

**CITY OF NEVADA, IOWA  
ELECTRIC TRANSMISSION FRANCHISE**

**ORDINANCE NO. 1017 (2020/2021)**

**AN ORDINANCE AMENDING THE CITY CODE OF NEVADA, IOWA BY ADDING  
CHAPTER 114, ELECTRIC TRANSMISSION FRANCHISE WITH ITC MIDWEST LLC**

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, reconstruct, erect, maintain, operate and remove in the City of Nevada, Story County, Iowa, a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances, equipment and substations for the transmission of electric current and telecommunications along, under and upon the streets, avenues, alleys and public places in the City of Nevada, Story County, Iowa; granting the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City of Nevada, Story County, Iowa, for the period of twenty-five (25) years, subject to a limited right of cancellation at the end of the sixth (6<sup>th</sup>), twelfth (12<sup>th</sup>), and eighteenth (18<sup>th</sup>) year anniversaries of the Anniversary Date; and granting the right of eminent domain.

BE IT ORDAINED BY THE City Council of the City of Nevada, Story County, Iowa, hereinafter referred to as the "City":

**Section 1. Grant.**

There is hereby granted to the Company the right and non-exclusive franchise to acquire, construct, reconstruct, erect, maintain, operate and remove in the City a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits, and other appliances, equipment and substations for the transmission of electric current and telecommunications (collectively, the "Facilities") along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City for the period of twenty-five (25) years, subject to a limited right of cancellation at the end of the sixth (6<sup>th</sup>), twelfth (12<sup>th</sup>), and eighteenth (18<sup>th</sup>) year anniversaries of the Anniversary Date; 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, avenues, 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. The Company, its successors and assigns shall indemnify, defend and hold the City free and harmless from all claims, demands, losses, damages, costs and expenses (including, but not limited to, court costs, fines, penalties, and reasonable attorneys' fees), judgments, liabilities and causes of action of any nature arising from the negligent acts or omissions of the Company, its employees, contractors and agents in the erection, operation or maintenance of the transmission system.

**Section 3. Excavations.**

In making any excavations in any street, alley, public right-of-way, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals in compliance with the current federal, state, and local standards and requirements for traffic control, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent

settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. All excavations, restoration work, construction materials, and construction practices shall be in compliance with the current City standard specifications for work in the right-of-way. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition. In the event the Company fails to restore the work area in accordance with this section as promptly as is practical, the City and the Company shall meet to resolve the issue within 10 days of notice. If the parties agree in writing, the City may complete the necessary work at the expense of the Company.

#### **Section 4. Relocation.**

Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its Facilities in, on or over any public street or alley in the City 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 infrastructure or 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, 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 5. 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 6. Vegetation Management.**

To promote public safety in proximity to its Facilities and to maintain electric reliability, the Company is authorized and empowered to remove, cut, trim, destroy, or otherwise control any tree, shrub, brush, bush or any parts thereof located within or extending into any street, alley, right-of-way or public grounds. The foregoing vegetation management shall be completed in accordance with the most current nationally accepted safety and utility industry standards, as revised and updated from time to time. If requested by the City, Company will meet with the City to discuss the removal of any tree with a trunk, in whole or in part, in the public right-of-way that is part of any planned non-emergency vegetation work.

#### **Section 7. 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 8. Non-exclusivity.**

The franchise granted by this Ordinance shall not be exclusive.

#### **Section 9. Permits.**

Company shall obtain all applicable city permits prior to commencing scheduled non-emergency work in the City right-of-way. For storm restoration or other emergency work the Company may proceed with the work without first applying for a permit, provided, however, that the Company shall apply for and obtain any applicable permits as soon as practicable after commencing such work.

#### **Section 10. Undergrounding.**

The City may request estimates for the undergrounding of replacement lines, upgrades or new lines, including lines to be adjusted for road moves or for other specific projects. When requested, the Company will provide to the City two estimates: 1) An estimate for the cost of the project with overhead construction, and 2) An estimate for the cost of the project with underground construction. The City will have no more than 60 days, unless otherwise agreed between the City and Company, from the estimate date to determine if it wants the line built overhead or placed underground. If the City chooses underground construction for such project, the City will be responsible for the incremental cost of undergrounding, if and to the extent, such costs are not already part of or included in a precondition payment for relocation pursuant to Section 4. The incremental cost of undergrounding is defined as the differential between the estimate for underground construction and the estimate for overhead construction. Upon receipt of the City's payment for the incremental cost of undergrounding, the Company will install the underground facilities. The Company reserves the right to bill City for the amount that the incremental cost associated with installation exceeds its estimate. The City reserves the right to a refund of overpayment if the incremental costs are less than the amount billed in the estimate. If the City wishes to have a line not scheduled for replacement or upgrade placed underground, the City shall contact the Company to make such a request. The City shall cover all costs related to this work. If undergrounding of transmission lines requires entities interconnecting with the Company to make adjustments to their electrical systems, the City bears the responsibility of communication with those entities and, if it chooses, the cost of converting their facilities from overhead to underground. The Company reserves the right to review all the City's communications with the affected entities.

#### **Section 11. 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 12. 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 written acceptance by the Company, subject to a limited right of cancellation at the end of the sixth (6th), twelfth (12th), and eighteenth (18th) year anniversaries of the Anniversary Date. The anniversary date shall be the date this franchise is filed with the City Clerk or otherwise becomes effective by operation of law.

#### **Section 13. Publication Expenses.**

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

#### **Section 14. Repeal of Conflicting Ordinances.**

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

### **Section 15. 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.

### **Section 16. Future Developments.**

The City agrees it will not permit or grant approval for any development, construction or land uses in the City that would result in or cause the Company's Facilities to violate setback requirements, safety requirements or any other provision of the National Electric Safety Code or any law, regulation or ordinance of the State of Iowa, Story County or the City.

### **Section 17. Closing.**

This Ordinance sets forth and constitutes the entire agreement between the Company and the City 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.

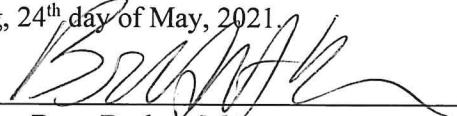
### **Section 18. Forfeiture and Termination.**

The continuing violation of any material portion of the franchise by the Company, or its failure to perform any of the provisions of the franchise, may be cause for forfeiture of the franchise and the termination of all rights under this chapter. If the City believes there to be a default under the franchise, it may provide a written notice to the Company, describing the alleged default, stating whether a forfeiture and termination of the franchise will be sought after the cure period, and proposing a reasonable time to sure the default, which shall not be less than sixty (60) days from the date of the written notice. Company may respond to such notice as it deems appropriate, which may include agreeing to the proposed cure period, proposing a different time to accomplish the cure of the default, or an alternative resolution. If Company has not cured the default within the agreed-upon cure period and any extensions thereto, the City may proceed to terminate the franchise agreement and the same shall be deemed forfeited by the Company as provided above. Company shall not be considered to be in breach of this franchise if it has operated in compliance with state law, federal law, or other governmental or regulatory authority. Company shall also not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the City.

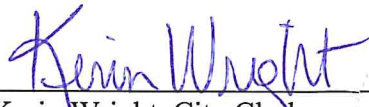
Passed and approved through the first reading, 26<sup>th</sup> day of April, 2021.

Passed and approved through the second reading, 10<sup>th</sup> day of May, 2021.

Passed and approved through the third and final reading, 24<sup>th</sup> day of May, 2021.

  
Brett Barker, Mayor

Attest:

  
Kerin Wright, City Clerk



(SEAL)

Public Hearing Notice Published: April 15, 2021

Public Hearing Held: April 26, 2021

1<sup>st</sup> Reading – April 26, 2021

Motion by Council Member Jason Sampson, seconded by Council Member Sandy Ehrig, to adopt the first reading of Ordinance No. 1017.

AYES: Sampson, Ehrig, Hanson, Mittman, Nealson, Spence  
NAYS: None  
ABSENT: None

2<sup>nd</sup> Reading: - May 10, 2021

Motion by Council Member Jason Sampson, seconded by Council Member Dane Nealson, to approve the second reading of Ordinance No. 1017.

AYES: Sampson, Nealson, Spence, Ehrig, Hanson, Mittman  
NAYS: None  
ABSENT: None

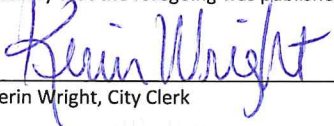
3<sup>rd</sup> Reading and Adopted:

Motion by Council Member Jason Sampson, seconded by Council Member Sandy Ehrig, to approve the second reading of Ordinance No. 1017.

AYES: Sampson, Ehrig, Mittman, Nealson, Spence  
NAYS: None  
ABSENT: Hanson

The Mayor declared Ordinance No. 1017 (2020/2021) was passed on the 24<sup>th</sup> day of May, 2021.

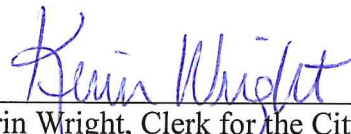
I certify that the foregoing was published as Ordinance No. 1017 (2020/2021) on the 24<sup>th</sup> day of May, 2021.

  
Kerin Wright, City Clerk



### **CERTIFICATE OF CITY CLERK**

I, City Clerk of the City of Nevada, Story County, Iowa, do hereby certify that the foregoing is a true and correct copy of the minutes of the proceedings of the meeting of the Nevada City Council, final reading held the 24<sup>th</sup> day of May, 2021 , pertaining to the adoption of Ordinance No. 1017 (2020/2021); that the originals of said minutes have been included in the official proceedings of the city council; that Ordinance No. 1017 (2020/2021) was signed by the mayor and clerk at the time of its final passage and approval; that the announcement of passage of said ordinance was published in the manner required by law on the 3<sup>rd</sup> day of June, 2021 in the *Nevada Journal*; that said meeting and all actions thereon were duly and publicly held pursuant to the rules of the city council and Iowa Code, upon advance notice to the public and news media as required by said law; and that the notice of public hearing for said Ordinance No. 1017 (2020/2021) was published on the 15<sup>th</sup> day of April 2021 in the *Nevada Journal*, a newspaper published at least once weekly and of general circulation in the City of Nevada, Story County, Iowa.



Kerin Wright, Clerk for the City of Nevada, Iowa,



(SEAL)

Item # 4B  
Date: 4/26/21

Proof Of Publication in  
NEVADA JOURNAL

CITY OF NEVADA  
1209 6TH STREET  
NEVADA, IA 502010530

STATE OF IOWA, STORY COUNTY

I, [Signature], on oath depose and say  
that I am the Legal Clerk of NEVADA JOURNAL, a weekly  
newspaper, published at ; Ames, Story County, Iowa that the  
annexed printed:

CITY OF NEVADA  
PH - ITC Elec Transmission Franch

was published in said newspaper 1 time(s) on

April 15, 2021

the last day of said publication being the  
15th day of April, 2021

#1403003  
NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT OF CITY  
OF NEVADA CODE OF ORDINANCES  
BY ADDING CHAPTER 114  
ELECTRIC TRANSMISSION  
FRANCHISE AGREEMENT WITH ITC  
MIDWEST LLC TO CONSTRUCT  
AND OPERATE AN ELECTRIC  
TRANSMISSION SYSTEM  
IN THE CITY

Notice Is Hereby Given: That at  
6:00 o'clock p.m., at the Nevada  
City Hall Council Chambers, Neva-  
da, Iowa, on April 26, 2021, the City  
Council of the City of Nevada, Io-  
wa, will hold a public hearing on  
the question of amending the  
Code of Ordinances of the City of  
Nevada Iowa, by Adding Chapter  
114, Electric Transmission Franch-  
ise Agreement with ITC Mid-  
west LLC, a wholly owned subsid-  
iary of ITC Holdings Corp., its suc-  
cessors and assigns, a non-  
exclusive twenty-five-year Franch-  
ise to acquire, construct, erect,  
maintain and operate an Electric  
Transmission System in the City of  
Nevada, Iowa. A copy of the pro-  
posed Ordinance is on file for pub-  
lic inspection in the office of the  
City Clerk.

Due to federal and state govern-  
ment recommendations in re-  
sponse to COVID-19 pandemic  
conditions, the meeting may also  
be accessible electronically via  
Zoom at the following:  
<https://us02web.zoom.us/j/87961733099?pwd=UeRoTDIiUXZhc2ZlQl9ML0ZOeEloZ09>

Or by Phone: (312) 626-6799,  
Webinar ID: 879-6173-3099 Pass-  
word: 287321

At said hearing any interested  
person may file written objections  
or comments and may be heard  
orally with respect to the subject  
matters of the hearing.

Kerin Wright, City Clerk

Published in the Nevada Journal  
on April 15, 2021 (1T)

[Signature]  
Legal Clerk

[Signature]  
Notary Public, State of Wisconsin, County of Brown

9/9/21  
My commission expires

sworn to before me and subscribed in my presence by this the  
15th day of April, 2021

FEE: \$28.38  
AD #: 0001403003  
ACCT: 37490

VICKY FELTY  
Notary Public  
State of Wisconsin

Proof Of Publication in  
NEVADA JOURNAL

RECEIVED

JUN 07 2021

CITY OF NEVADA

CITY OF NEVADA  
1209 6TH STREET  
NEVADA, IA 502010530

STATE OF IOWA, STORY COUNTY

I, Amy Kakott, on oath depose and say  
that I am the Legal Clerk of NEVADA JOURNAL, a weekly  
newspaper, published at ; Ames, Story County, Iowa that the  
annexed printed:

CITY OF NEVADA  
Ordinance No 1017 (2020/2021)

was published in said newspaper 1 time(s) on

June 03, 2021

the last day of said publication being the  
3rd day of June, 2021

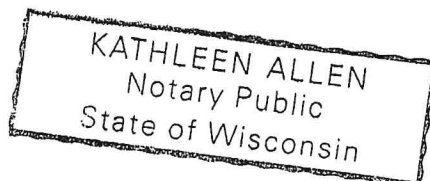
Amy Kakott  
Legal Clerk

Kathleen Allen  
Notary Public, State of Wisconsin, County of Brown

1-7-25  
My commission expires

sworn to before me and subscribed in my presence by this the 3rd  
day of June, 2021

FEE: \$168.73  
AD #: 0001409769  
ACCT: 37490





#1409769  
**CITY OF NEVADA, IOWA  
ELECTRIC TRANSMISSION  
FRANCHISE  
ORDINANCE NO. 1017 (2020/2021)  
AN ORDINANCE AMENDING THE  
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ADDING CHAPTER 114, ELECTRIC  
TRANSMISSION FRANCHISE WITH  
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Passed and approved through the first reading, 26th day of April, 2021.

Passed and approved through the second reading, 10th day of May, 2021.

Passed and approved through the third and final reading, 24th day of May, 2021.

Brett Barker, Mayor  
Attest: Kerin Wright, City Clerk

Published in the Nevada Journal  
on June 3, 2021 (1T)