

## CONTRACT

This contract is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between Hartman's Towne & Country Greenhouse, Inc., a Wisconsin corporation (hereinafter "Contractor"), located at 2021 Nagle Ave, 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**, the City seeks to beautify City Hall, Washington Park and the area of South 8<sup>th</sup> Street in the City's downtown by placement and maintenance of granite planters and hanging baskets filled with ornamental plants; and,

**WHEREAS**, Contractor possesses the training, experience and resources necessary to meet the City's aforementioned desires.

**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 plant, fertilize, and maintain planting areas with hanging baskets and granite planters as more specifically described in the attached Exhibit A, which is incorporated into this Contract by reference. All work shall be performed in accordance with the City of Manitowoc's Standard Specifications for Public Works Construction, which are made part of this Contract and incorporated by reference.
3. Contract Price. The City agrees to pay to the Contractor for the performance of this contract as identified in Exhibit A.
4. Schedule. Contractor agrees to commence work under this Contract in the spring of each contract year with granite planter work commencing in May or sooner if conditions allow and hanging basket work commencing on a date to be coordinated by the parties.
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. 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.

7. 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.
8. Contract Notice. Per Wisconsin State Statues 62.15, a Class I Notice had been executed and published for this work on March 19, 2024.
9. 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.
10. Indemnification. 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, or its subcontractors, officers, employees, or agents.
11. 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.
12. Termination. This contract shall be effective from the date of execution and shall terminate December, 2026. Either party may terminate this Contact with ten (10) days written notice to the other party.

13. 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: Thomas N. Hartman  
2021 Nagle Ave.  
Manitowoc, WI 54220

The above addresses may be changed at any time by any party by giving written notice in the manner provided above.

14. Assignment. This Contract is not assignable without prior written consent of City.
15. 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.
16. Amendments. This Contract can only be amended or modified in writing and signed by the parties involved.
17. 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.
18. Survival of Provisions. All indemnification and hold harmless obligations shall survive the expiration or termination of this Contract.
19. 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.
20. 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.
21. 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.

22. 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.
23. Authority. The undersigned hereby represents and warrants that it has the authority to enter into this Contract. If the party entering into this Contract is not an individual, the person(s) signing on behalf of the entity represents and warrants that they have been duly authorized to bind the entity and sign this Contract on the entity's behalf.

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