

FILED
12-11-2025
Clerk of Circuit Court
Brown County, WI
2025CV001746
Honorable John P.
Zakowski
Branch 6

STATE OF WISCONSIN CIRCUIT COURT BROWN COUNTY

MIRON CONSTRUCTION CO., INC.

1471 McMahon Drive
Neenah, WI 54956,

Plaintiff,

v.

Case No.

Case Code: 30701, 30704

CITY OF GREEN BAY

A Wisconsin municipal corporation
100 North Jefferson Street
Green Bay, WI 54301

and

8PINE INC.

208644 Pieper Lane
Hatley, WI 54440

Defendants.

VERIFIED COMPLAINT

Plaintiff, Miron Construction Co., Inc. (“Miron”), by its attorneys, DeWitt LLP, for its Complaint against Defendants, the City of Green Bay (“the City”) and 8Pine Inc. (“8Pine”), hereby alleges and states as follows:

INTRODUCTION

1. This is an action brought under Wis. Stats. §§ 62.15(1) and 66.0901 by Miron, a general contractor, on behalf of the public interest and to prevent improvidence in public bidding. Miron was the lowest responsive, responsible bidder for a public works contract for the construction of a new pavilion and associated site improvements at Leicht Memorial Park for the City of Green Bay’s Department of Public Works, referred to as the Parks 8-25 Leicht Memorial Park project (“the Project”). However, on December 5, 2025, the City indicated its intent to award

the contract to 8Pine, even though 8Pine's bid was incomplete and unresponsive insofar as it failed to comply with the City's bidding requirements for the Project.

2. On December 9, 2025, the City's Redevelopment Authority considered whether to recommend the contract's award to 8Pine to the City's Common Council. Miron attended the Redevelopment Authority's meeting and raised concerns regarding the bidding process, 8Pine's unresponsive bid, and the irregularities in 8Pine's bid that suggest Miron was the lowest, responsible bidder. Despite Miron's concerns, which the Redevelopment Authority acknowledged in public session, the Redevelopment Authority nonetheless voted to advance the Project's award to the Common Council but did so without making a recommendation that the Common Council award the Project to 8Pine.

3. The City's Common Council will now consider whether to award the Project's contract to 8Pine at its meeting scheduled for Tuesday, December 16, 2025. Miron seeks to halt the award of the contract at this upcoming meeting and during the pendency of this proceeding to protect the public interest and ensure that the City does not enter a contract based on an unresponsive and inaccurate bid in violation of Wisconsin's public bidding laws.

4. Accordingly, Miron brings this action to seek a declaration from the Court that 8Pine did not submit a responsive, responsible bid. Further, Miron requests that the Court enjoin the City from entering a contract for the Project with 8Pine or any party other than Miron as the lowest responsible bidder, because both the public and Miron, individually, will be irreparably harmed if the City awards the Project's contract to 8Pine or anyone other than the lowest responsible bidder (Miron).

PARTIES, JURISDICTION, AND VENUE

5. Miron is a Wisconsin corporation with its principal place of business located at 1471 McMahon Drive, Neenah, WI 54956.

6. The City is a Wisconsin municipal corporation with its principal offices located at 100 North Jefferson Street, Green Bay, WI 54301

7. 8Pine is a Wisconsin corporation with its principal offices located at 208644 Pieper Lane, Hatley, WI 54440. Miron names 8Pine solely to the extent 8Pine claims an interest in this action under Wis. Stat. § 806.04(11), although Miron asserts that 8Pine has no interest in the Project's contract since it was not the lowest responsible bidder and has not yet been awarded the contract.

8. Jurisdiction and venue before this Court are proper because the Project is in Brown County, Miron's claims arose in Brown County, and the City is in Brown County.

FACTUAL BACKGROUND

A. The City Issued A Notice To Contractors And Related Addenda Regarding The Project's Scope and Bidding Requirements.

9. On November 3, 2025, the City gave public notice of the Project via a Notice to Contractors ("Notice"), which generally described the Project's scope of work to consist of "Construction of a new pavilion and associated site improvements, including grading, utility connections, landscaping, pedestrian pathways, site lighting, and related work necessary to provide a fully functional public facility at Leicht Memorial Park, 128 Dousman St, Green Bay, WI 54303." A copy of the Notice is attached and incorporated herein as **Exhibit A**.

10. The Notice incorporated by reference plans and specifications (*e.g.*, the "Bidding Documents") that detailed the requirements for the lump sum bids based on the Project's scope of

work and reiterated the City's intent to award the Project's contract to the lowest responsive and responsible bidder so long as the bid complied with the requirements of the Bidding Documents.

11. The Notice required interested bidders to submit bids electronically through QuestCDN.com by no later than 2:00 p.m. on December 2, 2025 (later modified by the City to December 4, 2025).

12. In addition to the lump sum price, the City also mandated that bidders submit a bid bond and upload the specified proposal pages, an affidavit of compliance, disclosure of ownership form, and any addenda issued during the bidding process, as shown below (emphasis original):

All proposals must be submitted on the Bidder's Proposal provided for that purpose and issued to the specific bidder by the Director of Public Works together with a certified check or a bid bond equal to at least five (5) but not more than ten (10) percent of the bid payable to the City of Green Bay as a guarantee that if his/her bid is accepted, he/she will execute and file the contract and a performance bond in the amount of one hundred percent (100%) of the total bid within ten (10) days after the award of the contract. **Only the Proposal Pages, Bid Bond, Affidavit of Compliance, Disclosure of Ownership and any Addenda issued shall be submitted.** Only Proposals submitted by firms appearing on the City of Green Bay list of plan holders will be opened.

13. In other words, to be a full, complete, and responsive bid, the City mandated that a contractor's bid include, among other things, a complete schedule of prices *and* an express acknowledgment of each addenda issued.

14. The City later issued four addenda to modify, explain, or correct the Project's plans and specifications; the City issued Addendum No. 1 on November 11, 2025, Addendum No. 2 on November 19, 2025, Addendum No. 3 on November 26, 2025, and Addendum No. 4 on December 2, 2025.

15. When issuing each addendum, the City reminded bidders expressly that each addendum must be signed and included with the bidder's proposal. For reference, an excerpt from the top page of Addendum No. 3 is shown below:

ADDENDUM NO. 3

PARKS 8-25 LEICHT MEMORIAL PARK PAVILION
Engineering Division
Department of Public Works
City of Green Bay

November 26, 2025


Bid Opening: 2:00 P.M., December 4, 2025

This Addendum is issued to modify, explain or correct the original drawings and specifications and is hereby made part of the Contract Documents. This addendum must be signed and attached to the bidder's proposal.

(Pages: 58 including cover sheet)

Contractor's Signature

SIGN AND ATTACH THIS ADDENDUM TO THE BIDDER'S PROPOSAL



FOR James M. Brunette, P.E.
Assistant Director of Public Works

16. Addendum No. 3 was critical because it clarified and directed interested bidders that its lump sum bid must account for any site conditions relating to unstable soil that could impact the concrete foundations.

17. Requiring interested bidders to account for any site conditions in the lump sum bid provided the City more certainty that the Project's contract price would not increase later due to change orders necessitated by unforeseen site and soil conditions.

B. Miron Submitted A Complete and Responsive Lump Sum Bid.

18. Prior to the deadline on December 4, 2025, Miron submitted a full and complete bid for the Project with all necessary supporting documentation.

19. Consistent with the City's express instructions, Miron signed and attached each of the addendum to its proposal and otherwise complied with the requirements to submit a timely, full, complete, and responsive bid.

C. 8Pine Submitted An Incomplete And Unresponsive Bid That The City Should Have Disqualified.

20. On December 4, 2025, 8Pine submitted a bid for the Project.

21. 8Pine's bid failed to comply with the City's bidding requirements, which should have disqualified its bid from consideration, because it did not submit a timely, full, complete, and responsive bid for the Project.

22. During bid opening, the City reviewed each of the bids to confirm whether each bidder submitted the required documents and information (*e.g.*, a bid bond, corporate signature, subcontractor list, and the required addendum) so as to be a full, complete, and responsive bid.

23. When reviewing Miron's bid, along with the bids submitted by SMA Construction Services, LLC, IEI General Contractors, Milbach Construction Services, Co., and Howard Immel Inc., the City confirmed expressly that each contractor included all required documents and information, including the required addenda acknowledgments.

24. But when reviewing 8Pine's bid, the City stated on the record that 8Pine *did not* include the required addenda acknowledgments.

25. Without the required addenda acknowledgments, and unless the City had improper communication and/or contact with 8Pine between bid submissions and bid opening, the City could not know based on 8Pine's bid that 8Pine had reviewed, considered, and incorporated each of the four addendum that modified, explained, and/or corrected the Project's plans and specifications, including the requirement that the lump sum bid must account for any site conditions relating to unstable soil that could impact the concrete foundations.

26. This prompted Miron to contact the Project's Architect/Engineer after bid opening regarding 8Pine's bid being incomplete and therefore not responsive.

27. The Project's Architect/Engineer did not disagree with Miron that the City indicated during bid opening that 8Pine *did not* include the required addendum acknowledgments with its proposal.

28. In a departure from the typical bid opening process, the Project's Architect/Engineer, who prepared the Bidding Documents, also confirmed to Miron that the City did not involve it when evaluating the bids.

29. Miron's concerns with respect to 8Pine's bid and the City's related conduct go beyond 8Pine's failure to include the required addenda, which cannot be adequately addressed without transparency from the City relating to the bid submittals.

30. For example, 8Pine's bid may also violate Wis. Stat. § 66.0901(7)'s requirement that a bidder's list of subcontractors only include subcontractors that submitted bids in writing to general contractors "at least 48 hours prior to the time of the bid closing."

31. On December 9, 2025, Miron submitted an Open Records Request to the City that, among other documents, seeks copies of all bid materials received from 8Pine for the Project and copies of all correspondence, documents, or other information received from or sent to 8Pine from November 3, 2025, to present relating to the Project. The City has not yet responded to Miron's records request and multiple attempts by counsel for Miron to engage in discussions about the Project and Miron's concerns with respect to 8Pine's incomplete and unresponsive bid.¹

32. During bid opening, and in yet another deviation from industry custom and practice, the City refused to share its screen, even after being requested to do so, so that all interested bidders

¹ Given the need for Miron to take prompt action to seek temporary injunctive relief before the Project's contract is awarded by the Council on December 16, 2025, and irreparable harm is done, Miron proceeded with the filing of this action. However, Miron reserves the right to amend the Complaint should the open records request reveal additional concerns with the respect to 8Pine's bid or the bidding process in general for the Project.

would have an opportunity to review the submitted bids, which was surprising given the transparency that Wisconsin law requires public bodies to adhere to in public bidding.

33. Had the City shared its screen (as is typical), then Miron and other interested bidders would have been permitted to review 8Pine's subcontractor list, which would have provided insight into whether 8Pine included subcontractors that did not meet the 48-hour requirement (since most subcontractors submit bids to multiple general contractors).

34. Another atypical occurrence with respect to the Project's bid opening involved the timing.

35. Bid opening typically occurs immediately following bid closing, which was scheduled for 2:00 p.m. Here, however, and without any explanation, the City delayed the process until 2:20 p.m.

D. The City Appears Poised To Award The Project To 8Pine Despite 8Pine's Incomplete And Unresponsive Bid And Miron's Stated Concerns.

36. Despite 8Pine submitting an incomplete and unresponsive bid, the City deviated from the Project's express instructions and requirements and now appears poised to award the Project's contract to 8Pine, in violation of Wisconsin's requirement that public contracts be awarded to the lowest *responsible* bidder. Wis. Stat. § 66.0901(1m).

37. On December 5, 2025, the City posted the bid tab showing that 8Pine's bid had not been disqualified and that it considered 8Pine to be the lowest bidder, suggesting that the City either ignored the addenda requirement or showed favoritism to 8Pine and allowed it to submit additional material and documents after-the-fact to correct its defective bid, all in violation of Wisconsin law.

38. Miron also discovered that the City's Redevelopment Authority was postured to make a recommendation to the Common Council regarding the contract's award during a hearing

set for December 9, 2025, which included an agenda item for possible action to recommend the award of the Project's contract to 8Pine.

39. Following this discovery, Miron raised its concerns with the City directly and promptly so that the City would understand the deficiencies in 8Pine's bid and that an award of the Project's contract to 8Pine would violate Wisconsin law.

40. Miron also attended the Redevelopment Authority's meeting on December 9, 2025, during which Miron explained its concerns with respect to 8Pine's bid and why Miron believed that its lump sum bid was the lowest, responsive bid for the Project. The City published the Redevelopment Authority's meeting on its website (<https://www.greenbaywi.gov/129/Meetings-Agendas-Minutes>), and Miron's comments begin at the 22-minute mark.

41. In addition to the insufficiency of 8Pine's bid as detailed above, Miron explained to the Redevelopment Authority that 8Pine's lump sum bid did not provide the City a definite price for all work that may be necessary to ensure the stability of the Project's concrete foundations regardless of site and/or soil conditions, known, unknown, or otherwise as contemplated by Addendum No. 3. In other words, 8Pine's bid could be hundreds of thousands of dollars higher than Miron's bid depending on the site and/or soil conditions.

42. Due to the concerns raised by Miron, the Redevelopment Authority expressed uncertainty related to the scope and amount of 8Pine's bid and declined to affirmatively recommend the award of the Project contract to 8Pine to the Common Council. At least some members of the Redevelopment Authority expressed a desire to seek answers to the concerns and issues raised by Miron.

43. When the Redevelopment Authority requested whether the City's legal department had a position on Miron's stated concerns during the December 9, 2025, meeting, the legal representative provided no position.

44. Nonetheless, the Redevelopment Authority opted to advance the decision to the Common Council without making a recommendation that the Common Council award the Project to 8Pine at its upcoming meeting scheduled for December 16, 2025.

45. As of the date of this Complaint, it is understood that the Common Council will consider the award of the Project contract to 8Pine at its upcoming meeting scheduled for December 16, 2025.

46. As of the date of this Complaint, the City still has not contacted and/or consulted with the Architect/Engineer for input regarding the bids received for the Project, Miron's stated concerns regarding the inaccuracies and deficiencies in 8Pine's bid, or Miron's position that it – rather than 8Pine – submitted the lowest responsive, responsible bid for the Project.

FIRST CAUSE OF ACTION (Declaratory Judgment)

47. Miron realleges the allegations set forth above as if set out in full herein.

48. Wisconsin law requires municipalities to award public works contracts, such as the contract for the Project, to the lowest *responsible* bidder. Wis. Stat. § 66.0901(1m) ("Except when necessary to secure federal aid, whenever a political subdivision lets a public contract by bidding, the political subdivision shall comply with all of the following: 1. The bidding shall be on the basis of sealed competitive bids. 2. The contract shall be awarded to the lowest responsible bidder."); *see also* City of Green Bay Ordinances, Article I, § 42-3(a) ("Pursuant to Wis. Stats. §§ 66.0901 and 62.15, all public works contracts...shall be let by contract to the lowest responsible bidder");

Wis. Stat. § 62.15(1) (“All public construction, the estimated cost of which exceeds \$25,000, shall be let by contract to the lowest responsible bidder.”).

49. For the reasons detailed above, Miron submitted the lowest responsive, responsible bid for the Project.

50. The City disregarded Wisconsin law when it identified 8Pine as the lowest responsive bidder even though 8Pine did not submit a responsible bid due to its failure to submit a timely, full, complete, and responsive bid, including the expressly required addenda acknowledgments.

51. Any contract executed by the City with 8Pine for the Project is a violation of Wisconsin law and therefore should be deemed void.

52. A substantial, present, and justiciable controversy exists between Miron and the City regarding the City’s decision to award the project to 8Pine and the validity of any proposed contract that may be entered into between the City and 8Pine.

53. Pursuant to Wis. Stat. § 806.04, Miron is entitled to a declaratory judgment as follows: 1) that the City would violate Wisconsin law if it does not award the Project to the lowest responsible bidder; 2) that Miron submitted the lowest responsive, responsible bid for the Project; and 3) that any contract between the City and 8Pine would be unlawful and void *ab initio*.

SECOND CAUSE OF ACTION (Injunction)

54. Miron realleges the allegations set forth above as if set out in full herein.

55. Miron will suffer irreparable harm unless the Court enjoins the City from entering the contract for the Project with 8Pine and/or enjoins 8Pine from performing any contract that may be executed.

56. Miron has a valuable business interest at stake in being awarded the contract.

57. If the Court fails to enjoin the award and/or performance of the contract, any claim that Miron may have related to its valuable business interest in the contract may be rendered moot.

58. Miron has no adequate remedy at law. The only remedy available to a disappointed bidder under Wisconsin law is an injunction.

59. An injunction is necessary to maintain the status quo.

60. Accordingly, Wisconsin law entitles Miron to an injunction prohibiting the City from taking any further steps to enter the contract for the Project with 8Pine or any contractor other than Miron.

WHEREFORE, Miron respectfully requests the Court enter an Order as follows:

A. A Declaration that:

- a. The City would violate Wis. Stat. §§ 62.15(1) and 66.0901 by not awarding the Project to the lowest responsible bidder;
- b. Miron submitted the lowest responsive, responsible bid for the Project under the Bidding Documents and Wisconsin law; and
- c. Any contract between the City and 8Pine or any contractor other than Miron is unlawful and void *ab initio*.

B. An injunction:

- a. Prohibiting the City and its officers, directors, employees, agents, and all those acting in concert with from taking any further steps to enter a contract or proceeding with or directing commencement of any work under any contract on the Project with 8Pine or any contractor other than Miron; and
- b. Requiring the City to ensure that all bids it received are subject to fair and equitable review, without favor to any bidder.

C. All such other and further relief as the Court may deem just and equitable.

Dated December 11, 2025.

DEWITT LLP

/s electronically signed by William E. McCardell

William E. McCardell (SBN 1014770)

Chase A. Horne (SBN 1080337)

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ATTORNEYS FOR MIRON CONSTRUCTION CO., INC.

STATE OF WISCONSIN

COUNTY OF OUTAGAMIE

Jason Fuhrmann, being fir
President, Project Development of
Verified Complaint and knows tl
knowledge, except as to those matt
matters he believes them to be true.

[REDACTED]

[REDACTED]

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SECTION 00 11 00

NOTICE TO CONTRACTORS

Contract: PARKS 8-25 LEICHT MEMORIAL PARK PAVILION
City of Green Bay, Wisconsin

Proposals will be received and accepted ONLY through QuestCDN.com via their electronic VirtuBid™ (vBid) online bid service until 2:00 p.m. on Tuesday, December 02, 2025 at which time they will be opened for Public Works Improvement Contract:

PARKS 8-25 LEICHT MEMORIAL PARK PAVILION

in accordance with the contract documents, all of which are on file in the City Clerk's/Treasurer's Office and the Director of Public Works Office in the Green Bay City Hall.

In general, the Project involves: Construction of a new pavilion and associated site improvements, including grading, utility connections, landscaping, pedestrian pathways, site lighting, and related work necessary to provide a fully functional public facility at Leicht Memorial Park, 128 Dousman St, Green Bay, WI 54303.

Bids will be received for one contract which includes all Work necessary and/or required to complete the project per the Contract Documents.

All work required in this contract shall be completed by Friday, December 04, 2026. Final payment must be made prior to January 1, 2027.

The Contract Documents, including plans and specifications, may be examined electronically at www.questcdn.com and downloaded for a fee of \$42.00. Prospective bidders must register with QuestCDN in order to download documents which will add your company to the Planholder List and allow access to vBid online bidding for the submittal of your bid which is required for this project. The charges for bidding documents are non-refundable. Contact QuestCDN Customer Support at 952-233-1632 or info@questcdn.com for assistance in membership registration, downloading digital project information and vBid online bid submittal.

The work shall be let in accordance with the following Sections of the Wisconsin Statutes.

1. Section 62.15 regarding public works construction.
2. Section 779.15 regarding lien on contractors
3. Section 66.0901 (2) regarding proof of responsibility.

All bidders shall provide proof of responsibility on the form furnished by the Director of Public Works and it shall be filed with the Director of Public Works not less than five (5) days prior to the time set for opening of bids. Proof of Responsibility form can be found on the City's website: <https://greenbaywi.gov/796/engineering>. Said proof of responsibility shall not be valid if filed prior to one year of the date of opening bids.

In accordance with Section 42.2 of the City of Green Bay Code of Ordinances, any corporation, firm, or individual violating Chapter 133.01 of the Wisconsin Statutes, or any subsequent amendment thereof, shall upon conviction thereof be thereby disqualified as a bidder on any City of Green Bay project for a period of three (3) years from the date of such conviction; however, nothing herein shall be interpreted to preclude such corporation, firm, or individual from completing any and all contracts he/she may already have with the City at the time of such conviction, nor shall this ordinance be applied retroactively to convictions occurring prior to the adoption and publication of this ordinance. This prohibition applies with like force to officers of convicted corporations, firms, or individuals who thereafter have business interest in new corporations or business enterprises of whatever kind or description.

The City of Green Bay, Wisconsin reserves the right to reject any or all bids and to waive any informalities in bidding.

No bids shall be withdrawn after the opening of bids without the consent of the City of Green Bay, Wisconsin for a period of sixty (60) days after the scheduled time for closing bids.

All proposals must be submitted on the Bidder's Proposal provided for that purpose and issued to the specific bidder by the Director of Public Works together with a certified check or a bid bond equal to at least five (5) but not more than ten (10) percent of the bid payable to the City of Green Bay as a guarantee that if his/her bid is accepted, he/she will execute and file the contract and a performance bond in the amount of one hundred percent (100%) of the total bid within ten (10) days after the award of the contract. **Only the Proposal Pages, Bid Bond, Affidavit of Compliance, Disclosure of Ownership and any Addenda issued shall be submitted.** Only Proposals submitted by firms appearing on the City of Green Bay list of plan holders will be opened.

In case the successful bidder shall fail to execute such contract and performance bond, the amount of the check or bid bond shall be forfeited to the City as liquidated damages.

Published by the authority of the Redevelopment Authorities of the Common Council of the City of Green Bay, Wisconsin.

Advertised: Friday, October 31, 2025
Friday, November 7, 2025
Friday, November 14, 2025

By: Gary Delveaux, Chairperson
