

23-0134



# CITY OF MANITOWOC

WISCONSIN, USA  
[www.manitowoc.org](http://www.manitowoc.org)

February 10, 2023

TO: Mayor and Common Council  
FROM: Board of Public Works  
SUBJECT: AGMT-23-1

Dear Mayor and Common Council:

At the February 8, 2023 Board of Public Works meeting, the Board met to approve entering into AGMT-23-1 Agreement with A.C.E. Building Service to furnish material, labor and equipment to renovate the men's and women's restrooms at facility located at 900 S. Lakeview Drive, for a contract price of \$24,695.00.

"Moved by Alderperson Vanderkin, seconded by Assistant City Attorney Nycz, to enter into the agreement. Ayes, 7. Nays, none."

Very Truly Yours,

Mackenzie Reed  
Secretary Board of Public Works

CONTRACT

This contract is made and entered into this 8<sup>th</sup> day of February, 2023, by and between A.C.E. Building Service (hereinafter "Contractor"), located at 3510 S. 26th Street, Manitowoc, WI 54220 and the City of Manitowoc, Wisconsin, a Wisconsin municipal corporation (hereinafter "City"), located at 900 Quay Street, Manitowoc, Wisconsin 54220.

RECITALS

**WHEREAS**, A.C.E. Building Service located at 3510 S. 26th Street, Manitowoc, WI 54220, intends to furnish material, labor and equipment to renovate the men's and women's restrooms at facility located at 900 S. Lakeview Drive, Manitowoc, WI as outlined in "Exhibit A", A.C.E. Building Service Proposal.

**WHEREAS**, A.C.E. Building Service has the ability to perform the required work needed for renovation work at Carferry Building located at 900 S. Lakeview Drive.

**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 \$24,695.00.
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 March 20, 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 February 8, 2023.
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:**  
A.C.E. Building Service  
3510 S. 26th 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.

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.
27. 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.

[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

A.C.E. BUILDING SERVICE, INC  
Name of Corporation

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

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

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

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

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

CORPORATE SEAL


CITY OF MANITOWOC

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

Attest: \_\_\_\_\_  
Mackenzie Reed, City Clerk

STATE OF WISCONSIN )  
) ss.  
MANITOWOC COUNTY )

Personally came before me, this 8th day of February, 2023, 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.

  
\_\_\_\_\_  
Jessica A. Blahnik  
Notary Public Manitowoc County, WI  
My commission (expires)(is) 1/22/25.

STATE OF WISCONSIN )  
) ss.  
MANITOWOC COUNTY )

Personally came before me, this 8th day of February, 2023, the above named Chris Herzog, President, for A.C.E. Building Service and acknowledge they executed the foregoing instrument.

PAUL BEVANS  
Notary Public, State of Wisconsin

\_\_\_\_\_  
Paul Bevans  
Notary Public Manitowoc County, WI  
My commission (expires)(is) 11/19/23.

**PROPOSAL**

Quote #218/22A

<u>Jeremy Walvoord</u> <u>City of Manitowoc</u> <u>900 Quay St,</u> <u>Manitowoc, WI 54220</u>	<u>Remodel men's and women's toilet rooms at</u> <u>your facility located at 900 S Lakeview Dr.</u>	<u>January 23, 2023</u> <u>Phone: 920-374-0403</u>
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We propose to furnish material, labor, and equipment to renovate the men's and women's toilet rooms at your facility located at 900 S Lakeview Dr, in Manitowoc, WI. All work will be completed according to the information described in this proposal. Refer to plans labeled "A0.1" dated 11-23.

**DIVISION 1 – GENERAL REQUIREMENTS**

A.C.E. Building Service, Inc. will provide general liability, auto liability, and workmen compensation, and builders risk insurance; paying the cost of such insurance and providing a copy of certificate of insurance within 14 days of commencing construction.

It is assumed construction power and water can be obtained at the owner's site with cost of utilities used paid for by owner.

The cost of a temporary toilet is included.

City of Manitowoc plan approval permit is included.

**DIVISION 2 – SITEWORK**

Remove the existing toilet partitions and mirrors. Remove the existing partition walls in both toilet rooms.

Remove and dispose of existing toilet paper, soap & paper towel dispensers.

Remove existing tile base from toilet room floors.

Remove existing vinyl base from corridor floors.

Remove (1) existing 3070 hollow metal door, frame, and hardware.

Install temporary dust protection around work areas.

Remove and dispose of all debris from demolition off site.

**DIVISION 3 – CONCRETE**

Patch concrete slab in areas where removed for plumbing demolition.

**DIVISION 8 – DOORS AND WINDOWS**

Furnish and install (1) 3070 16 gage hollow metal frame and 18 gage hollow metal door with A40 steel, 1-½" pair butt hinges, Heavy Duty closer, weather stripping, sweep, sill, and exit device.

Remove push/pull hardware and install privacy set on men's room door.

**DIVISION 9 – FINISHES**

Patch drywall as required after demo work.

Paint walls and ceilings in the toilet rooms and corridor in a standard, stocked color.

Paint new exterior hollow metal door & frame and existing toilet room door frames.

Furnish and install 6" vinyl base in toilet rooms and corridor.

**DIVISION 10 – SPECIALTIES**

Furnish and install (2) floor mounted, overhead braced, powder coated steel toilet partitions in a standard, stocked color per plan.

Furnish and install the following toilet room accessories in the men's and women's toilet rooms; (2) 24"x 36" stainless steel framed mirrors, (6) ADA grab bars, (2) toilet paper holders, (2) manual paper towel dispensers, (2) manual soap dispensers, and (2) coat hooks.

**Total Quote . . . . \$24,695.00**

**Not Included:**

1. Asbestos testing and abatement.
2. State Plan approval.
3. This proposal subject to local design reviews for approval and permits that may require modification to the design or the cost.
4. Hazardous materials, conditions, known or unknown, resulting in additional costs to the project.
5. Preparation of drawings other than schematic layout for field personnel.
6. Electrical power and water as needed for construction is assumed available on site with owner paying for its use.
7. Relocation of existing utility lines.
8. Plumbing, sprinklers, HVAC, or electrical.
9. Fire resistant rated construction.
10. State of Wisconsin sales tax.

This proposal is valid through 2/13/2023.

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**ACCEPTANCE OF PROPOSAL**

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ACCEPTED BY \_\_\_\_\_ DATE \_\_\_\_\_  
 Chris Herzog, President  
 A.C.E. Building Service, Inc.

ACCEPTED BY \_\_\_\_\_ DATE \_\_\_\_\_  
 City of Manitowoc

3510 S. 26th Street | Manitowoc, WI 54220  
 920.682.6105 | www.acebuildingservice.com



**ACCEPTANCE OF PAYMENT TERMS**

Terms: Semi-monthly billings as work progresses. Payment terms are net 30 days, ½% net 10 days. 2% interest per month will be charged after due date.

Payment terms accepted \_\_\_\_\_ (initial) \_\_\_\_\_ (date)

**Payment Information:**

1. Customer name for billing purposes: \_\_\_\_\_

2. Billing Address – Please indicate the billing address if different than physical address:

Street \_\_\_\_\_

City/State/Zip \_\_\_\_\_

3. Contact(s) for billing – Please indicate who should receive invoices:

Name \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

Name \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

4. Will an AIA invoice form be required? YES \_\_\_\_\_ NO \_\_\_\_\_

5. A.C.E. procedure is to provide lien waivers at the end of the project if required. Is this acceptable? YES \_\_\_\_\_ NO \_\_\_\_\_

6. Will any special forms be required for this project? YES \_\_\_\_\_ NO \_\_\_\_\_  
(If required, please attach form(s) with this Acknowledgement)

Funding Source: Acceptance of this contract is contingent upon verification of financing. Please provide the following information:

\_\_\_ Customer Funds: Provide bank contact to verify funds  
Bank Contact & Phone #: \_\_\_\_\_

\_\_\_ Loan: Provide Lending institution contact to verify financing  
Lending Institution Contact & Phone#: \_\_\_\_\_

Title Company Contact & Phone#: \_\_\_\_\_