

*Rec'd  
7-21-14*

*14-1485*

CONTRACT

This contract is made and entered into this 4 day of August, 2014, by and between Ryan's Painting Co. (hereinafter "Contractor"), located at 954 North 5<sup>th</sup> Street, Manitowoc, Wisconsin 54220 and the City of Manitowoc, Wisconsin, a Wisconsin municipal corporation (hereinafter "City"), located at 900 Quay Street, Manitowoc, Wisconsin 54220.

**RECITALS**

**WHEREAS**, Ryan's Painting Company located at 954 North 5<sup>th</sup> Street, Manitowoc, Wisconsin 54220 intends to perform painting and staining of wooden playground structures and railings at Henry Schuette Park located at 3800 Broadway Street, Manitowoc, Wisconsin 54220 as outlined in "Exhibit A", Ryan's Painting Company Proposal. The work is required to power wash wooden playground structures and railings, allowing for drying time. Prep and stain wood structures and railing to match existing front entrance. Prep, prime and paint eight (8) play structure roofs. Remove pickets from fence and replace rusted screws. The sectioned areas will be closed off until work is completed and stain/paint is dry.

**WHEREAS**, Ryan's Painting Company has the ability to perform the required painting and staining work as outlined in "Exhibit A" at Henry Schuette 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 is "Exhibit A", and it is incorporated into this Contract by reference).**

3. Contract Price. The City agrees to pay to the Contractor for the performance of this contract the sum of \$6,500.00.
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 September 22, 2014, unless extending in writing by the Director of Public Infrastructure.

5. 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.
6. 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.
7. 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.**
8. 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.
9. Contract Notice. Per Wisconsin State Statues 62.15, a Class I Notice had been executed and published for this work on July 17, 2014.
10. 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.
11. 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 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.

12. 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.
13. Permits. None Required.
14. Termination. Either party may terminate this Contract with ten (10) days written notice to the other party.
15. 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:** Ryan's Painting Company  
954 North 5<sup>th</sup> Street  
Manitowoc, WI 54220

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.

16. Assignment. This Contract is not assignable without prior written consent of City.
17. 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.
18. Amendments. This Contract can only be amended or modified in writing and signed by the parties involved.
19. 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.

20. Survival of Provisions. All indemnification and hold harmless obligations shall survive the expiration or termination of this Contract.
21. 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.
22. 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.
23. 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 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.
24. 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

RYAN'S PAINTING Co.  
Name of Proprietor or Partnership

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Sole Proprietor or Partner (Seal)

\_\_\_\_\_  
By: (Seal)

President

Ryan Kersten (Seal)  
Partner ~~OWNER~~

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Partner (Seal)

CORPORATE SEAL

CITY OF MANITOWOC

By: Justin M. Nickels  
Justin M. Nickels, Mayor

Attest: Jennifer Hudon  
Jennifer Hudon, City Clerk

STATE OF WISCONSIN )  
 ) ss.  
MANITOWOC COUNTY )

Personally came before me, this 22 day of July, 2014, the above named Justin M. Nickels and Jennifer Hudon, known to me to be the Mayor and City Clerk/Deputy Treasurer of the City of Manitowoc and acknowledge they executed the foregoing instrument.

Deborah A. Neuse  
Deborah A. Neuse  
Notary Public Manitowoc County, WI  
My commission (expires) 8-17-14

STATE OF WISCONSIN )  
 ) ss.  
MANITOWOC COUNTY )

Personally came before me, this 4 day of August, 2014, the above named Ryan Kersten for Ryan's Painting Company and acknowledge they executed the foregoing instrument.

Deborah A. Neuse  
Deborah A. Neuse  
Notary Public Manitowoc County, WI  
My commission (expires) 8-17-14

Exhibit A

# RYAN'S PAINTING CO.

Ryan Kersten

954 North 5<sup>th</sup> Street

Manitowoc, WI 54220

Client:  
Manitowoc Parks Dept.  
Attn. Chad Scheinoha

Estimate #1423

Date 6-26-2014

Description: Henry Schuette Park Manitowoc - Paint/Stain

- Power wash wooden playground structures and railings at park, allowing for dry time
- Prep and stain wood structures and railings to match existing front entrance
- Prep, prime and paint (8) play structure roofs
- Remove pickets from fence and replace rusted screws

**\*Notes**

\* Sectioned areas will need to be closed off until work is completed and stain/paint is dry

\*Approximately 2 weeks will be needed to complete all work

\* Work to begin end of July-August

**Estimated Total \$ 6,500.00**

Labor & Materials Included

Thank you,

**Terms: I Require a deposit of ½ down to Start  
With my balance due upon my job completion**

Ryan Kersten  
Ryan's Painting Co.  
954 North 5<sup>th</sup> Street  
Manitowoc, WI. 54220

**\*Estimate is subject to change when/if job changes occur**

All work will be completed in a professional manner using high quality  
paints and materials

**Please call me with any questions 920-629-2772**

This estimate is void after 90 days

## **SPECIALIZING IN CUSTOM PAINTED FINISHES**

• Wood Graining • Old World Finishes • Marbling

Tel (920)-686-1160 Email [ryankersten76@aol.com](mailto:ryankersten76@aol.com) Web [www.ryanspaintingco.net](http://www.ryanspaintingco.net)

**CERTIFICATE OF LIABILITY INSURANCE**

American Family Insurance Company   
 American Family Mutual Insurance Company if selection box is not checked.  
 6000 American Pky Madison, Wisconsin 53783-0001

Insured's Name and Address  
 Ryan L Kersten  
 954 N 5th St  
 Manitowoc, WI 54220

Agent's Name, Address and Phone Number (Agt./Dist.)  
 Mark Rhein  
 2904 Custer St.  
 Manitowoc, WI 54220-5558  
 (920) 682-4659 (027/030)

This certificate is issued as a matter of information only and confers no rights upon the Certificate Holder.  
 This certificate does not amend, extend or alter the coverage afforded by the policies listed below.

COVERAGES				
TYPE OF INSURANCE	POLICY NUMBER	POLICY DATE		LIMITS OF LIABILITY
		EFFECTIVE (Mo, Day, Yr)	EXPIRATION (Mo, Day, Yr)	
Homeowners/ Mobilehomeowners Liability				Bodily Injury and Property Damage Each Occurrence \$ ,000
Boatowners Liability				Bodily Injury and Property Damage Each Occurrence \$ ,000
Personal Umbrella Liability				Bodily Injury and Property Damage Each Occurrence \$ ,000
Farm/Ranch Liability				Farm Liability & Personal Liability Each Occurrence \$ ,000
				Farm Employer's Liability \$ ,000
Workers Compensation and Employers Liability †				Statutory *****
				Each Accident \$ ,000
				Disease - Each Employee \$ ,000
				Disease - Policy Limit \$ ,000
General Liability <input checked="" type="checkbox"/> Commercial General Liability (occurrence) <input type="checkbox"/> <input type="checkbox"/>	48-XM6627-01-00	06/04/2014	06/04/2015	General Aggregate \$ 2,000,000
				Products - Completed Operations Aggregate \$ 2,000,000
				Personal and Advertising Injury \$ 1,000,000
				Each Occurrence \$ 1,000,000
				Damage to Premises Rented to You \$ 100,000
				Medical Expense (Any One Person) \$ 5,000
Businessowners Liability				Each Occurrence†† \$ ,000
				Aggregate†† \$ ,000
Liquor Liability				Common Cause Limit \$ ,000
				Aggregate Limit \$ ,000
Automobile Liability <input type="checkbox"/> Any Auto <input type="checkbox"/> All Owned Autos <input type="checkbox"/> Scheduled Autos <input type="checkbox"/> Hired Auto <input type="checkbox"/> Nonowned Autos <input type="checkbox"/>				Bodily Injury - Each Person \$ ,000
				Bodily Injury - Each Accident \$ ,000
				Property Damage \$ ,000
				Bodily Injury and Property Damage Combined \$ ,000
Excess Liability <input type="checkbox"/> Commercial Blanket Excess <input type="checkbox"/>				Each Occurrence/Aggregate \$ ,000

Other (Miscellaneous Coverages)

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / RESTRICTIONS / SPECIAL ITEMS  
 Listed as additional insured, policy will also be sent to you by the company. *ok 8/6/14*

† The individual or partners  Have shown as insured elected to be covered under this policy.  Have not  
 †† Products-Completed Operations aggregate is equal to each occurrence limit and is included in policy aggregate.

CERTIFICATE HOLDER'S NAME AND ADDRESS	CANCELLATION
City of Manitowoc 900 Quay St Manitowoc, WI 54220	<input checked="" type="checkbox"/> Should any of the above described policies be cancelled before the expiration date thereof, the company will endeavor to mail *( 30 days) written notice to the Certificate Holder named, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives. *10 days unless different number of days shown. <input type="checkbox"/> This certifies coverage on the date of issue only. The above described policies are subject to cancellation in conformity with their terms and by the laws of the state of issue.
DATE ISSUED 07/29/2014	AUTHORIZED REPRESENTATIVE <i>Julie Ciaccia</i>