

IN THE IOWA DISTRICT COURT FOR DUBUQUE COUNTY

FARMERS INSURANCE GROUP a/s/o
GRTD INVESTMENTS, LLC, FARMERS
INSURANCE GROUP a/s/o CHERYL
HILBY, FARMERS INSURANCE GROUP
a/s/o JOHN JAEGER, FARMERS
INSURANCE GROUP a/s/o MID AMERICA
PROPERTY MANAGEMENT, LLC,
AMERICAN FAMILY INSURANCE GROUP
a/s/o LAUFENBERG & LARSON
PROPERTIES, LLC, AMERICAN FAMILY
INSURANCE GROUP a/s/o KASEY
WIFNESKI, TRAVELERS INSURANCE
a/s/o DIANE LAUGHLIN, TRAVELERS
INSURANCE a/s/o MATTHEW MICHELS,
ACUITY INSURANCE a/s/o BRAD &
NAOMI FELDOTT, STATE FARM FIRE &
CASUALTY COMPANY a/s/o BENJAMIN
LANGE, FARM BUREAU PROPERTY &
CASUALTY COMPANY a/s/o JILL
MULFORD, WEST BEND MUTUAL
INSURANCE COMPANY a/s/o LAKESIDE
INVESTMENTS, LLC, and STEADFAST
INSURANCE COMPANY a/s/o RT
SPECIALTY, LLC,

Plaintiffs,

v.

PRICE ELECTRIC, LLC and VANNGUARD
UTILITY PARTNERS, INC.,

Defendant.

CASE NO.: LACV112083

**FIRST AMENDED
PETITION AT LAW
JURY TRIAL DEMANDED**

COMES NOW the Plaintiffs, FARMERS INSURANCE GROUP as subrogee of GRTD INVESTMENTS, LLC, FARMERS INSURANCE GROUP as subrogee of CHERLY HILBY, FARMERS INSURANCE GROUP as subrogee of JOHN JAEGER, FARMERS INSURANCE GROUP as subrogee of MID AMERICA PROPERTY MANAGEMENT, LLC, AMERICAN

FAMILY INSURANCE GROUP as subrogee of LAUFENBERG & LARSON PROPERTIES, LLC, AMERICAN FAMILY INSURANCE GROUP as subrogee of KASEY WIFNESKI, TRAVELERS INSURANCE as subrogee of DIANE LAUGHLIN, TRAVELERS INSURANCE as subrogee of MATTHEW MICHELS, ACUITY INSURANCE as subrogee of BRAD and NAOMI FELDOTT, STATE FARM FIRE & CASUALTY COMPANY as subrogee of BENJAMIN LANGE, FARM BUREAU PROPERTY & CASUALTY COMPANY as subrogee of JILL MULFORD, WEST BEND MUTUAL INSURANCE COMPANY as subrogee of LAKESIDE INVESTMENTS, LLC, and STEADFAST INSURANCE COMPANY as subrogee of RT SPECIALTY, LLC, by and through their counsels, THOMPSON BRODY & KAPLAN, LLP and YOST & BAILL, LLP, and for its First Amended Petition at Law against the Defendants, PRICE ELECTRIC, LLC and VANNGUARD UTILITY PARTNERS, INC., hereby states as follows:

PARTIES & DEFINITIONS

1. At all times relevant, the subrogor/insured, GRTD INVESTMENTS, LLC (hereinafter referred to as “GRTD”), was an Iowa limited-liability company in the business of owning rental properties and owned the rental property located at 459 Loras Boulevard in Dubuque, Iowa 52001.

2. At all times relevant, the subrogor/insured, CHERYL HILBY (hereinafter referred to as “Hilby”), was an individual who owned the property located at 460 Loras Boulevard in Dubuque, Iowa 52001.

3. At all times relevant, the subrogor/insured, JOHN JAEGER (hereinafter referred to as “Jaeger”) was an individual who owned the property located at 414 Loras Boulevard in Dubuque, Iowa 52001.

4. At all times relevant, the subrogor/insured, MID AMERICA PROPERTY MANAGEMENT, LLC (hereinafter referred to as “Mid America”), was an Iowa limited-liability company in the business of owning rental properties and owned the rental property located at 423 Loras Boulevard in Dubuque, Iowa 52001.

5. At all times relevant, the Plaintiff, FARMERS INSURANCE GROUP (hereinafter referred to as “Farmers”), was an insurance company licensed to do business in the State of Iowa and licensed to issue property insurance policies to individuals in Iowa, such as Hilby and Jaeger, and businesses in Iowa, such as GRTD and Mid America.

6. At all times relevant, the subrogor/insured, LAUFENBERG & LARSON PROPERTIES, LLC (hereinafter referred to as “Laufenberg & Larson”), was a Wisconsin limited-liability company in the business of owning rental properties and owned the property located at 1450 Montrose Terrace #1470 in Dubuque, Iowa 52001.

7. At all times relevant, the subrogor/insured, KASEY WIFNESKI (hereinafter referred to as “Wifneski”), was an individual who rented and resided at the property located at 459 Loras Boulevard in Dubuque, Iowa 52001.

8. At all times relevant, the Plaintiff, AMERICAN FAMILY INSURANCE GROUP (“hereinafter referred to as “American Family”), was an insurance company licensed to do business in the State of Iowa and licensed to issue renter’s and property insurance policies to individuals in Iowa, such as Wifneski, and businesses in Iowa, such as Laufenberg & Larson.

9. At all times relevant, the subrogor/insured, DIANE LAUGHLIN (“hereinafter referred to as “Laughlin”), was an individual who rented and resided at the property located at 459 Loras Boulevard in Dubuque, Iowa 52001.

10. At all times relevant, the subrogor/insured, MATTHEW MICHELS (hereinafter referred to as “Michels”), was an individual who owned the property located at 472 Loras Boulevard in Dubuque, Iowa 52001.

11. At all times relevant, the Plaintiff, TRAVELERS INSURANCE (hereinafter referred to as “Travelers”), was an insurance company licensed to do business in the State of Iowa and licensed to issue renter’s and property insurance policies to individuals in Iowa, such as Laughlin and Michels.

12. At all times relevant, the subrogor/insured, BRAD and NAOMI FELDOTT (hereinafter referred to as “the Feldotts”), were individuals who owned the property located at 452 Loras Boulevard in Dubuque, Iowa 52001.

13. At all times relevant, the Plaintiff, ACUITY INSURANCE (hereinafter referred to as “Acuity”), was an insurance company licensed to do business in the State of Iowa and licensed to issue property insurance policies to individuals in Iowa, such as the Feldotts.

14. At all times relevant, the subrogor/insured, BENJAMIN LANGE (hereinafter referred to as “Lange”), was an individual who owned the property located at 465 Loras Boulevard in Dubuque, Iowa 52001.

15. At all times relevant, the subrogor/insured, Lange, was an individual who owned the property located at 469 Loras Boulevard in Dubuque, Iowa 52001.

16. At all times relevant, the Plaintiff, STATE FARM FIRE & CASUALTY COMPANY (hereinafter referred to as “State Farm”), was an insurance company licensed to do business in the State of Iowa and licensed to issue property insurance policies to individuals in Iowa, such as Lange.

17. At all times relevant, the subrogor/insured, JILL MULFORD (hereinafter referred to as “Mulford”), was an individual who owned the property located at 464 Loras Boulevard in Dubuque, Iowa 52001.

18. At all times relevant, the Plaintiff, FARM BUREAU PROPERTY & CASUALTY COMPANY (hereinafter referred to as “Farm Bureau”), was an insurance company licensed to do business in the State of Iowa and licensed to issue property insurance policies to individuals in Iowa, such as Mulford.

19. At all times relevant, the subrogor/insured, LAKESIDE INVESTMENTS, LLC (hereinafter referred to as “Lakeside”), was an Iowa limited-liability company in the business of owning rental properties and owned the properties located at 415-419 Loras Boulevard in Dubuque, Iowa 52001.

20. At all times relevant, the Plaintiff, WEST BEND INSURANCE COMPANY (hereinafter referred to as “West Bend”), was an insurance company licensed to do business in the State of Iowa and licensed to issue property insurance policies to businesses in Iowa, like Lakeside.

21. At all times relevant, the subrogor/insured, RT SPECIALTY, LLC (hereinafter referred to as “RT Specialty”), was an Illinois limited liability company that owned the property located 445 Loras Boulevard in Dubuque, Iowa 52001.

22. At all times relevant, the Plaintiff, STEADFAST INSURANCE COMPANY (hereinafter referred to as “Steadfast”), was an insurance company licensed to do business in the State of Iowa and licensed to issue property insurance policies to business in Iowa, like RT Specialty.

23. At all times relevant, GRTD purchased and maintained a property owner’s insurance policy (Policy No. 0021251202) with Farmers, which provided coverage for its property

located at 459 Loras Boulevard in Dubuque, Iowa and this policy was in full force and effect on September 28th, 2020, the date of this loss.

24. At all times relevant, Hilby purchased and maintained a property owner's insurance policy (Policy No. 5002106240) with Farmers, which provided coverage for her property located at 460 Loras Boulevard in Dubuque, Iowa and this policy was in full force and effect on September 28th, 2020, the date of this loss.

25. At all times relevant, Jaeger purchased and maintained a property owner's insurance policy (Policy No. 0090347749) with Farmers, which provided coverage for his property located at 414 Loras Boulevard in Dubuque, Iowa, and this policy was in full force and effect on September 28th, 2020, the date of this loss.

26. At all times relevant, Mid America purchased and maintained a property owner's insurance policy (Policy No. 0021246457) with Farmers, which provided coverage for its property located at 423 Loras Boulevard in Dubuque, Iowa, and was in full force and effect on September 28th, 2020, the date of this loss.

27. At all times relevant, Laufenberg and Larson, purchased and maintained a property owner's insurance policy (Policy No. 14X6449601) with American Family, which provided coverage for its property located at 1450 Montrose Terrace #1470 in Dubuque, Iowa, and was in full force and effect on September 28th, 2020, the date of this loss.

28. At all times relevant, Wifneski, purchased and maintained a renter's insurance policy (Policy No. 410370271871) with American Family, which provided coverage for her residence and personal property located at 459 Loras Boulevard in Dubuque, Iowa, and was in full force and effect on September 28th, 2020, the date of this loss.

29. At all times relevant, Laughlin purchased and maintained a renter's insurance policy (Policy No. 0CNR42-992089534-633-1) with Travelers, which provided coverage for her residence and personal property located at 459 Loras Boulevard in Dubuque, Iowa, and was in full force and effect on September 28th, 2020, the date of this loss.

30. At all times relevant, Michels purchased and maintained a property owner's insurance policy (Policy No. 0CNR42933857610-663-1) with Travelers, which provided coverage for his property located at 472 Loras Boulevard in Dubuque, Iowa, and was in full force and effect on September 28th, 2020, the date of this loss.

31. At all times relevant, the Feldotts purchased and maintained a property owner's insurance policy (Policy No. V11714-6) with Acuity, which provided coverage for their property located at 452 Loras Boulevard in Dubuque, Iowa, and was in full force and effect on September 28th, 2020, the date of this loss.

32. At all times relevant, Lange purchased and maintained property owner's insurance policies (Policy No. 15-11Z4-01K and 15-11Z1-53G) with State Farm, which provided coverage for his properties located at 465 and 469 Loras Boulevard in Dubuque, Iowa, and were in full force and effect on September 28th, 2020, the date of this loss.

33. At all times relevant, Mulford purchased and maintained a property owner's insurance policy (Policy No. A669981F00) with Farm Bureau, which provided coverage for her property located at 464 Loras Boulevard in Dubuque, Iowa, and was in full force and effect on September 28th, 2020, the date of this loss.

34. At all times relevant, Lakeside purchased and maintained a property owner's insurance policy (Policy No. A548018-8) with West Bend, which provided coverage for its

properties located at 415-419 Loras Boulevard in Dubuque, Iowa, and was in full force and effect on September 28th, 2020, the date of this loss.

35. At all times relevant, RT Specialty purchased and maintained a property owner's insurance policy (Policy No. CPP-0492340-00) with Steadfast, which provided coverage for its property located at 445 Loras Boulevard in Dubuque, Iowa 52001, and was in full force and effect on September 28th, 2020, the date of this loss.

36. At all times relevant, the Defendant, PRICE ELECTRIC, LLC (hereinafter referred to as "Price Electric"), was an Iowa limited-liability company in the business of excavating and installing underground fiber optic cable lines, with its principal place of business located at 405 N. Troy Road in Robins, Iowa 52328.

37. At all times relevant, the Defendant, VANNGUARD UTILITY PARTNERS, INC. (hereinafter referred to as "Vanguard"), was an Iowa corporation in the business of locating and marking underground utility lines for excavation operations with its Registered Agent located at 6701 Westown Parkway, Suite 100 in West Des Moines, Iowa 50266.

JURISDICTION AND VENUE

38. At all times relevant, the Defendant, Price Electric, did business within the State of Iowa.

39. At all times relevant, the Defendant, Vanguard, did business within the State of Iowa.

40. The Court has personal jurisdiction over the Defendants because they conduct business in Iowa and because the Plaintiffs allege the Defendants committed tortious conduct in Iowa.

41. The due process requirements of minimum contacts and notice and an opportunity to be heard are satisfied in that: 1) the corporate Defendants have purposely availed themselves of the privilege of conducting activities within the State of Iowa and enjoys the benefits and protections of the laws of the State of Iowa; and 2) the means employed to give notice to the Defendants corporation are reasonably intended to inform the Defendants of the suit.

42. This Court is the proper venue because Dubuque County, Iowa, is the county where Plaintiffs were injured by the wrongful acts and/or negligent conduct alleged in this action.

43. Per Iowa Code § 537A.6 all instate construction projects are governed by Iowa law.

COMMON ALLEGATIONS

44. Prior to September 28th, 2020, the Defendant, Price Electric, was hired to excavate and install underground fiber optic cable near the intersection of Loras Boulevard and Montrose Terrace in Dubuque, Iowa (hereinafter referred to as the “subject area”).

45. Prior to September 28th, 2020, the Defendant, Vannguard, was hired to locate and mark any underground utility lines within the subject area prior to Price Electric commencing its excavation work in order to ensure no underground utility line would be struck or damaged.

46. Prior to September 28th, 2020, the Defendant, Vannguard, completed its location and marking of the underground utility lines within the subject area.

47. Prior to September 28th, 2020, the underground utility lines within the subject area were properly located and marked in order to allow Price Electric to commence its excavation work.

48. On September 28th, 2020, the Defendant, Price Electric, was operating a horizontal boring machine during its excavation and installation of the underground fiber optic cable in the subject area.

49. On September 28th, 2020, the Defendant, Price Electric, did not hand dig any test holes in order to determine the precise location of any previously marked underground utility lines prior to operating its horizontal boring machine.

50. On September 28th, 2020, the Defendant, Price Electric, while operating its horizontal boring machine, struck and pierced a previously marked underground gas line within the subject area.

51. As a result of the underground gas line being pierced and damaged, natural gas began to leak uncontrollably and filled the home located at 459 Loras Boulevard as well as the surrounding area.

52. After the underground gas line was pierced, the leaked natural gas was ignited causing an explosion that leveled the home located at 459 Loras Boulevard and damaged the surrounding properties.

53. As a result of the explosion, GRTD submitted a claim (Claim No. 3013540707-1) to its insurer, the Plaintiff, Farmers, and requested payment for its damages incurred as a result of the subject explosion.

54. As a result of the explosion, Hilby submitted a clam (Claim No. 5009549064) to her insurer, the Plaintiff, Farmers, and requested payment for her damages incurred as a result of the subject explosion.

55. As a result of the explosion, Jaeger submitted a claim (Claim No. 30135400945) to his insurer, the Plaintiff, Farmers, and requested payment for his damages incurred as a result of the subject explosion.

56. As a result of the explosion, Mid America submitted a claim (Claim No. 3013540577) to its insurer, the Plaintiff, Farmers, and requested payment for its damages incurred as a result of the subject explosion.

57. As a result of the explosion, Laufenberg & Larson submitted a claim (Claim No. 01-002-766284) to its insurer, the Plaintiff, American Family, and requested payment for its damages incurred as a result of the subject explosion.

58. As a result of the explosion, Wifneski submitted a claim (Claim No. 01-002-761733) to her insurer, the Plaintiff, American Family, and requested payment for her damages incurred as a result of the subject explosion.

59. As a result of the explosion, Laughlin submitted a claim (Claim No. IMH 2073) to her insurer, the Plaintiff, Travelers, and requested payment for her damages incurred as a result of the subject explosion.

60. As a result of the explosion, Michels submitted a claim (Claim No. IMH 2030) to his insurer, the Plaintiff, Travelers, and requested payment for his damages incurred as a result of the subject explosion.

61. As a result of the explosion, the Feldotts submitted a claim (Claim No. QZ4218) to their insurer, the Plaintiff, Acuity, and requested payment for their damages incurred as a result of the subject explosion.

62. As a result of the explosion, Lange submitted a claim (Claim No. 6161W-1942) to his insurer, the Plaintiff, State Farm, and requested payment for his damages incurred as a result of the subject explosion.

63. As a result of the explosion, Mulford submitted a claim (Claim No. 8110N-0614) to her insurer, the Plaintiff, Farm Bureau, and requested payment for her damages incurred as a result of the subject explosion.

64. As a result of the explosion, Lakeside submitted a claim (Claim No. AM-88356) to its insurer, the Plaintiff, West Bend, and requested payment for its damages incurred as a result of the subject explosion.

65. As a result of the explosion, RT Specialty submitted a claim (Claim No. 5630058476) to its insurer, the Plaintiff, Steadfast, and requested payment for its damages incurred as a result of the subject explosion.

66. Pursuant to their respective policies of insurance, the Plaintiffs, thereby became obligated to pay and did pay their respective subrogors/insureds for the damages incurred as a result of the explosion in a total amount in excess of \$700,000.00 (including the insureds' deductibles).

67. By virtue of the payments, the Plaintiffs are subrogated to the rights of their respective subrogors/insureds to the extent of the damages paid on the claims.

COUNT I
Negligence
(PRICE ELECTRIC, LLC)

1-67. The Plaintiffs hereby restate and reallege Paragraphs 1 through 67 as Paragraphs 1 through 67 of Count I, as though fully set out herein.

68. At all times relevant, the Defendant, Price Electric, had a duty to use ordinary care when performing its excavation work in the subject area.

69. At all times relevant, the Defendant, Price Electric, had a duty to ensure its excavation work would not cause damage to the property of others, including damage to any underground utility lines.

70. At all times relevant, the Defendant, Price Electric, had a duty to ensure its excavation work was completed in a safe and workmanlike manner.

71. At all times relevant, the Defendant, Price Electric, had a duty to avoid striking and/or piercing any previously marked underground utility lines while performing its excavation work in the subject area.

72. At all times relevant, the Defendant, Price Electric, had a duty to avoid creating and/or causing any hazardous conditions while performing its excavation work in the subject area.

73. At all times relevant, the Defendant, Price Electric, had a duty to hand dig test holes within eighteen inches of any previously marked underground utility lines in order to precisely locate and avoid striking and/or damaging the underground line with its horizontal boring machine.

74. Notwithstanding the aforementioned duties, Price Electric was negligent and/or breached its duties in one or more of the following ways:

- a. Failed to use ordinary care while performing its excavation work in subject area.
- b. Failed to ensure its excavation work did not cause damage to the property of others, including the previously marked underground gas line;
- c. Failed to ensure its excavation work was completed in a safe and workmanlike manner;
- d. Failed to avoid striking and/or piercing the previously marked underground gas line while performing its excavation work in the subject area;
- e. Caused and/or created a hazardous condition as a result of its careless and/or negligent excavation work in the subject area;
- f. Failed to hand dig test holes in order to precisely locate the previously marked underground gas line prior to operating its horizontal boring machine; and

- g. Was otherwise negligent and/or careless in its excavation work and operation of its horizontal boring machine so as to pierce and damage the previously marked underground gas line.

75. As a direct and proximate result of Price Electric's negligent acts and/or omissions, the underground gas line within the subject area was struck and pierced.

76. As a direct and proximate result of Price Electric's negligent acts and/or omissions, the underground gas line was damaged causing natural gas to leak uncontrollably and filling the home located at 459 Loras Boulevard as well as the surrounding area.

77. As a direct and proximate result of Price Electric's negligent acts and/or omissions, the leaked natural gas became ignited causing an explosion that leveled the home located at 459 Loras Boulevard and damaged the surrounding properties.

78. As a direct and proximate result of Price Electric's negligent acts and/or omissions, the Plaintiffs incurred damages in an amount in excess of \$700,000.00.

WHEREFORE the Plaintiffs, FARMERS INSURANCE GROUP as subrogee of GRIT INVESTMENTS, LLC, FARMERS INSURANCE GROUP as subrogee of CHERLY HILBY, FARMERS INSURANCE GROUP as subrogee of JOHN JAEGER, FARMERS INSURANCE GROUP as subrogee of MID AMERICA PROPERTY MANAGEMENT, LLC, AMERICAN FAMILY INSURANCE GROUP as subrogee of LAUFENBERG & LARSON PROPERTIES, LLC, AMERICAN FAMILY INSURANCE GROUP as subrogee of KASEY WIFNESKI, TRAVELERS INSURANCE as subrogee of DIANE LAUGHLIN, TRAVELERS INSURANCE as subrogee of MATTHEW MICHELS, ACUITY INSURANCE as subrogee of BRAD and NAOMI FELDOTT, STATE FARM FIRE & CASUALTY COMPANY as subrogee of BENJAMIN LANGE, FARM BUREAU PROPERTY & CASUALTY COMPANY as subrogee of JILL MULFORD, WEST BEND MUTUAL INSURANCE COMPANY as subrogee of

LAKESIDE INVESTMENTS, LLC, and STEADFAST INSURANCE COMPANY as subrogee of RT SPECIALTY, LLC, respectfully request that this Honorable Court enter Judgment in its favor and against the Defendant, PRICE ELECTRIC, LLC, in an amount in excess of \$700,000.00 (including the subrogors'/insureds' deductibles), and for any and all other relief this Court deems just and appropriate.

COUNT II
Violation of Underground Facilities Information Act
(PRICE ELECTRIC, LLC)

1-78. The Plaintiffs hereby restate and reallege Paragraphs 1 through 78 of Count I as Paragraphs 1 through 78 of Count II, as though fully set forth herein.

79. At all times relevant, there were in full force and effect statutes known as the Underground Facilities Information Act, Iowa Code Chapter 480, which outlines procedures that must be followed before and during the performance of excavation work and further establishes liability for damage caused to underground utility lines.

80. At all times relevant, the Defendant, Price Electric, was an “Excavator” and performing excavation work as defined under IA Code § 480.1(4)(a) and 480.1(5).

81. At all times relevant, the Defendant, Price Electric, had to adhere to the requirements of IA Code § 480.1A prior to engaging in and/or performing any excavation work.

82. At all times relevant, the Defendant, Price Electric, had a duty to use due care while excavating in the previously marked area to avoid damaging any underground utility line as required under IA Code § 480.4(3)(a)(1).

83. At all times relevant, the Defendant, Price Electric, was required to hand dig test holes within eighteen inches of any marked underground utility line in order to determine its horizontal location as required under IA Code § 480.4(3)(a)(1) and 480.4(3)(c).

84. Notwithstanding the aforementioned duties, the Defendant, Price Electric, was guilty of one or more of the following violations of the Underground Facilities Information Act:

- a. Failed to use due care while excavating in the marked area by striking and piercing the underground gas line in violation of IA Code § 480.4(3)(a)(1);
- b. Failed to use due care while excavating in the marked area by damaging the underground gas line in violation of IA Code § 480.4(3)(a)(1);
- c. Failed to determine the precise horizontal location of the underground gas line prior to operating its horizontal boring machine in violation of IA Code § 480.4(3)(a)(1);
- d. Failed to hand dig test holes when excavating within eighteen inches of the marked underground gas line in violation of IA Code § 480.4(3)(a)(1);
- e. Operated its horizontal boring machine within eighteen inches of the marked underground gas line prior to determining its precise location in violation of IA Code § 480.4(3)(a)(1); and
- f. Was otherwise negligent and/or careless in its actions and inactions while performing its excavation work in the subject area.

85. As a direct and proximate result of Price Electric's negligent acts and/or omissions, and its violation of the Underground Facilities Information Act, the underground gas line within the subject area was struck and pierced.

86. As a direct and proximate result of Price Electric's negligent acts and/or omissions, and its violation of the Underground Facilities Information Act, the underground gas line was damaged causing it to leak natural gas uncontrollably and filling the home located at 459 Loras Boulevard as well as the surrounding area.

87. As a direct and proximate result of Price Electric's negligent acts and/or omissions, and its violation of the Underground Facilities Information Act, the leaked natural gas became ignited causing an explosion that leveled the home located at 459 Loras Boulevard and damaged the surrounding properties.

88. As a direct and proximate result of Price Electric's negligent acts and/or omissions, and its violation of the Underground Facilities Information Act, the Plaintiffs incurred damages in an amount in excess of \$700,000.00.

WHEREFORE the Plaintiffs, FARMERS INSURANCE GROUP as subrogee of GRTD INVESTMENTS, LLC, FARMERS INSURANCE GROUP as subrogee of CHERLY HILBY, FARMERS INSURANCE GROUP as subrogee of JOHN JAEGER, FARMERS INSURANCE GROUP as subrogee of MID AMERICA PROPERTY MANAGEMENT, LLC, AMERICAN FAMILY INSURANCE GROUP as subrogee of LAUFENBERG & LARSON PROPERTIES, LLC, AMERICAN FAMILY INSURANCE GROUP as subrogee of KASEY WIFNESKI, TRAVELERS INSURANCE as subrogee of DIANE LAUGHLIN, TRAVELERS INSURANCE as subrogee of MATTHEW MICHELS, ACUITY INSURANCE as subrogee of BRAD and NAOMI FELDOTT, STATE FARM FIRE & CASUALTY COMPANY as subrogee of BENJAMIN LANGE, FARM BUREAU PROPERTY & CASUALTY COMPANY as subrogee of JILL MULFORD, WEST BEND MUTUAL INSURANCE COMPANY as subrogee of LAKESIDE INVESTMENTS, LLC, and STEADFAST INSURANCE COMPANY as subrogee of RT SPECIALTY, LLC, respectfully request that this Honorable Court enter Judgment in its favor and against the Defendant, PRICE ELECTRIC, LLC, in an amount in excess of \$700,000.00 (including the insureds' deductibles), and for any and all other relief this Court deems just and appropriate.

COUNT III
Negligence – In the Alternative
(VANNGUARD UTILITY PARTNERS, INC.)

1-88. The Plaintiffs hereby restate and reallege Paragraphs 1 through 88 of Count II as Paragraphs 1 through 88 of Count III, as though fully set forth herein.

89. At all times relevant, the Defendant, Vannguard, had a duty to use ordinary care in its locating and marking of underground utilities lines within the subject area.

90. At all times relevant, the Defendant, Vannguard, had a duty properly and accurately mark the underground utility lines within the subject area so as to allow third-parties the ability to identify and avoid striking and/or damaging the utility lines while performing excavation work.

91. At all times relevant, the Defendant, Vannguard, had a duty to supervise and oversee the locating and marking services of the underground utility lines within the subject area to ensure that they were properly marked and identifiable to third-parties performing excavation work.

92. Notwithstanding the above-mentioned duties, the Defendant, Vannguard, breached these duties and was negligent in one or more of the following ways:

- a. Failed to use ordinary care in locating and marking the underground gas line within the subject area;
- b. Failed to properly and accurately mark the underground gas line within the subject area so as to allow third-parties, such as Price Electric, the ability to identify and avoid striking and/or damaging the underground gas line when performing its excavation work;
- c. Failed to supervise and oversee the locating and marking of the underground gas line within the subject area to ensure it was identifiable to third-parties, such as Price Electric, when performing its excavation work; and
- d. Was otherwise negligent and/or careless in locating and marking services of underground utilities within the subject area.

93. As a direct and proximate result of Vannguard's negligent acts and/or omissions, the underground gas line within the subject area was unidentifiable and was struck and pierced by Price Electric while performing its excavation work.

94. As a direct and proximate result of Vannguard's negligent acts and/or omissions, the underground gas line struck by Price Electric was damaged causing it to leak natural gas

uncontrollably and filling the home located at 459 Loras Boulevard as well as the surrounding area.

95. As a direct and proximate result of Vannguard's negligent acts and/or omissions, the leaked natural gas became ignited causing an explosion that leveled the home located at 459 Loras Boulevard and damaged the surrounding properties.

96. As a direct and proximate result of Vannguard's negligent acts and/or omissions, the Plaintiffs incurred damages in an amount in excess of \$700,000.00.

WHEREFORE the Plaintiffs, FARMERS INSURANCE GROUP as subrogee of GRTD INVESTMENTS, LLC, FARMERS INSURANCE GROUP as subrogee of CHERLY HILBY, FARMERS INSURANCE GROUP as subrogee of JOHN JAEGER, FARMERS INSURANCE GROUP as subrogee of MID AMERICA PROPERTY MANAGEMENT, LLC, AMERICAN FAMILY INSURANCE GROUP as subrogee of LAUFENBERG & LARSON PROPERTIES, LLC, AMERICAN FAMILY INSURANCE GROUP as subrogee of KASEY WIFNESKI, TRAVELERS INSURANCE as subrogee of DIANE LAUGHLIN, TRAVELERS INSURANCE as subrogee of MATTHEW MICHELS, ACUITY INSURANCE as subrogee of BRAD and NAOMI FELDOTT, STATE FARM FIRE & CASUALTY COMPANY as subrogee of BENJAMIN LANGE, and FARM BUREAU PROPERTY & CASUALTY COMPANY as subrogee of JILL MULFORD, WEST BEND MUTUAL INSURANCE COMPANY as subrogee of LAKESIDE INVESTMENTS, LLC, and STEADFAST INSURANCE COMPANY as subrogee of RT SPECIALTY, LLC, respectfully request that this Honorable Court enter Judgment in its favor and against the Defendant, VANNGUARD UTILITY PARTNERS, INC., in an amount in excess of \$700,000.00 (including the insureds' deductibles), and for any and all other relief this Court deems just and appropriate.

JURY TRIAL DEMANDED

The Plaintiffs in accordance with Iowa R. Civ. P. 1.902 and 1.903 and Fed. R. Civ. P. 38 & 39 demands a trial by jury on all above plead counts, affirmative defenses, counterclaims, and cross claims.

Respectfully submitted,

YOST & BAILL, LLP

By /s/ David J. Taylor
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