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Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
6/19/2008 13:11:03.41



2008060927

### BACKWATER PREVENTION ASSISTANCE AGREEMENT

The City of Omaha, Nebraska (hereinafter called the "City") has adopted a program to assist property owners in installing water backup prevention measures to assist in preventing periodic sewer backups into their property (hereinafter called the "Program").

The undersigned Kenneth D. & Patricia L. Peetz  
(hereinafter called the "Petitioner") has/have made application to the City for benefits under the Program and the City has relied in substantial part upon the representations made by the Petitioner in granting benefits to Petitioner under the Program.

NOW, THEREFORE, Petitioner and City agree as follows:

1. Petitioner agrees to cause the proper installation of the Automatic Backwater Valve (hereinafter the "owner selected J. R. SMITH FLOW GATE (#7140) AUTOMATIC Valve") described in the ATTACHMENT A - OWNER SELECTED Automatic Backwater Valve attached to this agreement and made a part of this agreement, at the property located at

22112 Marcy Street  
Elkhorn, NE 68022  
Lot 29 Block 0  
Quail Ridge on Skyline Drive ADD

(hereinafter called the "Property"). Petitioner understands and acknowledges that the responsibility to install and maintain the backwater valve, and the responsibility to pay all costs related to such installation and maintenance, including the procurement of plumbing materials and services, is entirely the responsibility of the Petitioner and not a responsibility of the City; except for the limited City funding of \$ 3,500.00. Petitioner agrees to acquire the services of a licensed plumber for all plumbing installation mentioned in this Agreement. All plumbing improvements must be installed in compliance with the specifications of the relevant manufacturers and in accordance with applicable plumbing regulations. Additionally all

Public Works - 6<sup>th</sup> Floor  
ATT: Jorge - CITY-4

plumbing improvements must be in accordance with Standard Specifications for Public Works Construction 2003 Edition and any current revisions or amendments thereto, and as specified in the Specification for Installation of Backwater Valves. Petitioner understands that there is the possibility that the backwater valve, upon installation, may protrude from the basement floor of the Property and that groundwater seepage may occur around the backwater valve extensions or other devices if the Property is in an area with high groundwater.

2. Petitioner hereby grants permission, with proper identification, to the City to allow its agents to enter on to the Property, at no cost to the City, for the limited purpose of inspecting to determine whether Petitioner is in compliance with this Agreement.

3. Petitioner acknowledges that the backwater valve, when installed, shall be the property of the Petitioner and attaches to the Property as a fixture to real property and is not City property. Petitioner agrees and covenants that Petitioner will allow no part of the backwater valve to be disconnected or removed from the Property; unless (a) such disconnected or removed portion is immediately replaced with a facility of equal or better function and quality as the original equipment supplied by the City or specified under this Agreement for use at the Property, or (b), the City notifies petitioner in writing that such valve is no longer needed to minimize backflows because City sewer construction has reduced the possibility of such backflows.

4. The manufacturer's warranty (if any) pertaining to the backwater valve will be supplied by the plumber. Petitioner understands and acknowledges that no warranty is provided by the City and the Petitioner must look to the backwater valve manufacturer and not to the City for any warranty rights.

5. Petitioner hereby agrees and covenants that Petitioner will properly maintain the backwater valve.

6. Petitioner acknowledges and represents to City that the Petitioner is the owner of the Property and that the Petitioner is responsible to arrange for prompt scheduling of the installation of the valve and to secure the permission of any tenant in possession of the property.

7. For and in consideration, in part, of the City providing funds for the backwater valve to Petitioner the Petitioner does hereby, for Petitioner and Petitioner's heirs, executors, administrators and assigns, release and forever discharge the City, its City officers, employees, agents and independent contractors from any and all claims, demands, actions, causes of action, suits, damages, losses and expenses of whatsoever kind or nature, for anything that may occur on account of the use of the backwater valve provided by City. It is further understood and agreed that the providing of the funding to defray the costs of procuring and installing the owner selected valve is not to be considered as an admission on the part of the City of any liability whatsoever.

8. Petitioner agrees that, as part of the consideration of receiving funding to defray the costs of procuring and installing the owner selected valve, the Petitioner shall permanently disconnect each connection to Petitioner's private sewer lateral from all downspouts, area inlets and all sump pumps, draining storm water or clean water (as opposed to raw sewage) from the

Property, which connect to and discharge surface and/or groundwater to the such sewer system and to redirect the drainage from such downspouts, area inlets and all such sump pumps now or hereafter located on the Property so as to drain storm water and groundwater in a manner fully compliant with City requirements.

9. Petitioner acknowledges that the only consideration for Petitioner signing this Agreement is the receipt of funds for the backwater valve specified in this agreement. No other promise or agreement of any kind or nature has been made to me by the City or its representatives to cause the Petitioner to sign this Agreement, and that the Petitioner fully understands the meaning and intent of this Agreement.

10. Petitioner agrees to assign, in writing, this Agreement to the grantee to whomever Petitioner conveys an ownership interest in the Property and to obtain such grantee's agreement to the assignment wherein the grantee of such conveyance assumes all responsibilities of Petitioner to the City as described in this Agreement. This Agreement is intended to be and shall be binding upon the Petitioner and upon the Petitioner's heirs, successors and assigns, and to run with the land.

Signed and dated this June 9, 2008.

*Kenneth M. Peetz*  
(Property Owner)

*Patricia L. Peetz*  
(Property Owner)

ACKNOWLEDGEMENT

STATE OF Nebraska )  
 ) SS  
COUNTY OF Douglas )

On this 9 day of June, 2008,

before me, a Notary Public, in and for said County, personally came the above named:

Kenneth + Patricia Peetz  
(Property Owner's Name(s) AND Title)

who are personally known to me to be the identical persons whose names are affixed to the above instrument and acknowledged the instrument to be their voluntary act and deed for the purpose therein stated. WITNESS my hand and Notarial Seal the day and year last above written.



notary seal

*Mike Hansen*  
NOTARY PUBLIC



ATTACHMENT A

OWNER SELECTED BACKWATER VALVE

Applicant/s: Kenneth D. & Patricia L. Peetz  
Address: 22112 Marcy Street Elkhorn NE 68022  
Date: 6/13/08

Having consulted with qualified licensed plumbers and receiving estimates (attached) for their proposals it has been decided that:

- I/We installed a J. R. Smith Flood-Gate (In-Line Automatic), Series 7140 Backwater Valve within the **interior** of our property **AND:**
  - I INSTALLED an ALARM. Or  I **DID NOT** INTALL an ALARM
- I/We installed a J. R. Smith In-Line Manual Shut-Off Gate, Series 7150 Backwater Valve within the **interior** of our property.  
(Note: no alarm option for this valve since it's a manual shut-off gate valve).
- I/We installed a Josam Shear-Gate & Swing-Check, Series 67360 Backwater Valve within the **interior** of our property.  
(Note: no alarm option for this valve since it's a manual shut-off gate valve).
- I/We installed a J. R. Smith Flood-Gate (In-Line Automatic), Series 7140 Backwater Valve at the **exterior (in a manhole)** of our property **AND:**
  - I INSTALLED an ALARM. Or  I **DID NOT** INSTALL an ALARM

Also (if applicable),

- I/We permanently cap off the (if any) following existing fixture openings in the basement (i.e. floor drain; shower stall; stool opening; washer drain; etc.) that would allow a sewer backup to occur in the interior of our house, specifically \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

which, on the attached *Backwater Prevention Assistance Agreement*, will be called a Backwater valve even though it is in fact a cap or caps.