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RESOLUTION # 5-2019

Resolution to allow private entity to plow/bulldoze certain County Forest Roads for the purpose of maintaining power lines.

Resolution offered by the Supervisors of the Forestry, Land and Outdoor Recreation Committee.

Resolved by the Board of Supervisors of Oneida County, Wisconsin:

WHEREAS, Whereas, the County is the owner of the following described real estate located in the Town of Lynne, Oneida County, State of Wisconsin, to wit:

(Legal description)

The E ½ of the SW ¼ and the NW ¼ of Sec 17; the SWNW and the W ½ of the SW ¼ Sec 18; the SWNE, the W ½ of the SE ¼ and the NW ¼ of Sec 19; the N ½ of the NE ¼ of Sec 30; and the W ½ of the NW ¼ of Sec 29 in the Town of Lynne T37N-R4E (illustrated on the attached map)

WHEREAS, County currently does not maintain logging roads in the Town of Lynne, Oneida County in the winter; and

WHEREAS, the County logging roads ("Roads") are necessary for the Price Electric Cooperative, Inc. ("Contractor") to access power lines for maintenance; and

WHEREAS, the Contractor desires to maintain the County roads by plowing/bulldozing the snow on the Roads to access their power lines; and

WHEREAS, the Forestry Department has no objection to the Contractor plowing/bulldozing the Roads that provide access to Contractor's power lines pursuant to the terms of the attached agreement; and

WHEREAS, the Forestry Department in consideration of the covenants and conditions in the attached contract wishes to authorize the Contractor to plow/bulldoze (but not widen) an access road over and across the heretofore-described property for a period of time commencing on the day of the last signature on the contract and ending on the 15th day of March, 2019.

NOW, THEREFORE, BE IT RESOLVED, by the Oneida County Board of Supervisors does hereby authorize the County to enter into the attached Access Agreement with the Contractor; and

BE IT FURTHER RESOLVED, that the County Clerk, County Board Chairman and Chairman of the Forestry, Land and Outdoor Recreation Committee are authorized to sign the attached agreement.

Vote Required: Majority = _____ 2/3 Majority = _____ ¾ Majority = _____


The County Board has the legal authority to adopt: Yes _____ No _____ as reviewed by the Corporation Counsel, _____, Date:


Approved by the Forestry, Land and Outdoor Recreation Committee this 9th day of January, 2019.


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Consent Agenda Item: YES NO


Offered and passage moved by:



Supervisor


Supervisor


Supervisor


Supervisor


Supervisor

- _____ Ayes
- _____ Nays
- _____ Absent
- _____ Abstain
- _____ Adopted

by the County Board of Supervisors this 15th day January, 2019.

_____ Defeated

Tracy Hartman, County Clerk

David Hintz, County Board Chair

GRANT PRICE ELECTRIC CO-OPERATIVE, INC. TEMPORARY ACCESS CONTRACT

Contract by and between Oneida County ("County") and Grant Price Electric Co-Operative, Inc. ("Contractor") as follows:

WHEREAS, Contractor seeks permission to utilize the existing woods roads located in: the E ½ of the SW ¼ and the NW ¼ of Sec 17; the SWNW and the W ½ of the SW ¼ Sec 18; the SWNE, the W ½ of the SE ¼ and the NW ¼ of Sec 19; the N ½ of the NE ¼ of Sec 30; and the W ½ of the NW ¼ of Sec 31 in the Town of Lynne T37N-R4E and illustrated on the attached map, for the purpose of accessing their existing power line. Said temporary access shall begin on January 15, 2019 and end on March 15, 2019.

WHEREAS, County wants to grant permission to Contractor to access and plow existing woods roads located in the sections stated above.

WHEREAS, Contractor agrees that all land owned by Oneida County that is utilized by Price Electric Co-Operative, Inc. as part of this Land Use Agreement, must be returned to the same condition prior to the issuance of this Land Use Agreement.

NOW, THEREFORE, based on the good and valuable consideration stated herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Duties of Contractor.** Contractor shall have permission to enter County property and undertake the following actions:
 - a. Contractor shall remove dead/diseased trees that threaten the above reference transmission line.
 - b. Contractor shall fix any damage to roads or other access routes that are used to remove the aforementioned trees, including fixing ruts or other damage.
 - c. Trees shall be left on site in a manner which does not impede any road or other access to the County Forest.
 - d. Contractor is allowed to undertake maintenance of the of the OCuty loggin roads in the form of plowing/bulldozing within the confines of the now existing roads. No widening of the County portion of the road is allowed under the terms of of this agreement. Any widening of the County portion of the road shall require amendment of this contract.
2. **Payment.** Contractor is working for the owner of the transmission line and will receive no payment from the County for the tree removal.
3. **Notices.** Any notices required by this agreement shall be made in writing to the address specified below:

County – John Bilogan
 Oneida Country Forestry Administrator
 P.O. Box 400

Rhineland, WI 54501

Contractor – _____

Nothing contained in this section shall be construed to restrict the transmission of routine communications between representatives of the parties.

4. **Insurance.** During the term of this Agreement, Contractor shall maintain the following insurance coverage:

Worker's Compensation:

- a. Coverage A: Limits – Statutory
- b. Coverage B: Employer's Liability Limits
- c. Bodily Injury by Accident - \$100,000 each accident minimum
- d. Bodily Injury by Disease - \$100,000 each employee minimum
- e. Bodily Injury by Disease - \$500,000 policy limit minimum

Comprehensive General Liability Limits: \$1,000,000 bodily injury and \$1,000,000 property damage.

Automobile Liability Insurance, with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.

Certificates of insurance are required for all policies. The Certificates of General and Automobile Liability Insurance must name the County as an additional insured on the policy and must require that a thirty (30) day cancellation notice be given to the County. An updated copy of the Certificate must be provided anytime a change is made to any policy.

5. **Subcontractors.** It is understood and agreed that Contractor may contract with subcontractors who are not employees of Contractor to complete some of the services performed hereunder. All subcontractors must be approved by the County. Contractor shall remain personally responsible for all work completed and for all obligations under this agreement, despite the fact that as a matter of law, subcontractors may also incur liability. Contractor shall insure that all of its subcontractors comply with all requirements of this agreement. Additionally, all subcontractors shall have insurance of the same types and in the same amounts required of contractor by this agreement with the same provisions for naming the county as an additional insured and the same provisions for cancellation notice.

6. **Delay in Performance.** Neither party shall be considered in default of this Agreement or any Task Order for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather

conditions, floods, earthquakes, fire, epidemics, war, riots, and other civil disturbances, strikes, lockouts, work slowdowns, and other labor disturbances, sabotage, judicial restraint, and delay in or inability to procure permits, licenses or authorizations from any local, state or federal agency for any of the supplies, materials, accesses, or services required to be provided by either party under this Agreement or any Task Order. The nonperforming party shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances.

7. **Indemnification and hold Harmless.** Contractor shall at all times indemnify, defend and save harmless, the County and it's supervisors and employees from any and all causes of action, demands, liability, claims, damages, losses, costs and expenses, including but not limited to reasonable attorney's fees, by reason of loss or damage to any property or bodily injury to any person, including but not limited to death, as a direct or indirect result of the performance by Contractor of its duties hereunder, and as the result of any action or omission of Contractor.
8. **Governing Law, Jurisdiction and Venue.** This agreement shall be construed and interpreted in accordance with the laws of the State of Wisconsin. The parties hereby irrevocably submit to the jurisdiction of the state courts of the State of Wisconsin for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement. The parties further agree that the venue for any legal proceedings related to this Agreement shall be Oneida County, Wisconsin.
9. **Survival.** The warranties, representations and covenants of this Agreement shall survive completion of the Services under this agreement or any termination of this Agreement.
10. **Waiver.** A waiver by either of the parties of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.
11. **Severability.** The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement or any Task Order. Any void provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.
12. **Integration.** This Agreement represents the entire and integrated agreement between the parties. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement.

13. **Assignment.** Neither party shall assign any rights or duties under this Agreement without the prior written consent of the other party.
14. **Successors and Assigns.** The parties each bind themselves and their successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, the partners, to the other party to this Agreement and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.
15. **No Construction Against Either Party.** This agreement is the product of negotiations between the parties and was either reached with the advice of legal counsel or the opportunity to obtain legal counsel, and shall not be construed against either party.
16. **Multiple Originals.** This contract may be executed in multiple originals, each of which, together shall constitute a single agreement.
17. **Captions.** The parties agree, that in this contract, captions are used for convenience only and shall not be used in interpreting or construing this contract.
18. **No Partnership or Joint Venture.** This contract shall not in any way be deemed to create a partnership or joint venture between the parties to the agreement.
19. **Statutory Protections.** It is agreed by the parties that nothing in this contract, including but not limited to indemnification and hold harmless clauses, shall in any way constitute a waiver on the part of the County of any immunity, liability limitation or other protection available to the County under any applicable statute or other law. To the extent that any provision of this contract is found by any court of competent jurisdiction to conflict with any such legal protection, then whichever protections, either statutory or contractual, provide a greater benefit to the County shall apply unless the County elects otherwise.
20. **Compliance with Laws.** The parties agree to comply with all applicable Federal, State and local codes, regulations, standards, ordinances, and other laws.
21. **Open Records Law Compliance.** Contractor understands and agrees that, because County is a party to this contract, provisions of the Wisconsin Open Records Law and other laws relating to public records may apply to records kept by Contractor. Contractor agrees to fully comply with such laws, and to cooperate with County in its compliance with such laws. Cooperation shall include, but not be limited to, the provision of records, or copies of records to County or others upon the request of county. Compliance and cooperation of Contractor shall be at its sole cost and expense.
22. **Amendment.** No amendment of this contract shall be binding unless in writing and signed by all of the parties.
23. **Standard of Care.** The same degree of care, skill, and diligence shall be exercised by Contractor in the performance of its duties as is ordinarily possessed and

exercised by a member of the same profession, currently practicing, under similar circumstances.

- 24. **Equal Employment Opportunity.** Contractor hereby affirms its support of affirmative action and that it abides by the provisions of the "Equal Opportunity Clause" of Section 202 of Executive Order 11216 and other applicable laws and regulations. Contractor affirms its policy to recruit and hire employees without regard to race, age, color, religion, sex, sexual preference/orientation, marital status, citizen status, national origin or ancestry, presence of a disability or status as a veteran, including a veteran of the Vietnam era, membership in the national guard or reserve components of the military of the United States, political affiliation, or any other legally protected status. It is Contractor's policy to treat employees equally with respect to compensation, advancement, promotions, transfers and all other terms and conditions of employment. Contractor further affirms completion of applicable governmental employer information reports including the EEO-1 and VETS-100 reports, and maintenance of a current Affirmative Action Plan as required by Federal regulations.

- 25. **Gratuities – Kickbacks – non-collusion:** It shall be a breach of this contract and subsequent amendments for contractor to offer, give, or agree to give anything of pecuniary value or to make an offer for employment to any elected official, employee, or former employee in connection with this RFP. Prohibited conduct shall include, but is not limited by enumeration, acts or attempts to influence: any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, the contents of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceedings or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or contract, subcontract, or any solicitation or proposal therefore.

- 26. **Time of the Essence.** Except as otherwise specifically stated herein, time is of the essence with respect to all provisions of this contract that specify a time for performance.

- 29. **Notices.** Any legal notice required by this contract shall be made in writing to the address specified below:

County: Oneida County
Attn: County Clerk
P.O. Box 400
Rhinelander, WI 54501

Contractor: _____

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the parties.

30. **Term.** The term of this contract shall be from the date of the last signature until March 15, 2019.

BY SIGNING BELOW, THE PARTIES AFFIRM AND ACKNOWLEDGE THAT: they have read and understand Agreement and its Attachments, if any; they have authority to enter into Agreement on behalf of the corporation or other entity they are signing for; they are knowingly, freely, and voluntarily entering into Agreement; and that they accept and agree to be bound by the terms and conditions of Agreement and its Attachments, if any, as outlined in Agreement:

Oneida County by:

Affix County seal here:

_____ (seal)
Tracy Hartman
Oneida County Clerk
Date: _____

_____ (seal)
David Hintz
Chair, Oneida County Board
Date: _____

_____ (seal)
Jack Sorensen
Chair, Oneida County Forestry Land
and Recreation Committee
Date: _____

Contractor

_____ (seal)
Date: _____