

Resolution No. 43 -14

Resolution to Affirm Acceptance of Donation of White Ash Lake Boat Landing Property with Reservation of Easement Benefitting Adjacent Lands

1 TO THE HONORABLE SUPERVISORS OF THE COUNTY BOARD OF THE COUNTY OF
2 POLK:

3 Ladies and Gentlemen:

4 WHEREAS, pursuant to Resolution No. 42-10, Polk County accepted a donation of land from Kelly
5 J. Cutis and Wayne Whitwam for the special purpose of maintaining the public access boat landing to
6 White Ash Lake

7 WHEREAS, the donation was conditioned upon a reservation of an easement for pedestrian purposes
8 over the westerly sixty (60) feet of the donated parcel; and

9 WHEREAS, Kelly J. Curtis and Wayne Whitwam had retained an adjacent parcel and have recently
10 received an offer to sell the adjacent parcel conditioned upon entering into an agreement with the
11 County that clarifies the easement reserved in the donation will run with and attach to the adjacent
12 lands; provide permanent right to dock one watercraft on the donated parcel; and be for the benefit
13 of the current owners and all successors in interest of the adjacent parcel; and

14 WHEREAS, pursuant to Polk County Policy No. 916, *Management of County-Owned Non-Tax*
15 *Forfeiture Real Estate*, after consulting with the Buildings Director, the County Administrator has
16 determined that it is in the interest of the County to affirm acceptance of the donation of lands and to
17 enter into an easement agreement to effectuate the donation; and

18 WHEREAS, pursuant to Section 66.1025(1), Wisconsin Statutes, the Polk County Board of
19 Supervisors may modify the conditions of a gift of land through mutual agreement with the donor of
20 such lands.

21 NOW, THEREFORE, BE IT RESOLVED that, pursuant to Wisconsin Statute Section 66.1025(1),
22 the Polk County Board of Supervisors affirms the acceptance of lands donated by Kelly J. Cutis and
23 Wayne Whitwam for the special purpose of maintaining the public access boat landing to White Ash
24 Lake, described as follows:

25 "Outlot 1 of Certified Survey Map No. 5902, filed in Volume 26 of the Certified
26 Survey Maps of the Register of Deeds of Polk County, page 168, located in
27 Government Lot 1, Section 35, Town 35 North, Range 16 West, Town of
28 Georgetown, Polk County, Wisconsin."

29 (PIN: 026-01394-0001)

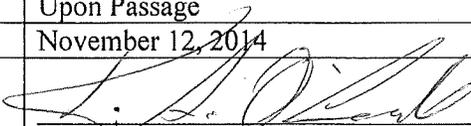
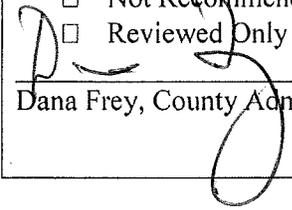
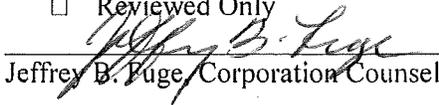
30 BE IT FURTHER RESOLVED that, pursuant to Wisconsin Statute Sections 59.52(6)(c) and
31 66.1025, the Polk County Board of Supervisors authorizes and reserves an easement over the
32 westerly sixty (60) feet of the said donated parcel to Kelly J. Curtis and Wayne Whitwam and their
33 successors in interest to the adjacent parcel, described as:

34 "Government Lot 1, Section 35, Town 35 North, Range 16 West, except Outlot 1
 35 of Certified Survey Map No. 5902, filed in Volume 26 of the Certified Survey
 36 Maps of the Register of Deeds of Polk County, page 168, as Document No.
 37 772457, located in Government Lot 1, Section 35, Town 35 North, Range 16
 38 West, Town of Georgetown, Polk County, Wisconsin."

39 PIN: 026-01394-0000

40 consistent with the terms and conditions of the Agreement To Affirm Donation of Lands For
 41 Special Purpose and To Amend Conveyance, attached hereto and incorporated herein.

42 BE IT FURTHER RESOLVED that the Polk County Board of Supervisors authorizes and directs the
 43 County Clerk to execute said agreement and to cause the recording of the same with the Polk County
 44 Register of Deeds.

Funding Source/ Funding Amount:	Not Applicable
Date Reviewed as to Appropriations:	Not Applicable
Committee Recommendation as To Appropriation:	Not Applicable
Effective Date:	Upon Passage
Dated Submitted To County Board	November 12, 2014
Submitted and Sponsored By the Polk County Conservation Development, Recreation and Education Committee.	 Kim O'Connell, Committee Chair
Review By County Administrator: <input type="checkbox"/> Recommended <input type="checkbox"/> Not Recommended <input checked="" type="checkbox"/> Reviewed Only  Dana Frey, County Administrator	Review By Corporation Counsel: <input checked="" type="checkbox"/> Approved as to Form <input checked="" type="checkbox"/> Recommended <input type="checkbox"/> Not Recommended <input type="checkbox"/> Reviewed Only  Jeffrey B. Fuge, Corporation Counsel

(Resolution Continued on Page 3)

Acknowledgement of County Board Action

Mark As Appropriate:

At its regular business meeting on November 12, 2014, the Polk County Board of Supervisors considered and acted on the above resolution, Resolution No. ____-14: Resolution to Affirm Acceptance of Donation of White Ash Lake Boat Landing Property with Reservation of Easement Benefitting Adjacent Lands, as follows:

- Adopted by a vote of _____ in favor and _____ against.
- Adopted by majority voice vote.
- Defeated by a vote of _____ in favor and _____ against.
- Defeated by majority voice vote
- Action Deferred by Procedural Action, as follows: _____

SIGNED BY:

William F. Johnson, IV 11.13.2014

 William F. Johnson, IV, County Board Chairperson

Attest:

Carole T. Wondra

 Carole T. Wondra, County Clerk

Incorporated Attachment: Agreement To Affirm Donation of Lands For Special Purpose and To Amend Conveyance

**AGREEMENT TO AFFIRM DONATION OF LANDS FOR SPECIAL PURPOSE
AND TO AMEND CONVEYANCE**

This Agreement is entered into by and between Wayne Whitwam and Kelly J. Curtis, husband and wife, hereinafter "WHITWAM / CURTIS" and Polk County, a body corporate, hereinafter "POLK COUNTY".

WHEREAS:

1. By Quit Claim Deed dated February 18, 2011 and recorded March 22, 2011, in the office of the Register of Deeds for Polk County, Wisconsin as Document No. 780321, WHITWAM / CURTIS donated and conveyed to POLK COUNTY the following described real estate in Polk County, Wisconsin:

Outlot 1 of Certified Survey Map No. 5902, filed in Volume 26 of the Certified Survey Maps of the Register of Deeds of Polk County, page 168, located in Government Lot 1, Section 35, Town 35 North, Range 16 West, Town of Georgetown, Polk County, Wisconsin.

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2. WHITWAM / CURTIS reserved an easement over the real estate conveyed described in said Quit Claim Deed, as follows:

Grantors hereby reserve an Easement for pedestrian purposes over the Westerly Sixty (60) feet of the subject property.

3. Pursuant to Wisconsin Statute Section 66.1025, the Polk County Board of Supervisors adopted Resolution No. 42-10 thereby accepting on behalf of POLK COUNTY the donation of lands for a special purpose conditioned upon the reservation of said easement.

4. WHITWAM / CURTIS continue to own the real estate adjacent to the real estate conveyed to Polk County described at paragraph 1 above, which real estate is described as follows:

Government Lot 1, Section 35, Town 35 North, Range 16 West, except Outlot 1 of Certified Survey Map No. 5902, filed in Volume 26 of the Certified Survey Maps of the Register of Deeds of Polk County, page 168, as Document No. 772457, located in Government Lot 1, Section 35, Town 35 North, Range 16 West, Town of Georgetown, Polk County, Wisconsin.

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5. By virtue of mistake and inadvertence, an unintentional error was made in the Quit Claim Deed from WHITWAM / CURTIS to POLK COUNTY in conveying said Outlot 1 described at paragraph 1 above in failing to state that the easement reserved by WHITWAM / CURTIS for pedestrian purposes was permanent and that the easement was to include the permanent right to dock one watercraft on the easement parcel, all for the benefit of WHITWAM / CURTIS as owners of the adjacent real estate described at paragraph 4 above, and all successors in interest, and be appurtenant to the lands described in paragraph 4.

NOW, THEREFORE, the parties agree as follows:

1. POLK COUNTY and WAYNE WHITWAM and KELLY J. CURTIS agree to amend the easement grant set forth in the Quit Claim Deed described above as follows:

A. POLK COUNTY grants and WAYNE WHITWAM and KELLY J. CURTIS reserve a perpetual easement for pedestrian purposes and the right to dock one watercraft over the westerly 60 feet of Outlot 1 of Certified Survey Map No. 5902, filed in Volume 26 of the Certified Survey Maps of the Register of Deeds of Polk County, page 168, as Document No. 772451, located in Government Lot 1, Section 35, Town 35 North, Range 16 West, Town of Georgetown, Polk County, Wisconsin.

B. The easement shall run with the land for the benefit of WAYNE WHITWAM and KELLY J. CURTIS and all subsequent owners of the real estate described as:

Government Lot 1, Section 35, Town 35 North, Range 16 West, except Outlot 1 of Certified Survey Map No. 5902, filed in Volume 26 of the Certified Survey Maps of the Register of Deeds of Polk County, page 168, as Document No. 772451, located in Government Lot 1, Section 35, Town 35 North, Range 16 West, Town of Georgetown, Polk County, Wisconsin.

2. Consistent with Wisconsin Statute Sections 59.52(6)(c) and 66.1025, the Polk County Board of Supervisors has adopted Resolution No. ___-14 thereby affirming acceptance on behalf of POLK COUNTY the donation of lands for special purpose as provided herein this agreement.

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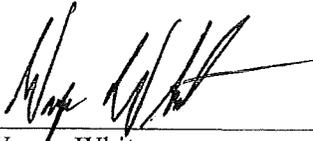
3. A certified copy of said resolution is attached hereto and incorporated herein and shall be recorded as an integrated document of this agreement.

Dated this _____ day of November, 2014.

Dated this 24 day of October, 2014.

POLK COUNTY
A body corporate

Carol T. Wondra
County Clerk



Wayne Whitwam


Kelly J. Curtis

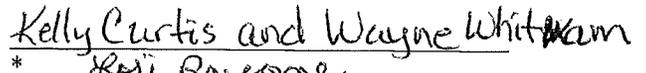
STATE OF WISCONSIN)
(ss
POLK COUNTY)

Personally came before me this _____ day of November, 2014, the above named Carol T. Wondra to me known to be the County Clerk of Polk County who executed the foregoing instrument and acknowledged the same.

STATE OF WISCONSIN)
(ss
~~POLK COUNTY~~)
St. Croix

Personally came before me this 24 day of October, 2014, the above named Wayne Whitwam and Kelly J. Curtis, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

* _____
Notary Public, Polk County, WI
My commission expires: _____


* Lori Rayome
Notary Public, Polk County, WI
My commission expires: July 12, 2015

INSTRUMENT DRAFTED BY:
Steven J. Swanson #1003029
Attorney at Law
P.O. Box 609
St. Croix Falls, WI 54024



Instrument Approved as to Form:

s/ Jeffrey B. Fuge Dated: 10/21/14
Jeffrey B. Fuge, Bar No. 1024292
Polk County Corporation Counsel
1005 West Main Street, Suite 100
Balsam Lake, WI 54810
715-485-9210

