

**LIMITED USE AGREEMENT
(KWIK TRIP #1747)**

THIS AGREEMENT made and entered into on this ____ day of _____, 2024 by and between the City of Baxter, a Minnesota municipal corporation hereinafter referred to as the "City" and Kwik Trip, Inc., a Wisconsin Corporation, party of the first part, a Developer in Baxter, Minnesota, hereinafter referred to as the "Developer".

WITNESSETH:

WHEREAS, the undersigned is the owner of Lot 1, Block 1 of PERK PLACE in the City of Baxter, Crow Wing County, Minnesota according to the plat thereof on file with the Crow Wing County Recorder, and hereinafter called the "Property"; and

WHEREAS, the Developer at the above Property wishes to discharge stormwater into the City stormwater system on Novotny Road adjacent to the Developer's Property; and

WHEREAS, the City Council approved the Developer's discharge of stormwater into the Novotny Road storm sewer system "Improvements" adjacent to Novotny Road right of way on May 21, 2024 subject to an agreement duly approved in form by the City Attorney.

NOW, THEREFORE, it is stipulated and agreed by and between the parties hereto as follows:

1. **Term.** Developer will install and maintain Improvements on City right of way. The design and location of said Improvements shall be as set forth in **Attachment A**. Said Improvements shall be maintained the same until the removal is directed by the City per Paragraph 3 of this agreement entitled "Termination". Nothing shall be placed within City right of way other than as depicted on said Attachments or as otherwise approved by the City.
2. **Maintenance.** Developer shall, at all times, keep and maintain the Improvements described in **Attachment A** in a good state of repair and agrees to indemnify and hold harmless the City, its officers, agents and employees from any claim for personal injury, property damage or death occasioned by the location or maintenance of the encroachments on the City property. Developer also waives and releases the City from any claims which Developer may have against the City for damage to the encroachments resulting from activities conducted by the City on the City right of way except for such gross negligence or willful acts of the City which cause damage to the Improvements for which the City would be (according to then applicable municipal or state laws) otherwise liable to similarly suited property owners. Nothing in this agreement shall be construed as a waiver by the City of any immunity, defenses, or

other limitations on liability to which the City is entitled by law, including but not limited to the minimum monetary amounts on liability established by Minnesota Statutes Chapter 466.

3. **Termination.** The City may terminate this agreement at any time, for good cause as determined by the City Council, by giving the Developer a 180-day written notice of termination. Developer hereby releases and waives any claim, which they may have for damages resulting from the termination of this agreement including the impact that the removal of the stormwater discharge may have on the Developer or on its ability to legally continue. The Developer also indemnifies and holds the City harmless from any third-party claims in the event of termination of this Agreement. Unless the infrastructure is removed from the City right of way during that period, the infrastructure, which is located on City right of way, shall become the exclusive property of the City. The City may remove the infrastructure and assess the cost in the form of a lien against the Property and may levy a special assessment in the manner provided by Minnesota Statutes Chapter 429. Developer acknowledges that the removal of the infrastructure from City right of way shall constitute a benefit to the Property for the purposes of Minnesota Statutes Chapter 429. Developer hereby waives the right to object to the aforementioned special assessment pursuant to Minnesota Statutes Chapter 429.
4. **Successors and Assigns.** Subject to the termination provisions of this Agreement, this Agreement may be assigned to any successor or assign of any or all of the Developer's or the City's interest in the Property or City property, respectively.
5. **Recording.** The City, at the Developer's sole cost and expense, shall properly record this agreement among the land records for the Property described above.
6. **Vegetative Management.** Developer shall not remove any live trees from the adjacent right of way outside of the construction limits but shall be responsible for the removal of any dead trees and brush or other maintenance as required by the City. No storage or display of any items is allowed.

IN TESTIMONY WHEREOF, the parties hereto have caused this agreement to be executed as of the day and year first above written.

Attachment A – Plans

[SIGNATURES APPEAR ON THE NEXT PAGE]

CITY OF BAXTER:

By: _____

Darrel Olson

Its Mayor

By: _____

Kelly Steele

Its Assistant City Administrator/Clerk

RATIFIED AND APPROVED BY THE CITY COUNCIL OF BAXTER, MINNESOTA, THIS
__21__ DAY OF __MAY__, 2024.

By: _____

Darrel Olson

Its Mayor

By: _____

Kelly Steele

Its Assistant City Administrator/Clerk

State of Minnesota)

)ss

County of Crow Wing)

The foregoing instrument was acknowledged before me this _____ day of _____,
2024, by Darrel Olson and Kelly Steele, the Mayor and Asst. City Administrator/Clerk,
respectively, of the City of Baxter, a Minnesota Municipal corporation on behalf of the City.

Notary Public

