

PT
8-21-17

17-0842

***NOTICE of INTENT TO AWARD
PUBLIC WORKS CONTRACT***

The City of Manitowoc intends to award work to Tri City Glass & Door to furnish and install bronze aluminum entrances, and thermally broken fixed storefront windows at the Rahr-West Art Museum, 610 N. 8th Steet, Manitowoc, WI 54220 at a cost of \$19,450.00 without advertising for bids. This notice is given pursuant to the Wisconsin Statute Section 62.15, which provides that if the estimated cost of any public improvement exceeds \$5,000 but is not greater than \$25,000, a Class I notice of the proposed improvement shall be published before the work is executed. The contract shall be executed at the next Common Council meeting after publication.

Dated this 15th day of August, 2017

Published: August 18, 2017

(Signed) Jennifer Hudon, City Clerk

Published by authority of the Common Council of the City of Manitowoc, Wisconsin.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION ENDORSEMENT

This Endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY
COMMERCIAL GENERAL LIABILITY COVERAGE FORM

With respect to coverage provided by this Endorsement, the provisions of the Coverage Form apply unless modified by the Endorsement.

SCHEDULE

Name and address/contact information of Person(s) or Organization(s):

City of Manitowoc

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The following Condition is added:

Notice Of Cancellation – Scheduled Person(s) or Organization(s)

- a. If we do not renew or cancel this policy, we will send advance written notice to the person(s) or organization(s) as shown in the SCHEDULE. The notice will be delivered by any method we choose, in the applicable timeframe specified in the policy's Cancellation Condition, any amendment to that Condition, or any other statutory timeframe requirements.
- b. Notice provided on this policy shall also apply as notice for any other Commercial Lines insurance policy or coverage part issued to the Named Insured by us.
- c. The notice is intended only to inform the person(s) or organization(s) named in the SCHEDULE in the event of a pending cancellation or non-renewal of coverage. Our failure to provide such advance notification will not:
 - (1) Change any policy cancellation or non-renewal effective date;
 - (2) Negate any cancellation or non-renewal of the policy; or
 - (e) Grant, alter, or extend any rights or obligations under any policy issued by us.

All other terms and conditions of this policy not in conflict with the terms and conditions of this Endorsement shall continue to apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

ADDITIONAL INSURED WRAP

This Endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE FORM
BUSINESSOWNERS LIABILITY COVERAGE FORM

With respect to coverage provided by this Endorsement, the provisions of the Coverage Form apply unless modified by this Endorsement.

Additional Insured provisions provided in this endorsement contain equivalent language to Insurance Services Office Endorsements CG 20 10 07 04 and CG 20 37 07 04. If a written contract or written agreement between you and the additional insured specifies that coverage for the additional insured form be provided by Endorsements CG 20 10 07 04 and/or CG 20 37 07 04, this endorsement shall be interpreted to comply with such requirement, but only to the extent that such coverage is included within the terms of the Coverage Part to which this endorsement is attached.

A. Additional Insured When Required By Written Construction Contract

1. Operations Performed For An Additional Insured

WHO IS AN INSURED is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in a written contract or written agreement prior to a loss, that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an additional insured under this provision ends at the earlier of when your operations for that additional insured are completed; or the end of the policy period.

2. Limitations

The Operations Performed For An Additional Insured coverage is limited as follows:

- a. This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (2) Supervisory, inspection, architectural or engineering activities.
- b. This insurance does not apply to "bodily injury" or "property damage" occurring after:
 - (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 - (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- c. The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations for this policy, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations. If other insurance available to you and written by us is applicable to this additional insured, the maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit under any one coverage form or policy providing coverage on either a primary or excess basis.

- d. This insurance does not apply if the person or organization required to be added as an additional insured is specifically named as an additional insured under any other provision of, or endorsement added to this policy.

B. Additional Insured When Required By Written Construction Contract – Completed Operations

1. Additional Insured – Completed Operations

WHO IS AN INSURED is amended to include as an additional insured any person or organization, when you and such person or organization have agreed in a written contract or written agreement prior to a loss, that such person or organization be added as an additional insured on your policy, but only with respect to "bodily injury" or "property damage" caused, in whole or in part, by "your work" performed for that additional insured and included in the "products-completed operations hazard".

2. Limitations

The Additional Insured - Completed Operations coverage is limited as follows:

- a. A person or organization's status as an insured under Additional Insured - Completed Operations continues only until the earlier of the end of the policy period; or the period of time required by the written contract or written agreement. If no time period is required by the written contract or written agreement, a person or organization's status as an additional insured under this endorsement will not apply beyond the lesser of the end of the policy period; or five years from the completion of "your work" on the project which is the subject of the written contract or written agreement.
- b. The insurance as provided to the additional insured does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of "your work" for which a consolidated (wrap-up) insurance program has been provided by the prime contractor-project manager or owner of the construction project in which you are involved.
- c. The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations for this policy, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations. If other insurance available to you and written by us is applicable to this additional insured, the maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit under any one coverage form or policy providing coverage on either a primary or excess basis.
- d. The coverage provided to the additional insured by this endorsement and by paragraph f. of the definition of "insured contract" under DEFINITIONS do not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written contract or written agreement.
- e. This insurance does not apply if the person or organization required to be added as an additional insured is specifically named as an additional insured under any other provision of, or endorsement added to this policy.

C. Primary And Noncontributory

As respects the coverage provided under this endorsement, the Other Insurance Condition is amended as follows:

The paragraph regarding Excess Insurance is deleted and replaced with the following:

Excess Insurance

This insurance is excess over any other insurance available to the additional insured whether primary, excess, contingent or on any other basis unless the written contract or written agreement described in A. and B. above specifically requires that this insurance be either primary or primary and noncontributory. Then this insurance is primary and not contributing with any insurance available to the additional insured which covers that person or organization as a named insured.

D. Waiver Of Transfer Of Rights Of Recovery Against Others To Us

As respects the coverage provided under this endorsement, the Transfer Of Rights Of Recovery Against Others To Us Condition is amended by adding the following:

We waive any right of recovery we may have to recover we make for all or part of any payment we have made under this Coverage Part arising out of "your work" under a written contract or written agreement

requiring such waiver with that person or organization. However, our rights may only be waived prior to the "occurrence" for which we make payment under this Coverage Part. The insured must do nothing after a loss to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce those rights.

E. Amendment – Aggregate Limits Of Insurance (Per Project)

Under LIMITS OF INSURANCE shown on the Declarations, the General Aggregate Limit applies separately to each of your projects away from the premises owned by you or rented to you. This extension does not apply to the "products-completed operations hazard".

F. Additional Condition

The following condition is added:

Additional Insured Duty To Notify

The additional insured described in A. or B. above must give written notice of loss, including a demand for defense and indemnity, to any other insurer having coverage for the loss under its policies. Such notice must demand full coverage available and the additional insured shall not waive or limit such other available coverage.

This additional condition does not apply to the insurance available to the additional insured which covers that person or organization as a named insured.

All other terms and conditions of this policy not in conflict with the terms and conditions of this Endorsement shall continue to apply.

CONTRACT

This contract is made and entered into this Wednesday day of Aug 15, 2017, by and between Tri City Glass & Door (hereinafter "Contractor"), located at 2801 N. Roemer Rd, Appleton, Wisconsin 54911 and the City of Manitowoc, Wisconsin, a Wisconsin municipal corporation (hereinafter "City"), located at 900 Quay Street, Manitowoc, Wisconsin 54220.

RECITALS

WHEREAS, Tri City Glass & Door located at 2801 N. Roemer Rd, Appleton, Wisconsin intends to furnish and install bronze aluminum entrances and thermally broken fixed storefront windows at the Rahr-West Art Museum, 610 N. 8th Street, Manitowoc, WI 54220, as outlined in "Exhibit A", Tri City Glass & Door, Proposal.

WHEREAS, Tri City Glass & Door has the ability to perform the replacements of main entrance store fronts at \$19,450.00. This includes doors to be wide style with electrically held panic devices; all exterior glazed with 1" clear low-E insulated glass, tempered where required; sealants; 10" bottom rails on entrance doors per new code, 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 at **\$19,450.00**.
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 **October 20, 2017**.
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. 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).

7. **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.
8. **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.
9. **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.**
10. **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.
11. **Contract Notice.** Per Wisconsin State Statutes 62.15, a Class I Notice had been executed and published for this work on August 18, 2017.
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 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.

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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 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. None Required.

16. Termination. Either party may terminate this Contract with ten (10) days written notice to the other party. Any labor and/or expenses incurred prior to cancellation will be billed at standard retail rates and will be due in full and billed immediately.

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: Tri City Glass & Door
2801 N. Roemer Road
Appleton, WI 54911

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, unless documented in writing and signed by the parties involved.

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 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]

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

Tri City Glass & Door, Inc
Name of Corporation

By: Larry Bender (Seal)
President Larry Bender

Attest:

Vice-President LZ

CORPORATE SEAL

CITY OF MANITOWOC

By: _____
Justin M. Nickels, Mayor

Attest:

Deborah Neuser, City Clerk

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

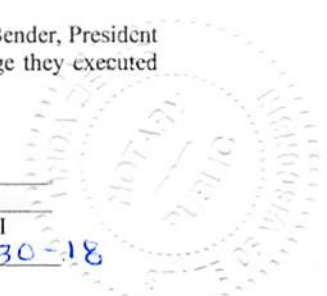
Personally came before me, this _____ day of _____, 2017, the above named Justin M. Nickels and Deborah Neuser, known to me to be the Mayor and City Clerk of the City of Manitowoc and acknowledge they executed the foregoing instrument.

Notary Public Manitowoc County, WI
My commission (expires)(is)_____.

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

Personally came before me, this 16th day of August, 2017, the above named Larry Bender, President and ~~Donna Dom, Vice President~~ Treasurer/Secretary for Tri City Glass & Door and acknowledge they executed the foregoing instrument. LZ

Linda Zieple
LINDA ZIEPLE
Notary Public Manitowoc County, WI
My commission (expires)(is) 10-30-18



IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and affixed their seals on the day and year first above written.

CONTRIBUTION

STATE OF WEST VIRGINIA
DEPARTMENT OF REVENUE

By _____
Agent

Name of Association or Partnership _____
Sole Proprietor or Partner _____
Partner _____
Partner _____

OFFICE OF THE CLERK

By _____
Deborah Jones, City Clerk

STATE OF WEST VIRGINIA
DEPARTMENT OF REVENUE

It is hereby certified that the foregoing instrument is a true and correct copy of the original as the same appears on the records of the Department of Revenue.

STATE OF WEST VIRGINIA
DEPARTMENT OF REVENUE



Notary Public for the State of West Virginia
My Commission Expires _____
I hereby certify that the foregoing instrument is a true and correct copy of the original as the same appears on the records of the Department of Revenue.

"Exhibit A"



- 2801 N. Roemer Rd.
Appleton, WI 54911
920.734.9164
800.449.8081
f 920.734.1096
- 1811 E. Mason St.
Green Bay, WI 54302
920.468.7820
800.242.8177
f 920.468.5337

Proposal

Replying to subject inquiry, we are pleased to quote as follows; and unless otherwise agreed in writing, the conditions constitute a part of this quotation.

City of Manitowoc

08/07/2017

Attn: Jim M.

Re: *Rahr West Art Museum*
610 N 8th St
Manitowoc, WI 54220

Terms: Net 30 days, 1% interest per month on unpaid balances.

We propose to furnish and install bronze aluminum entrances, and thermally broken fixed storefront windows.

- Doors to be wide stile with electrically held panic devices.
- All exterior glazed with 1" clear Low-E insulated glass, tempered where required.
- Includes sealants at our work.
- All per attached sketches.
- Includes 10" bottom rails on entrance doors per new code.

Sum of \$19,450.00, No Tax

* Additional insurance requirements are not included in the above price(s) *

If you have any questions please call me at 920-734-9164, or email. Thank You!

BILL VANDENHEUVEL,
COMMERCIAL DEPT. MNGR/ESTIMATOR, TRI CITY GLASS & DOOR, INC.
EMAIL: billyh@tricityglass-door.com
Cc; TODD GRALL, COMMERCIAL SALES ASSOCIATE

Acceptance of this proposal by Buyer shall be acceptance of all terms and conditions recited herein which shall supersede any conflicting term in any other contract document. Any of the Buyer's terms and conditions in addition or different from this proposal are objected to and shall have no effect. Buyer's agreement herewith shall be evidenced by Buyer's signature hereon or by permitting Seller to commence work for project.

As required by the Wisconsin Construction Lien Law, builder hereby notifies owner that persons or companies furnishing labor or materials for the construction on owner's land may have lien rights on owner's land and buildings if not paid. Those entitled to lien rights, in addition to the above signed builder, are those who contract directly with the owner or those who give the owner notice within 60 days after they first furnish labor or materials for the construction. Accordingly, owner probably will receive notices from those who furnish labor or materials for the construction, and should give a copy of each notice received to his mortgage lender, if any. Builder agrees to cooperate with the owner and his lender, if any, to see that all potential lien claimants are duly paid.

Date of Acceptance: _____

Signature: _____