

## **NOTICE AND CALL OF PUBLIC MEETING**

GOVERNMENTAL BODY: THE CITY COUNCIL OF CRESCO, IOWA

DATE OF MEETING: AUGUST 20, 2012

TIME AND PLACE OF MEETING: 7:00 P.M. AT CRESCO CITY HALL

PUBLIC NOTICE IS HEREBY GIVEN THAT THE ABOVE MENTIONED GOVERNMENTAL BODY WILL MEET AT THE DATE, TIME AND PLACE SET OUT ABOVE. THE TENTATIVE AGENDA FOR SAID MEETING IS AS FOLLOWS:

ROLL CALL: CARMAN, BOUSKA, McGEE, McCARVILLE, LOVELESS

ACT ON THE CONSENT AGENDA: All items listed under the consent agenda will be enacted by one motion. There will be no separate discussion of these items unless a request is made prior to the time council votes on the motion.

1. Approval of the Agenda
2. Approval of the Claims
3. Approval of Minutes from August 6, 2012
4. Approval of Class C Liquor License (LC) (Commercial) with Sunday Sales to Chris Ator d/b/a Cresco Lanes Sports Bar & Grill
5. Approval of Pay Request #2 from Skyline Construction Inc for 2<sup>nd</sup> Avenue East Reconstruction Project for \$95,937.70
6. Approval of Pay Request #2 (Final) to Jirak Construction for Housing Rehab Project for \$16,370.20

STAFF REPORTS: There may be action taken on each of the items listed below.

1. Public Works
2. Police
3. Administration
4. Department & Committee Updates

BUSINESS: There may be action taken on each of the items listed below.

1. Public Hearing for Ordinance for Electric Franchise Agreement with ITC
2. First Reading of Proposed Ordinance 440 Electric Franchise Agreement for ITC Midwest LLC and City of Cresco
3. Resolution Waiving the 2<sup>nd</sup> and 3<sup>rd</sup> Readings of Proposed Ordinance 440 Electric Franchise Agreement for ITC Midwest LLC and City of Cresco
4. Approval of Ordinance 440 Electric Franchise Agreement for ITC Midwest LLC and City of Cresco
5. Willie Hendrickson and Kelli Best to Discuss Cresco Food Technologies LLC Surcharges
6. Resolution Authorizing Mayor and City Clerk to Enter into an Agreement with Cresco Food Technologies LLC
7. Opening Bids for Sale of Two Police Cars and Possible Award of Sale of Cars
8. Set Next Council Meeting for Wednesday September 5, 2012 due to Labor Day Holiday
9. Set Public Hearing for City Budget Amendment for Fiscal Year Ending 6/30/13
10. Recommendation of the Theatre Commission to Appoint Alex Fortune to the Theatre Commission for a Term Expiring 6/30/2015

11. Discussion on Water Salesman
12. Update on Strategic Plan
13. Update Code Of Ordinances
  - Chapter 77 Bicycle Licensing
  - Chapter 5 Section 5.13 Residency Requirement
  - Chapter 35 Fire Department Section 35.02 Organization
  - Chapters 90-92 Water Service

COMMENTS FROM AUDIENCE:

ADJOURN:

THIS NOTICE IS GIVEN AT THE DIRECTION OF THE MAYOR PURSUANT TO CHAPTER 28A, CODE OF IOWA AND THE LOCAL RULES OF SAID GOVERNMENTAL BODY. POSTED AUGUST 17, 2012.

ITC Midwest LLC and City of CRESCO  
**Electric Franchise Agreement**  
**NOTICE OF PUBLIC HEARING**

Notice is hereby given that a Public Hearing will be held in the City of CRESCO, Iowa, on the 20<sup>th</sup> day of August, 2012, for the purpose of submitting to the City Council of said City, to be voted upon by them, the question of whether the public measure as shown on the published ordinance should be adopted.

**ORDINANCE FOR A PUBLIC HEARING**  
**CITY OF CRESCO, HOWARD COUNTY, IOWA**

August 20, 2012

Ordinance No. 440

An Ordinance granting to ITC MIDWEST LLC, a wholly owned subsidiary of ITC HOLDINGS CORP., its successors and assigns (the "Company"), the right and franchise to acquire, construct, erect, maintain and operate in the City of CRESCO, Howard County, Iowa, a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City of CRESCO, Howard County, Iowa; granting the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City of CRESCO, Howard County, Iowa, for the period of twenty-five (25) years; and granting the right of eminent domain.

BE IT ORDAINED BY THE City Council of the City of CRESCO, Howard County, Iowa:

**Section 1. Grant.**

There is hereby granted to the Company the right and franchise to acquire, construct, erect, maintain and operate in the City of CRESCO, Howard County, Iowa, a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances or equipment and substations for the transmission of electric current (collectively, the "Facilities") along, under and upon the streets, avenues, alleys and public places in the City of CRESCO, Howard County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City of CRESCO, Howard County Iowa, for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

**Section 2. Indemnification.**

The Facilities shall be placed and maintained so as not to unnecessarily interfere with the travel on the streets, alleys, and public places in the City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of the transmission system.

**Section 3. Relocation.**

Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its Facilities in, on, over or under any public street or alley in the City of CRESCO in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its Facilities for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its Facilities. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternate location for the Company's Facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing Facilities until the reasonable cost of relocating the same are paid to the Company.

**Section 4. Modern System.**

The system authorized by this Ordinance shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

**Section 5. Pruning.**

To promote public safety in proximity to its Facilities and to maintain electric reliability, the Company is authorized and empowered to prune or remove at Company expense any trees or shrubs or parts thereto extending into any street, alley, right-of-way or public grounds. The pruning shall be completed in accordance with the then-current nationally accepted safety and utility industry standards, as revised and updated from time to time.

**Section 6. Continuous Service.**

Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, Acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

**Section 7. Non-exclusivity.**

The franchise granted by this Ordinance shall not be exclusive.

**Section 8. Severability.**

If any section, provision, or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**Section 9. Term of Agreement.**

The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company, as herein provided. The anniversary date shall be the date this franchise is filed with the City Clerk or otherwise becomes effective by operation of law.

**Section 10. Publication Expenses.**

The expense of the publication of this Ordinance shall be paid by the Company.

**Section 11. Repeal of Conflicting Ordinances.**

All ordinances, or parts of ordinances, insofar as they are in direct conflict herewith, are hereby repealed.

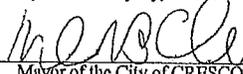
**Section 12. Acceptance.**

The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from the passage of this Ordinance.

ITC Midwest LLC and City of CRESCO  
**Electric Franchise Agreement**

**Section 13. Closing.**

This Ordinance sets forth and constitutes the entire agreement between the Company and the City of CRESCO with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this Ordinance shall supersede, abrogate and repeal any prior electric system ordinance between the Company and the City as of the date this Ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or that delay utility operations.

Attest:  Mayor of the City of CRESCO, Iowa  
Michelle Justano  
City Clerk of the City of CRESCO, Iowa

The place for said public hearing shall be City Hall  
on the 20<sup>th</sup> day of August 2012 at 7:00 o'clock p.m.