



# CITY OF MANITOWOC

WISCONSIN, USA

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

TO: Mayor and Common Council

FROM: Board of Public Works

SUBJECT: AGMT-22-12 Agreement with McMullen & Pitz Construction Company

Dear Mayor and Common Council:

At the July 20, 2022 Board of Public Works meeting, the Board met to approve entering into AGMT-22-12 Agreement with McMullen & Pitz Construction Company for repairs to the sheet pile cap east of Bud Tower – Manitowoc Harbor for a contract price of \$16,400.00.

“Moved by Interim Finance Director/Treasurer Lynch, seconded by Engineering Division Manager Minikel, to enter into the agreement. Ayes, 5. Nays, none.”

Very Truly Yours,

MACKENZIE REED-KADOW  
Secretary Board of Public Works

CONTRACT

This contract is made and entered into this 25<sup>th</sup> day of July, 2022, by and between McMullen & Pitz Construction Company (hereinafter "Contractor"), located at 17 Maritime Drive, P.O. Box 8, Manitowoc, WI 54221-0008 and the City of Manitowoc, Wisconsin, a Wisconsin municipal corporation (hereinafter "City"), located at 900 Quay Street, Manitowoc, Wisconsin 54220.

RECITALS

**WHEREAS**, McMullen & Pitz Construction Company located at 17 Maritime Drive, Manitowoc, WI 54221, intends to repair the damaged steel sheet pile wall located east of the unloading tower along the south bulkhead in the Manitowoc Harbor, Manitowoc, WI as outlined in "Exhibit A", McMullen & Pitz Construction Company Proposal.

**WHEREAS**, McMullen & Pitz Construction Company has the ability to perform the required work needed for repairs to eh sheet pile cap east of Bud Tower – Manitowoc Harbor as required:

**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).**

3. Contract Price. The City agrees to pay to the Contractor for the performance of this contract the sum not to exceed **\$16,400.00**.
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 16, 2022**.
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 July 18<sup>th</sup>, 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 Contact 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:**  
McMullen & Pitz Construction Company  
17 Maritime Drive  
P.O. Box 8  
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.

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]



17 Maritime Drive  
P.O. Box 8  
Manitowoc, WI 54221-0008  
Phone: (920) 682-0131  
Fax: (920) 682-1099  
www.mcmullenandpitz.net

5-20-22

Mr. Paul Braun  
City of Manitowoc  
900 Quay Street  
Manitowoc, WI 54220

Page 1 of 2

Reference: Sheet Pile Cap Repair East of Bud Tower – Manitowoc Harbor

Dear Paul,

Per your request, we are pleased to submit this proposal for repairing the damaged steel sheet pile wall located east of the unloading tower along the south bulkhead in the Manitowoc Harbor. This proposal is based on our site inspection on 5-16-22; all in accordance with the prices, terms and conditions set forth within:

**Sheet Pile Cap Repair Options:**

Furnish all necessary materials, labor, & equipment to perform the following scope of work options:

**Option 1 – Reattached loose sections of sheet pile wall cap (approx. 100 LF): \$6,800.00**

- Mobilize material handler, welding machine, torch set, and small tools.
- Remove existing channel cap as necessary, cut out damaged portions, and reuse good portions. Furnish new channel cap as necessary. Reweld cap sections to sheet pile wall.

**Option 2 – Reconnect cut sheet pile sections (approx. 24 LF): \$5,400.00**

- Mobilize material handler, welding machine, torch set, and small tools.
- Weld loose upper portions of steel sheet piling to lower portions of steel sheet piling where the wall was previously cut.

**Option 3 – Add large tire fenders to protect wall: \$5,200.00**

- Remove & Dispose of the six (6) existing tire fenders.
- Furnish and install twelve (12) large (20" thick) wheel loader tire fenders.
- New loader tire fenders to be connected to the sheet pile wall with chains.

**\*\*Credit if all 3 options are taken: (\$1,000.00)\*\***



This proposal is further based on the following conditions:

1. This proposal is similar, and based on, our previous work completed per our proposal dated 6-6-17.
2. No lawn restoration is included, but may be required by "others", depending on the time of year the work is completed.
3. Reasonable efforts will be made to restore the wall cap to its original condition. However, given the current condition of the existing wall and cap, some horizontal and vertical misalignment should be expected.
4. This proposal does not include any bonding costs.
5. The city would need to furnish some traffic barrels to notify the public of the work area.
6. No provisions have been made for any structural or cosmetic repairs to the steel sheet piling.
7. The site and the approaches to the site will be kept clear, level and accessible for our operations at all times.
8. This proposal includes the required project insurance limits.
9. This proposal includes 8-hour workdays.
10. Sales/Use Tax is included, if applicable.

Respectfully submitted,

McMullen & Pitz Construction Co.

A handwritten signature in black ink, appearing to read 'Ted Jennejohn', is written over a horizontal line.

Ted Jennejohn – Manager





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
7/13/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Coverra Insurance Services, Inc. 3803 Creekside Lane P.O. Box 253 Holmen WI 54636	CONTACT NAME: Dena Durocher	
	PHONE (A/C No, Ext): 608-433-9686	FAX (A/C No): 608-269-2130
E-MAIL ADDRESS: ddurocher@coverrainsurance.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : SECURA INS CO		965
INSURER B : GREAT AMER INS CO		16691
INSURER C : AMERISAFE GRP		6807
INSURER D : EVANSTON INS CO		35378
INSURER E :		
INSURER F :		

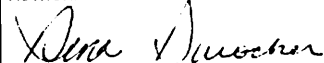
INSURED Mc Mullen & Pitz Construction Company 17 Maritime Drive PO Box 8 Manitowoc WI 54221	MCMU&PI-01
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COVERAGES      CERTIFICATE NUMBER: 2141466516      REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> MOLL GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		OMH 2205923 06	3/31/2022	3/31/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			A9599440	3/31/2022	3/31/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 25,000			OMH 2205924 06	3/31/2022	3/31/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	AVVWCW12978822022	3/31/2022	3/31/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B D	Protection & Indemnity Contractor's Pollution			OMH 2205923 06 CPLMOL110844	3/31/2022 3/31/2022	3/31/2023 3/31/2024	1,000,000 2,000,000 1,000,000 Each Occurrence Aggregate Each Occurrence

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 The City of Manitowoc is listed as an additional insured on the general liability policy with 30 Day Notice of cancellation.

<b>CERTIFICATE HOLDER</b>  City of Manitowoc 900 Quay Street Manitowoc WI 54220	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 



**MARINE COMMERCIAL LIABILITY  
BLANKET ADDITIONAL INSURED ENDORSEMENT**

We agree that this policy shall include as Additional Insureds any person or organization to whom the Named Insured has agreed by written contract or written agreement to provide coverage, but only with respect to operations performed by or on behalf of the Named Insured and only with respect to an "occurrence":

1. Otherwise covered by this policy; and
2. That occurred subsequent to the making of such written contract or written agreement.

**All other terms and conditions of this policy remain unchanged.**