



BK 0851 PG 748



MISC 1988 09549

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This Agreement entered into by and between Northwestern Bell Telephone Company (hereinafter "NWB"), and TOD Company, a Nebraska Corporation (hereinafter "Developer").

WHEREAS, Developer is currently developing a new subdivision in \_\_\_\_\_ County, Nebraska, known as Lake Cunningham Hills (hereinafter "Development"); and,

WHEREAS, Developer has requested that NWB provide telecommunications feeder and distribution facilities to the Development; and,

WHEREAS, NWB has agreed to provide such facilities to the Development without facility charges being paid by the Developer prior to the start of the facility placement, if the Developer complies with certain terms and conditions set forth in NWB's tariff concerning facility charges for new areas of land development that is on file with the Nebraska Public Service Commission;

Now, therefore, pursuant to said tariff the parties hereto agree as follows:

(1) This Agreement covers a Development which is described as follows:

Located in the W 1/2 of the SW 1/4 of Section 23, Township 16 North, Range 12 East of the 6th P.M. Douglas County, Nebraska.

(2) This Development contains the following number of lots: 70 lots, 1 through 26, 121 thru 132, 154 thru 177, 211 thru 217 and 290 inclusive

(3) Developer states that it is the owner of the lots listed in Paragraph 2 above and that if ninety percent of the lots in the Development are not improved within five years from the date the feeder and distribution facilities are installed in the Development, then the owner at that time of any unimproved lot shall owe NWB \$450.00 for each lot that is unimproved in payment of NWB's unused facilities. It is understood that a lot shall be considered unimproved if construction of a permanent structure has not commenced on that lot. For purposes of this Agreement, construction shall be considered as having commenced if a footing inspection has been made on the lot in question by officials of the city or other appropriate governmental body.

(4) Developer agrees that it shall cause a declaration of covenants pertaining to each and every lot in the Development to be filed with Register of Deeds in the county where the Development is located which contains a notice of charge for telecommunications facilities furnished to that Development. It is further agreed that such notice shall state that should construction not be commenced on any lot covered by the declaration within five years from the date NWB files a document with the Register of Deeds giving notice that installation of the feeder and distribution facilities for that Development has been completed, then each such unimproved lot shall be subject to a facility charge payable to NWB or its successors in the amount of \$450.00. It is agreed that such notice shall state that such facility charge shall be due and owing immediately upon the expiration of the five year period, and if such charge is not paid within sixty days after the sending of written notice by NWB or its successors to the owner of an unimproved lot in the Development that such charge is due, then said charge will begin drawing interest commencing upon the expiration of the sixty day period at the rate of twelve percent per annum or the maximum rate allowed by law if said maximum rate is less than twelve percent per annum at that time.

(5) It is agreed that the facility charge described in Paragraph 4 above shall be void and nonassessable in the event construction shall have commenced on at least ninety percent of the lots covered by such declaration of covenants within five years from the date NWB files its notice with the Register of Deeds that the facilities have been installed.

(6) NWB agrees that upon being furnished satisfactory evidence that a declaration of covenants pertaining to each and every lot in the Development has been filed with the Register of Deeds in the county where the Development is located containing a notice of charge for telecommunications facilities described in this agreement, NWB will proceed to install feeder and distribution telecommunication facilities to the new Development without requiring any payment of facility charges by the Developer prior to installation of the facilities.

Dated this 4 day of April 19 88.

NORTHWESTERN BELL TELEPHONE COMPANY

By K. E. Muller

TOD Company, a Nebraska Corporation  
(Developer)

NOTE:  
This agreement supersedes agreements dated October 26, 1986, and April 8, 1987, covering subdivision known as North Lake Hills Phase I.

By Judith C. Morgan, Pres.

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GEORGE J. BURENICH  
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