

CONTRACT

This contract is made and entered into this 16th day of December, 2022, by and between Fortress Floors, LLC (hereinafter "Contractor"), located at 1009 Wood Ct., Sheboygan, WI 53081 and the City of Manitowoc, Wisconsin, a Wisconsin municipal corporation (hereinafter "City"), located at 900 Quay Street, Manitowoc, Wisconsin 54220.

RECITALS

WHEREAS, Fortress Floors, LLC located at 1009 Wood Ct., Sheboygan, WI 53081, intends to floor and wall prep, repair and install of coatings at Lincoln Park Fieldhouse Basement and Kitchen and Lincoln Park Softball Men's Restroom located at 1215 N 8th Street, Manitowoc WI, Manitou Park Restrooms located at 2901 Michigan Avenue, Manitowoc WI; and Miracles Park Restrooms and Concession area located at 1840 S 35th Street, Manitowoc WI, as outlined in "Exhibit A", Fortress Floors, LLC Proposal and "Exhibit B" Special Provisions & Conditions.

WHEREAS, Fortress Floors, LLC has the ability to perform the required work needed at Lincoln Park, Manitou Park and Miracles Park.

NOW, THEREFORE, in consideration of the mutual covenants and representations of the parties hereinafter set forth, the undersigned parties hereby agree as follows:

1. Recitals. The above recitals are deemed to be true and correct.
2. Scope of Work. The Contractor agrees to perform the following work and/or furnish the following labor and materials in accordance with the terms of this contract:

All work shall be performed in accordance with the City of Manitowoc's Standard Specifications for Public Works Construction.

See listing of tasks for this project. (Attached are "Exhibit A" and "Exhibit B").

3. Contract Price. The City agrees to pay to the Contractor for the performance of this contract the sum not to exceed **\$22,096.50**.
4. Schedule. Contractor agrees to commence work under this Contract upon its execution and complete performance of this contract in accordance with the City of Manitowoc's Standard Specifications, which are made part of this Contract and are incorporated by reference. The contract completion date shall be **March 31, 2023**.
5. Liquidated Damages. **For every calendar day** of delay in the completion of the work beyond the time specified, unless extended by written agreement, there shall be deducted from the amount due under this Contract as fixed, agreed and liquidated damages, the sum of **One-Hundred Dollars (\$100)**.
6. Payment Schedule. Requests for payment shall be made to the Director of Public Infrastructure. The Director of Public Infrastructure shall make a recommendation on the payment request and submit the same to the City's Board of Public Works when applicable. Contractor shall be entitled to payment within 30 days following approval by the Director of Public Infrastructure. The Contractor shall be required to submit a Lien Waiver prior to the City processing the final payment.

7. Assignment and Subcontracting. Contractor shall not be permitted to sign or subcontract any of the work hereunder without the prior written consent of the City.
8. Insurance and Bonding. Prior to commencing work hereunder, Contractor shall provide City, for approval by the City Attorney, a Certificate of Insurance showing proof of General Liability Insurance in amounts not less \$1,000,000.00 per person per occurrence, \$2,000,000.00 in the aggregate, property damage limits of not less than \$500,000.00 per occurrence, and shall carry the statutory amounts for worker's compensation insurance. Contractor shall include with the Certificate of Insurance two endorsements, one endorsement naming the City of Manitowoc as an additional insured, and a second endorsement giving City thirty (30) days prior notice of non-renewal, modification or cancellation.
9. Applicable Statutes. Any provisions of the Wisconsin Statutes, Federal Law or local ordinances applicable to the work performed hereunder are deemed to be incorporated by reference and made a part of this contract.
10. Sales Tax Exemption. The Contractor shall be required to comply with Chapter 77 of Wisconsin State Statutes and more specifically Section 77.54(9m) as it relates to the sales tax exemption for building materials that become part of a facility for a local unit of government. (This is also known as 2015 Wisconsin Act 126).
11. Contract Notice. Per Wisconsin State Statutes 62.15, a Class I notice has been executed and published for this work on October 24th, 2022.
12. Other Indebtedness to City. It is understood and agreed by the parties hereto that whenever a contractor is for any reason indebted to the City of Manitowoc, the contractor consents that the City of Manitowoc through its officials shall and may, deduct and retain, any such balance out of the money or monies which may be due or become due to the contractor under this contract.
13. Indemnify. Contractor shall defend, indemnify and hold harmless the City of Manitowoc, its officials, officers, employees, representatives and agents against any and all liability, claims, costs, demands, losses, damages, expenses and attorney fees of any kind on account of any injury, damage, or death to any person or property that may arise directly or indirectly caused by or resulting from the work performed under this Contract where the injury, damage, or death is caused by negligence or willful misconduct on the part of the Contractor, subcontractor, officers, employees, or agents.
14. Default. In the event of default or breach in the performance of any of the obligations, covenants, representations or duties under the terms of this Contract by either party, the non-defaulting party shall forward written notice to the defaulting party outlining such default. The defaulting party shall cure such default within thirty (30) days of receiving written notice from non-defaulting party, except that the cure period may be extended to a reasonable time to cure any default that cannot reasonably be cured with the thirty (30) day period, provided that the defaulting party has commenced to cure within the thirty (30) day period and diligently pursues a cure at all times thereafter until the default is cured. The defaulting party shall be responsible for the payment to the non-defaulting party of any outstanding fees, charges or expenses that were incurred by the non-defaulting party on behalf of the defaulting party.

15. Permits. No Permits are anticipated for this project.
16. Termination. Either party may terminate this Contract with ten (10) days written notice to the other party.
17. Notice and Demands. A notice, demand or other communication under this Contract by any party to the other party shall be sufficiently given or delivered and deemed delivered as of the date such notice is delivered to the party intended, if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally and addressed to or personally delivered to:

CITY:
City Clerk
900 Quay Street
Manitowoc, WI 54220

CONTRACTOR:
Fortress Floors, LLC
1009 Wood Ct.
Sheboygan, WI 53081

Notice and demand given shall be effective only if and when received by the party intended and acknowledged by receipt. The above addresses may be changed at any time by any party by giving written notice in the manner provided above.

18. Assignment. This Contract is not assignable without prior written consent of City.
19. Severability. If any provision of this Contract is deemed by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and such remainder would then continue to conform to the requirements of applicable laws.
20. Amendments. This Contract can only be amended or modified in writing and signed by the parties involved.
21. Integration. This Contract represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to matters covered hereunder.
22. Survival of Provisions. All indemnification and hold harmless obligations shall survive the expiration or termination of this Contract.
23. Choice of Law. This Contract shall be governed by and construed in accordance with the laws of the State of Wisconsin. All actions or proceedings relating directly or indirectly, to this Contract, whether sounding in contract or tort, shall be litigated only in the circuit court located in Manitowoc County, Wisconsin. All parties to this Contract hereby subject themselves to the jurisdiction of the circuit court for Manitowoc County, Wisconsin.
24. Heading. The section titles have been inserted in this Contract primarily for convenience, and do not define, limit or construe the contents of such paragraphs. If headings conflict with the text, the text shall control.
25. Remedies Cumulative. All rights and remedies hereunder are cumulative, and not exclusive, and shall be in addition to all other rights and remedies provided by applicable law. Failure to exercise or delay in exercising any right or remedy hereunder shall not operate as a waiver

thereof, nor excuse future performance. No waiver discharge or renunciation of any claim or right arising out of a breach of these terms and conditions shall be effective unless in a writing signed by the party so waiving. Any waiver of any breach shall be a waiver of that breach only and not of any other breach, whether prior to subsequent thereto.

26. Construction. All parties have contributed to the drafting of this Contract. In the event of a controversy, dispute or contest over the meaning, interpretation, validity of enforcement of this document or any of its terms or conditions, there shall be no inferences, presumption or conclusion drawn whatsoever against any party whatsoever by virtue of that party having drafted the document or any portion thereof.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract as of the day and year first above written.

SOLE PROPRIETORSHIP OR PARTNERSHIP

CORPORATION

Name of Proprietor or Partnership

Name of Corporation: Fortress Floors, LLC

(Seal) Sole Proprietor or Partner

By: Tiffany Mensch
(Seal) President, Tiffany Mensch

(Seal) Partner

Attest:

(Seal) Partner

Secretary

CORPORATE SEAL

By: Justin M. Nickels
CITY OF MANTOWOC

Justin M. Nickels, Mayor

Attest:

Mackenzie Reed
Mackenzie Reed, City Clerk

STATE OF WISCONSIN)

MANTOWOC COUNTY)

) ss.

Personally came before me, this 16 day of December, 2022, the above named Justin M. Nickels and Mackenzie Reed, known to me to be the Mayor and City Clerk of the City of Manitowoc and acknowledge they executed the foregoing instrument.

Mackenzie Reed
Mackenzie Reed
Notary Public Manitowoc County, WI
My commission (expires) (is) 1/22/25



STATE OF WISCONSIN)

SHEBOYGAN COUNTY)

) ss.

Personally came before me, this 17th day of December, 2022, the above named Tiffany Mensch, Owner, for Fortress Floors, LLC and agent acknowledge they executed the foregoing instrument.

Joseph J. Voelker
Joseph J. Voelker
Notary Public Sheboygan County, WI
My commission (expires) (is) PERMANENT



					Fortress Floors	
Item #	Item Description	UofM	Quantity	Unit Price	Extension	
Lincoln Park Fieldhouse Basement and Kitchen						
1	Floor and Wall Prep, Repair, Install of Coatings	LS	1	\$8,750.00	\$8,750.00	
Lincoln Park Softball Restroom (Mens)						
2	Floor and Wall Prep, Repair, Install of Coatings	LS	1	\$2,760.00	\$2,760.00	
Manitou Park Restrooms						
3	Floor and Wall Prep, Repair, Install of Coatings	LS	1	\$3,970.25	\$3,970.25	
Miracles Park Restrooms and Concession Area						
4	Floor and Wall Prep, Repair, Install of Coatings	LS	1	\$6,616.25	\$6,616.25	
BASE BID TOTAL:					\$22,096.50	

SPECIAL PROVISIONS AND CONDITIONS

INTENT AND SCOPE OF WORK

This Contract consists of:

Providing and installing floor and wall coating in multiple park facilities. Installation shall include any prep work, grinding, filling cracks or pitting, adding a polyurea basecoat, floor chip installation, and final polyspartic clear coat. All installations shall follow manufacturers specifications.

Bid numbers shall reflect measurements in this document. Contractor shall verify measurements prior to material purchase and the contract will be adjusted accordingly.

COMPLETION DATE

All work included in Contract WO-22-27 shall be completed on or before the Completion Date or within the allowed Contract Time, as listed below, whichever comes first.

<u>Location</u>	<u>Contract Time</u>	<u>Completion Date</u>
Lincoln Park Fieldhouse Basement	30 Calendar Days	March 31, 2023
Lincoln Park Softball Men’s Bathroom	30 Calendar Days	March 31, 2023
Manitou Park Bathrooms	30 Calendar Days	March 31, 2023
Miracles Park Bathrooms/Concessions	30 Calendar Days	March 31, 2023

Failure to meet any of the Completion Dates or Contract Times listed above may result in the assessment of Liquidated Damages and Inspection Fees for Late Work. It is understood that lead times can be subject to delays and impacts arising from the pandemic and supply chain issues. The City will make efforts to accommodate delays resulting from the pandemic.

The time limit for filing the executed Contract and Performance Bond is **Fourteen (14) Days** from the time the Bidder is notified in writing from the City that they are the successful bidder.

Questions and scheduling site visits can be directed to:

Brock Wetenkamp
Parks Planner
920-686-6519
bwetenkamp@manitowoc.org

LIQUIDATED DAMAGES

For every calendar day of delay in the completion of the work beyond the time specified, unless extended by written agreement, there shall be deducted from the amount due under this Contract as fixed, agreed and liquidated damages, the sum of **Five-Hundred Dollars (\$500)**.

This sum shall be considered and treated not as a penalty but as fixed, agreed and liquidated damages due the Owner from the Contractor by reason of inconvenience to the public and other items which have caused an expenditure of public funds resulting from the failure to complete the work within the time specified in the contract.

INSPECTION FEES FOR LATE WORK

The Contractor shall be liable for extra inspection charges the City incurs due to the Contractor's failure to meet the specified completion date(s).

For every working day of delay in completion of the work beyond the time specified, unless extended by written agreement, there shall be deducted from any monies due the Contractor the sum of **Two-Hundred Fifty Dollars (\$250)** for inspection fees incurred as a result of the late work.

CONSTRUCTION NOISE ABATEMENT

Motorized construction equipment shall not be operated within 500 feet of residential units between the hours of 10:00 P.M. and 7:00 A.M. daily, without the prior written approval of the Project Manager.

Each item of motorized construction equipment shall be equipped with a muffler constructed according to the equipment manufacturer's specifications. Mufflers of equivalent noise reducing capacity may be substituted. Mufflers and exhaust systems shall be maintained in good operating conditions, free from leaks and holes.

PRE-CONSTRUCTION CONFERENCE

In accordance with Section 202 of the City's Standard Specifications for Public Works Construction, a pre-construction conference shall be held with the Contractor and the Parks Planner prior to starting construction. The Contractor shall be prepared to discuss the construction schedule in detail, including access to abutting properties, especially any businesses. This conference can be done remotely (phone or teleconference), onsite, or at agreed upon location.

WORK BY OTHERS

City will be responsible for removing any toilets or fixtures necessary prior to floor coating installation. The contractor shall give a minimum of one week notice prior to floor coating installation to allow the City to remove these fixtures.

GENERAL CONSTRUCTION NOTES

1. Contractor is responsible for verifying measurements of restrooms and adjusting scope of work accordingly.
2. Floor coating specifications and installation procedures for this contract:
 - a. Diamond grind or shot blast any surfaces being coated.
 - b. Clean off any dust or contamination from all surfaces.
 - c. Repair any damage to the area to be coated using a polyurethane repair product.
 - i. This could be cracks, pitting, etc.
 - d. Grind repairs flush with existing surface and clean any remaining dust or contamination.
 - e. Apply a 100% solids polyurea base coat to all surfaces.
 - f. Apply paint flakes.
 - g. Scrape Paint flakes for desired texture. **Medium** texture is recommended, but subject to change based on location.
 - h. Clean all loose flakes and debris off of floor.
 - i. Apply polyspartic top coat.
3. Cleaning and Protection
 - a. Contractor shall clean all newly installed surfaces to like new completion for final walk through.
 - b. Contractor shall protect all fixtures, hardware, surfaces while adjacent work is being completed.
4. Final Completion
 - a. Upon completion of work, Contractor and City representative shall go through a final walk through of each project site.

SITE SPECIFIC CONSTRUCTION NOTES

LINCOLN PARK FIELDHOUSE BASEMENT AND KITCHEN

1215 N. 8th St. Manitowoc, WI 54220

1. Contractor shall install floor coatings to the floor and three (3) feet up the walls and beams in the main basement and kitchen areas at Lincoln Park Fieldhouse totaling 648 square feet of vertical coating and 1,890 square feet of floor coating. Work shall include:
 - a. **Main Basement Area**
 - i. Through the prep process, remove existing surfacing. This is believed to be an epoxy coating.
 - ii. Repair any cracks or pitting.
 - iii. Install floor coating on 1,750 square feet of floor area. Install 596 square feet of coating on vertical areas.
 - iv. Texture: Medium
 - v. Color: TBD
 - b. **Kitchen Area**
 - i. Through the prep process, remove existing surfacing. This is believed to be an epoxy coating.
 - ii. Repair any cracks or pitting.

- iii. Install floor coating on 140 square feet of floor area. Install 52 square feet of coating to vertical areas.
- iv. Texture: Medium
- v. Color: TBD

LINCOLN PARK SOFTBALL RESTROOM (MENS)

1215 N. 8th St. Manitowoc, WI 54220

- 2. Contractor shall install floor coatings to the floor and three (3) feet up the walls in the Men's restroom at Lincoln Park near the softball diamond totaling 225.5 square feet of vertical coating and 187.6 square feet of floor coating. Work shall include:
 - a. **Men's Restroom**
 - i. Prep the existing concrete floors and walls for surface coating install.
 - ii. Repair any cracks or pitting.
 - iii. Install floor coating on 187.6 square feet of floor area. Install 225.5 square feet of coating on vertical areas.
 - iv. Texture: Medium Shark Grip (or approved equal slip resistant additive)
 - v. Color: TBD

MANITOU PARK RESTROOM

2901 Michigan Ave. Manitowoc, WI 54220

- 3. Contractor shall install floor coatings to the floor and three (3) feet up the walls in the Men's and Women's restroom at Manitou Park totaling 425.5 square feet of vertical coating and 297.69 square feet of floor coating. Work shall include:
 - a. **Women's Restroom**
 - i. Prep the existing concrete floors and walls for surface coating install.
 - ii. Repair any cracks or pitting.
 - iii. Install floor coating on 149.0 square feet of floor area. Install 210.75 square feet of coating on vertical areas.
 - iv. Texture: Medium Shark Grip (or approved equal slip resistant additive)
 - v. Color: TBD
 - b. **Men's Restroom**
 - i. Prep the existing concrete floors and walls for surface coating install.
 - ii. Repair any cracks or pitting.
 - iii. Install floor coating on 148.69 square feet of floor area. Install 214.75 square feet of coating on vertical areas.
 - iv. Texture: Medium Shark Grip (or approved equal slip resistant additive)
 - v. Color: TBD

MIRACLES PARK RESTROOMS AND CONCESSION AREA

1840 S. 35th St., Manitowoc, WI 54220

4. Contractor shall install floor coatings to the floor and three (3) feet up the walls in the Men's, women's, and community restrooms at Miracles Park. Contractor will also install floor coating only in concession area. Total coating for all rooms is 668.34 square feet of floor coating and 592.13 square feet of vertical coating. Work shall include:
 - a. **Women's Restroom**
 - i. Prep the existing concrete floors and walls for surface coating install.
 - ii. Repair any cracks or pitting.
 - iii. Install floor coating on 165.77 square feet of floor area. Install 255.63 square feet of coating on vertical areas.
 - iv. Texture: Medium Shark Grip (or approved equal slip resistant additive)
 - v. Color: TBD
 - b. **Men's Restroom**
 - i. Prep the existing concrete floors and walls for surface coating install.
 - ii. Repair any cracks or pitting.
 - iii. Install floor coating on 168.57 square feet of floor area. Install 228.0 square feet of coating on vertical areas.
 - iv. Texture: Medium Shark Grip (or approved equal slip resistant additive)
 - v. Color: TBD
 - c. **Community Restroom**
 - i. Prep the existing concrete floors and walls for surface coating install.
 - ii. Repair any cracks or pitting.
 - iii. Install floor coating on 86.5 square feet of floor area. Install 108.5 square feet of coating on vertical areas.
 - iv. Texture: Medium Shark Grip (or approved equal slip resistant additive)
 - v. Color: TBD
 - d. **Concession Area**
 - i. Prep the existing concrete floors and walls for surface coating install.
 - ii. Repair any cracks or pitting.
 - iii. Install floor coating on 247.5 square feet of floor area.
 - iv. Texture: Medium Shark Grip (or approved equal slip resistant additive)
 - v. Color: TBD