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20-0722

# CITY OF MANITOWOC

WISCONSIN, USA

[www.manitowoc.org](http://www.manitowoc.org)

July 16, 2020



CONSENT

TO: Mayor and Common Council  
FROM: Board of Public Works  
SUBJECT: AGMT-20-08 with WisCorps, Inc.

Dear Mayor and Common Council:

At the July 1, 2020 Board of Public Works meeting, the Board met to approve entering into AGMT-20-08 with WisCorps, Inc. for various trail improvement projects in Henry Schuette Park for a contract price of \$24,000.00.

"Moved by City Attorney Kathleen McDaniel, seconded by Alderperson John Brunner, and unanimously carried to approve entering into the agreement and to approve City Engineering pay estimate once the agreement is executed. Ayes, 7. Nays, none."

Very Truly Yours,



DEBORAH NEUSER  
Secretary Board of Public Works

**Deborah Neuser, CMC, City Clerk**  
**CITY HALL · 900 Quay Street · Manitowoc, WI 54220-4543**  
**Phone (920) 686-6950 · Fax (920) 686-6959 · [dneuser@manitowoc.org](mailto:dneuser@manitowoc.org)**

CONTRACT

This contract is made and entered into this 26 day of June, 2020, by and between WisCorps, Inc. (hereinafter "Contractor"), located at 789 Myrick Park Dr, La Crosse, WI 54601 and the City of Manitowoc, Wisconsin, a Wisconsin municipal corporation (hereinafter "City"), located at 900 Quay Street, Manitowoc, Wisconsin 54220.

RECITALS

**WHEREAS**, WisCorps, Inc., located at 789 Myrick Park Dr, La Crosse, WI 54601, intends to spend four (4) weeks performing various trail improvement projects in Henry Schuette Park in Manitowoc, WI as outlined in "Exhibit A", WisCorps, Inc. Proposal.

**WHEREAS**, WisCorps, Inc. has the ability to perform the scope of work to reroute trail from Upper Schuette to Lower Schuette Park with boardwalk construction in various spots throughout Lower Schuette Park trail system, as outlined in "Exhibit A".

**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 \$24,000.00.
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 August 14, 2020.
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 Statutes 62.15, a Class I Notice had been executed and published for this work on June 29, 2020.
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:** WisCorps, Inc.  
789 Myrick Park Dr  
La Crosse, WI 54601

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**

\_\_\_\_\_  
Name of Proprietor or Partnership

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

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

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

**CORPORATION**

WisCorps, Inc.  
Name of Corporation

By: [Signature] (Seal)  
~~President~~ Executive Director

Attest: \_\_\_\_\_

CORPORATE SEAL


**CITY OF MANITOWOC**

By: [Signature]  
Justin M. Nickels, Mayor

Attest: [Signature]  
Deborah Neuser, City Clerk

STATE OF WISCONSIN )  
 ) ss.  
MANITOWOC COUNTY )

Personally came before me, this 6 day of July, 2020, the above named Justin M. Nickels and Deborah Neuser, known to me to be the Mayor and City Clerk of the City of Manitowoc and acknowledge they executed the foregoing instrument.

  
\_\_\_\_\_  
Notary Public Manitowoc County, WI  
My commission (expires) 8/15/21

STATE OF WISCONSIN )  
 ) ss.  
LA CROSSE COUNTY )

Personally came before me, this 26 day of June, 2020, the above named Matthew Brantner, Executive Director for WisCorps, Inc. and acknowledge they executed the foregoing instrument.

[Signature]  
Notary Public La Crosse County, WI  
My commission (expires) 11/1/22





WisCorps, Inc.  
789 Myrick Park Dr.  
La Crosse, WI 54601  
608-782-2494



**Memorandum of Understanding**

6/22/2020

WisCorps, Inc. and the City of Manitowoc - Department of Public Infrastructure enter into the following agreement:

WisCorps has partnered with the City of Manitowoc in the summer 2020 to perform various trail improvement projects in Henry Schuette Park.

Scope of project

Project Dates: July 13 – August 7 (4 weeks)

Description: A WisCorps crew will spend four weeks performing various trail improvement projects in Henry Schuette Park. Below is a priority list of specific projects:

1. Trail reroute from Upper Schuette (playground parking lot) to Lower Schuette Park. The crew will build about 550' of new trail using hand tools. The trail tread will be 24" width, full bench construction. About 150' of existing trail corridor will be cleared of encroaching woody trees/shrubs to better identify trail access points. Time may also be spent closing other social trails in the adjacent wooded area.
2. Boardwalk construction in various spots throughout Lower Schuette Park trail system, three specific problem areas were identified with city park staff. The WisCorps crew will construct about 350' of boardwalk using treated lumber, specific designs will incorporate materials most suited for the individual sites.

**WisCorps will provide:**

- One crew with 4 Corps Members and 2 trained Crew Leaders
- A general tool cache: hand tools, carpentry equipment, first aid supplies and crew transportation
- Workers Compensation and General Liability insurance coverage for WisCorps employees
- Supervision and direct support of the WisCorps crew pertaining to crew management, discipline, and work project management

**Project Sponsor will provide:**

- Planning and logistical support for the project: flagging trail corridor, design standards
- All project materials: lumber, fasteners, gravel, any specialized equipment, etc.
- General oversight of the project (a minimum of 1 visit per week of work)
- Onsite or nearby camping with access to potable water, restrooms and shower facilities
- A cost share of \$24,000 (\$6000/week x 4) to support the WisCorps crew.

At the signing of this contract, WisCorps will invoice \$12,000 due as a deposit by July 6 to confirm the project on our summer schedule. The remaining balance will be invoiced upon completion of the project and will be due 10 days later.

Chad DuChateau  
Operations Manager  
WisCorps, Inc.

6/22/20

Date

Date



**WisCorps, Inc.**  
789 Myrick Park Dr.  
La Crosse, WI 54601  
608-782-2494

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Chad DuChateau  
Operations Manager  
WisCorps, Inc.

6/22/20  
Date

\_\_\_\_\_  
Date



(2) The "insured's" name and address; and

(3) To the extent possible, the names and addresses of any injured persons and witnesses.

**SECTION IV - BUSINESS AUTO CONDITIONS, Paragraph A.2.b(2) is deleted and replaced with the following:**

(2) As soon as practicable send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit" after the claim or "suit" is known to you (if you are an individual), one of your partners (if you are a partnership), or one of your officers or any personnel responsible for insurance, risk management, or loss prevention (if you are a corporation).

**T. BLANKET WAIVER OF SUBROGATION BY WRITTEN CONTRACT**

**SECTION IV - BUSINESS AUTO CONDITIONS, Paragraph A.5 is amended to add the following:**

However, we waive any right of recovery we may have against any person or organization to the extent required of you by a written contract or written agreement signed by all parties prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such written contract or written agreement. The waiver applies only to the person or organization designated in such written contract or written agreement.

**U. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

**SECTION IV - BUSINESS AUTO CONDITIONS, B.2. is amended to add the following:**

Failure of the "Insured" to disclose all exposures or hazards existing as of the effective date of this Coverage Form will not invalidate or adversely affect coverage for such exposure or hazard, provided such failure is not intentional on the part of the "Insured". However, you must report the undisclosed exposure or hazard to us as soon as practicable after you discover the exposure or hazard.

**V. MENTAL ANGUISH**

The definition of "Bodily Injury" in **SECTION V - DEFINITIONS** is replaced by the following:

"Bodily Injury" means physical injury, sickness or disease sustained by a person including death resulting from any of these. "Bodily Injury" also means mental injury, mental anguish, humiliation or shock if directly resulting from physical injury, sickness or disease to that person.