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Executive Secretary
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IOWA UTILITIES BOARD
SPU-2010-0006**

Exhibit A to Testimony of James R. Krieg (CFU)

AGREEMENT
COVERING THE JOINT USE OF POLES
BETWEEN
BOARD OF TRUSTEES OF THE
MUNICIPAL ELECTRIC UTILITY OF THE
CITY OF CEDAR FALLS, IOWA
AND
NORTHWESTERN BELL TELEPHONE COMPANY

AGREEMENT COVERING THE JOINT USE OF POLES
BETWEEN
CEDAR FALLS UTILITIES AND NORTHWESTERN BELL TELEPHONE COMPANY

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AGREEMENT
COVERING THE JOINT USE OF POLES

This Agreement, made and entered into by and between the BOARD OF TRUSTEES OF THE MUNICIPAL ELECTRIC UTILITY OF THE CITY OF CEDAR FALLS, IOWA, a municipal corporation organized and existing under the laws of the State of Iowa, hereinafter called the "Electric Company", party of the first part, and the NORTHWESTERN BELL TELEPHONE COMPANY, an Iowa corporation, hereinafter called the "Telephone Company", party of the second part.

WITNESSETH:

WHEREAS, the Electric Company and the Telephone Company desire to provide for the joint use of their respective poles when and where such joint use will be of mutual advantage in meeting their service requirements:

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto, for themselves, their successors and assigns, do hereby covenant and agree as follows:

ARTICLE 1 - SCOPE OF AGREEMENT

1.01 This Agreement shall be in effect in such portions of the State of Iowa where both parties hereto now or hereafter operate.

1.02 Each party grants to the other party the right to place attachments upon any of its wood poles now standing or hereafter erected or acquired within said territory, subject to the terms and conditions hereinafter specified.

1.03 Joint use shall not be established without the specific approval of the parties hereto in writing where any of following facilities will be involved:

- (a) Telephone open wire or cable facilities used primarily for toll circuits.
- (b) Ungrounded constant potential alternating current circuits exceeding 8,000 volts between conductors.
- (c) Multi-grounded constant potential alternating current circuits exceeding 15,000 volts between conductors or 8,700 volts to ground.
- (d) Constant current alternating current circuits exceeding 20 amperes.
- (e) Ornamental, laminated, painted or other special wood or metallic poles, installed by the Electric Company for a special purpose.

1.04 Each party also reserves the right to require special approval of the parties hereto before joint use involving certain other facilities can be entered into where in its judgment such joint use might be undesirable from a service standpoint. Each party shall advise the other party of such other facilities as soon as practicable in order to provide for the proper coordination of their respective facilities.

1.05 Rights of Parties: Except to the extent required by law, the terms and conditions provided in this contract are for the exclusive use and benefit of the Electric Company and Telephone Company, and no claim, right or remedy thereunder shall inure to any person or agency.

ARTICLE 2 - EXPLANATION OF TERMS

2.01 For the purpose of this Agreement, certain terms shall have the meanings given in this Article.

2.02 JOINT POLE is a pole solely owned by either party which supports attachments of the other party.

2.03 NORMAL JOINT POLE is a 40 foot, Class 4 wood pole as covered by American Standards Association Specifications and having a preservative treatment in accordance with good modern practice at the time of installation. It is not intended to preclude the use of joint poles shorter or of less strength in locations where such poles will meet the requirements of both parties hereto and the specifications referred to in Article 4.

2.04 ATTACHMENTS are any facility or apparatus now or hereafter attached to a pole by a party hereto.

2.05 TRANSFERRING is the removing of existing attachments from one pole and attaching the same or equivalent attachments to another pole.

2.06 REARRANGING is moving, relocating, or otherwise reconstructing of attachments on an existing pole.

2.07 OWNER is the party owning the pole or poles.

2.08 LICENSEE is the party who has acquired from the Owner the right to make attachments to a pole or poles.

2.09 REQUIREMENTS OF PUBLIC AUTHORITIES OR PROPERTY OWNERS means requirements for ground clearance over roads, railroads, streams, playgrounds or other public or private property in accordance with the specifications provided in Article 4.

ARTICLE 3 - NORMAL JOINT USE AND SPACE UTILIZATION

3.01 It is agreed that normal joint use involves attachment of the Electric Company of such character and so located that the bottom of its lowest attachment will not be more than eight feet six inches (8' 6") below the top of the pole and attachments of the Telephone Company of such character and so located that the distance between the uppermost attachment of the Telephone Company and its lowest horizontally run wire or cable will not be more than two (2) feet. The attachments of the Telephone Company are to be so located as to provide at least the minimum clearance from ground and not less than the minimum separation from attachments of the Electric Company required by the Specifications referred to in Article 4.

3.02 Each party shall be permitted to locate certain attachments within the space normally occupied by the attachments of the other party or within space not normally occupied by attachments of either party provided that such attachments do not obstruct climbing spaces, provided however, that pole steps and climbing blocks shall not be attached to any joint pole closer than eight feet from the ground or other accessible surface. (Ref: NESC 1977 Rule 280.A.2) Such attachments include vertical runs, street light fixtures, street light suspension strand, guy attachments, telephone cable terminals and similar attachments permitted by the specifications referred to in Article 4.

3.03 Either party, by mutual agreement may occupy a portion of the space on an existing joint pole which is allocated to the other party but is not required by said other party at the time, provided that the specifications referred to in Article 4 are fully complied with. In case the party for whom such space was originally provided desires at any time to make full use of its space and it becomes necessary thereby to replace the existing pole, said replacement shall be deemed to be necessary because of the requirements of the encroaching party. If it is practicable to eliminate the encroachment by rearranging the attachments of the encroaching party on the existing pole, said party shall do so.

3.04 Each party shall be entitled to the exclusive use of any extra pole height or strength provided at its sole expense.

ARTICLE 4 - SPECIFICATIONS

4.01 The joint use of poles covered by this Agreement, including the construction, reconstruction, placing and maintenance of poles and attachments shall at all times be in conformity with the following specifications and such other specifications as may be agreed upon from time-to-time by the parties hereto.

- (a) National Electrical Safety Code, 1977 Edition, and subsequent revisions thereof, except where lawful requirements of public authorities may be more stringent, in which case the latter will govern.

- (b) Specification permitting the attachment of telephone cables to either or both sides of joint poles and such other specifications as may be agreed upon, from time-to-time by the parties hereto which do not conflict with the specifications referred to in the preceding paragraph of this Article.

ARTICLE 5 - OPERATING ROUTINE

5.01 An Operating Routine covering the detailed methods and procedures which are to be followed in establishing, maintaining and discontinuing the joint use of poles under this Agreement may be jointly prepared by the parties hereto and shall have the same effective date.

5.02 Standard Billing Tables may be prepared and may be included in the Operating Routine by mutual agreement of the parties hereto when, in their judgment, such Standard Billing Tables can be routinely used to avoid frequent or repetitive cost calculations necessary for the preparation of cost billings.

5.03 The Operating Routine may be revised, at the request of either party at any time, providing such revision is not in conflict with provisions of this Agreement.

ARTICLE 6 - ESTABLISHING JOINT USE OF EXISTING POLES

6.01 Either party may place attachments on any existing pole or poles of the other party without specific approval except as otherwise provided in Article 1.

6.02 Whenever any jointly used pole or any pole about to be so used under this Agreement is insufficient in height or strength for the existing attachments or for the proposed additional attachments thereon, such pole shall be promptly replaced with a new pole of the necessary height and strength as provided in Article 7, and such other changes shall be made in the existing pole line in which such pole is included as the conditions may then require.

6.03 Each party shall place, transfer and rearrange its own attachments, and perform any tree trimming or cutting incidental thereto. Each party shall at all times execute such work promptly and in such manner as not to interfere with the service of the other party.

6.04 Either party may attach its guys to existing anchors of the other party which have sufficient holding power for the combined loads of both parties. If a double eye rod is not available, all such attachments shall be made with an approved guy rod clamp.

ARTICLE 7 - ESTABLISHING JOINT USE OF NEW POLES

7.01 Whenever either party hereto is about to erect new poles in the territory covered by this Agreement, either as an additional pole line, as an extension of an existing pole line, or as the reconstruction of an existing pole line, and such poles are not to be excluded from joint use under the provisions of Article 1, it shall notify the other party as far in advance of construction as it conveniently can, submitting its plans showing the proposed construction. The parties shall then cooperate to determine whether or not joint use should be established, and in case it is decided that joint use should be established, which party shall erect the new poles and place any associated anchors.

7.02 The parties shall take into consideration the desirability of having new poles erected by the party owning less than its proportionate share of joint poles as specified in Section 14.02 so as to work toward securing a proper division of ownership in the area covered by this Agreement. Consideration shall also be given to having joint poles larger than a 40-foot, Class 4 pole, erected by the party requiring the extra height or strength.

7.03 Each party shall place its own attachments on the new poles, place guys or bracing to sustain any unbalanced loads caused by its attachments, and perform any tree trimming or cutting incidental thereto. Each party shall at all times execute such work promptly and in such manner as not to interfere with the service of the other party.

ARTICLE 8 - RIGHT-OF-WAY FOR LICENSEE'S ATTACHMENTS

8.01 The Owner does not warrant or extend to the Licensee any right-of-way privileges or easements in either the public highways or the private property of third parties and if the Licensee shall at any time be prevented from placing or maintaining its attachments on the Owner's poles, either by governmental authority or by third parties over whose land said attachments may be located, no liability therefore shall attach to the Owner and the Licensee shall indemnify the Owner against any claim by third parties against the Owner by reason of the Licensee having made attachments to the Owner's poles without the Licensee having secured the required authority from governmental bodies or private landowners.

8.02 The parties hereto shall cooperate insofar as may be practicable in obtaining right-of-way for both parties for any jointly used poles or anchors.

ARTICLE 9 - MAINTENANCE OF POLES AND ATTACHMENTS

9.01 The Owner shall maintain its joint poles in a safe and serviceable condition and in accordance with the specifications referred to in Article 4 and shall replace, reinforce or repair such of these poles as become defective. The Licensee shall, prior to commencing any work near or upon a joint pole, inspect the pole and notify the Owner if the pole is defective. The Owner shall replace the pole as provided in Section 9.03.

9.02 When replacing a jointly used pole carrying equipment such as terminals, underground risers, junctions or transformers, the new pole shall be set as near as possible to the old pole and in such manner as to facilitate transfer of equipment to the new pole unless special conditions make it necessary or mutually desirable to set it in a different location.

9.03 Whenever it is necessary to replace or relocate a jointly used pole, the Owner shall, before making such replacement or relocation, give notice thereof to the Licensee, specifying the time for such proposed replacement or relocation and the Licensee shall at the time so specified transfer its attachments to the new or relocated joint pole.

ARTICLE 10 - DIVISION OF COSTS

10.01 The cost of erecting new joint poles and anchors under this Agreement, either as new pole lines or as extensions of existing pole lines, shall be borne by the parties as follows:

- (a) The cost in place of a normal joint pole or a joint pole smaller than normal shall be borne by the Owner.
- (b) In the case of a pole larger than normal where the extra height or strength is necessary because of requirements of the Owner, including requirements for keeping the Owner's wires clear of trees, the extra cost in place of such pole due to the Owner's requirements shall be borne by the Owner.
- (c) In the case of a pole larger than normal where the extra height or strength is necessary because of requirements of the Licensee, including requirements for keeping the Licensee's wires clear of trees, the extra cost in place of such pole due to the Licensee's requirements shall be borne by the Licensee.
- (d) In the case of a pole larger than normal where all or part of the extra height or strength is necessary because of the requirements of both parties or requirements of other parties, including public authorities, one-half (1/2) of the extra cost in place of such pole shall be borne by the Licensee, the rest of the cost of the pole shall be borne by the parties hereto as provided under the preceding paragraphs of this Article.

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- (e) The cost in place of a 12M joint anchor, or smaller anchor where adequate for the requirement of both parties, shall be borne by the Owner of the pole. The extra cost of a joint anchor larger than a 12M anchor shall be borne by the party requiring such anchor. The cost of placing or replacing an anchor solely because of the requirements of one party shall be borne by said party.

10.02 Any payments made by the Licensee under the foregoing provisions of this Article for poles taller or stronger than a normal joint pole and for joint anchors larger than a 12M anchor shall not in any way affect the ownership of such poles and anchors. Joint anchors shall be the property of the Owner of the pole.

10.03 When an existing joint pole is replaced to provide additional height and/or strength required by the Owner or for requirements of other parties, including public authorities, the ownership of the new pole shall be determined by the parties hereto as provided in Article 7 and the cost of erecting it shall be borne by said parties as provided in Section 10.01. If the parties mutually agree to rearrange their attachments instead of replacing a pole, each party shall rearrange its attachments at its own expense.

10.04 When an existing joint pole or a pole about to be so used is to be replaced by the Owner to provide additional height and/or strength for the Licensee, said Licensee shall reimburse the Owner for the then-value in place of the old pole which shall be removed and retained by the Owner. The ownership of the new pole shall be determined by the parties hereto as provided in Article 7 and the cost of erecting it shall be borne by said parties as provided in Section 10.01. If the parties mutually agree to rearrange their attachments instead of replacing the pole, each party shall rearrange its attachments at its own expense.

10.05. Each party shall place, maintain, rearrange, transfer, and remove its attachments, including any tree trimming or cutting incidental thereto, at its own expense. Where joint tree trimming is mutually desirable, the costs shall be shared on the basis of the individual needs of the respective parties.

10.06 The cost of maintaining joint poles shall be borne by the Owner thereof and the cost of replacing such poles for maintenance reasons shall be borne by the parties hereto as provided in Section 10.01.

10.07 If in specific and unusual situations, the division of the costs of joint use in accordance with the foregoing provisions of this Article will result in inequities or otherwise make joint use uneconomical to one of the parties hereto, even though such joint use may be desirable or economical from the overall standpoint, nothing herein shall preclude the establishment of other arrangements for the division of costs in such situations when approved in writing by representatives of the parties hereto.

ARTICLE 11 - PROCEDURE WHEN CHARACTER OF CIRCUITS IS CHANGED

11.01 When either party desires to make a major change in the character of its circuits on jointly used poles which might make continued joint use undesirable, such party shall give notice to the other party of such contemplated change and the parties shall promptly cooperate to determine whether or not joint use of the poles involved shall be continued.

11.02 If the other party agrees to joint use with such changed circuits, the joint use of such poles shall be continued with such changes as may be agreed upon including such changes in construction as may be required to meet the terms of the specifications referred to in Article 4 for the character of circuits involved, and the parties shall cooperate to determine an equitable apportionment of the net expense of such changes.

11.03 If the other party fails within a reasonable length of time after receipt of notice of the contemplated change to agree in writing to such change, the parties shall cooperate to determine the most practical and economical method of providing separate facilities. The party whose circuits are to be moved shall promptly carry out the necessary work and the other party shall pay the non-betterment cost of re-establishing such circuits in the new location as are necessary to furnish the same or equivalent facilities that existed on each joint pole it occupied at the time such change was decided.

11.04 Unless otherwise agreed by the parties, ownership of any new line constructed under the foregoing provisions in a new location shall vest in the party for whose use it was constructed. The net cost of establishing service in the new location shall be exclusive of any increased cost due to the substitution of other facilities of a substantially new or improved type or of increased capability, but shall include the cost of the new pole line, including rights-of-way, the cost of removing attachments from the old poles and the cost of placing the attachments on the poles in the new location.

ARTICLE 12 - TERMINATION OF JOINT USE

12.01 If the Owner at any time desires to discontinue the use and ownership of any of its joint use poles, it shall give the Licensee notice in writing to that effect at least 60 days prior to the date on which it intends to discontinue the use and ownership of such pole. If at the expiration of said period but not less than 60 days from the date of removal of attachments, excluding structure supports, the Owner shall have no other attachments on said pole but the Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of the Licensee and the Licensee shall save harmless the former Owner of said pole from all obligations, liabilities, damages, costs, expenses, or charges incurred thereafter, because of or arising out of the presence of condition of such pole or any attachments thereon; and shall pay the Owner a sum equal to the then-value in place of the pole to the Licensee but in no case an amount less than the net salvage value of the pole to the Owner.

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12.02 The Licensee may at any time discontinue the use of a joint pole by removing any and all attachments it may have thereon.

12.03 When a request or order from public authorities or property owners for the removal of overhead construction on jointly used poles is received by either or both of the parties hereto, they shall immediately notify the other party and the two parties agree to confer on plans for resolving the request or order in a mutually satisfactory manner.

ARTICLE 13 - TRANSFERS OF TITLE

13.01 When a pole is to become the property of the Licensee in accordance with the provisions of Article 12 of this Agreement, the Owner shall give said Licensee a Bill of Sale covering the pole or poles and any associated joint anchors on each such transaction.

ARTICLE 14 - ANNUAL PAYMENTS

14.01 On or about November 1 of each year, the parties hereto acting in cooperation shall determine the total number of joint poles owned by each party as of October 31 of that year. The number of such poles shall be determined in the manner specified in the Operating Routine referred to in Article 5 and shall include all poles owned by either party and occupied by the other party, except poles excluded by special agreement of the parties hereto.

14.02 It is recognized that the savings in construction costs which are realized by each party through joint use is unequal. Therefore, it is mutually agreed that the Electric Company's proportionate share of the total number of jointly used poles shall be 60% and the Telephone Company's proportionate share shall be 40%.

14.03 The party owning less than its proportionate share of the total number of joint poles as of October 31 of each year shall pay to the other party, on or before December 31 of that year, an annual payment equal to the difference between its proportionate share of joint poles, as specified in Section 14.02, and the actual number owned, multiplied by the annual charge specified in Section 14.04.

14.04 It is mutually agreed that the annual charge for attachment to a joint pole under this Agreement shall be four dollars (\$4.00), subject to adjustment as provided in Article 15.

ARTICLE 15 - ADJUSTMENT OF ANNUAL CHARGE

15.01 The annual charge for attachment to a joint pole specified in Section 14.04 may be adjusted at any time after three (3) years from the date of this Agreement upon the written request of either party. In case of adjustment, the new annual charge agreed upon shall apply to the annual bill next rendered and shall continue in effect for three (3) years thereafter at which time said annual payment shall again be subject to review and adjustment upon the written request of either party.

ARTICLE 16 - DEFAULTS

16.01 If either party shall default in any of its obligations under this Agreement and such default continues thirty (30) days after notice thereof in writing by the other party, the party not in default may suspend the rights of the party in default insofar as concerns the granting of further joint use. If such default shall continue for a period of ninety (90) days after such suspension, the party not in default may forthwith terminate this Agreement as far as concerns the further granting of joint use.

16.02 If either party shall make default in the performance of any work which it is obligated to do under this Agreement at its sole expense, the other party may elect to do such work and the party in default shall reimburse the other party for the cost thereof. Failure on the part of the defaulting party to make such payment within thirty (30) days upon presentation of bills therefore shall, at the election of the other party, constitute a default under Section 16.01.

ARTICLE 17 - LIABILITY AND DAMAGES

17.01 Whenever any liability is incurred by either or both of the parties hereto for damages for injuries, including death, to the employees or for injury to the property of either party, or for injuries, including death, to other persons or their property, arising out of the joint use of poles under this Agreement, or due to the proximity of the wires and fixtures of the parties hereto attached to the jointly used poles covered by this Agreement, the liability for such damages, as between the parties hereto, shall be as follows:

- (a) Each party shall be liable for all damages for such injuries to persons or property caused solely by its negligence or solely by its failure to comply at any time with the specifications referred to in Article 4.
- (b) Each party shall be liable for all damages for such injuries to its own employees or its own property as are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced to the sole negligence of the other party.

- (c) Each party shall be liable for one-half (1/2) of all damages for such injuries to persons other than employees of either party, and for one-half (1/2) of all damages for such injuries to property not belonging to either party that are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced to the sole negligence of the other party.
- (d) Where, on account of injuries of the character described in the preceding paragraphs of this Article, either party hereto shall make any payments to injured employees or to their relatives or representatives in conformity with (1) the provisions of any workmen's compensation act or any act creating a liability for the employer to pay compensation for personal injury to any employee by accident arising out of and in the course of the employment, whether based on negligence of the employer or not, or (2) any plan for employee's disability benefits or death benefits now established or hereafter adopted by the parties hereto or either of them, such payment shall be construed to be damages within the terms of the preceding paragraphs numbered (a) and (b) and shall be paid by the parties hereto accordingly.
- (e) All claims for damages arising hereunder that are asserted against or affect both parties hereto shall be dealt with by the parties hereto jointly; provided, however, that in any case under the provisions of paragraph (c) of this Article where the claimant desires to settle any such claim upon terms acceptable to one of the parties hereto, but not to the other, the party to which said terms are acceptable may, at its election pay to the other party one-half (1/2) of the expenses which such settlement would involve; and thereupon said other party shall be bound to protect the party making such payment from all further liability and expense on account of such claim.
- (f) In the adjustment between the parties hereto of any claim for damage arising hereunder, the liability assumed, hereunder, by the parties, shall include, in addition to the amounts paid to the claimant, all expenses incurred by parties in connection therewith, which shall comprise costs, disbursements and other proper charges and expenditures, but shall not include attorney's fees.
- (g) Any of the provisions of subparagraphs "a" through "f" notwithstanding, injury or damages to persons or property arising out of the activities of either party, its agents or employees in trimming or cutting trees or shrubs at or near poles or circuits of such party thereon shall be the sole responsibility of such party.

ARTICLE 18 - EXISTING RIGHTS OF OTHER PARTIES

18.01 If either of the parties hereto has, prior to the execution of this Agreement, granted to others, not parties of this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this Agreement, nothing herein contained shall be construed as affecting such prior rights or privileges, and the party granting such rights or privileges shall have the right, by contract or otherwise, to continue such existing rights or privileges; it being expressly understood, however, that for the purpose of this Agreement, the attachments of any such outside party, (except those of a municipality or other public authority), shall be treated as attachments belonging to the Owner.

18.02 Attachments of other parties, as referred to under this Article, shall at all times be in conformity with the terms and provisions of the specifications referred to in Article 4.

ARTICLE 19 - GRANTING OF RIGHTS TO THIRD PARTIES

19.01 The rights granted to a Licensee by this Agreement shall not be extended by the Licensee to a third party.

ARTICLE 20 - ASSIGNMENT OF RIGHTS

20.01 Except as otherwise provided in this Agreement, neither party hereto shall assign or otherwise dispose of this Agreement or any of its rights or interests hereunder, or in any of the jointly used poles, or the attachments or rights-of-way covered by this Agreement, to any firm, corporation or individual, without written consent of the other party; provided, however, that nothing herein contained shall prevent or limit the right of either party to mortgage any or all of its property, rights, privileges and franchises, or lease or transfer any of them to another corporation organized for the purpose of conducting a business of the same general character as that of such party, or to enter into any merger or consolidation; and, in case of the foreclosure of such mortgage, or in case of such lease, transfer, merger, or consolidation, its rights and obligations hereunder shall pass to, and be acquired and assumed by, the purchaser on foreclosure, the transferee, lessee, assignee, merging or consolidating company, as the case may be.

ARTICLE 21 - WAIVER OF TERMS OR CONDITIONS

21.01 The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

ARTICLE 22 - PAYMENT OF TAXES

22.01 Each party shall pay all taxes and assessments lawfully levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said jointly used poles shall be paid by the Owner thereof, except that any tax, fee or charge levied on Owner's poles solely because of their use by the Licensee, shall be paid by the Licensee.

ARTICLE 23 - BILLS AND PAYMENT FOR WORK

23.01 Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in part by the other party, the party performing the work shall present to the other party within sixty (60) days after the completion of such work an itemized statement of the costs and such other party shall within thirty (30) days after such statement is presented pay to the party doing the work such other party's proportion of the cost of said work.

ARTICLE 24 - EQUAL OPPORTUNITY CLAUSE

24.01 The attached Appendix relating to Equal Opportunity is attached hereto and hereby incorporated into this contract by this reference. The parties understand that this Appendix is a condition of this contract and agree to comply with the provisions contained therein. For the purpose of this Article 24, the term "contractor" shall refer to either party.

ARTICLE 25 - SERVICE OF NOTICES

25.01 Wherever in this Agreement notice is provided to be given by either party hereto to the other, such notice shall be given to the Electric Company at its office at Cedar Falls, Iowa, and to the Telephone Company at its office at Des Moines, Iowa, or to such other addresses as either party may, from time to time, designate in writing for that purpose.

ARTICLE 26 - TERM OF AGREEMENT

26.01 Subject to the provisions of Article 16 - Defaults, herein, this Agreement shall be in full force and effect for a period of five (5) years from and after the effective date hereinafter set forth and thereafter from year to year subject, however, to the right of either party upon the expiration of the initial five year period to terminate this Agreement with respect to further granting of joint use, at any time upon one (1) year's notice in writing to the other party. It is further understood and agreed that any such termination shall affect only the initiation from such date of termination of additional joint use obligations and shall have no effect upon joint use facilities in existence at the time of such termination; as to such existing facilities, the provisions of this Agreement including rental and all obligations thereunder shall continue in full force and effect until such time as, by mutual agreement, the parties shall determine to terminate this Agreement in total. In the event of termination of this Agreement in total, each party shall remove its attachments from the respective Owner's poles at the effective date of termination, and, should such party fail so to remove its attachments, the Owner may do so without incurring liability therefore, for which expense the other party shall reimburse the Owner.

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26.02 The effective date of this Agreement shall be June 17,
1980.

ARTICLE 27 - EXISTING AGREEMENTS

27.01 All existing Agreements between the parties hereto for the joint use of poles within the territory covered by this Agreement by mutual consent are hereby abrogated and annulled.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate, and their corporate seals to be affixed thereto by their respective officers thereunto duly authorized, on this 17th day of June, 1980.

Witness:

SEAL



BOARD OF TRUSTEES OF THE MUNICIPAL
ELECTRIC UTILITY OF THE CITY OF
CEDAR FALLS, IOWA

By _____

By _____

By _____
/ / D

Witness:

SEAL

NORTHWESTERN BELL TELEPHONE COMPANY

By _____

APPENDIX RELATING TO EQUAL OPPORTUNITY

The Company and the Contractor (hereinafter jointly referred to as "Contractor" for the purpose of this agreement) are subject to the requirements of Executive Order 11246, as amended, Executive Order 11625, Section 402 of the Vietnam Era Veterans Readjustment Act of 1972, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and related rules and regulations of the Department of Labor and the Office of Federal Contract Compliance Programs.

During the performance of the attached contract, the Contractor agrees and makes the following certification:

I. THE EQUAL OPPORTUNITY CLAUSE (if this contract exceeds or will exceed \$10,000).

During the performance of this contract, Contractor agrees to be bound by the following provisions as contained in Section 202 of Executive Order 11246, as amended to wit:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized by Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

II. CERTIFICATION OF NONSEGREGATED FACILITIES (if this contract exceeds or will exceed \$10,000)

Contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. Contractor agrees that a breach of his certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed,

color, or national origin, because of habit, local custom or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of such subcontracts exceeding \$10,000 which are not exempt from the provisions of Equal Opportunity Clause, that he will retain such certifications in his files, and that he will forward notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods). NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NON-SEGREGATED FACILITIES. A certification of Nonsegregated Facilities as required by the May 21, 1968 order of Elimination of Segregated Facilities, by the Secretary of Labor (33 Fed. Reg. 7804, May 28, 1968), must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity Clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually or annually).

(NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.)

III. EMPLOYER REPORT EEO-1 (if this contract exceeds or will exceed \$50,000)

The undersigned Contractor further agrees and certifies that if the Contractor has 50 or more employees, Contractor will file a complete and accurate report on Standard Form 100 (EEO-1) with the Joint Reporting Committee at the appropriate address per the current instructions within thirty (30) days of the contract award and otherwise comply with and file such other compliance reports as may be required under Executive Order 11246, as amended, and Rules and Regulations adopted thereunder.

IV. WRITTEN AFFIRMATIVE ACTION PROGRAM (if this contract exceeds or will exceed \$50,000)

The undersigned Contractor further agrees and certifies that if the Contractor has 50 or more employees, Contractor will develop a written affirmative action compliance program for each of its establishments as required by Title 41, Code of Federal Regulations, Section 60.1.40 and Section 60.2.

V. VETERANS EMPLOYMENT CLAUSE (if this contract is for \$10,000 or more)

Contractor agrees to abide by and comply with the provisions of the Affirmative Action Clause, Section 60-25-.4 of 41 C.F.R. unless exempted as therein provided and which provisions are incorporated herein by reference to the same extent as though set forth herein in full.

VI. EXECUTIVE ORDER 11758 - EMPLOYMENT OF HANDICAPPED PERSONS (if this contract is for \$2,500 or more)

Contractor agrees that it will abide by and comply with the provisions of the Affirmative Action Clause, Section 60-741.4 of 41 C.F.R. (41 Fed. Reg. 16150, April 16, 1976), Affirmative Action for Handicapped Workers, which provisions are incorporated herein by reference to the same extent as though set forth herein in full.

VII. FEDERAL PROCUREMENT REGULATION AMENDMENT 153 - UTILIZATION OF SMALL BUSINESS CONCERNS CLAUSE (if this contract exceeds or will exceed \$10,000)

(a) It is the policy of the Government that a fair proportion of purchases and contracts for supplies and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum of subcontracting to small business concern that the Contractor finds to be consistent with the efficient performance of this contract.

VIII. EXECUTIVE ORDER 11625 - UTILIZATION OF MINORITY BUSINESS ENTERPRISE (if this contract exceeds or will exceed \$10,000)

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

OPERATING ROUTINE
ASSOCIATED WITH THE
AGREEMENT
COVERING THE JOINT USE OF POLES
BETWEEN
BOARD OF TRUSTEES OF THE
MUNICIPAL ELECTRIC UTILITY OF THE
CITY OF CEDAR FALLS, IOWA
AND
NORTHWESTERN BELL TELEPHONE COMPANY

Joint Use Operating Routine
CFU - NWB Tel. Co.

The sections of this Joint Use Operating Routine listed below are herewith identified and approved for use by the BOARD OF TRUSTEES OF THE MUNICIPAL ELECTRIC UTILITY OF THE CITY OF CEDAR FALLS, IOWA, and the NORTHWESTERN BELL TELEPHONE COMPANY in the administration and operation of the Agreement covering the Joint Use of Poles.

Section

- | | |
|---|--------------------------------------|
| 1 | General |
| 2 | Establishing Joint Use |
| 3 | Termination of Joint Use |
| 4 | Maintenance of Poles and Attachments |
| 5 | Anchors |
| 6 | Inventory Procedures |

This Joint Use Operating Routine or any sections thereof may be revised, amended or supplemented as provided in Article 5 of the Joint Use Agreement.

Approved this 17th day of June, 1980.

BOARD OF TRUSTEES OF THE MUNICIPAL
ELECTRIC UTILITY OF THE CITY OF
CEDAR FALLS, IOWA

NORTHWESTERN BELL TELEPHONE COMPANY

BY_

BY_

BY_

TITLE: General Manager - Distribution

(8)

Joint Use Operating Routine
CFU - NWB Tel. Co.

1. GENERAL

1.1 This Operating Routine shall be in effect in the territory covered by the Joint Use Agreement covering joint use of poles between Northwestern Bell Telephone Company and the Board of Trustees of the Municipal Electric Utility of the City of Cedar Falls, Iowa.

1.2 This Operating Routine may be revised, with the exception of the Standard Billing Tables, at the request of either party at any time. The Standard Billing Tables shall be reviewed at intervals of not less than five (5) years. Revisions of the Standard Billing Tables shall be prepared and approved by the Superintendent of Electric Distribution for the Electric Company and the General Manager-Distribution for the Telephone Company.

2. ESTABLISHING JOINT USE

2.1 Either party may place attachments on any existing pole or poles of the other party without specific approval except as otherwise provided in Articles 6 and 7 of the Joint Use Agreement.

2.2 Requests by the Electric Company for the establishment of joint use that requires new construction by the Telephone Company should be in the form identified as Exhibit 1, "Request for Transfer of Attachments or Pole Work", to the local Telephone Company Representative, who in turn should forward it to the District Manager-Distribution Engineering for the Telephone Company. When a job number has been assigned for the work requested, it should be entered on the above form. When the work is completed, the above form shall be signed and returned to the Electric Company Supervisor, who originally requested the work.

2.3 Requests by the Telephone Company for the establishment of joint use that requires new construction by the Electric Company should be in the form identified as Exhibit 1, "Request for Transfer of Attachments or Pole Work", to the local Electric Company Representative. When the work is completed, the above form shall be signed and returned to the Telephone Company Representative originating the request.

2.4 If at any time there is a question or doubt regarding placing attachments by one party on the other party's poles, check with the local Company Representative.

3. TERMINATION OF JOINT USE

3.1 Joint use of poles may be terminated in accordance with Article 12 of the Joint Use Agreement.

3.2 If the Telephone Company is the Owner of the pole or poles to be removed or abandoned, notice to the Electric Company will be furnished by the District Manager-Distribution Engineering on the form identified as Exhibit 2, "Notice of Abandonment".

3.3 If the Electric Company is the Owner, notice to the Telephone Company will be furnished on the form identified as Exhibit 2, "Notice of Abandonment", to the local Telephone Company Representative or the District Manager-Distribution Engineering. If such notification is received by the local Telephone Company Representative, it should be forwarded immediately to the District Manager-Distribution Engineering.

4. MAINTENANCE OF POLES AND ATTACHMENTS

4.1 Whenever it is necessary to replace or relocate a jointly used pole or poles, as covered under Article 9 of the Joint Use Agreement, the Owner shall notify the Licensee that such work will be performed and request Licensee to transfer any and all attachments.

4.2 When the Telephone Company is doing the work, the form identified as Exhibit 1 shall be prepared upon the completion of the initial pole work. It shall be sent to the Electric Company and they shall sign and return the above form upon completion of the work.

4.3 When the Electric Company is doing the work, the form identified as Exhibit 1 shall be prepared as soon as the initial pole setting has been completed. It shall be sent to the local Telephone Company Representative. After the Telephone Company has completed the work, they shall sign and return the above form to to the Electric Company Supervisor, who originally requested the work.

4.4 The form identified as Exhibit 1 shall also be used by Licensee to request the Owner to replace a pole or poles or perform other pole work as required.

4.5 Bonding Electric and Telephone Lines

The Telephone Company may, at its own expense bond its attachments together and to the Electric Company's multigrounded neutral where it exists. Under no condition will the Electric Company's vertical ground wire be cut, broken, severed or damaged by the Telephone Company. Where a vertical ground wire does not exist the Telephone Company shall:

- A. Extend an insulated #6 copper ground wire to the base of the pole or pad-mounted closure and leave enough of the ground wire coiled at the base of the pole or pad-

mounted closure to reach the multigrounded neutral.

- B. Using the form identified as Exhibit 1 request the Electric Company to extend the ground wire to the neutral and make the connection.

The Telephone Company shall reimburse the Electric Company for all labor and material costs incurred by them in making the connections of the bond.

5. ANCHORS

5.1 The use of joint anchors is recommended when feasible.

5.2 When the Owner of a joint pole requires an anchor at the time the pole is set, he shall set the anchor at his expense. If the anchor is adequate, the Licensee may attach to it. If the Owner of a joint pole does not require an anchor at the time he sets the pole but the Licensee does, then the Licensee should set the anchor at his expense.

5.3 When the anchor proposed to be set by the Owner of a pole is inadequate for the additional load of the Licensee, then the Owner may set a larger anchor and the Licensee shall reimburse the Owner for the difference in cost in accordance with Standard Billing Table #2.

6. INVENTORY PROCEDURES

6.1 Annually as required by Article 14.01 of the Agreement, the total number of joint poles owned by each Company shall be determined. The method used to determine the number of joint poles which will be considered in the annual billing may be by any method mutually agreed

upon by the Electric Company and the Telephone Company, except that, all parts of the territory covered by the Agreement must be inventorized by actual field count at least once every five (5) years.

6.2 When it is determined that a field count inventory is required, it shall be made by teams consisting of one Representative from each Company using suitable maps and records furnished by the Electric Company or Telephone Company or both.

6.3 Ownership of all unmarked joint poles shall be agreed upon by the inventory team during the course of making the field count and then marked with the identification of the Company agreed upon.

6.4 When a field count inventory has been completed for a specified area, a Joint Use Contract Billing Summary, Exhibit 3, shall be prepared in four (4) parts. When signed by the employees making the inventory, the original and first duplicate shall be signed by the local Electric Company Representative and the local Telephone Company Representative. Both copies should then be sent to the Telephone Company District Manager-Distribution Engineering for approval. The District Manager shall then send both copies to the Superintendent, Electric Distribution of the Electric Company for approval. When approved, one copy should be retained by the Electric Company and the other copy should be sent to the General Manager-Distribution of the Telephone Company.

6.5 If it has been agreed to waive the field inventory and render billing based on the previous year's count, a Joint Use Contract Billing Agreement, Exhibit 4, shall be prepared in four (4) parts and distributed for approval the same as paragraph 6.4 above.

Joint Use Operating Routine
CFU - NWB Tel. Co.

EXHIBIT #1

REQUEST FOR TRANSFER OF ATTACHMENTS OR POLE WORK

Power Co. Job No. _____ Date Mailed _____

Telephone Co. Job No. _____

TO _____ COMPANY

Confirming Telephone Conversation with

Mr. _____ Date _____

Transfer or Remove Attachments on Poles at the following location:

Perform Other Pole Work at the following location:

_____ COMPANY

BY _____

TITLE: _____

COMPLETED BY _____ COMPANY

BY _____

DATE _____

TITLE: _____

EXHIBIT #2

NOTICE OF ABANDONMENT

REFERENCE _____ DATE EFFECTIVE _____

NO. OF POLES _____ NO. OF ANCHORS _____

Notice is hereby given to _____,
"Licensee", that the undersigned intends to abandon poles and any associated
anchors as described on the attached sketch, which sets forth location and
pole size and age thereof.

On the effective date listed above, which shall be a minimum of sixty
(60) days from the date of this notice, you will be deemed to have elected
to purchase all of said poles on which your attachments remain, as specified
in the General Agreement for the Joint Use of Poles between these two parties.

SIGNED _____

DATED: _____, 19____ TITLE: _____

_____ COMPANY

EXHIBIT #3

JOINT USE CONTRACT BILLING SUMMARY

This is to certify that in accordance with the provisions of a Joint Use Contract, dated _____, between the Cedar Falls Utilities and the Northwestern Bell Telephone Company, we the undersigned, have made a joint check of the joint poles owned by both parties in Cedar Falls, Iowa, and the following data are the result of that check:

	Previous Check for 19____	Present Check for 19____
Number of Joint Use Poles owned by the Cedar Falls Utilities	_____	_____
Number of Joint Use Poles owned by the Northwestern Bell Telephone Company	_____	_____

This check was completed on _____, 19____.

CEDAR FALLS UTILITIES

NORTHWESTERN BELL TELPEHONE COMPANY

BY: _____
Employee making check

BY: _____
Employee making check

RECOMMENDED:

RECOMMENDED:

Title:

Title:

APPROVED:

APPROVED:

Superintendent-Electric Distribution

General Manager - Distribution

EXHIBIT #4

JOINT USE CONTRACT BILLING AGREEMENT

In accordance with the terms of the Joint Use Contract dated _____, 19____, between the Cedar Falls Utilities and the Northwestern Bell Telephone Company, it is hereby agreed that the billing rendered for the joint use of poles at _____ for the year ending December 31, 19____, shall be the same as that rendered for the previous year ending December 31, 19____.

The Pole Count for 19____ was:

Tel. on Power Power on Tel.

TOTAL

NORTHWESTERN BELL TELEPHONE COMPANY

CEDAR FALLS UTILITIES

CORRECT:

CORRECT:

Title:

Title:

APPROVED:

APPROVED:

BY: _____
Superintendent -- Electric
Distribution

BY: _____
General Manager-Distribution

STANDARD BILLING TABLE #1

Pole Height	Installed Cost New Poles	Depreciated Value of Poles						
		Pole Age in Years						
		1-5	6-10	11-15	16-20	21-25	26-30	Over 30
30'	146	124	102	80	59	37	15	5
35'	199	169	139	109	80	50	20	5
40'	259	220	181	142	104	65	26	5
45'	277	235	194	152	111	69	28	5
50'	312	265	219	172	125	78	31	5
55'	423	360	296	233	169	106	42	5

STANDARD BILLING TABLE #2

ANCHORS

Average Cost in Place - \$59.00
 (all types and sizes)