

## NOTICE AND CALL OF PUBLIC MEETING

GOVERNMENTAL BODY: THE CITY COUNCIL OF CRESCO, IOWA

DATE OF MEETING: JULY 21, 2014

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 July 7, 2014
4. Approval of Minutes from July 7, 2014 Work Session

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

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

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

1. Update on Cresco Theatre by Cresco Theatre Commission Members
2. Resolution Proclaiming August 5, 2014 National Night Out
3. Review Bids and Possible Award of Contract for Cleaning the Clarifiers at the Wastewater Plant
4. Resolution Authorizing the Mayor and City Clerk to Enter into an Industrial Sewer Rental Agreement with Cresco Food Technologies LLC
5. Resolution Authorizing the Mayor to Enter into a Business Associate Agreement with Group Services
6. Resolution Authorizing the Mayor to Enter into an Agreement with PJ Greufe & Associates, LLC for Human Resources Consulting Services
7. Recommendation of Iowa Department of Transportation to Change Speed Limits on 2<sup>nd</sup> Avenue Southeast (State Highway 9)
8. Discussion Regarding Installation of Four-Way Stop Signs at the Intersection of 1<sup>st</sup> Avenue and North Elm Street
9. Resolution to Remove Two Hour Parking Limits on North Elm Street
10. Discussion Regarding Flags Displayed on North Elm Street
11. Review and Possible Award of Special Tourism Grant Request for Flags on North Elm Street
12. Discussion and Possible Action on Sidewalk Replacement on North Elm Street

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 JULY 18, 2014.

Theatre - The Theatre Commission has met several times to discuss the operation of the theatre once Johnson's lease expires on 8/20/14. They will be publishing a letter to the editor next week explaining the transition. Dave Gosch will come this council meeting to give an update to Council so everyone stays informed of the situation.

CFT Agreement – this is the annual agreement we have with Cresco Food Technologies. No changes have been made for this year.

Group Services – Group Services administers our self-funded health insurance plan. They also work with us in deciding on a health insurance plan. They will come and present information before union negotiations of different options if the Council would like to look into different plans. They will present to council and/or to the employees if we want them to.

PJ Greufe – since Renee Von Bokern resigned from doing union negotiations a couple of years ago, the City needs a negotiator to represent the Council during Union Negotiations. Enclosed is information I got off of the website for PJ Greufe. This week Paul was in Ames presenting classes for the Clerk School. I checked references from Winneshiek County and Chickasaw County who both used him last year during negotiations. Both were very pleased with the results and thought he was a good negotiator. The fee will be \$6,000 per contract period. Therefore if we do a 3 year contract it will cover everything during that 3 year period. If we only do a one year Union Contract, the fee will only be good for one year of consultation.

Highway 9 Speed Limits – Bob Clark received a request and petition to review the speed limits on Highway 9 specifically requesting moving the 55 mph zone west of the Cresco Community Chapel Church. There was concern of traffic going in and out of the church parking lot. The Iowa DOT conducted a study at 7 locations along Hwy 9 within the city limits. They are recommending moving 3 of the speed limit zones. Two are only moving the zones less than half of a block. They are also recommending moving the 55 mph zone to the east side of York Street which will put it just east of NAPA. This is a state highway but they are looking for the council to approve the Iowa DOT's recommendations before changing the zones within the City limits.

Four-Way Stop Sign – The Cresco Business Committee has recommended installing a 4-way stop sign at the intersection of N Elm and 1<sup>st</sup> Avenue. (Corner by Aspensions & CUSB). We need to do some research as to proper signage placement before we pass the resolution. We just want to see if the consensus of council is to research and install stop signs at that intersection.

Two Hour Parking – it has been recommended by the Cresco Business Committee and the Chief of Police to eliminate the two hour parking restriction on North Elm Street. It is difficult to enforce the two hour limits due to the Officers being busy doing other things and not getting back to follow up on how long each car has been parked. Also, business owners recognize that some shoppers could be parked for more than two hours while they are eating, shopping or taking care of business at one of the many businesses downtown.

Flags Downtown – This past week, “sale” flags were put up on the City’s light poles using our flag brackets. The City was never notified that these were going to be put up nor was permission granted. I think we need to address this issue to keep control over what kind of flags will be allowed to flown on the poles and also the length of time they can be flown. It seems to me that about 3 days should be the maximum days for them to be displayed before they lose their effect. We did receive some complaints regarding the Irish flags that were displayed for a week for the Brew & Stew. The City does display the American Flag 5 times during the year (Memorial Day, Flag Day, Independence Day, Labor Day and Veteran’s Day).

Tourism Grant – In assembling the Tourism Grant applications last month, we missed one of the applications that was sent in early. Therefore, it was not reviewed by the Tourism Committee when they made their recommendations on funding the 2<sup>nd</sup> quarter Tourism Grants. Attached is the application from the Business Committee requesting funds to purchase flags.

Sidewalks on N Elm Street –the Chamber Business Meeting (Retail committee) they decided that the pink brick section of the sidewalk on North Elm Street should be replaced with a colored cement with a design in it. They centered on a brownish toned colored concrete with the design still to be determined. Per Jason Passmore: “They would like to see some backing from the City on this in order to bring in line every owner.”

Have a good weekend.

Michelle Girolamo

The Cresco City Council met July 7, 2014, at 7:00 pm at City Hall. Council Members Carman, Bouska, McGee, McCarville and Loveless were present. No council members were absent.

Loveless made the motion to approve the consent agenda which included approval of the: agenda; claims; minutes of the June 16, 2014 meeting and June 16, 2014 worksession; Class C Liquor License (LC) (commercial) with outdoor service for July 12-14, 2014 for M&M Lounge LLC; approval of street closing for portion of south Park Place on July 12-13, 2014 for fundraiser street dance for Hospital and Fire Station; street closing for portions of N. Elm Street, North & South Park Place and 2<sup>nd</sup> Avenue on July 18, 2014 for Cresco Chamber Ridiculous Day. McCarville seconded and it passed all ayes.

Public Works Director Rod Freidhof reported: (a) continuing to cut down trees damaged in recent storms. This unexpected work is delaying scheduled projects such as chip sealing; (b) will get specs ready for bids on the new dump truck that is in the current budget so it can be delivered in November; (c) two storm sewers were cleaned by Municipal Pipe and Tool. One will need to be dug up and fixed; (d) continuing to fix watermain patches repairing valves. This week will be taking a look at the Donaldson's reservoir; (e) some issues at the WWTP and lift stations due to all the rain that fell. Lift station was hit by lightening so some repairs may be covered by insurance. For the most part, the WWTP held its own which was pretty good considering how much rain fell; (f) Crescent Drive sewer main had problems and we are waiting for a report from Municipal Pipe and Tool; (g) new generator at City Hall was installed. There were some issues during installation that the contractor's insurance company will cover; (h) Iowa DNR sent a letter requiring all cities to start doing daily monitoring which would require testing at the wells even on weekends.

Police Chief Tim Ruroden presented his monthly report. June was busy with 21 arrests and charges bringing the total to 122 for the year so far. Fair went good but a few arrests were made. Thor-a-thon fundraiser walk/run will be Saturday July 12, 2014.

City Clerk Michelle Girolamo reported: (a) financial statements for the fiscal year were presented showing almost breaking even overall with a \$494 loss for the year. Every department was significantly under their budgeted expenses; (b) Auditors will be back the week of July 21<sup>st</sup>.

Steve McCarville reported on the Airport Commission meeting. Lynn Johnson will be in Cresco around July 20<sup>th</sup> to meet with the Commission to discuss his proposed hangar. They will apply for a grant for repairing the old hangars and will go out for bids. There have been two requests for hangars. The Commission is coming up with requirements that will need to be met if any T-hangars are going to be built.

The applications received for Travel & Tourism Grants from the Hotel/Motel tax requested \$9,120. Hotel/Motel tax received was \$3,351.70 this quarter. Carman made the motion to approve the recommendations of the Cresco Tourism Advisory Committee and award the Travel and Tourism Grants as follows: (a) \$500 Fine Arts Show; (b) \$1,180 National Night Out; (c) \$1,671.70 Norman Borlaug Harvest Fest; (d) \$3,000 Jaycee's Independence Day Fireworks. The Historical Church Preservation and Meals from the Heartland did not meet the definition of Tourism and funds were limited so these requests were denied although both were good projects. Loveless seconded and it passed all ayes.

The City received one bid for the Excavator Contract. Loveless made the motion to award the excavator contract to Skyline Construction Inc. Bouska seconded and it passed all ayes.

McGee made the motion to approve the recommendation by the Airport Commission to appoint Gerald C. Ferrie to the Commission to fulfill Dan Duerre's term ending December 31, 2016. Carman seconded and it passed all ayes.

Carman made the motion to approve the recommendation by the Airport Commission to appoint Joseph Lawrence to the Commission to fulfill Pat Schwamman's term ending December 31, 2015. Bouska seconded and it passed all ayes.

The Plan of Action created in the Strategic Planning Report of March 7, 2011 was reviewed. The City is on track with almost all projects. Projects noted to be worked on include: implementation of energy audit improvements; airport studies; sump pump inspection program; storm water drainage study; sidewalk enforcement program.

Guidelines for replacing sidewalks on North Elm Street were discussed. Jason Passmore reported that he brought this up at the Cresco Chamber meeting and the Cresco Business meeting. All members want some design in the concrete border but no specific color or design was decided upon. The design and color will need to be chosen that will blend together if sections are replaced at different times. Council requested Jason have the Cresco Business group to agree on a color and design of the border and that would be made a requirement for new sidewalks on North Elm Street from 1<sup>st</sup> Avenue to 3<sup>rd</sup> Avenue. The cost of replacing the sidewalk is the business owner's responsibility. The City will need to replace crosswalks in the next few years and would tie it into the downtown theme. The City also anticipates repairing alleys and parking lots downtown in the near future as well.

Mayor asked if there were any comments from the audience. Jason Passmore reported Thor-a-Thon two running events July 12<sup>th</sup>. Sterling Drug grand opening is July 17<sup>th</sup> from 3-7pm. Sterling Drug will match any donations received that day up to \$1,000 each for HOCA, Prairie Springs Recreational Trail, Cresco Youth Football, Cresco Fitness Center and Meals for the Heartland Event. July 18<sup>th</sup> is Ridiculous Day and Family Fun Night from 9am - 6pm. July 25<sup>th</sup> is grand opening and ribbon cutting for Quilter's Garden, Stone Path, Wildflower Framing, Craft-n-Chaos and the Weed Patch. August 3<sup>rd</sup> Fly-In Breakfast and Art Show. August 5<sup>th</sup> is National Night Out.

McCarville inquired about getting laptops for the council meetings. Other members did not think it was necessary.

Carman moved to adjourn at 7:45 pm. McGee seconded and it passed all ayes. The next regular Cresco City Council meeting will be at 7:00 pm on July 21, 2014 at Cresco City Hall.

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Mayor Mark Bohle

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City Clerk Michelle Girolamo

Following is a list of claims approved for payment:

ADVANCED SYS	Maint	70.49
ALLIANT	Elect	15,563.98
BABBITT, JOELEEN	Dep ref	63.28
BAKER&TAYLOR	Books	859.69
BEST SERVICES	Equip	12,650.75
BLACK HILLS	Nat gas	2,065.65
BLACKBURN, JOAN	Reimb	69.19
BOB'S ELECTRIC	Srvc	832.25
BODENSTEINER IMPL	Rprs	455.85
BROWN CO	Supp	180.24
BRUENING ROCK	Supp	5,436.01
BURKE REAL EST	Supp	1,051.24
BURNS, ALLISON	Dep ref	51.40
CAMPSITE	LP gas	448.44
CANOE RIDGE KENNELS	Srvc	24.75
CARD CENTER	Supp	283.55
CARLSON, STEVEN	Dep ref	77.68
CARQUEST AUTO	Supp	128.79
CITY LAUNDERING	Srvc	233.08
CITY OF CRESCO	Util, supp	1,612.01
CPU	Supp	159.97
CREATIVE PROD	Supp	241.49
CRESCO FIRE SAFETY	Srvc	246.00
CRESCO INSUR	Insur	2,736.00
CRESCO JAYCEES	Tourism grant	3,000.00
CRESCO TPD	Publ	448.58
CRITTERS & SUCH	Srvc	234.53
CROELL REDI-MIX	Concrete	1,359.25
CULLIGAN	Supp	186.42
DOWNEY, JOE	Dep ref	54.80
ELECTRIC PUMP	Srvc	1,975.05
ELECTRICAL ENGR	Srvc	729.73
FAREWAY	Supp	21.35
FENCO	Supp	159.20
FOLLETT SCH	Subscpt	289.00
FRANKS, KURT	Dep ref	41.66
GALLS	Unif	385.87
GILLIAM, CHRISTIAN	Dep ref	80.00
GILLUND ENTR	Supp	102.48
GONZALEZ, ALFREDO	Dep ref	75.06
GOSCH'S	Supp	354.15
GREER, JAMES	Dep ref	69.43
GROUP SRVC	Fee	12,000.00
HANSON TIRE	Rprs	241.09
HAWKEYE SAN	Grit	98.61
HODGES, BECKY	Dep ref	67.37
HOLSTROM JEWELER	Supp	592.62
HOW COUNTY	Shared LEC	10,685.87
HUBKA, JENNIFER	Dep ref	72.39
IDALS	Fee	75.00
IA ASSOC MUNICIPAL	Dues	906.44
IA DEPT NATURAL	Fee	455.14
IA DEPT OF TRANS	Supp	407.50
IA LEAGUE CITIES	Dues	1,736.00
IA RURAL WATER	Trng	390.00
IVKOVIC, ERICA	Dep ref	80.00
JIM'S AUTO	Supp	111.23
JOHN DEERE FIN	Equip	958.69
JOHNSON ACCTG	Srvc	56.25
KERIAN, WAYNE	Srvc	660.00
KEYSTONE LABS	Analys	864.50
KITTLESON, JAY	Dep ref	17.73
KUHN, ART	Dep ref	80.00
KWIK TRIP	Gas	9,951.78

LIFELOC TECH	Equip	405.61
MARROQUIN, MALAQUIAS	Dep ref	80.00
MERCHANT SRVC	Fee	103.96
MIDWEST RADAR	Equip	320.00
MILLER, DEAN	Srvc	1,073.01
MOELLERS, KEN	Lease	125.00
NE IA COMM ACT	Contrib	2,901.00
NE IA MOTORS	Supp	25.26
NE IA TELEPHONE	Equip	3,671.25
O'HENRY'S	Supp	1,135.13
PATTERSON, JOSHUA	Dep ref	61.18
PAYROLL		139,941.98
PEPSI-COLA	Concessions	44.25
PERRY KLUENDER, JANE	Dep ref	80.00
PETTY CASH	Supp	139.81
PIPER JAFFRAY	Fee	16,500.00
POSTMASTER	Postage	470.11
PRINCIPAL LIFE	Insur	85.86
RACOM CORP	Supp	21.00
RICOH	Lease	487.22
ROGER'S LOCK & KEY	Supp	340.00
RUPPERT	Supp	295.33
SAFETY KLEEN	Supp	184.45
SAM'S DISCOVER	Supp	5,125.78
SANDRY FIRE	Equip	3,000.00
SCHMITT, DARLENE	Dep ref	80.00
SCHWICKERT'S TECTA	Srvc	581.00
SEIFRIED, MARGARET	Dep ref	50.03
SHERWIN-WILLIAMS	Supp	49.16
SNYDER, JEFF	Dep ref	74.28
SPAHN & ROSE	Supp	299.64
STAR EQUIP	Supp	192.00
STATE IA TREAS	Sales tax	5,854.00
TRUCK COUNTRY	Rprs	350.00
USA BLUE BOOK	Supp	386.85
WEILAND, ANITA	Dep ref	80.00
WHKS	Engrng	819.52
WINDSTREAM	Phone	997.14
WINNESHIEK COOP	Supp	83.32
WITT, TAMMY	Dep ref	80.00
ZEE MEDICAL	Supp	304.86
GENERAL		131,712.85
HOTEL/MOTEL		3,000.00
LOST PROJECT		24,128.61
NUISANCE		21.65
FIRE STATION BLDG		554.43
MEDIACOM		522.28
DRUG DOG		1,625.51
CRESCO COMM FIRE		6,294.78
ROAD USE		26,468.29
EMPLOYEE BEN		11,719.14
FIRE EQUIP		3,000.00
LIBRARY		2,250.00
FIT FOR LIFE		637.30
STREET ASSESS		16,507.35
WATER		26,863.53
WATER DEP		1,416.29
SEWER		24,166.13
CAP IMPROVE		131.95
YARDWASTE		1,495.45
EXPENDITURES		282,515.54
Revenues 6/17 to 7/7/14		178,235.24

The Cresco City Council met July 7, 2014, at 5:30 pm at Champlin Hall for a special worksession. Council Members Carman, Bouska, McGee, McCarville and Loveless were present. No council members were absent.

Theatre Commission Members Gayle Kelm, Christine Minear, Bruce Buckley, Rick Nance and Alex Fortune were present. Also Spiff Slifka, Public Works Director Rod Freidhof and City Clerk Michelle Girolamo were in attendance.

A tour of the Theatre building was taken to look at maintenance issues that need to be addressed. There were many issues with electrical, paint, carpet, doors and especially the east wall water damage.

The Mayor called the meeting to order. On June 20, 2014 the Cresco Theatre LLC gave a 60 day Notice of Termination of the Cresco Theatre Rental Agreement. The Theatre Commission recommended that the City operate the Theatre to obtain a good understanding of everything that is involved in the operation of the Theatre. It was discussed that a manager should be hired to be in charge and would operate the Theatre with support from the Theatre Commission.

The Cresco Theatre LLC will operate the Theatre until the 60 days have elapsed which will be August 20, 2014. During this time, maintenance issues will try to be worked on and the Commission will do some research to get a better idea on the operation of the movie theatre. The Commission will make decisions on the management and operation of the Theatre.

The Theatre Commission will do an article for the newspaper to inform the public that the Theatre will remain open. The City Clerk will purchase the domain name of [www.crescotheatre.us](http://www.crescotheatre.us) so a website can be created to promote and advertise the Theatre and to keep the public informed.

Everybody agreed that they have no intention of closing the Theatre. All agreed it is an important asset to the community and hope to promote the use of this historical building in the future.

McCarville moved to adjourn the Council worksession at 6:30 pm. Carman seconded and it passed all ayes. The next regular Cresco City Council meeting will be at 7:00 pm on July 7, 2014 at Cresco City Hall.

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Mayor Mark Bohle

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City Clerk Michelle Girolamo

Resolution No. \_\_\_\_\_

Proclamation National Night Out 2014

WHEREAS, the National Association of Town Watch (NATW) is sponsoring a unique, nationwide crime, drug and violence prevention program on August 5, 2014 entitled "National Night Out"; and

WHEREAS, the "31<sup>st</sup> Annual National Night Out" provides a unique opportunity for the City of Cresco to join forces with thousands of other communities across the country in promoting cooperative, police-community crime prevention efforts; and

WHEREAS, the Cresco City Council plays a vital role in assisting the Cresco Police Department through joint crime, drug and violence prevention efforts in Cresco and is supporting "National Night Out 2014" locally; and

WHEREAS, it is essential that all citizens of the City of Cresco be aware of the importance of crime prevention programs and of the impact that their participation can have on reducing crime, drugs and violence in Cresco; and

WHEREAS, police-community partnerships, neighborhood safety, awareness and cooperation are important themes of the "National Night Out" program;

NOW THEREFORE BE IT RESOLVED that I, Mayor Mark Bohle, do hereby call upon all citizens of the City of Cresco to join the Cresco City Council and the National Association of Town Watch in supporting the "31<sup>st</sup> Annual National Night Out" on August 5, 2014.

FURTHER, LET IT BE RESOLVED that I, Mayor Mark Bohle, do hereby proclaim Tuesday, August 5, 2014 as "NATIONAL NIGHT OUT" in the City of Cresco.

PASSED AND APPROVED THIS 21<sup>ST</sup> DAY OF JULY, 2014.

\_\_\_\_\_  
Mayor Mark Bohle

ATTEST: \_\_\_\_\_  
City Clerk Michelle Girolamo

RESOLUTION NUMBER \_\_\_\_\_

RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK  
TO ENTER INTO AN INDUSTRIAL SEWER RENTAL AGREEMENT  
WITH CRESCO FOOD TECHNOLOGIES LLC.

The City Council of the City of Cresco met in regular session on July 21, 2014 at 7:00 P.M. The annual renewal of an Industrial Sewer Rental Agreement between the City of Cresco and Cresco Food Technologies LLC was discussed.

Council Person \_\_\_\_\_ moved the adoption of the foregoing Resolution Authorizing the Mayor and City Clerk to enter into an agreement with Cresco Food Technologies LLC. Council Person \_\_\_\_\_ seconded said motion. A roll call vote was requested by the Mayor and said roll call vote resulted as follows:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Thereupon, the Mayor declared said Resolution duly passed and announced that the agreement dated August 1, 2014, between the City of Cresco and CRESCO FOOD TECHNOLOGIES LLC is approved and that the Mayor and City Clerk are authorized to execute the agreement on behalf of the City of Cresco.

PASSED AND APPROVED THIS 21<sup>ST</sup> DAY OF JULY, 2014.

BY: \_\_\_\_\_  
Mayor Mark Bohle

ATTEST: \_\_\_\_\_  
City Clerk Michelle Girolamo

INDUSTRIAL SEWER RENTAL AGREEMENT

BETWEEN

CRESCO FOOD TECHNOLOGIES LLC

AND

CITY OF CRESCO, IOWA

EFFECTIVE 08/01/14

EXPIRES 07/31/2015

## INDUSTRIAL SEWER RENTAL AGREEMENT

In This agreement entered into this 1<sup>st</sup> day of August, 2014, between the City of Cresco, Iowa, hereinafter known as the "Owner" and Cresco Food Technologies LLC at 717 2<sup>nd</sup> Ave SE, Cresco, IA 52136, hereinafter known as the "User."

It is hereby agreed that the Owner shall provide the use of its water pollution control facilities in accordance with the effluent limitations, monitoring requirements and other conditions set forth in this Agreement. Water pollution control facilities include the municipal sanitary sewer collection system and publicly owned treatment works (POTW).

It is hereby agreed that the User will adhere to the Plan of Action filed with the Iowa Department of Natural Resources (IDNR) dated December 19, 2012. If the Plan of Action is not followed, the City reserves the option to suspend sanitary service to CFT until deficiencies are corrected.

### A. AGREEMENT EXPIRATION DATES

- a. The conditions of this Agreement become effective immediately upon issuance. The conditions of this Agreement supersede any arrangements or requirements established by the Owner pertaining to discharges from the User to the water pollution control facilities.
- b. This Agreement shall expire one (1) year from date of issuance. At that time City Council shall review Agreement violations and may adjust surcharge amounts higher. In addition, either a new 1 year Agreement will be issued or a 5 year Agreement will be issued to coincide with the expiration date of the current NPDES permit of the Owner's POTW.

### B. MODIFICATIONS TO THIS AGREEMENT

- a. If in the future it becomes necessary for the Owner to provide additional treatment facilities for a higher degree of treatment, this Agreement may be modified by the Owner to increase or decrease the rates charged the User so as to properly reflect changes in capital costs of the Owner.
- b. If operation and maintenance costs should increase significantly, this Agreement may be modified by the Owner to increase the rates charged the User so as to properly reflect changes in operating costs to the Owner.
- c. If effluent limitations for the POTW, as set forth in the NPDES permit are modified, this Agreement may be modified by the Owner to change the discharge limitations of the User during the term of the Agreement. The NPDES permit grants authority to the Owner to discharge treated wastewater to an unnamed tributary to Silver Creek. The Owner shall notify the User of any change in the NPDES permit at least 60 days prior to the effective date of change.
- d. If analysis of discharge samples reveals a significant consistency in discharge composition, this Agreement may be modified by the Owner to reduce the frequency of sampling and/or and analysis of samples.
- e. If the User increases its production capacity, or modifies its industrial process in such a way that the quantity or strength of its discharges will exceed the limitations of this Agreement, or modifies a discharge point into the municipal sanitary sewer collection system, a revised Agreement and new limitations shall be established. The User shall be responsible for applying for a revised Agreement at least 180 days prior to the proposed production increase or process modification.

## C. INDUSTRIAL PROCESS DESCRIPTION

The User is a food processing facility that handles products including but not limited to: yeasts, milk products, meat stocks, plant fiber products, hydrogenated oils, and fish oils. The products being treated may vary on a weekly basis. It is understood by the Owner that there is a single discharge point from the User to the municipal sanitary sewer collection system. It is a continuous process so discharge is always being released to the Owner's water pollution control facilities, although flow rates vary. The discharge is from the cleaning of equipment and other uses.

D. EFFLUENT LIMITATIONS

- a. The discharge of said User into water pollution control facilities of the Owner shall not violate Chapter 97 of Cresco Code of Ordinances. The discharge shall also be in accordance with the Iowa Department of Natural Resources Operation Agreement Application Treatment Agreement for the User's facility (Exhibit A).
- b. The discharges from the User are subject to the following limitations where they enter the municipal sanitary sewer collection system.

Table 1: Discharge Limitations

<u>Discharge Parameter</u>	<u>Daily Maximum</u>	<u>30-Day Average Limit</u>
Flow	100,000 gal/day	67,000 gal/day
BOD <sub>5</sub>	360 ppd or 650 mg/L	250 ppd or 450 mg/L
TKN	20 ppd or 36 mg/L	13 ppd or 24 mg/L
TSS	300 ppd or 540 mg/L	220 ppd or 400 mg/L
Fats-Oils-Grease (FOG)	150 mg/L or 84 ppd	100 mg/L or 56 ppd
PH	5.5-10.0	5.5-10.0
Paraffin or insoluble substances	0	0

If discharge is out of these parameters for more than one (1) minute it will be considered a violation.

E. MONITORING

- a. Flows will be read from the User's water meter on a monthly basis. The User may submit calculations to deduct evaporated cooling water off of the water usage. If calculations are not submitted, then the monthly flow will be equal to the monthly water usage.
- b. The User must record continuous pH measurements with a chart recorder or similar device.
- c. The User must record the instantaneous pH value of the discharge every Thursday morning at 8 AM.
- d. The User must have in place a flow proportional sampling device and must take 24 hour flow-paced composite samples of its discharge. The sampler shall capture all phases of the discharge, including suspended fats, oils, grease and other insoluble substances.
- e. The User shall be responsible for calibrating and maintaining its analytical and sampling instrument as required to ensure accuracy of measurements.
- f. The User shall provide calibration records for the equipment to the Owner at the Owner's request.
- g. In the event that monitoring equipment must be out of service for any length of time, the User shall inform the Owner of the condition and estimated duration of non-service immediately.
- h. The Owner shall have authority to install its own pH monitoring, sampling and flow recording equipment at any time with 30 days notice to the User.
- i. The site for the City sampler shall be inside the building next to the User's sampler.
- j. The Owner shall collect grab samples from the sampling location at the Owner's discretion.

- k. The User shall grant the Owner access to the User's monitoring and recording equipment at the Owner's request for purposes of inspection or data collection.
- l. All access to the sampling station shall be inside the delivery area next to the receiving scales. The only area in the User's facility that the Owner shall enter without prior permission is the sampling area, solely for the purpose of collecting samples.
- m. The User shall have the discharge tested by a laboratory certified by the State of Iowa on the following basis:
  - (1) Once per Week: Acidity (pH), Biological Oxygen Demand (BOD<sub>5</sub>), Total Suspended Solids (TSS), Total Kjeldahl Nitrogen (TKN), and Fats-Oils-Grease (FOG).
  - (2) Any Day When the Industrial Process Significantly Changes or Equipment Washdown Occurs and Testing Has Not Already Been Done: Acidity (pH), Biological Oxygen Demand (BOD<sub>5</sub>), Total Suspended Solids (TSS), Total Kjeldahl Nitrogen (TKN), and Fats-Oils-Grease (FOG).

#### F. REPORTING

- a. The User must submit to the Owner, once a month, a report containing the daily records of pH, analytical test results corresponding to the monitoring and testing schedule shown in Section E, and calculated loads discharged to the Owner. The report must be submitted to the Owner no later than the tenth of each month.
- b. MSDS sheets for all materials at the Users Facility in quantities greater than 10 gallons shall be provided to the Owner and be up-to-date at all times.
- c. The User shall submit to the Owner a report of the products and chemicals received, processed and wasted. The Owner will treat this list as privileged information.

- d. The Owner reserves the right to request, in writing to the User, that the User have the discharge tested for concentrations of heavy metals.

G. CALCULATION OF MONTHLY STATEMENT

- a. The User shall receive a bill from the Owner no later than the fifteenth of each month. The bill will include charges listed in this section.
- b. The User shall pay the monthly charges for the full amount discharged under each parameter listed in this section. Loads in excess of the limits stated in Section D (Effluent Limitations) are also subject to a surcharge as stated in Section H (Violations and Violation Procedures). The surcharges shall only apply to the loads that are over the applicable limits.
- c. Loads discharged will be determined by the test results of daily samples and average daily flows determined from the monthly flow records.
- d. In the absence of daily test results, approximate daily values will be calculated based on test results from periods of similar product handling, and average daily flows determined from the monthly flow records.
- e. The following is the formula for calculating the monthly charges. Surcharges are listed in Section H (Violations and Violation Procedures).
  - i. Flow:  $\$12/1000 \text{ gpd} \times 30\text{-day average flow (gpd)}$ .
  - ii. BOD<sub>5</sub>:  $\$7.01/\text{lb BOD}_5 \times 30\text{-day average BOD}_5 \text{ (ppd)}$
  - iii. TKN: Does not have a regular charge.
  - iv. TSS: Does not have a regular charge.
  - v. Fats-Oils-Grease (FOG): Does not have a regular charge.
  - vi. pH: Does not have a regular charge.
  - vii. Paraffin or other insoluble substances: Does not have a regular charge.

- viii. Capital Improvement Recovery: The capital improvement recovery charge is \$849.50.
- ix. Laboratory testing of the discharge is not included in the above operation and maintenance charge. The User shall be responsible for the cost of testing.

#### H. SURCHARGES

- a. The User shall pay for all or a portion of any fines or penalties assessed to the Owner under the following circumstances;
  - i. If the User exceeds its allocated share in any parameter and that exceedance is the direct cause of the POTW exceedance of its design characteristic (which could not be avoided by proper operation or maintenance) which causes an exceedance in its NPDES permit limitation and that violation results in the state or federal government assessment of a fine or penalty – 100% of the fine or penalty as a separate charge.
  - ii. If the User is within its allocated share in any parameter and the POTE exceeds its NPDES permit limitation and that violation results in the state or federal government assessment of a fine or penalty which is not the responsibility of the operators – the User's pro rata share of User Charges and not a separate charge.
- b. If the discharge is not in compliance with the limitations set forth in Section D (Effluent Limitations) of this Agreement, it shall be considered a violation of this Agreement. Violations shall be issued a surcharge as calculated in this section.
  - i. Flow: For each month the Monthly Actual Average Flow exceeds Monthly Average Limit:  
\$12/1000 gpd x 30-Day Average Flow (gpd) x 2.00 penalty.

- ii. BOD<sub>5</sub>: for each day Daily Actual Load exceeds Daily Maximum Load:  
\$1.00/lb BOD<sub>5</sub> x (Daily Actual BOD<sub>5</sub> (ppd)- Daily Maximum BOD<sub>5</sub> (ppd)).
- iii. BOD<sub>5</sub>: for each month the Actual Monthly Average Load exceeds 30-Day Average Limit: \$1.00/lb BOD<sub>5</sub> (Actual 30-day Average BOD<sub>5</sub>(ppd) – 30-Day Average Limit BOD<sub>5</sub>(ppd)) x (30 days/month) x 2.00 penalty
- iv. TKN: for each day Daily Actual Load exceeds Daily Maximum Load:  
\$1.00/lb TKN x (Daily Actual TKN (ppd)- Daily Maximum TKN (ppd)).
- v. TKN: for each month the Actual Monthly Average Load exceeds 30-Day Average Limit: \$1.00/lb TKN (Actual 30-day Average TKN(ppd) – 30-Day Average Limit TKN(ppd)) x (30 days/month) x 2.00 penalty
- vi. TSS: for each day Daily Actual Load exceeds Daily Maximum Load:  
\$1.00/lb TSS x (Daily Actual TSS (ppd)- Daily Maximum TSS (ppd)).
- vii. TSS: for each month the Actual Monthly Average Load exceeds 30-Day Average Limit: \$1.00/lb TSS (Actual 30-day Average TSS(ppd) – 30-Day Average Limit TSS (ppd)) x (30 days/month) x 2.00 penalty
- viii. FOG: for each day Daily Actual Load exceeds Daily Maximum Load:  
\$1.00/lb FOG x (Daily Actual FOG (ppd)- Daily Maximum FOG (ppd)).
- ix. FOG: for each month the Actual Monthly Average Load exceeds 30-Day Average Limit: \$1.00/lb FOG (Actual 30-day Average FOG(ppd) – 30-Day Average Limit FOG (ppd)) x (30 days/month) x 2.00 penalty
- x. pH: A surcharge of \$2,000/day for each instance of violation shall apply.
- xi. Paraffin or other insoluble substances: A surcharge of \$2,000/day for each instance of violation shall apply. The appearance of paraffin or other insoluble substances will be determined by visual observation by City staff. City staff shall decide whether the substances originate from

the User's facility after making reasonable efforts to observe the condition of the sewer collection system and POTW.

- c. If a spill or accidental discharge occurs because the Spill Prevention Plan as discussed in Section I was not followed, a surcharge of \$2,000/day shall apply.
- d. If damages to the sanitary sewer collection system or POTW or private property are caused by the User's discharge, an additional surcharge will apply that is equal to the costs incurred by the Owner to correct any deficiency and/or repair any damages.
- e. If the monthly monitoring report is not received by the Owner by the tenth day of each month, the User shall notify the Owner to explain reasons for lateness, at which time the Owner may choose to assess a surcharge not to exceed \$500. Each subsequent day on which the report is not received shall be subject to an additional surcharge of \$100/day.
- f. If the records are not supplied in the monthly report corresponding to the requirements of Section F a surcharge of \$1,000/day will be applied for each day in the records that do not conform to the requirements.
- g. In the event that either the flow or pH monitoring or sampling equipment owned and operated by the User is out of service for longer than 48 hours the Owner may elect to temporarily assume the flow or monitoring duties until the User's equipment is returned to service, with all costs associated with the temporary monitoring program billed to the User.
- h. The Owner will charge the User a surcharge of \$20/day in lieu of the calculated surcharge if the calculated surcharge for any of the above items is less than \$20/day,
- i. The Owner may charge the User a surcharge of \$100/day if the pH meter is not operational within the timeframe stated under Section E (Monitoring).

I. SPILL PREVENTION

The User shall maintain, at a minimum, the spill prevention plan submitted to the Owner from the User in a letter dated 1/10/08 (Attachment A) and shall also comply with the provisions proposed to the City on 6/29/12 (Attachment B). The plan as described in this letter was: "All the drains in the vicinity of the unloading, storage and process areas have been fitted with drain plugs and drain covers. These plugs and covers remain in place during unloading and when ever the product is being stored in the tanks and when the process is in operation. Tanks designed to catch and separate the FOG material are in place at both CIP stations."

J. ACCIDENTAL DISCHARGES

The User shall notify the Owner immediately via telephone upon having a slug or accidental discharge of substance or wastewater in violation of this Agreement in order to enable counter measures to be taken by the Owner to minimize damage to the wastewater treatment facilities and receiving waters. Telephone the POTW at 563-547-3600. Accidental discharges resulting from a failure to comply with the Spill Prevention Plan as described in Section I shall result in a surcharge. Failure to notify the Owner of such a discharge shall result in a double surcharge. Such notification shall not relieve the User for any liability described in the terms of this Agreement.

K. SUSPENSION OF AGREEMENT

- a. In the event that there are more than six (6) violations in any 365 period, the Owner may order that the User cease its exceedances of allocated share limits within thirty (30) days and if not corrected within such time period may order the User to suspend any further discharge pursuant to this agreement until corrected.

- b. In the event that any violation exceeds the stated applicable limits by more than 25%, the User shall, within thirty (30) days, submit to the Owner a compliance plan to prevent further such exceedances. The compliance plan shall be submitted to the Owner within thirty (30) days after notice of such violation. If an acceptable compliance plan is not submitted to the Owner within this time limit the Owner may order the User to suspend any further discharge pursuant to this Agreement until the User complies with this provision.
- c. The Owner may revoke this Agreement if the User fails to factually report the discharge constituents and characteristics; fails to report significant changes in discharge constituents and characteristics; refuses reasonable access to its premises for the purposed of inspection and monitoring; or violates conditions of the Agreement, the applicable municipal ordinances, or applicable State and Federal regulations.
- d. The user will pay all outstanding penalties and fines before the agreement begins.
- e. Any penalties and fines incurred during the tenure of the agreement will be added to the utility bill. If utility bills are not paid, the Owner may discontinue service to the User.

L. NOTIFICATION OF VIOLATION

In the event of a violation of this Agreement, the Owner shall notify the User through a letter separate from the monthly bill. The User shall have 20 days to appeal the violation. Said appeal must be addressed to the City Administrator in writing.

This agreement is entered into and agreed upon by the City of Cresco and Cresco Food Technologies LLC, Inc. on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CRESCO FOOD TECHNOLOGIES LLC

By \_\_\_\_\_

CITY OF CRESCO, IOWA

By \_\_\_\_\_  
Mayor

ATTEST:

By \_\_\_\_\_  
City Clerk

RESOLUTION NUMBER \_\_\_\_\_

**RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO  
A BUSINESS ASSOCIATE AGREEMENT WITH GROUP SERVICES**

WHEREAS, the City of Cresco offers a health insurance plan for full-time employees and maintains a partially self-funded plan in conjunction with the health insurance plan; and

WHEREAS, HIPAA requires a "Privacy Rule" and "Security Rule" that must be followed in offering health benefits and protecting protected health information; and

WHEREAS, it is necessary for the City to enter into a written agreement with Group Services that meets the applicable requirements of the privacy and security rules.

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor is authorized and directed to sign the written agreement with Group Services.

Council Person \_\_\_\_\_ moved the adoption of the foregoing Resolution and Council Person \_\_\_\_\_ seconded said Motion. Following discussion, a roll call vote was requested by Mayor and said roll call resulted as follows:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Thereupon, the Mayor declared said Resolution duly passed and announced that the agreement is approved and that the Mayor is authorized to execute the agreement on behalf of the City of Cresco.

PASSED AND APPROVED THIS 21<sup>ST</sup> DAY OF JULY, 2014.

BY: \_\_\_\_\_  
Mayor Mark Bohle

ATTEST: \_\_\_\_\_  
City Clerk Michelle Girolamo

## **BUSINESS ASSOCIATE AGREEMENT**

This **BUSINESS ASSOCIATE AGREEMENT** (this "*Agreement*") is entered into by and between City of Cresco whose principal place of business is Cresco, Iowa (*the "Company"*), on behalf of its Plans (as defined below), and Group Services, whose principal place of business is Bettendorf, Iowa ("*Business Associate*," and with Company, each a "*Party*" and together the "*Parties*"). This Agreement supersedes and replaces any prior Business Associate Agreements and related amendments thereto between the Parties.

### **RECITALS:**

**WHEREAS**, Company maintains certain health care benefit plans, which provide health plan benefits to certain of Company's members, employees and/or retirees, and their eligible dependents, if any (collectively, the "*Plans*");

**WHEREAS**, Business Associate provides services for Company and the Plans;

**WHEREAS**, pursuant to the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 ("*HIPAA*"), the Department of Health and Human Services ("*HHS*") has promulgated regulations at 45 C.F.R. Parts 160-64, implementing the privacy requirements set forth in HIPAA (the "*Privacy Rule*") and the electronic security requirements set forth in HIPAA ("*Security Rule*"), each as amended by the "Health Information Technology for Economic and Clinical Health Act," part of the "American Recovery and Reinvestment Act of 2009" ("*HITECH Act*");

**WHEREAS**, the Privacy Rule provides, among other things, that before a health plan is permitted to disclose Protected Health Information (as defined below) to a business associate and to allow the business associate to obtain and receive Protected Health Information, the health plan must obtain satisfactory assurances in the form of a written contract that the business associate will appropriately safeguard the Protected Health Information;

**WHEREAS**, the Security Rule provides, among other requirements, for a health plan to obtain additional assurances from a business associate with respect to Protected Health Information that is transmitted by or maintained in electronic media;

**WHEREAS**, Business Associate will have access to, create and/or receive certain Protected Health Information in conjunction with the services being provided to the Covered Entity, thus necessitating a written agreement that meets the applicable requirements of the Privacy Rule, and may maintain Protected Health Information in electronic media, thus necessitating a written agreement that meets the applicable requirements of the Security Rule; and

**WHEREAS**, Business Associate and Company, on behalf of the Plans, have mutually agreed to satisfy the foregoing regulatory requirements through this Agreement.

**NOW THEREFORE**, Business Associate and Company, on behalf of the Plans, agree as follows:

## 1. Definitions

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA Privacy and Security Rules and the final Omnibus Rule issued by the Department of Health and Human Services on January 17, 2013, effective March 26, 2013. The following terms shall have the following meaning when used in this Agreement:

- a. **Breach** means that term as set forth in 45 C.F.R. § 164.402.
- b. **Business Associate** shall generally have the same meaning as the term “business associate” at 45 C.F.R. § 160.103, and in reference to the party to this Agreement, shall mean Group Services.
- c. **Covered Entity** shall generally have the same meaning as the term “covered entity” at 45 C.F.R. § 160.103, and in reference to the party to this Agreement, shall mean City of Cresco.
- d. **Designated Record Set** means that term as set forth in 45 C.F.R. § 164.501.
- e. **Electronic Protected Health Information** means Protected Health Information that is transmitted or maintained in electronic media, including, but not limited to, hard drives, disks, on the internet, or on an intranet.
- f. **HIPAA Rules** means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. part 160 and part 164.
- g. **Individual** means that term as set forth in 45 C.F.R. § 160.103, and includes a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- h. **Omnibus Rule** means the Health Insurance Portability and Accountability Act rule issued by the Department of Health and Human Services and published in the Federal Register on January 25, 2013 at 78 Fed. Reg. 5566.
- i. **Privacy Rule** means the Standards of Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
- j. **Protected Health Information** means that term as set forth in 45 C.F.R. § 160.103, except limited to the information created or received by Business Associate from or on behalf of The Plans.
- k. **Required By Law** means that term as set forth in 45 C.F.R. § 164.103.
- l. **Secretary** means the Secretary of the Department of Health and Human Services or his/her designee.
- m. **Security Rule** means the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subparts A and C.

- n. **Subcontractor** means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.
- o. **Unsecured Protected Health Information** means that term as set forth in 45 C.F.R. § 164.402.

Any capitalized term not specifically defined herein shall have the same meaning as set forth in 45 C.F.R. Parts 160 and 164, and the Omnibus Rule issued on January 17, 2013, effective March 26, 2013, where applicable. The terms “use,” “disclose” and “discovery,” or derivations thereof, although not capitalized, shall also have the same meanings set forth in HIPAA and its implementing regulations.

## 2. **Obligations and Activities of Business Associate**

- a. Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law.
- b. Business Associate agrees to document and use appropriate administrative, technical and physical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement and in compliance with the Security Rule.
- c. Business Associate agrees to establish procedures for mitigating, and shall follow those procedures and so mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- d. Business Associate agrees to report to the Plans' privacy officer in writing within fifteen (15) business days the names and addresses of any subcontractor(s) that the Business Associate uses in connection with this Agreement.
- e. Business Associate agrees that it will report to the Plans within three (3) business days after discovering, as defined in 45 C.F.R. § 164.410, any Breach of Unsecured Protected Health Information, and that it will provide to the Plans within five (5) days: (i) a list of all Individuals whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used, or disclosed during the Breach, and (ii) any other available information that the Plans is required to include in notifications to such Individuals pursuant to 45 C.F.R. § 164.404(c), and to the Secretary.
- f. In the event of any Breach referred to in the preceding paragraph, Business Associate agrees to cooperate with the Plans to notify, at the Business Associate's expense: (i) Individuals whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed; (ii) the media, as required pursuant to 45 C.F.R. § 164.406; and (iii) the Secretary, as required by 45

- C.F.R. § 164.408(b), if the legal requirements for media or HHS notification are triggered by the circumstances of such Breach, *provided that* Business Associate shall not initiate any such notifications without the express written approval of the Plans.
- g. In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of the Plans, agrees in writing to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information. Business Associate shall provide copies of such agreements to the Plans upon request.
  - h. Business Associate agrees to provide, within fifteen (15) days of receiving a request from the Plans or from an Individual, in the manner reasonably requested by the Plans, access to Protected Health Information in a Designated Record Set, to the Plans or, as directed by the Plans, to an Individual, in order for the Plans to fulfill their obligations under 45 C.F.R. § 164.524 to provide access and copies of Protected Health Information to an Individual.
  - i. Business Associate agrees to make available to the Plans, within fifteen (15) days of receiving a request from the Plans or from an Individual, in the manner reasonably requested by the Plans, such information as the Plans may require to fulfill in a timely manner the Plans' obligations pursuant to 45 C.F.R. § 164.526 to amend Protected Health Information that Business Associate maintains in a Designated Record Set, and if so notified by the Plans, to incorporate any amendments to which the Plans have agreed.
  - j. Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, the Plans, available to the Plans, or to the Secretary, for purposes of the Secretary determining the Plans' compliance with the Privacy Rule. If Business Associate directly receives a request from the Secretary, then Business Associate agrees to notify the Plans promptly of such request.
  - k. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for the Plans to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.
  - l. Business Associate agrees to provide to the Plans or an Individual, as soon as practicable and in the manner reasonably requested by the Plans or Individual, information collected in accordance with Section 2(i) of this Agreement, to permit the Plans to respond in a timely manner to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

- m. Business Associate will comply with all obligations applicable to business associates as set forth in the Omnibus Rule located at 78 Fed. Reg. 5566 (January 25, 2013), as of the date that compliance with each such obligation is required pursuant to the Omnibus Rule.

### **3. Permitted Uses and Disclosures by Business Associate**

- a. Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Plans, provided that such use or disclosure would not violate the Privacy Rule if done by the Plans or the minimum necessary policies and procedures of the Plans.
- b. Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information only if such use or disclosure is in full compliance with 45 C.F.R. § 164.504(e). The additional requirements of the HITECH Act that relate to privacy and that are made applicable to covered entities shall also apply to Business Associate, and are hereby incorporated into this Agreement.
- c. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- d. Except as otherwise limited in this Agreement or any other arrangement between Business Associate and the Plans, Business Associate may use Protected Health Information to provide data aggregation services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B) (i.e., the combining of Protected Health Information received from the Plans with protected health information received by Business Associate in its capacity as the business associate of other group health plans, to permit data analyses that relate to the health care operations of various group health plans.).
- e. Business Associate may use Protected Health Information to report violations of law to the appropriate Federal and State authorities, consistent with 45 C.F.R. § 164.502(j)(1).

### **4. Security Standards**

- a. Business Associate shall implement Administrative, Physical and Technical Safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of Electronic Protected Health Information that it creates, receives, maintains or transmits on behalf of the Plans.
- b. With respect to the Safeguards required by Section 4(a) above, 45 C.F.R. § 164.308 (administrative safeguards), § 164.310 (physical safeguards), § 164.312 (technical safeguards) and § 164.316 (policies and procedures and documentation requirements), shall apply to Business Associate in the same manner that such sections apply to the Plans. The additional requirements of the HITECH Act that relate to security and that are made applicable to covered entities shall also apply to

Business Associate, and are hereby incorporated into this Agreement. Business Associate shall be liable under the civil and criminal enforcement provisions set forth at 45 C.F.R. § 160.402 and 42 U.S.C. § 1320d-5 and 1320d-6, as amended from time to time, for failure to comply with the safeguards and any guidance issued by the Secretary with respect to such requirements.

- c. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides Electronic Protected Health Information, agrees in writing to implement reasonable and appropriate safeguards to protect such Electronic Protected Health Information and to comply with the Security Rule and 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2).
- d. Without limiting the provisions of Section 2 above, Business Associate shall report in writing to the Plans within three (3) business days of becoming aware of any Security Incident involving Electronic Protected Health Information, including breaches of unsecured protected health information as required by 45 C.F.R. § 164.410 and security incidents involving subcontractors and as reasonably appropriate, shall advise the Plans of measures Business Associate will be taking to mitigate harm from such Security Incident, and to prevent similar future incidents.
- e. Business Associate shall make its policies and procedures and documentation required by the Security Rule relating to the Safeguards described in subsection (a) above, available to the Plans and to the Secretary for purposes of determining the Plans' compliance with the Security Rule, and Business Associate's compliance with the HITECH Act.

## 5. Security Breach

- a. Business Associate agrees to report to the Plans' Privacy Officer any potential Breach of Unsecured PHI without unreasonable delay and in no case later than three (3) business days after discovery of a Breach. Such notice shall include, to the extent the details are available: (i) the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate, to have been, accessed, acquired, or disclosed; and (ii) a brief description of the event; and (iii) the date of the potential Breach; and (iv) the date of discovery; and (v) the type of PHI involved; and (vi) any preliminary steps taken to mitigate the damage caused by the Breach; and (vii) a description of any investigatory steps taken. In the event that the details of the Breach are not known at the time of the initial notification to Plans, Business Associate shall promptly follow up with Plans' privacy officer with the details as such become available. In addition, Business Associate shall provide any additional information reasonably requested by Plans for purposes of investigating the Breach. Without limiting any of the provisions of this Section 5, Business Associate's notification of a Breach under this Section 5 shall comply in all respects with each applicable provision of Section 13400 of the HITECH Act, Subpart D of 45 C.F.R. 164 and related regulations and guidance issued by the Secretary from time to time.
- b. In addition to the foregoing, Business Associate agrees that in the event of such a Breach, Plans shall have the sole right to determine (i) whether notice is to be provided to any Individuals, regulators, law enforcement agencies, consumer

reporting agencies, and/or media or others as required by law or regulation, in Plans' discretion; whether such notice(s) shall be sent out directly by Business Associate or by Plans; whether such notice(s) shall be sent under the letterhead of Plans or that of Business Associate; the contents of such notice(s); whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation (which remediation shall include, but not be limited to, credit monitoring by nationally recognized credit monitoring companies). Business Associate shall bear the sole expense of the preparation and sending of such notices and the remediation for such Breach. In the event that Plans send out such notice(s) directly and/or directly incurs the expense of such remediation, Business Associate shall promptly reimburse Plans its reasonable costs of preparation and mailing of such notice(s), its actual costs for providing remediation, and reasonable costs and expenses of Plans' investigation of the Breach by Business Associate (or that of Business Associate's subcontractors or agents).

## 6. Term and Termination

- a. This Agreement shall be effective as of July 14, 2014, and shall terminate when all of the Protected Health Information provided by the Plans to Business Associate, or created or received by Business Associate on behalf of the Plans, is destroyed or returned to the Plans, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with Section 6(c).
- b. Upon the Plans' knowledge of a material breach of this Agreement by Business Associate, the Plans shall, at their election, either:
  - i. Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by the Plans;
  - ii. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
  - iii. If neither termination nor cure is feasible, the Plans shall report the violation to the Secretary.
- c. Effect of Termination
  - i. Except as provided in Section 6(c)(ii), upon termination of this Agreement for any reason, Business Associate shall return all Protected Health Information received from the Plans, or created or received by Business Associate on behalf of the Plans, or, at the election of the Plans, Business Associate may alternatively certify in writing to the Plans that it has destroyed all Protected Health Information. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information, including no electronic copies.

- ii. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to the Plans notification of the conditions that make return or destruction infeasible. Upon Business Associate's establishing to the Plans' reasonable satisfaction that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

## 7. Miscellaneous

- a. **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule, the Security Rule, or to any other regulation promulgated under HIPAA means the section as in effect or as amended.
- b. **Indemnification.** Business Associate agrees during and after the term of this Agreement to hold the Plans and the Company, and their respective trustees, officers, directors, employees, agents and affiliates, harmless from, and indemnify each of them against any and all claims, losses, liabilities penalties, fines, costs, damages and expenses, including reasonable attorneys' fees, incurred by or imposed upon any of them as a result of Business Associate's breach of this Agreement, HIPAA, the Privacy Rule or the Security Rule.
- c. **Survival.** The respective rights and obligations of the Parties under Sections 2, 5, 6(c) and 7 of this Agreement shall survive the termination of this Agreement.
- d. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit the Plans to comply with the Privacy Rule, Security Rule and other provisions of HIPAA, including, but not limited to, any regulations promulgated under the HITECH Act.
- e. **Governing Law.** The construction, interpretation and performance of this Agreement and all transactions under this Agreement shall be governed and enforced pursuant to the laws of the State of Iowa, except as such laws are preempted by any provision of federal law, including by ERISA or HIPAA. Any action or proceeding arising out of or relating to this Agreement shall be brought and tried in a federal or state court of competent jurisdiction located in Scott County, Iowa and in no other forum or venue.
- f. **No Third Party Beneficiary.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.
- g. **Effect.** This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their respective successors, assigns, heirs, executors, administrators and other legal representatives.

- h. **Severability.** In the event any provision of this Agreement is rendered invalid or unenforceable under any new or existing law or regulation, or declared null and void by any court of competent jurisdiction, the remainder of the provisions of this Agreement shall remain in full force and effect if it reasonably can be given effect.
- i. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies thereof shall be deemed to be originals.
- j. **Notices.** All notices to be given pursuant to the terms of this Agreement shall be in writing and shall be deemed given four (4) business days after being sent by certified mail, return receipt requested, postage prepaid or one (1) business day after being sent by reputable overnight mail delivery to the other Party, at the address set forth above or at such other address as a Party may designate from time to time by notice pursuant to this Section 7(j).
- k. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Plans to comply with the requirements of the HIPAA Privacy, EDI and Security Rules, and any other provisions of HIPAA including, but not limited to, any regulations promulgated under the HITECH Act.
- l. **Obligations of Plans to Provide Notice of Privacy Practices.**
  - i. Plans shall notify Business Associate of any limitation(s) in notice of privacy practices of Plans under 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of protected health information.
  - ii. Plans shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect Business Associate's use or disclosure of protected health information.
  - iii. Plans shall notify Business Associate of any restriction on the use or disclosure of protected health information that Covered Entity has agreed to or is required to abide by under 45 C.F.R. § 164.522, to the extent that such restriction may affect business associate's use or disclosure of protected health information.

**IN WITNESS WHEREOF**, the Parties have executed this Business Associate Agreement as of the Effective Date.

**COMPANY**

By: \_\_\_\_\_

Name:

Title:

Date:

**BUSINESS ASSOCIATE**

By: \_\_\_\_\_

Name: Ranae Warren

Title: Co-President

Paul J. Greufe, SPHR has over 15 years of experience in all areas of Human Resources management. He is president of PJGreufe & Associates, a business partner specializing in Human Resources. His experience and expertise range from small businesses to large corporations and from private sector to public sector organizations.

Masters Degree in Business Administration

Over 15 years of experience in Human Resources and Labor Relations

Faculty member at Iowa State University, St. Ambrose University and Ashford University

Human Resources Management

Labor Relations

Leadership and Corporate Culture

Principles of Management

Microeconomics

Money and Banking

Diversity in the Workplace

Mediation and Alternate Dispute Resolution

Successfully negotiated 30 years of collective bargaining agreements.

Iowa Department of Public Health

Genesis Physicians Leadership Program

St. Ambrose University Faculty / Staff

Iowa Municipal Clerk's Academy

Society of Human Resource Management  
Great River Human Resources Association, President  
National Public Employer Relations Association  
Iowa Public Employer Relations Association  
Iowa State University, Public Policy and Administration  
Camp Shalom

563-271-7561

### Union Negotiations

PJ Greufe & Associates has more than 20 years of experience in negotiating collective bargaining agreements with both public and private sector organizations. Our firm has been very successful with mediation, grievance arbitration as well as interest arbitration. Our unique negotiation approach has resulted in very effective outcomes.

RESOLUTION NUMBER \_\_\_\_\_

**RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO  
AN AGREEMENT WITH PJ GREUFE & ASSOCIATES LLC FOR  
HUMAN RESOURCES CONSULTING SERVICES**

WHEREAS, the City of Cresco has certain employee positions represented by American Federation of State, County and Municipal Employees (AFL-CIO); and

WHEREAS, City of Cresco is looking for a negotiator to represent the City in negotiating collective bargaining agreements.

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor is authorized and directed to sign the written agreement with PJ Greufe & Associates, LLC.

Council Person \_\_\_\_\_ moved the adoption of the foregoing Resolution and Council Person \_\_\_\_\_ seconded said Motion. Following discussion, a roll call vote was requested by Mayor and said roll call resulted as follows:

Ayes: \_\_\_\_\_  
Nays: \_\_\_\_\_  
Absent: \_\_\_\_\_

Thereupon, the Mayor declared said Resolution duly passed and announced that the agreement is approved and that the Mayor is authorized to execute the agreement on behalf of the City of Cresco.

PASSED AND APPROVED THIS 21<sup>ST</sup> DAY OF JULY, 2014.

BY: \_\_\_\_\_  
Mayor Mark Bohle

ATTEST: \_\_\_\_\_  
City Clerk Michelle Girolamo



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2026 E. 31<sup>st</sup> Street Davenport, IA 52807 (563) 271-7561

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## Proposal for Human Resources Consulting Services

### Submitted to:

City of Cresco  
130 N. Park Place  
Cresco, IA 52136

### Prepared by:



July 17, 2014

### A. Scope of Services

PJGreufe & Associates will act as the chief negotiator in negotiating the collective bargaining agreement. This agreement includes negotiation up to and including mediation, if required.

PJGreufe & Associates will oversee the administration of the negotiated collective bargaining agreement, including contract interpretation and grievance administration, up to and including mediation through the life of the collective bargaining agreement.

### B. Cost of the Project

Based upon our understanding of this project, PJGreufe & Associates proposes a fee of \$6,000.00 per collective bargaining agreement.

### C. Acceptance of the Proposal

The foregoing proposes our professional services to be provided to the City of Cresco by PJGreufe & Associates, as outlined in this proposal. This constitutes our working agreement, which is subject to changes or additions as agreed to by both parties.



Proposed By:  
PJGreufe & Associates

Accepted By:  
City of Cresco

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Name & Title

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Name & Title

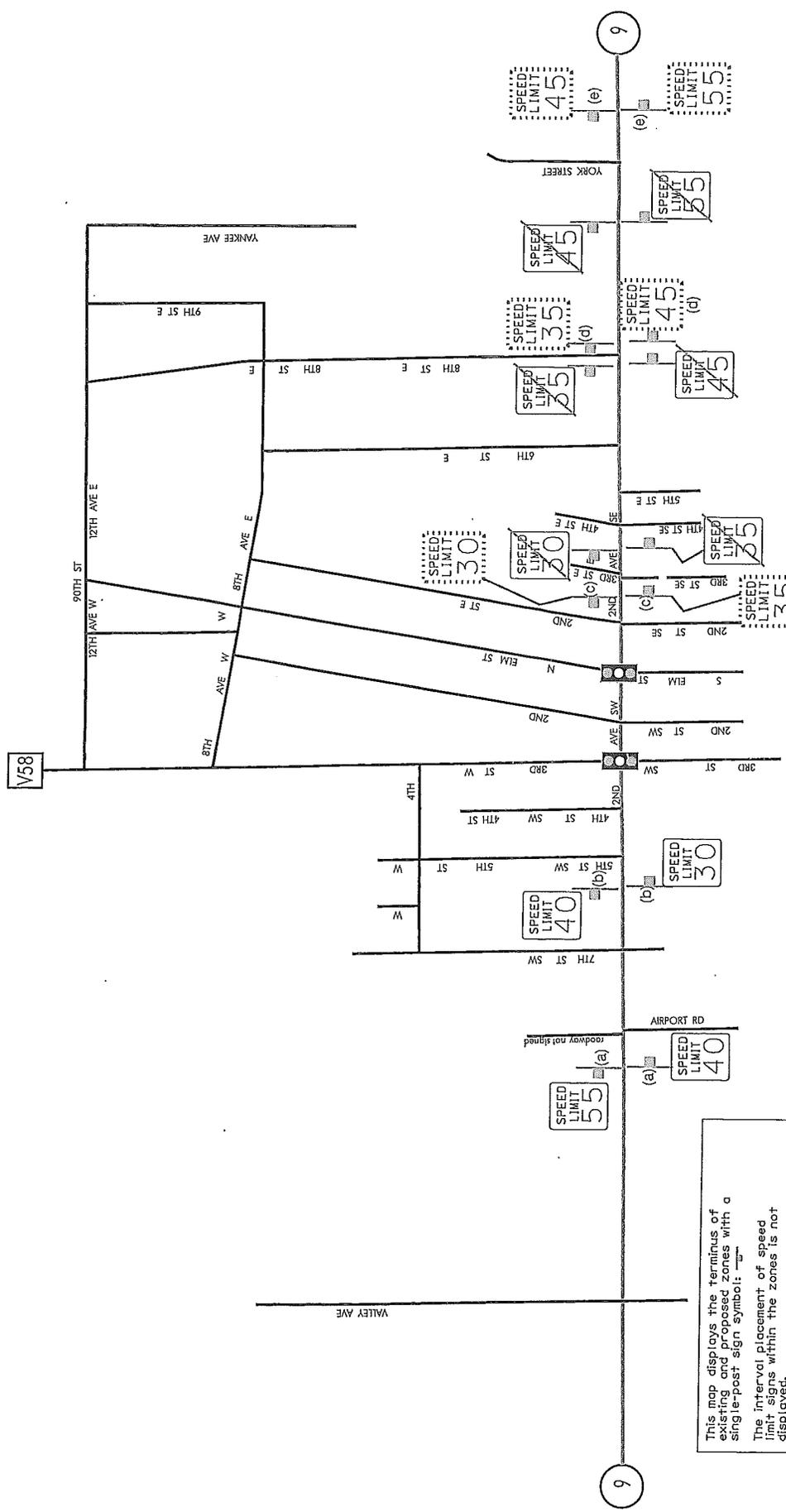
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Date

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Date





**SPEED ZONE TERMINI LOCATIONS**

(e) = 2420'± e. of 8th St E ☐  
 (d) = 100'± e. of 8th St E ☐  
 (c) = 250'± w. of 3rd St SE ☐  
 (b) = 300'± w. of 5th St SW ☐  
 (a) = 370'± w. of Airport Road ☐

 JULY 2014  
**IA 9**  
**Cresco**  
**Howard County**  
**NOT TO SCALE**  
 Proposed  Existing 

This map displays the terminus of existing and proposed zones with a single-post sign symbol: 

The interval placement of speed limit signs within the zones is not displayed.

PROPOSED zones will supercede EXISTING zones.

RESOLUTION NUMBER \_\_\_\_\_

RESOLUTION TO REMOVE TWO HOUR PARKING LIMITS  
ON NORTH ELM STREET

Council member \_\_\_\_\_ moved the adoption of the foregoing Resolution Removing Two-Hour Parking Limits on North Elm Street in accordance with Chapter 69 Parking Regulations of the Code of Ordinances, City of Cresco.

Council member \_\_\_\_\_ seconded said motion. A roll call vote was requested by the Mayor and said roll call vote resulted as follows:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

BY: \_\_\_\_\_

Mayor Mark Bohle

ATTEST: \_\_\_\_\_

City Clerk Michelle Girolamo

## 2nd Qtr 2014 Tourism Grant Application

Project: Flag Beautification in Cresco

Date: 4-22-14

Organization/Agency Requesting Funding: Cresco Chamber Business Committee

Contact Person and Title: Roy Gorter, Co-President

Address: 101 2nd Ave. SW Cresco, IA 52136

Phone: 563-547-4041

Email: [leutholds@windstream.net](mailto:leutholds@windstream.net)

Amount Requested: \$1,000

Total Cost of the Project: \$2,500 (Our committee is fundraising to earn additional funds to pay for this project)

Event Date (if applicable):

Project Completion Date: July, 2014

Q: Describe the project. Will the project occur if not funded by the tourism grant?

A: We would like to purchase flag poles, holders, and flags to beautify the city of Cresco and to promote upcoming events and shopping promotions. The flags draw attention to the public (especially those traveling through town). Our committee is planning fund raising events this summer (we work the Moo Mobile at the fair and at Family Fun Night in order to raise money to complete part of this project.) The number of poles and flags that we are able to purchase and display are dependent on this funding. We experimented with displaying Irish flags for the Brew & Stew this March. There was a tremendous amount of support, inquiry, and interest in the flags and we would like to continue with this project, displaying them periodically to draw attention to our events and promotions.

Q: How does this project promote Cresco tourism and how does it increase lodging use within the community?

A: Our goal is to display flags in downtown and along Hwy. 9 businesses (estimated 32 total flag holders and flags). We'd like to purchase "Sale" flags to display around Ridiculous Day and would like to purchase a "Fall-themed" flag to display during Norman Borlaug Harvest Fest and our new Fall event "Mystery on Elm Street". We'd like to add to our flag inventory in the future, purchasing them as we have the funds. By displaying these flags, we are helping to build curiosity among those passing through and want to peak their interest in what is happening in Cresco. We feel that this project will bring more people into town to shop and play, staying at local hotels and spending money shopping locally.