

Resolution No. 4-19

Resolution to Authorize Direct Sale of Tax Delinquent Lands Located on Ridge Road,
Village of Osceola –Kwik Trip Offer to Purchase

TO THE HONORABLE CHAIRPERSON AND SUPERVISORS OF THE COUNTY BOARD
OF THE COUNTY OF POLK:

Ladies and Gentlemen:

WHEREAS, in 2010, the County acquired two adjacent parcels of tax delinquent property consisting of 78 acres situated along Ridge Road in the Village of Osceola, as depicted on the attached aerial map; and

WHEREAS, when taking the properties, total delinquent taxes, special assessments and charges amounted to \$351,231.43 for both parcels, \$175,861 on Parcel#165-00612; and \$175,369 on Parcel#165-00613;

WHEREAS, in accordance with Wisconsin Statute Section 75.69(1) and upon the directive of the Environmental Services Committee, the County had offered the properties separately at the public auction held in July 2018 for a minimum bids of \$170, 000 and \$175,000, with neither property receiving a minimum bid; and

WHEREAS, in accordance with Wisconsin Statute Section 75.69(1) and upon the directive of the Environmental Services Committee, the County had offered the properties together for a minimum bid of \$250,000, with said sale receiving no minimum bid for the properties; and

WHEREAS, Kwik Trip has submitted an offer to purchase both properties by direct sale for a purchase price of \$250,000, an amount equivalent to the appraisal price set by the Environmental Services Committee when it authorized the October 2018 public auction, a copy of the proposed real estate offer being here attached.

WHEREAS, at the Environmental Services Committee meeting of February 6, 2019, Kwik Trip presented and outlined a revised offer to purchase the subject properties for a purchase price of \$355,000 and revised terms and conditions; and

WHEREAS, the Environmental Services Committee has recommended to the County Board to accept the revised offer of Kwik Trip and to amend this resolution to incorporate the revised offer to purchase; and

WHEREAS, on February 7, 2019, Kwik Trip forwarded to the County its revised offer to purchase, a copy of which is marked as the “Kwik Trip Offer 02-07-2019”, and is attached hereto and incorporated herein.”

NOW, THEREFORE, BE IT RESOLVED that the Polk County Board of Supervisors confirms the acceptance of the offer of Kwik Trip, identified and attached here to as the “Kwik Trip Offer 02-07-2019”, to purchase for a sales price of Three Hundred Fifty-Five Thousand (\$355,000)

Approved as to Form and Execution:

Malia Malone

Malia T. Malone, Corporation Counsel

Legal Impact Note: Passage of Resolution No. 4-19, as amended, would result in binding the County to the terms and conditions of the revised Kwik Trip offer incorporated into this resolution.

Excerpt of Minutes

73 At its regular business meeting on the 19th day of February 2019, the Polk County Board
74 of Supervisors acted upon Resolution No.4-19: Resolution to Authorize Direct Sale of Tax
75 Delinquent Lands Located on Ridge Road, Village of Osceola – Kwik Trip Offer to Purchase, as
76 follows:

- Adopted by a majority of the members present by a vote of _____ in favor and _____ against.
- Adopted by unanimous voice vote.
- Adopted as amended. See Below.
- Defeated

Insert amendment to resolution according to minutes:

SIGNED BY:
Dean Johansen
Dean Johansen, County Board Chairperson

ATTEST:
Sharon Jorgenson
Sharon Jorgenson, County Clerk

OFFER TO PURCHASE

Kwik Trip, Inc., a Wisconsin corporation, with offices located at 1626 Oak Street, La Crosse, Wisconsin 54603 or its assigns ("Buyer") offers to purchase from Polk County, Wisconsin, with offices located at 100 Polk County Plaza, No. 3220, Balsam Lake, Wisconsin 54810 ("Seller"), certain real estate located on Ridge Road, Village of Osceola, Wisconsin (Parcel Nos. 165-00612-0000 and 165-00613-0000), as generally described and generally depicted on attached Exhibit A (the legal description of which shall be verified by an ALTA survey to be commissioned by Buyer), together with easements, access rights, and privileges appurtenant thereto, and rights, title and interest in and to any land lying in the bed of any adjoining road or alley ("Property"), on the following terms and conditions.

Earnest money of Ten Thousand and 00/100 Dollars (\$10,000.00) shall be tendered within ten (10) days from acceptance of this Offer. All earnest money paid shall be held in the trust account of Buyer's title company ("Title Company") and shall be applied toward payment of the purchase price. If this Offer is not accepted on or before February 22, 2019 this Offer shall become null and void.

Upon acceptance of this Offer by Seller and Buyer, this Offer shall constitute an agreement for the purchase and sale of the Property ("Agreement") on the following terms and conditions:

1. PURCHASE AND SALE OF PROPERTY.

1.1 Property. Seller will validly sell and deliver to Buyer, by general warranty deed, free and clear of all defects, liens and encumbrances, except for current taxes not yet delinquent, and Buyer will accept and acquire at Closing, the Property.

1.2 Purchase Price for Real Property.

(a) Amount and Payment. The purchase price for the Property shall be Three Hundred Fifty-five Thousand and 00/100 Dollars (\$355,000.00) ("Purchase Price"), which shall be payable, less earnest money and other closing adjustments, at Closing via wire transfer by the Title Company.

(b) Closing Adjustments.

(i) Real estate taxes shall be prorated as of the Closing Date. If tax bills for the year of the Closing Date are not available as of the Closing Date, such proration shall be based upon the tax bills for the calendar year immediately preceding the calendar year in which the Closing Date occurs, and Seller's proportionate share thereof shall be deducted from the purchase price payable hereunder; and

(ii) All utility charges, if any, for the Property shall be metered as of the Closing Date and paid by Seller on or immediately after the Closing Date without the requirement of proration. Utility charges which cannot be so metered shall be prorated on the basis of the last period for which a statement is available.

1.3. Personal Property. There is no personal property included in the sale.

2. WARRANTIES OF SELLER. Seller warrants to Buyer and agrees that:

2.1 Compliance. Seller will comply with all applicable laws as may be required for the valid and effective transfer of the Property to Buyer.

2.2 Absence of Consents, Liabilities and Litigation. No consent or authorization is required for the consummation by Seller of the transactions contemplated hereby. There is no lease, agreement, mortgage, financing statement, security agreement or other instrument to which Seller is a party and by which the Property is subject or bound.

2.3 Title. Seller will have, as of the Closing Date, good and marketable title to and undisputed possession of the Property. Seller's title will be as of Closing Date free and clear of all defects, liens, and encumbrances not approved by Buyer in writing.

3. CLOSING DATE. Closing shall take place on or before June 30, 2019; or at such other time as shall be mutually agreed upon. The date and event of closing are, respectively, herein referred to as "Closing Date" and "Closing". Closing shall be held via mail through Buyer's title company or such other place as shall be mutually agreed upon.

4. COVENANTS OF SELLER.

4.1 Conduct Pending Closing Date. Upon acceptance of this Agreement, Seller agrees to provide Buyer with full access to examine the Property.

4.2 Title Insurance. Buyer shall obtain a commitment to issue an ALTA Form 2006 owner's title insurance policy in the amount of the Purchase Price. All expense incurred in obtaining such commitment and in paying the premium charge for the final title policy shall be paid by Seller. Such title commitment shall show good and marketable title to the Property in Seller subject only to exceptions or encumbrances acceptable to Buyer. Should Buyer notify Seller in writing of any title matters (exceptions to title or exclusions from title) not acceptable to Buyer ("Title Defect"), Seller shall utilize its reasonable efforts to correct such title matters. Seller shall have thirty (30) days from delivery of Buyer's notice to have such title matters removed from the title commitment Closing shall be forty-five (45) days after delivery of Buyer's notice or the Closing Date, whichever is later. If Seller is unwilling or unable to correct such title matters within the appropriate thirty (30) day period, Buyer may: (i) terminate this Agreement by written notice to Seller, and in such event, receive a refund of its earnest money; or (ii) waive any defect in title, and in such event, proceed to closing the transaction contemplated by this Agreement..

4.3 Survey Certification.

(a) Buyer shall obtain an updated survey of the Property, and Seller agrees to cooperate with Buyer in obtaining such survey. All expenses incurred in obtaining such survey shall be paid by Buyer. Such survey shall be prepared in accordance with the Minimum Standard Detail Requirements for Land Title Surveys as adopted by the American Title Association and the American Congress on Surveying and Mapping in 2016., and shall include a

proper and complete legal description of such Property and shall show: (i) external boundaries of such Property and the length and direction of each dimension; (ii) access to and names of the nearest or adjacent public roads; (iii) the locations of all recorded easements; (iv) the locations of any flood plains; (v) the legal description and street address of such Property and the number of square feet within such property; (vi) setback requirements; (vii) physical encroachments onto such Property and from such Property onto adjacent property; (viii) the locations of monuments at corners; (ix) the locations of all improvements; (x) the locations of all utilities and if they have not been extended to the boundary of such Property, the nearest point from which they could be extended to such Property; (xi) the locations of all concrete pads, stand pipes, vent pipes and filler pipes; (xii) the topography of the Property at two foot intervals; and (xiii) other information necessary or required by the title company to remove the "survey" exception in the title commitment;

(b) The survey described above shall contain a certification by the surveyor to Buyer and all those who may purchase, take a mortgage on or insure title to the Property described therein within one (1) year from the date of said survey that (i) the information, courses, and distances shown are correct, (ii) the title lines and lines of actual possession are the same, (iii) the size, location and type of buildings and improvements are as shown and all are within the boundary lines and applicable setback lines of such Property, (iv) there are no violations of zoning ordinances or restrictions with reference to the location, size or height of said buildings and improvements, (v) there are no easements or uses affecting such Property appearing from a careful inspection of the same, other than as shown on the commitment of title insurance described in Section 4.2 hereof and depicted thereon, (vi) there are no encroachments affecting such Property except as shown on the survey, and (vii) no part of such Property lies within a flood zone designation (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent, by scaled map location and graphic plotting only).

4.4 Transfer Fees. Seller shall be responsible for and shall pay all state transfer fees and/or deed taxes imposed with respect to the transfer of the Property to Buyer.

4.5 Nonforeign Affidavit. Seller shall deliver to Buyer at Closing Seller's affidavit that Seller is not a foreign person, foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in and in accordance with the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder).

4.6 Further Instruments. On Closing Date, or thereafter if necessary, Seller shall, without cost or expense to Buyer, execute and deliver to or cause to be executed and delivered to Buyer such further instruments of transfer and conveyance as Buyer may reasonably request, and take such other action as Buyer may reasonably require to carry out more effectively the sale and transfer of the Property contemplated by this Agreement and to protect the right, title and interest of Buyer in and enjoyment by Buyer of the Property.

5. MUTUAL COVENANTS AND WARRANTIES.

5.1 Special Assessments. Special assessments, if any, for work on the site of the Property commenced and any areawide assessments or charges for work plans adopted prior to or on Closing Date shall be paid by Seller. Special assessments, if any, for work on such site of the Property commenced after Closing Date, shall be paid by Buyer.

5.2 Eminent Domain. If all or any portion of the Property or points of access thereto are condemned by public or quasi-public authority prior to Closing, Seller immediately shall notify Buyer thereof and of the portion of the Property which shall have been condemned. Buyer may, in its sole discretion, terminate this Agreement without any liability by written notice to Seller within fifteen (15) days following notice of such condemnation.

5.3 Binding Obligation. Seller warrants to Buyer and Buyer warrants to Seller that this Agreement constitutes its valid and legally binding obligation enforceable against it in accordance with the provisions hereof.

5.4 Specific Performance. Buyer shall have the right to specific performance, upon tender of payment by Buyer, of each of the agreements and obligations of Seller to be performed hereunder by Seller, in addition to all other remedies Buyer may have at law or in equity.

5.5 Property Testing. Buyer, at Buyer's expense, may enter upon the Property to conduct such tests and make such examinations, including soil, boring and environmental tests, as Buyer deems necessary. In the event the results of tests or examinations conducted by Buyer or Buyer's representative(s) do not verify that there is no accumulation in or about the Property or adjacent groundwater of petroleum, PCBs or any hazardous waste or toxic pollutant, contaminant or other substance regulated by any state or federal statute including Solid Waste Disposal Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601), the Resource Conservation and Recovery Act (42 U.S.C. Sec. 6901) or the Toxic Substance Control Act (15 U.S.C. Sec. 2604) or by any other statute, rule, regulation or order of any governmental agency having jurisdiction over the control of such substances or wastes, or other substances of public health concern, or if Seller acknowledges that the Property is contaminated by any such waste or substances, Buyer may in its sole discretion, terminate this Agreement.

6. TERMINATION OF AGREEMENT.

6.1 Causes. This Agreement, unless sooner terminated in accordance with the provisions hereof, may be terminated prior to Closing by:

- (a) mutual consent of the parties;
- (b) written notice from Buyer to Seller, if there has been a material misrepresentation or breach by Seller in the warranties or covenants of Seller set forth herein, or if any of the conditions set forth herein have not been satisfied or waived by Buyer in writing or Closing has not occurred by the Closing Date or the date of such notice, whichever is later; or
- (c) written notice from Seller to Buyer if there has been a material misrepresentation or breach by Buyer in the warranties or covenants of Buyer set forth herein.

6.2 Effect of Termination. If this Agreement is terminated in accordance with the provisions hereof, all earnest money paid hereunder shall be immediately paid or returned to Buyer. In the event of a wrongful termination of this Agreement by Buyer, all earnest money paid hereunder shall be paid to or retained by Seller as liquidated damages and as Seller's sole remedy.

6.3 Right to Proceed. If any of the conditions set forth herein have not been satisfied, Buyer may waive its rights to have such conditions satisfied and may proceed with the transactions contemplated hereby.

7. CONDITIONS. Each of the agreements and obligations of Buyer to be performed hereunder by Buyer are conditional on the satisfaction of the following conditions:

7.1 Due Diligence; Survey; Site Investigation. On or before June 30, 2019 ("Contingency Date"), Buyer shall have obtained: (i) a satisfactory outcome to its due diligence investigation with respect to the Property; (ii) Buyer's satisfactory review of the zoning of the Property to determine that the Property is adequate for Buyer's intended development and use of the Property; (iii) a satisfactory survey and site investigation verifying Seller's warranties with respect to the Property; (iv) a satisfactory outcome to its soil, boring and environmental testing; and (v) satisfactory evidence that the Property and the contemplated operation and use of the Property by Buyer complies with all applicable laws.

7.2 Instruments of Transfer. At least seven (7) days prior to Closing, Seller shall have delivered to Buyer for review and approval, drafts of such instrument or instruments of transfer and conveyance regarding the Property of the nature hereinbefore specified. Once reviewed and approved by Buyer, all original signed documents shall be deposited with the Title Company to be held in trust until the Closing Date.

7.3 Survey. On or before the Contingency Date, Buyer shall have reviewed and approved of the survey as described in Section 4.3 hereof.

7.4 Title Insurance. On or before the Closing Date, Buyer shall have received and approved the title insurance commitment referred to in Section 4.2 hereof.

8. NOTICES. Any notice required or permitted hereunder shall be in writing and shall be considered delivered in all respects when it has been delivered by hand or mailed via UPS Overnight Mail to Buyer or to Seller at their respective address first above written, or electronically via e-mail to Seller at jeff@co.polk.wi.us, or to Buyer at STEigen@kwiktrip.com with a copy to JLong@kwiktrip.com.

9. BROKERAGE. Seller and Buyer respectively warrant to each other that no person provided services as a broker or finder with respect to the transaction contemplated hereby.

10. MISCELLANEOUS. This Agreement contains the entire agreement between the parties with respect to the transactions contemplated herein, and shall be binding upon the parties and their respective heirs, successors and assigns. There are no agreements or understandings between the parties other than those set forth herein or in a written instrument executed simultaneously herewith. This Agreement may be amended and any of the provisions hereof may be waived, only by a written instrument executed on behalf of all of the parties or, in the case of a waiver, by the party waiving compliance. The failure of any party at any time or times to require performance of any provision of this Agreement shall in no manner affect the right to enforce that provision or any other provision hereof at any time thereafter. Time is deemed to be of the essence with respect to all of the provisions hereof.

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EXHIBIT A

PROPERTY

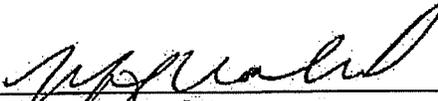
Property located on:
Ridge Road
Osceola, Wisconsin
(Parcel Nos. 165-00612-0000 and 165-00613-0000)

See attached depiction and the Polk County Parcel Information Sheets related to the Property

[Seller shall provide to Buyer a complete legal description of the Property within ten (10) days from acceptance of this Offer]

Executed as of February 7 2019.

BUYER:
KWIK TRIP, INC.

By: 
JEFFREY WINKLER
Its: VICE PRESIDENT & CFO

Accepted as of February 21, 2019, and Seller acknowledges that upon such acceptance this Offer shall constitute an agreement for the purchase and sale of the Property on the foregoing terms and conditions.

SELLER:
POLK COUNTY, WISCONSIN

By: 
Jeffrey Fuge
Its: County Administrator 

Alt. Parcel #:

VILLAGE OF OSCEOLA
POLK COUNTY,
WISCONSIN

Owner and Mailing Address: POLK COUNTY (TAX DEED) 100 POLK COUNTY PLZ BALSAM LAKE WI 54810		Co-Owner(s):	
Districts:		Physical Property Address(es): Information Not Available	
Dist#	Description	Parcel History:	
1700	WITC DISTRICT	Date	Doc #
4165	OSCEOLA SCHOOL DIST	09/25/2012	600938
0107	OSCEOLA FIRE DISTRICT	07/26/2004	683955
		07/26/2004	683956
			674/807
			more..
Legal Description:		Acres: 39.500	
OUTLOT 177 OF THE OUTLOT PLAT LOG IN THE VILLAGE OF OSCEOLA (SOMETIMES INCORRECTLY REFERRED TO AS THE ASSESSORS PLAT)			
Plat	Tract (S-T-R 40% 160% GL)	Block/Condo Bldg	
* AUTO-OUTLOTS V OSCEOLA	27-33N-19W	LOT 177	

2018 Valuations: Values Last Changed on 05/15/2013

Class and Description	Acres	Land	Improvement	Total
X3-COUNTY	39.500	0.00	0.00	0.00
Totals for 2018				
General Property	0	0.00	0.00	0.00
Woodland	0.000	0.00	0.00	0.00
Totals for 2017				
General Property	0.000	0.00	0.00	0.00
Woodland	0.000	0.00	0.00	0.00

2018 Taxes	Bill # 40919	Fair Market Value: 0.00	Assessment Ratio: 0.9308
	Amt Due	Amt Paid	Balance
Net Tax	0.00	0.00	0.00
Special Assessments	0.00	0.00	0.00
Special Charges	11.20	0.00	11.20
Delinquent Charges	0.00	0.00	0.00
Private Forest Crop	0.00	0.00	0.00
Woodland Tax	0.00	0.00	0.00
Managed Forest Land	0.00	0.00	0.00
Prop Tax Interest		0.00	0.00
Spec Tax Interest		0.00	0.00
Prop Tax Penalty		0.00	0.00
Spec Tax Penalty		0.00	0.00
Other Charges	0.00	0.00	0.00
TOTAL	11.20	0.00	11.20
<i>Interest Calculated For 12/20/2018</i>			
		Installments	
	End Date	Total	
1	01/31/2019	11.20	
2	07/31/2019	0.00	
Net Mill Rate		0.021043927	
Gross Tax		0.00	
School Credit		0.00	
Total		0.00	
First Dollar Credit		0.00	
Lottery Credit		0 Claims	0.00
Net Tax		0.00	

Key * - Primary

CERTIFIED COPY OF POLK COUNTY RESOLUTION

STATE OF WISCONSIN

COUNTY OF POLK

I Sharon E. Jorgenson, Polk County Clerk do hereby certify that the attached hereto and incorporated herein is a full, true and correct copy of Resolution No. 04-19: Resolution to Authorize Direct Sale of Tax Delinquent Lands Located on Ridge Road, Village of Osceola – Kwik Trip Offer to Purchase adopted by the Polk County Board of Supervisors at its regular business meeting held on February 19, 2019.


Sharon E. Jorgenson 2/19/19

Sharon E. Jorgenson, Polk County Clerk

Date