

KWIK TRIP, INC. VACANT LOT SNOW REMOVAL VENDOR CONTRACT

«Vendor_Number»	Kwik Trip, Inc.
«Vendor_Name»	STORE: «Store_»
«Vendor_Address»	«Store_Address»
«Vendor_City», «Vendor_State»	«Store_City_», «Store_State» «Store_Zip»
«Vendor_Zip»	

Vendor hereby agrees to perform snow removal services and de-icing services for the above-referenced Kwik Trip, Inc. (also known as Kwik trip) property for the following term:

October 1, 2019 through September 30, 2021

This Contract supersedes any prior service contracts between Vendor and Kwik Trip for locations and services covered by this Contract.

I. Purpose:

The safety of Kwik Trip’s guests, employees and vendors is a top priority, so maintaining a clean, well-kept property is important to Kwik Trip. The condition and visual presentation of the our property are also important for promoting positive working relationships with the communities Kwik Trip serves, and helps us present a good first impression to our guests. We look forward to partnering with you, our snow and ice removal vendor, to keep our property well-maintained and in a safe condition.

II. Definitions:

1. “Kwik Trip” refers to Kwik Trip, Inc., its subsidiaries and affiliates.
2. “Vendor” means the company identified above as the “Vendor” including its employees, agents, representatives, subsidiaries, sub-contractors, subcontractor employees and assigns.
3. “Snow removal services” means the removal of snow by plowing and/or shoveling.
4. “De-icing services” means the application of sodium chloride, calcium chloride, magnesium chloride, ice melt, or other comparable de-icing products and compounds. Magnesium chloride must be used on all premises where the service area includes concrete that is less than one (1) year old. Magnesium chloride will not be used under any circumstance on any lot concrete that is over one (1) year old. Under no circumstances should sand or salt/sand mix be applied to any Kwik Trip premises.
5. “Service area” means the portion of the exterior of the premises that the Vendor is responsible for maintaining through the performance of snow removal services and de-icing services, including a fire lane around any existing building(s) and public sidewalks.

III. Snow Removal and De-Icing Services:

Vendor must perform snow removal services and de-icing services on the Service Area as follows:

1. Snowfall: Snow removal services must be performed on the service area within twenty four (24) hours after the conclusion of any snowfall. De-icing services shall be performed immediately following the performance of snow removal services.
2. When Precipitation Other Than Snowfall: When there is freezing rain, mist, sleet and/or other precipitation or weather conditions that can result in the formation of ice, Vendor must perform de-icing services in order to prevent and remove ice so as to keep the premises in a safe condition.
3. Snow Piling: Snow must be pushed and piled on Kwik Trip property only, unless formal written agreement has been issued.
4. Timeliness and Quality of Service: All snow removal services and de-icing services must be performed in a timely, workmanlike manner to keep the premises in a safe condition. Vendor must acknowledge request of service within one hour. If the Vendor fails

to acknowledge request of service within one hour, Kwik Trip reserves the right to use an emergency Vendor to complete requested services.

IV. Safety Requirements:

Vendor is required to comply with the following safety guidelines while performing snow removal and de-icing services for Kwik Trip:

1. All Vendor and subcontractor vehicles must be driven at speeds that are safe for Kwik Trip's guests and co-workers.
2. All Vendor and subcontractor vehicles must have working, flashing amber caution lights that are operating and clearly visible at all times during the performance of snow removal and de-icing services at any Kwik Trip premises.
3. All Vendor and subcontractor vehicles must have clearly audible caution tones when the vehicle is in reverse.
4. All Vendor and subcontractor employees must wear high visibility clothing (ANSI Class 2) at all times when they are outside of their vehicles.
5. All Vendor and subcontractor employees operating motor vehicles on Kwik Trip premises must have valid driver's licenses and must comply with any and all applicable laws and regulations.
6. The Vendor and their subcontractors shall take all necessary safety precautions with respect to their work. The Vendor and their subcontractors shall comply with all safety measures initiated by Kwik Trip and those required by the contract documents. The Vendor and their subcontractors shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority for the safety of persons or property, including the Occupational Safety and Health Act and all laws, rules and regulations amendatory and supplementary thereto.
7. It is the responsibility of the Vendor to communicate the terms and demands of this agreement to their subcontractors. The Vendor is the liable party for all fines and discipline by the subcontractors. The Vendor will ensure that Kwik Trip's safety policy is followed by the subcontractors along with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority for the safety of persons or property, including the Occupational Safety and Health Act and all laws, rules and regulations amendatory and supplementary.
8. The Vendor and their subcontractors shall report all accidents/near-misses, property damage and general public incidents to the Kwik Trip Communication Center (608) 793-6267 and the Kwik Trip site supervisor immediately. A written accident investigation report shall be submitted to Kwik Trip within 24 hours of all accidents, fatalities, near-misses, property damages and general public incidents.
9. The Vendor and their subcontractors shall give each new employee a site safety orientation before they start work on the construction site. This orientation shall apply to safety rules of the project including all state and federal regulations.
 - 9.1. All employees of any Vendor or subcontractor have the responsibility to fully train their employees and ensure that the working conditions are safe for everyone on site.
10. Vendor hereby confirms that any persons performing the snow removal and de-icing services under this contract are at least 18 years of age.
11. The Vendor and their subcontractors shall not carry or possess any firearms or weapons on Kwik Trip property. The prohibition extends to all property owned and/or controlled by Kwik Trip, including all properties and buildings. This provision shall not, however, prohibit a co-worker from the otherwise lawful carrying or possession of a weapon in his/her personal vehicle.
12. The Vendor and their subcontractors shall not use a cell phone while operating equipment or performing snow removal or de-icing services.

V. Pricing

Pricing shall be as set forth on the accompanying Vacant Lot Snow Removal Vendor Bid Form (Exhibit B) for the term of Vacant Lot Snow Removal Vendor Contract. Pricing is calculated on a per push basis with all services being performed in conjunction with each other and broken out by service type performed.

VI. General Information

1. Vendor shall use its own equipment and materials for the performance of all snow removal services and de-icing services under this Contract.

2. To prevent damage to the Kwik Trip landscape and facilities, at the beginning of the winter season, Vendor will identify all objects that could be damaged during the snow removal process. Objects include, but are not limited to, hydrants, utility meters, lights, ditches, curbs, irrigation equipment, and plant materials. Snow should be piled on grass areas when possible. Snow should not be piled on landscaped areas as this will cause damages.
3. Vendor shall be responsible for repairs of any damage arising from snow maintenance services completed. All damages must be reported to the corporate office immediately. Kwik Trip reserves the right to coordinate and determine course of action to repair any damage with Vendor, including but not limited to, claim reporting, repair services, Vendor selection, and timeline for completion of repair work. Vendor shall pay for any damages arising from services provided under said contract.

VII. Indemnification

Vendor agrees to indemnify, defend and hold harmless Kwik Trip from any loss, damage, claim, liability, injury or cause of action, including reimbursement of attorney fees and expenses, arising out of, or in any way relating to, Vendor's performance of its work under the terms of this Contract or due to any allegation that the condition of the Service Area or Vendor's services caused any loss, damage, claim, liability, or injury. Kwik Trip shall have the right to select counsel to represent it and shall not be required to be represented by counsel chosen by, or representing, Vendor.

VIII. Insurance

Vendor shall maintain insurance coverage as set forth in the attached Request for Evidence of Insurance – L (Exhibit A) in full force and effect at all times during the effective term of the Snow Removal Vendor Contract. Vendor must also supply Kwik Trip with evidence of such insurance coverage in the form of a Standard Acord Certificate of Liability Insurance, along with copies of required endorsements listing Kwik Trip as the Certificate Holder prior to the first day of the Contract Term identifying Vendor's insurance coverage is in compliance with these requirements. Vendor must also ensure that each of its subcontractors also complies with these insurance requirements and provides evidence of such insurance to Kwik Trip in the form identified above.

Please be advised that Kwik Trip may review your insurance coverage and request changes to your insurance limits throughout the term of this agreement.

IX. Service Channel

Vendor is required to be onboarded through and utilize Service Channel for service management and invoice submittal. After snow removal and de-icing services are performed Vendor must log services in the Service Channel Mass Work Order Upload Template (Kwik Trip to provide) and emailed to seservicedesk@kwiktrip.com. Vendor is required to pay Service Channel's invoicing submittal fee of 1% of total invoice dollar amount, not to exceed \$2.00 per invoice. Service Channel's invoicing submittal fees are subject to change.

X. Payment Terms

All services must be logged via Service Channel. It is the Vendor's responsibility to log services on the Service Channel Mass Work Order Upload Template. Failure to do so will result in non-payment of services. All services must be billed within 30 days of completion or on a minimum monthly billing cycle. It is preferred that Vendor will be paid electronically via ACH direct deposit into Vendor's bank account. Payments are remitted 30 days from Kwik Trip's receipt of invoice and after validation. Disputes on invoice discrepancies must be submitted within 60 days of payment date. Vendor shall provide Kwik Trip with a current U.S. Internal Revenue Service Form W-9.

Service Channel Validation and Invoice Submission:

- Upon logging services in the Service Channel Mass Work Order Upload Template, the status of the work order in Service Channel will be "In Progress/Validation Required". In this status the work order is moved to an exception queue for Kwik Trip to validate before changing the status to "Completed/Confirmed".

In the States of IA (IA DOR website publication #78-524), MN (MN DOR website fact sheet #121), & WI (WI DOR website Sales and Use Tax Report, p. 2 (Dec. 2008)) Snowplowing and/or Snow Removal services are not subject to sales tax. Likewise, any salt, sand, or de-icing materials are not subject to sales tax. The Vendor is the final consumer of these materials, and is responsible for paying any and all applicable sales tax on their purchases. In the event Vendor submits an invoice that is charging sales tax, the invoice(s) will be returned to Vendor unpaid. Vendor will be required to submit a new invoice before Kwik Trip will make payment. If you are unsure as to the sales and use tax regulations related to your industry, Kwik Trip strongly encourages you to contact the state's Department of Revenue or your tax consultant. Kwik Trip will not assume any financial liability for sales or use taxes imposed on Vendor.

XI. Termination

This Contract may be terminated prior to expiration of the term set forth therein as follows:

«Vendor_Number» - «Year» - «Store_»

1. In the event that Kwik Trip determines (in Kwik Trip's sole discretion) that Vendor is performing its services in an unsatisfactory manner, Kwik Trip shall notify Vendor in writing and specify the unsatisfactory performance. Vendor must improve its performance within 10 days after the date of the written notice. If service is not required within a 10 day period, Vendor must improve its performance during next requested service. If Vendor fails to improve its performance to a satisfactory level (in Kwik Trip's sole discretion) within such 10 days or next requested service after 10 day period, Kwik Trip shall have the right to terminate this agreement for the properties where Vendor fails to bring performance to a satisfactory level, by providing 10 days advance written notice to Vendor. If Kwik Trip chooses to exercise this right to terminate, such notice shall be provided to Vendor within 5 days following the end of the 10-day period or next requested service after 10 day period allowed to improve the performance. If Kwik Trip chooses to terminate this Contract in part, the notice provided to Vendor shall identify the property, at its sole discretion, which will no longer be subject to this Contract.
2. Kwik Trip shall have the right to terminate this agreement for cause at any time effective immediately upon the mailing of written notice to Vendor (which may set forth that the termination is for cause but need not specify the facts constituting cause) in the following situations: (i) improper or unethical business practices by Vendor or its subcontractors; (ii) violation of any law, ordinance or regulation by Vendor, Vendor's employee, Vendor's subcontractor, Vendor's subcontractor's employee; or (iii) any other act or omission on the part of Vendor which may be detrimental to Kwik Trip's business or reputation or create safety or security concerns for Kwik Trip's guests, co-workers and Vendors.
3. Kwik Trip or Vendor may terminate this Contract at any time without cause at the end of fifteen (15) days advance written notice to the other party. Further, Kwik Trip may terminate this Contract as it applies to any particular property (at its sole discretion) at any time and without cause at the end of seven (7) days advance written notice to Vendor identifying the property affected by such termination.

XII. Governing Law

This Agreement and all disputes or controversies arising out of or relating to this Agreement, or the transactions contemplated hereby, shall be governed by, and construed in accordance with, the internal Laws of the State of Wisconsin, without regard to the Laws of any other jurisdiction that might be applied because of the conflicts of laws principles of the State of Wisconsin.

XIII. Forum Selection Clause

Each of the parties irrevocably agrees that any legal action or proceeding arising out of or relating to this Agreement brought by any other party or its successors or assigns shall be brought and determined in the Court of La Crosse County of the State of Wisconsin, the courts of the United States of America for the District of Wisconsin, and appellate courts thereof, and each of the parties hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, with regard to any such action or proceeding arising out of or relating to this Agreement and the transactions contemplated hereby. Each of the parties agrees not to commence any action, suit or proceeding relating thereto except in the courts described above in Wisconsin, other than actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in Wisconsin as described herein.

XIV. Entire Agreement.

This Contract contains the sole, complete and entire agreement and understanding between Kwik Trip and vendor (the "parties") concerning the matters contained herein. There are no terms between the parties other than those contained in this Contract. The Contract may not be altered, modified or changed in any manner except by a writing duly executed by the parties, which, upon such execution, shall be added to this Contract as an addendum. No statements, promises or representations have been made by the parties to another, or are relied upon, and no consideration has been or is offered, promised, expected or held out, other than as stated in this Contract. The parties are not relying on any representations other than those expressly set forth herein. All prior and contemporaneous discussions and negotiations have been, and are, merged and integrated in and superseded by this Contract.

XV. Severability

In the event that, for any reason, any covenant, condition, or provision ("term") or portion thereof of this Contract shall be found to be invalid, void, illegal, against public policy or otherwise unenforceable in any respect, in whole or in part, by judgment, order, or decree of any court or other judicial tribunal of competent jurisdiction, then such term or portion thereof shall be deemed to be severable from the remaining terms or portions of this Contract, and it shall not affect the validity of the remaining terms or portions, which shall be given full effect as if the void or invalid term or portion had not been included herein.

The terms and conditions of the following documents attached hereto are adopted and incorporated herein by reference and are a part of this Contract:

- Request for Evidence of Insurance – L (Exhibit A)
- Vacant Lot Snow Removal Vendor Bid Form (Exhibit B)

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SAMPLE

IN WITNESS WHEREOF, each of the undersigned has here unto set his or her hand, or if a corporation, partnership or other legal entity, has caused this General Release to be signed by an authorized representative.

SNOW REMOVAL VENDOR: «Vendor_Name»

Signature of Authorized Representative

(print name)

Title/Position

Date

KWIK TRIP, INC.



Signature of Authorized Representative

David Wagner
(print name)

Controller
Title/Position

6/10/2019

Date

SAMPLE



REQUEST FOR EVIDENCE OF INSURANCE – L

In keeping with our corporate policy, we request that you supply us with the following information regarding your Insurance Program.

The information we require can be evidenced on the standard Acord Insurance Certificate form, which your insurance representative will be familiar with. Our minimum insurance requirements are:

1. General Liability insurance including coverage for bodily injury, property damage, personal and advertising injury with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate written on an occurrence basis on the most recent ISO Commercial General Liability Policy form or equivalent. Kwik Trip, Inc. shall be named as additional insured on a primary and noncontributory basis as provided under ISO form CG 2010 0704, CG 2037 0704 and CG 2001 0413 or their equivalent. A copy of these endorsements must be included with your certificate.
2. Automobile Liability Insurance covering all owned, hired and non-owned vehicles with minimum limits of \$1,000,000.
3. Umbrella/Excess Liability with minimum limits of \$1,000,000 per occurrence/aggregate.
4. Alternatively, in place of items 1-3, we will accept Comprehensive General Liability Insurance (CGL) with limits of not less than \$2,000,000 combined single limits per occurrence, \$3,000,000 aggregate. Automobile Liability Insurance with limits of \$2,000,000 combined single limits per occurrence, which insurance will be in effect for all owned/non-owned/hired vehicles of CUSTOMER. Such insurance coverages may be achieved through a combination of CGL and Umbrella Policies and Auto and Umbrella Policies respectively.
5. Worker's compensation insurance evidencing statutory state coverage and employers' liability insurance with minimum limits of \$500,000.
6. All coverage shall be provided by an insurer with a rating of A-X or better by A.M. Best.
7. Vendor/Supplier is required to immediately provide notice of cancellation or non-renewal of any policies to Kwik Trip, Inc.
8. The Name and Address of the Additional Insured/Certificate Holder should be as follows:

Kwik Trip, Inc. and its subsidiaries 1626 Oak Street La Crosse, WI 54603
9. Vendor waives all rights of subrogation that an insurer might have against Kwik Trip, Inc., ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES with appropriate endorsements attached to all policies.

You are reminded that Kwik Trip's requirement that you meet the above in no way limits your liability for claims or suits in excess of these limits.

Please be advised that Kwik Trip Inc. may review your insurance coverage and request changes to your insurance limits. Kwik Trip strictly enforces this policy. Thank you for your cooperation and prompt compliance. If you have any questions regarding Kwik Trip's insurance requirements please contact:

Kwik Trip, Inc.
Vendor Risk Management Department
PO Box 2107
La Crosse, WI 54602-2107

Phone: 608-793-6274
Fax: 608-793-6136
Email: vendors@kwiktrip.com