the proposed Derbyshire Farms Drain Drainage District; and Carolyn Wilson, ~~as~~ owner of land described in Exhibit A attached hereto, hereinafter referred to as "Landowner".

\*\* 2300 E. Grand River, Howell, Michigan 48843.  
WITNESSETH: \*\*\* 1100 W. Coon Lake, Howell, Michigan 48843

**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 Livingston 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,

✓ When Recorded Return To:  
Brian Jonckheere  
2300 East Grand River  
Howell, Michigan 48843

**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 Derbyshire Farms Drain and that the land to be drained will be known and constituted as the Derbyshire Farms 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 hereto agree as follows:

1. Landowner agrees to construct and/or has constructed, at its expense, the Drain in accordance with plans and specifications approved by the Drain Commissioner.
2. 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 "Derbyshire Farms Drain Maintenance Fund."
3. That the Landowner shall secure, at its own expense, all easements or rights-of-way necessary for the construction of the Drain over and across the properties owned by Landowner and across such other lands as necessary for the construction of the Drain from the point of beginning at the outlet to the point of ending. Said easements or rights-of-way shall be secured in writing and in a form acceptable to the Drain Commissioner. The Landowner shall be responsible for all costs for the recording of said easements, as directed by the Drain Commissioner.
4. 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.
5. The Derbyshire Farms Drain Maintenance Fund is agreed and understood as being for the sole benefit of the Derbyshire Farms Drain and use thereof may be made by the Derbyshire Farms 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.
6. Landowner agrees to indemnify and hold harmless the Drain Commissioner and the Derbyshire Farms Drain Drainage District 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 regulations, including all future amendments to such laws or regulations and the administrative and judicial interpretation thereof except for liability arising out of the gross negligence or intentional wrongful conduct of the Drain Commissioner or its agents.


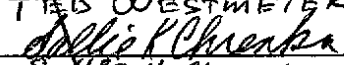
7. Modification, amendments or waivers of any provisions of the Agreement may be made only by the written mutual consent of the parties.


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.

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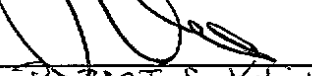
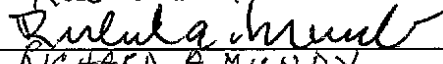
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the duly authorized officers as of the day and year first above written.

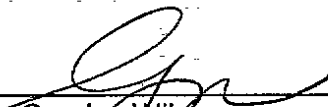
In The Presence Of:

  
\_\_\_\_\_  
TED WESTMEIER  
  
\_\_\_\_\_  
SALLIE K. CHRENKA

  
\_\_\_\_\_  
By: Brian Jonckheere, Commissioner  
Livingston County Drain Commissioner


In The Presence Of:

  
\_\_\_\_\_  
ROBERT C. KLIEB  
  
\_\_\_\_\_  
NICHAKA A. MUNDY

  
\_\_\_\_\_  
By: Carolyn Wilson,  
Landowner

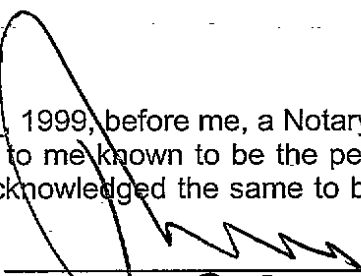
STATE OF MICHIGAN )  
                                  )     ss.  
COUNTY OF LIVINGSTON )

On this 1<sup>st</sup> day of November, 1999, before me, a Notary Public in and for said County, personally appeared BRIAN JONCKHEERE, LIVINGSTON COUNTY DRAIN COMMISSIONER, to me known to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed.

  
\_\_\_\_\_  
Notary Public Sallie K. Chrenka  
Livingston County, Michigan  
My Commission Expires: 3-12-04

STATE OF MICHIGAN )  
                                  )     ss.  
COUNTY OF LIVINGSTON )

On this 28<sup>th</sup> day of OCTOBER, 1999, before me, a Notary Public in and for said County, personally appeared Carolyn Wilson, to me known to be the person described in and who executed the foregoing instrument and acknowledged the same to be his/her free act and deed.

  
\_\_\_\_\_  
Notary Public ROBERT C. KLIEB  
Livingston County, Michigan  
My Commission Expires: MARCH 8, 2001

Instrument Drafted By:  
Geoffrey H. Seidlein (P32401)  
Stacy L. Hissong (P55922)  
HUBBARD, FOX, THOMAS,  
WHITE & BENGTON, P.C.  
Attorneys for Drain Commissioner  
5801 West Michigan  
P.O. Box 80857  
Lansing, MI 48908-0857  
517/886-7176

## EXHIBIT "A"

## LEGAL DESCRIPTION OF DERBYSHIRE FARMS

Part of the Northwest  $\frac{1}{4}$  of Section 27, T2N-R4E, Marion Township, Livingston County, Michigan, more particularly described as follows: Commencing at the North  $\frac{1}{4}$  Corner of said Section 27; thence along the North-South  $\frac{1}{4}$  line of said Section 27 and the centerline of Triangle Lake Road (66 foot wide Right-of-Way), S 00°17'38" W, 1012.51 feet to the POINT OF BEGINNING of the Parcel to be described; thence continuing along the North-South  $\frac{1}{4}$  line and the centerline of Triangle Lake Road, S 00°17'38" W, 886.49 feet; thence along the North line of "McClatchey's Triangle Lake Estates", a subdivision as recorded in Liber 5 of Plats on page 40 of the Livingston County Records, the following 4 courses:

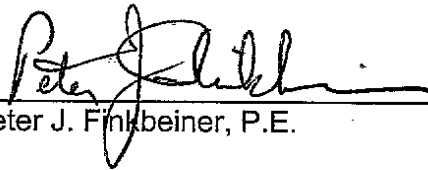
- 1) N 89°42'22" W, 33.00 feet;
- 2) Along the North line of Rubbins Drive, N 61°18'06" W, 282.15 feet (previously recorded as S 61°38' E, 282.44 feet);
- 3) Along the North line of Rubbins Drive, Northwest on an arc left, having a length of 355.70 feet, a radius of 388.81 feet, a central angle of 52°25'00" and a long chord which bears N 87°30'36" W, 343.42 feet;
- 4) Along the North line of Rubbins Drive, S 66°16'54" W, 741.36 (previously recorded as N 65°57' E, 741.37 feet);

thence along the West line of the East  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of said Section 27, as monumented, N 00°08'24" E, 1138.82 feet; thence Due East 597.22 feet; thence Due South 104.70 feet; thence Due East, 706.87 feet, to the POINT OF BEGINNING; Containing 26.21 acres, more or less, and subject to the rights of the public over the existing Triangle Lake Road and Rubbins Drive. Also subject to any other easements or restriction of record.

EXHIBIT B

I, Peter J. Finkbeiner, a registered Professional Engineer in the State of Michigan, do hereby certify to the following for the Derbyshire Farms Drain Drainage District in Section 27 of Marion Township:

1. The above-mentioned lands to be developed naturally drain into the area served by the existing drains and that the existing drains are the only reasonable available outlet for the drainage from the lands to be developed.
2. To my knowledge, there is existing capacity in the existing drains to serve the lands to be developed without detriment or diminution of the sanitary sewer or storm drainage service provided or to be provided in the foreseeable future in the existing district. This statement is made with reliance upon consultation with the office of the Livingston County Drain Commissioner and upon review and approval of the construction plans by that office.



Peter J. Finkbeiner, P.E.

Date: 10/29/99