

ADVERTISEMENT TO BID
2011 ROOF REPAIRS
TOWN OF MIDDLETON, DANE COUNTY, WI

The Town of Middleton will receive sealed Bids for Roof Repairs until Noon on Thursday, September 1, 2011 at the Town of Middleton, 7555 W. Old Sauk Road, Verona, Wisconsin 53593, at which time they will be publicly opened and read aloud.

The work includes the removal and replacement of roofing on three (3) buildings and four (4) park shelters owned by the Town in multiple locations.

Work includes all reasonable roofing activities including but not limited to:

- (1) Tear off, clean up, remove and recycle existing asphalt roofing materials.*
- (2) Roof deck to be inspected for rotting, delaminating and proper fastening.*
- (3) All edges to have color matched drip edge flashing.*
- (4) Valleys to have galvanized roll flashing with one (1) course of ice and water guard.*
- (5) All eaves to have two (2) courses of ice and water guard (heated buildings only).*
- (6) Remainder of roof to be covered with 15# roofing felt paper.*
- (7) Shingles – Owens Corning 30 year Oakridge dimensional shingles*
 - a. Nailed as per manufacturers specifications.*
- (8) Existing roof vent flashing to be replaced.*
- (9) Existing mechanical flashings to be replaced.*
- (10) Sweep the ground with a magnet daily throughout the duration of the job.*

All Bids shall be placed in an opaque envelope addressed to the Town at the address above and shall be labeled shall be marked "Sealed Bid - 2011 Roof Repairs."

There will be no pre-bid conference for this project.

No Bid will be received unless accompanied by a cashier's, certified or bank check or a Bid Bond equal to at least 5% of the maximum Bid, payable to the OWNER as a guarantee that after a Bid is accepted, Bidder will execute and file the Agreement and 100% Performance and Payment Bonds within fifteen days after the Notice of Award.

Bidders shall comply with all provisions of Section 66.0903 of the Wisconsin Statutes with respect to wage rates.

The Town of Middleton reserves the right to reject any or all Bids, to waive any technicality, and to accept any Bid which it deems advantageous. All Bids shall remain subject to acceptance for 60 days after the time set for opening Bids.

Published by the authority of the Town of Middleton, David Shaw, Town Clerk

5% BID BOND

BIDDER (Name and Address):

SURETY (Name and Address of Principal Place of Business):

OWNER (Name and Address):

Town of Middleton
7555 W. Old Sauk Road
Verona, WI 53593

BID:

BID DUE DATE: _____

BOND:

BOND NUMBER: _____

DATE: (Not later than Bid Due Date): _____

PENAL SUM: _____

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the terms noted herein, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

SURETY

Surety's Name and Corporate Seal (Seal)

By: _____
Signature and Title
(Attach Power of Attorney)

Attest: _____
Signature and Title

BIDDER

Bidder's Name and Corporate Seal (Seal)

By: _____
Signature and Title

Attest: _____
Signature and Title

Note: (1) Above addresses are to be used for giving required notice.
(2) Any singular reference to Bidder, Surety, OWNER or other party shall be considered plural where applicable.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assignees to pay to OWNER upon default of Bidder the penal sum set forth on the face of this Bond.

2. *Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents and Contract Documents.*
3. *This obligation shall be null and void if:*
 - 3.1 *OWNER accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by the Bidding Documents and any Performance and Payment Bonds required by the Bidding Documents and Contract Documents, or*
 - 3.2 *All Bids are rejected by OWNER, or*
 - 3.3 *OWNER fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by paragraph 5 hereof).*
4. *Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from OWNER, which notice will be given with reasonable promptness, identifying this Bond and the project and including a statement of the amount due.*
5. *Surety waives notice of and any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by OWNER and Bidder, provided that the time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid Due Date without Surety's written consent.*
6. *No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety, and in no case later than one year after Bid Due Date.*
7. *Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the project is located.*
8. *Notice required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage prepaid, and shall be deemed to be effective upon receipt by the party concerned.*
9. *Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind Surety thereby.*
10. *This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of the Bond conflicts with any applicable provision of any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.*
11. *The term "bid" as used herein includes a bid, offer, or proposal as applicable.*

CONSTRUCTION PERFORMANCE BOND

Any singular reference to CONTRACTOR, Surety, OWNER or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER:

Town of Middleton
7555 W. Old Sauk Road
Verona, WI 53593

CONSTRUCTION CONTRACT

Date: _____
Amount: _____
Description: _____

BOND

Date (Not earlier than Effective Date of Agreement): _____
Amount (100% of Contract Price): _____
Modifications to this Bond Form: _____

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)
Signature: _____
Name: _____
Title: _____

SURETY

Company: _____ (Corp. Seal)
Signature: _____
Name: _____
Title: _____

Approved by OWNER:

By: David Shaw _____ Administrator _____
(Title) (Date)

1. *CONTRACTOR and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to OWNER for the performance of the Construction Contract, which is incorporated herein by reference.*

2. *If CONTRACTOR performs the Construction Contract, Surety and CONTRACTOR shall have no obligation under this Bond, except to participate in conferences as provided in subparagraph 3.1.*

3. *If there is no OWNER Default, Surety's obligation under this Bond shall arise after:*

3.1 OWNER has notified CONTRACTOR and Surety at its address described in paragraph 10 below, that OWNER is considering declaring a CONTRACTOR Default and has requested and attempted to arrange a conference with CONTRACTOR and Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If OWNER, CONTRACTOR and Surety agree, CONTRACTOR shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive OWNER's rights, if any, subsequently to declare a CONTRACTOR Default; and

3.2 OWNER has declared a CONTRACTOR Default and formally terminated CONTRACTOR's rights to complete the Contract. Such CONTRACTOR Default shall not be declared earlier than twenty days after CONTRACTOR and Surety have received notice as provided in subparagraph 3.1; and

3.3 OWNER has agreed to pay the Balance of the Contract Price to Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the Contract with OWNER.

4. *When OWNER has satisfied the conditions of paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:*

4.1 Arrange for CONTRACTOR, with consent of OWNER, to perform and complete the Construction Contract; or

4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to OWNER for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by OWNER and the contractor selected with OWNER's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to OWNER the amount of damages as described in paragraph 6 in excess of the Balance of the Contract Price incurred by OWNER resulting from CONTRACTOR's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

1. After investigation, determine the amount for which it may be liable to OWNER and, as soon as practicable after the amount is determined, tender payment therefor to OWNER; or

2. Deny liability in whole or in part and notify OWNER citing reasons therefor.

5. If Surety does not proceed as provided in paragraph 4 with reasonable promptness, Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from OWNER to Surety demanding that Surety perform its obligations under this Bond, and OWNER shall be entitled to enforce any remedy available to OWNER. If Surety proceeds as provided in subparagraph 4.4, and OWNER refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice OWNER shall be entitled to enforce any remedy available to OWNER.

6. After OWNER has terminated CONTRACTOR's right to complete the Construction Contract, and if Surety elects to act under subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of Surety to OWNER shall not be greater than those of CONTRACTOR under the Construction Contract, and the responsibilities of OWNER to Surety shall not be greater than those of OWNER under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by OWNER of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, Surety is obligated without duplication for:

6.1 The responsibilities of CONTRACTOR for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional, and delay costs resulting from CONTRACTOR's Default, and resulting from the actions or failure to act of Surety under paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or nonperformance of CONTRACTOR.

7. Surety shall not be liable to OWNER or others for obligations of CONTRACTOR that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than OWNER or its heirs, executors, administrators, or successors.

8. Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after CONTRACTOR Default or within two years after CONTRACTOR ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10. Notice to Surety, OWNER, or CONTRACTOR shall be mailed or delivered to the address shown on the signature page.

11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not a common law bond.

12. Definitions:

12.1 *Balance of the Contract Price: The total amount payable by OWNER to CONTRACTOR under the Construction Contract after all proper adjustments have been made, including allowance to CONTRACTOR of any amounts received or to be received by OWNER in settlement of insurance or other claims for damages to which CONTRACTOR is entitled, reduced by all valid and proper payments made to or on behalf of CONTRACTOR under the Construction Contract.*

12.2 *Construction Contract: The agreement between OWNER and CONTRACTOR identified on the signature page, including all Contract Documents and changes thereto.*

12.3 *CONTRACTOR Default: Failure of CONTRACTOR, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.*

12.4 *OWNER Default: Failure of OWNER, which has neither been remedied nor waived, to pay CONTRACTOR as required by the Construction Contract or to perform and complete or comply with the other terms thereof.*