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MILLS CO.

JAN 16 2009  
\$17.00 Fee  
Vicki McIntire  
Mills County Recorder

*Preparer Information: Eric Osterloh, Address: 21060 Abbey Rd, Council Bluffs IA 51503 712-639-3501*  
**PARTY WALL AGREEMENT AND UTILITY AND ACCESS EASEMENT**  
**for Linn Village Subdivision, Glenwood, Iowa**

WHEREAS, Eric and Tamie Osterloh are the owners of the following described parcels, to wit:

Legal Descriptions:

LOT 2  
Legal Description:  
Lot Two (2) of Linn Village Subdivision located in Lot 33 of the Official Plat of Section 12, Township 72, Range 43, Mills County, Iowa, also described as Lot 2 in Block 1 of Sharp's Addition to the City of Glenwood, Iowa, according to the recorded plat thereof, and is subject to all easements of record.

LOT 11  
Legal Description:  
Lot Eleven (11) of Linn Village Subdivision located in Lot 33 of the Official Plat of Section 12, Township 72, Range 43, Mills County, Iowa, also described as Lot 2 in Block 1 of Sharp's Addition to the City of Glenwood, Iowa, according to the recorded plat thereof, and is subject to all easements of record.

LOT 12  
Legal Description:  
Lot Twelve (12) of Linn Village Subdivision located in Lot 33 of the Official Plat of Section 12, Township 72, Range 43, Mills County, Iowa, also described as Lot 2 in Block 1 of Sharp's Addition to the City of Glenwood, Iowa, according to the recorded plat thereof, and is subject to all easements of record.

394/529

WHEREAS, an attached single family dwelling has been or is planned on the above parcels with joint party walls for the residences; and

WHEREAS, it is desirable to identify the obligations of the future owners as to the common or party wall, and as to the rights of ingress and egress of the utility easements.

NOW THEREFORE, Eric Osterloh and Tamie Osterloh as the owners and proprietors, hereby execute the following Party Wall Easement Agreement as follows:

- 1. The residences have existing party walls and in this regard, the following rules are covenants running with the land.

**SECTION A. GENERAL RULES OF LAW APPLY.** Each wall which is built as a part of the original construction of the home upon the Properties and placed on the dividing line between the Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**SECTION B. SHARE OR REPAIR AND MAINTENANCE.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

**SECTION C. WEATHERPROOFING.** Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**SECTION D. DESTRUCTION BY FIRE OR OTHER CASUALTY.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

**SECTION E. RIGHT TO CONTRIBUTION RUNS WITH THE LAND.** The right of any owner to contribution from any other Owner under this article shall be appurtenant to the Land and shall pass to such Owner's successors in title.

**SECTION F. ARBITRATION.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator and the decision shall be by a majority of all of the arbitrators, and shall be binding.

407/435

**PARTY WALL AGREEMENT AND UTILITY AND ACCESS EASEMENT**  
**for Linn Village Subdivision, Glenwood, Iowa**

WHEREAS, Eric and Tamie Osterloh are the owners of the following described parcels, to wit:

Legal Descriptions:

LOT 1

Legal Description:

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WHEREAS, an attached single family dwelling has been or is planned on the above parcels with joint party walls for the residences; and

WHEREAS, it is desirable to identify the obligations of the future owners as to the common or party wall, and as to the rights of ingress and egress of the utility easements.

NOW THEREFORE, Eric Osterloh and Tamie Osterloh as the owners and proprietors, hereby execute the following Party Wall Easement Agreement as follows:

1. The residences have existing party walls and in this regard, the following rules are covenants running with the land.

**SECTION A. GENERAL RULES OF LAW APPLY.** Each wall which is built as a part of the original construction of the home upon the Properties and placed on the dividing line between the Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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**SECTION F. ARBITRATION.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator and the decision shall be by a majority of all of the arbitrators, and shall be binding.

2. By execution of this Document, Eric and Tamie Osterloh, as owners of:

Legal Descriptions:

LOT 1

Legal Description:

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LOT 12

Legal Description:

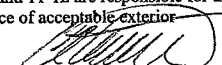
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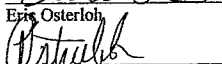
Hereby grant and convey to all future owners, their heirs and assigns of a perpetual easement for the ingress and egress of all utilities over the property under the following terms and conditions:

1. It is understood that this easement is for the purposes of access over the property as described above and shall be for the rights of ingress and egress and shall also be for the right to lay, maintain, repair and use utility lines for television, electricity, telephone and any other utility lines that are necessary for the comfortable use of their property as a home. The exact location of the utility lines shall be coordinated with the platted lot lines.
2. The property ingress and egress shall not be blocked as to interfere with any use.

The owners of these said lots, Linn Village, 1-2 and 11-12 will be will be responsible to maintain their own utility lines and driveway, and pay for any maintenance and repair they cause to their property or the neighbor's property.

The owners of these said lots, Linn Village, 1-2 and 11-12 are responsible for their own snow removal, lawn care and general practice of acceptable exterior maintenance at the plotted lot lines.

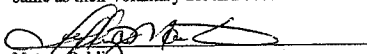
  
Eric Osterloh

  
Tamie Osterloh

STATE OF IOWA, Mills County

} S.S.:

On this Jan 9, 2009, before me, Jeffrey A. Martin the undersigned, a Notary Public in an for the said State, personally appeared to me known as the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

  
Notary Public

