OKLAHOMA Office of Management & Enterprise Services

State of Oklahoma
OK Depart. of Transportation
Procurement Division

Solicitation Cover Page

1. **Solicitation #:** **3450004910 / 20-3-0150**
2. **Solicitation Issue Date:** **05/06/20**

3. **Brief Description of Requirement:**

Scope of Work: To Remove and Replace Windows and Doors at three (3) facilities located in Purcell, OK.

Project Locations: (1) Purcell Residency, 23404 SH-74, Purcell, OK 73080; (2 & 3) Purcell Interstate & McClain County Maintenance Yard, 2614 SH-74 South, Purcell, OK 73080 (same address, different facilities).

The Solicitation is let pursuant to the Public Competitive Bidding Act of 1974, Title 61, Sec. 101 et. Seq. and accordance with Oklahoma Statute, Title 74, Section 85.12.B.3.

As of 03/18/2020 and until further notice, due to concerns about the possible spread of the coronavirus on packages, bids should be submitted to ODOT via email. Electronic bids will still be considered sealed bids and the attachments will not be opened until bid closing. Electronic bids should be emailed to the Buyer handling the solicitation. The subject line of the Email Response should include the Solicitation Number and Closing date & time.

4. **Response Due Date**[1]**:** **6/11/20** **Time**: **4:00 PM** CST/CDT

5. **Issued By and RETURN SEALED BID TO**[2]**:**

U.S. Postal Delivery Address: **200 NE 21st Street**
Room 3C6
Oklahoma City, OK 73105

Common Carrier Delivery Address: **See Above**

Electronic Submission Address: **See Note Above**

6. **Solicitation Type** (type "X" at one below)**:**

- ☐ Invitation to Bid
- ☒ Request for Proposal
- ☐ Request for Quote

7. **Contracting Officer**:

Name: Cheryl Emerson, CPO

Phone: 405-522-3209; Email: cemerson@odot.org

[1] Amendments to solicitation may change the Response Due Date (read GENERAL PROVISIONS, section 3, "Solicitation Amendments").
[2] If "U.S. Postal Delivery" differs from "Carrier Delivery, use "Carrier Delivery" for courier or personal deliveries.

OKLAHOMA
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Responding Bidder Information

"Certification for Competitive Bid and Contract" ***MUST*** *be submitted along with the response to the Solicitation.*

1. **RE: Solicitation #** 3450004910 / 20-3-0150

2. **Bidder General Information:**

FEI / SSN : _____ Supplier ID: _____

Company Name: _____

3. **Bidder Contact Information:**

Address: _____

City: _____ State: ____ Zip Code: _____

Contact Name: _____

Contact Title: _____

Phone #: _____ Fax #: _____

Email: _____ Website: _____

4. **Oklahoma Sales Tax Permit[3]:**

☐ YES – Permit #: _____

☐ NO – Exempt pursuant to Oklahoma Laws or Rules – Attach an explanation of exemption

5. **Registration with the Oklahoma Secretary of State:**

☐ YES - Filing Number: _____

☐ NO - Prior to the contract award, the successful bidder will be required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming (www.sos.ok.gov or 405-521-3911).

6. **Workers' Compensation Insurance Coverage:**

Bidder is required to provide with the bid a certificate of insurance showing proof of compliance with the Oklahoma Workers' Compensation Act.

☐ YES – Include with the bid a certificate of insurance.

☐ NO – Exempt from the Workers' Compensation Act pursuant to 85A O.S. § 2(18)(b)(1-11) – Attach a written, signed, and dated statement on letterhead stating the reason for the exempt status.[4]

[3] For frequently asked questions concerning Oklahoma Sales Tax Permit, see https://www.ok.gov/tax/Businesses/index.html
[4] **For frequently asked questions concerning workers' compensation insurance, see https://www.ok.gov/wcc/Insurance/index.html**

7. Disabled Veteran Business Enterprise Act

☐ YES – I am a service-disabled veteran business as defined in 74 O.S. §85.44E. Include with the bid response 1) certification of service-disabled veteran status as verified by the appropriate federal agency, and 2) verification of not less than 51% ownership by one or more service-disabled veterans, and 3) verification of the control of the management and daily business operations by one or more service-disabled veterans.

☐ NO – Do not meet the criteria as a service-disabled veteran business.

Authorized Signature	Date
Printed Name	Title

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Certification for Competitive Bid and/or Contract (Non-Collusion Certification)

NOTE: *A certification shall be included with any competitive bid and/or contract exceeding $5,000.00 submitted to the State for goods or services.*

Agency Name: *Oklahoma Dept. of Transportation* Agency Number: *34500*

Solicitation or Purchase Order #: 3450004910 / 20-3-0150

Supplier Legal Name: _____

SECTION I [74 O.S. § 85.22]:

A. For purposes of competitive bid,

1. I am the duly authorized agent of the above named bidder submitting the competitive bid herewith, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to said bid;
2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and
3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
   a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
   b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
   c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
   d. to any collusion with any state agency or political subdivision official or employee as to create a sole-source acquisition in contradiction to Section 85.45j.1. of this title.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

SECTION II [74 O.S. § 85.42]:

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

The undersigned, duly authorized agent for the above named supplier, by signing below acknowledges this certification statement is executed for the purposes of:

☐ the competitive bid attached herewith and contract, if awarded to said supplier;

OR

☐ the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

Supplier Authorized Signature	Certified This Date
Printed Name	Title
Phone Number	Email
Fax Number	

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A. GENERAL PROVISIONS

A.1. Definitions

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

A.1.1. "Acquisition" means items, products, materials, supplies, services, and equipment an entity acquires by purchase, lease purchase, lease with option to purchase, or rental;

A.1.2. "Addendum" means a written restatement of or modification to a Contract Document executed by the Supplier and State.

A.1.3. "Bid" means an offer in the form of a bid, proposal, or quote a bidder submits in response to a solicitation;

A.1.4. "Bidder" means an individual or business entity that submits a bid in response to a solicitation;

A.1.5. "Solicitation" means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or a request for quotation; and

A.1.6. "Supplier" or "vendor" means an individual or business entity that sells or desires to sell acquisitions to state agencies.

A.2. Bid Submission

A.2.1. Submitted bids shall be in strict conformity with the instructions to bidders and shall be submitted with a completed Responding Bidder Information, OMES-FORM-CP-076, and any other forms required by the solicitation.

A.2.2. Bids shall be submitted to the procuring agency in a single envelope, package, or container and shall be sealed, unless otherwise detailed in the solicitation. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.

A.2.3. The required certification statement, "Certification for Competitive Bid and/or Contract (Non-Collusion Certification)", OMES-FORM-CP-004, must be made out in the name of the bidder and must be properly executed by an authorized person, with full knowledge and acceptance of all its provisions.

A.2.4. All bids shall be legible and completed in ink or with electronic printer or other similar office equipment. Any corrections to bids shall be identified and initialed in ink by the bidder. Penciled bids and penciled corrections shall NOT be accepted and will be rejected as non-responsive. All bids submitted shall be subject to the Oklahoma Central Purchasing Act, Central Purchasing Rules, and other statutory regulations as applicable, these General Provisions, any Special Provisions, solicitation specifications, required certification statement, and all other terms and conditions listed or attached herein—all of which are made part of this solicitation.

A.3. Solicitation Amendments

A.3.1. If an "Amendment of Solicitation", OMES-FORM-CP-011, is issued, the bidder shall acknowledge receipt of any/all amendment(s) to solicitations by signing and returning the solicitation amendment(s). Amendment acknowledgement(s) may be submitted with the bid or may be forwarded separately. If forwarded separately, amendment acknowledgement(s) must contain the solicitation number and response due date and time on the front of the envelope. The procuring agency must receive the amendment acknowledgement(s) by the response due date and time specified for receipt of bids for the bid to be deemed responsive. Failure to acknowledge solicitation amendments may be grounds for rejection.

A.3.2. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the solicitation. All amendments to the solicitation shall be made in writing by the procuring agency.

A.3.3. It is the bidder's responsibility to check frequently for any possible amendments that may be issued. The procuring agency is not responsible for a bidder's failure to download any amendment documents required to complete a solicitation.

A.4. Bid Change

If the bidder needs to change a bid prior to the solicitation response due date, a new bid shall be submitted to the procuring agency with the following statement "This bid supersedes the bid previously submitted" in a single envelope, package, or container and shall be sealed, unless otherwise detailed in the solicitation. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER

AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.

A.5. Certification Regarding Debarment, Suspension, and Other Responsibility Matters

By submitting a response to this solicitation:

A.5.1. The prospective primary participant and any subcontractor certifies to the best of their knowledge and belief, that they and their principals or participants:

A.5.1.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State or local department or agency;

A.5.1.2. Have not within a three-year period preceding this proposal been convicted of or pled guilty or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) contract; or for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

A.5.1.3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph A.5.1.2. of this certification; and

A.5.1.4. Have not within a three-year period preceding this application/proposal had one or more public (Federal, State, or local) contracts terminated for cause or default.

A.5.2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its solicitation response.

A.6. Bid Opening

Sealed bids shall be opened by the **ODOT Procurement Division** located at **200 NE 21st, Room 3C6** Oklahoma City, OK 73105 at the time and date specified in the solicitation as the Response Due Date and Time.

A.7. Open Bid / Open Record

Pursuant to the Oklahoma Public Open Records Act, a public bid opening does not make the bid(s) immediately accessible to the public. The procurement or contracting agency shall keep the bid(s) confidential, and provide prompt and reasonable access to the records only after a contract is awarded or the solicitation is cancelled. This practice protects the integrity of the competitive bid process and prevents excessive disruption to the procurement process. The interest of achieving the best value for the State of Oklahoma outweighs the interest of vendors immediately knowing the contents of competitor's bids. [51 O.S. § 24A.5(5)]

Additionally, financial or proprietary information submitted by a bidder may be designated by the ODOT Procurement Division Manager as confidential and the procurement entity may reject all requests to disclose information designated as confidential pursuant to 62 O.S. (2012) § 34.11.1(H)(2) and 74 O.S. (2011) § 85.10. Bidders claiming any portion of their bid as proprietary or confidential must specifically identify what documents or portions of documents they consider confidential and identify applicable law supporting their claim of confidentiality. The State Purchasing Director shall make the final decision as to whether the documentation or information is confidential pursuant to 74 O.S. § 85.10. Otherwise, documents and information a bidder submits as part of or in connection with a bid are public records and subject to disclosure after contract award or the solicitation is cancelled.

A.8. Late Bids

Bids received by the ODOT Procurement Division after the response due date and time shall be deemed non-responsive and shall NOT be considered for any resultant award.

A.9. Legal Contract

A.9.1. Submitted bids are rendered as a legal offer and any bid, when accepted by the Procurement Division, shall constitute a contract.

A.9.2. The Contract resulting from this solicitation may consist of the following documents in the following order of precedence:

A.9.2.1. Any Addendum to the Contract;

A.9.2.2. Purchase order, as amended by Change Order (if applicable);

A.9.2.3. Solicitation, as amended (if applicable); and

A.9.2.4. Successful bid (including required certifications), to the extent the bid does not conflict with the requirements of the solicitation or applicable law.

A.9.3. Any contract(s) awarded pursuant to the solicitation shall be legibly written or typed.

A.10. Pricing

A.10.1. Bids shall remain firm for a minimum of sixty (60) days from the solicitation closing date.

A.10.2. Bidders guarantee unit prices to be correct.

A.10.3. In accordance with 74 O.S. §85.40, ALL travel expenses to be incurred by the supplier in performance of the Contract shall be included in the total bid price/contract amount.

A.11. Manufacturers' Name and Approved Equivalents

Unless otherwise specified in the solicitation, manufacturers' names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to limit competition. Bidder may offer any brand for which they are an authorized representative, and which meets or exceeds the specification for any item(s). However, if bids are based on equivalent products, indicate on the bid form the manufacturer's name and number. Bidder shall submit sketches, descriptive literature, and/or complete specifications with their bid. Reference to literature submitted with a previous bid will not satisfy this provision. The bidder shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids that do not comply with these requirements are subject to rejection.

A.12. Clarification of Solicitation

A.12.1. Clarification pertaining to the contents of this solicitation shall be directed in writing to the Contracting Officer specified in the solicitation, and must be prior to the closing date of the solicitation.

A.12.2. If a bidder fails to notify the State of an error, ambiguity, conflict, discrepancy, omission or other error in the SOLICITATION, known to the bidder, or that reasonably should have been known by the bidder, the bidder shall submit a bid at its own risk; and if awarded the contract, the bidder shall not be entitled to additional compensation, relief, or time, by reason of the error or its later correction. If a bidder takes exception to any requirement or specification contained in the SOLICITATION, these exceptions must be clearly and prominently stated in their response.

A.12.3. Bidders who believe proposal requirements or specifications are unnecessarily restrictive or limit competition may submit a written request for administrative review to the contracting officer listed on the solicitation. This request must be made prior to the closing date of the solicitation.

A.13. Negotiations

A.13.1. In accordance with Title 74 §85.5, the Oklahoma Department of Transportation reserves the right to negotiate with one, selected, all or none of the vendors responding to this solicitation to obtain the best value for the State. Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue that may mitigate the State's risks. The Department shall consider all issues negotiable and not artificially constrained by internal corporate policies. Negotiation may be with one or more vendors, for any and all items in the vendor's offer.

A.13.2. Firms that contend that they lack flexibility because of their corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered. If such negotiations are conducted, the following conditions shall apply:

A.13.3. Negotiations may be conducted in person, in writing, or by telephone.

A.13.4. Negotiations shall only be conducted with potentially acceptable offers. The State reserves the right to limit negotiations to those offers that received the highest rankings during the initial evaluation phase.

A.13.5. Terms, conditions, prices, methodology, or other features of the bidders offer may be subject to negotiations and subsequent revision. As part of the negotiations, the bidder may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the offer.

A.13.6. The requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements is in the best interest of the State Of Oklahoma.

A.14. Rejection of Bid

The State reserves the right to reject any bids that do not comply with the requirements and specifications of the solicitation. A bid may be rejected when the bidder imposes terms or conditions that would modify requirements of the solicitation or limit the bidder's liability to the State. Other possible reasons for rejection of bids are listed in OAC 260:115-7-32.

A.15. Award of Contract

A.15.1. The ODOT Procurement Division Manager may award the Contract to more than one bidder by awarding the Contract(s) by item or groups of items, or may award the Contract on an ALL OR NONE basis, whichever is deemed by the ODOT Procurement Division Manager to be in the best interest of the State of Oklahoma.

A.15.2. Contract awards will be made to the lowest and best bidder(s) unless the solicitation specifies that best value criteria is being used.

A.15.3. In order to receive an award or payments from the State of Oklahoma, suppliers must be registered. The vendor registration process can be completed electronically through the OMES website at the following link: https://www.ok.gov/dcs/vendors/index.php .

A.16. Contract Modification

A.16.1. The Contract is issued under the authority of the ODOT Procurement Division Manager who signs the Contract. The Contract may be modified only through a written Addendum, signed by the ODOT Procurement Division Manager and the supplier .

A.16.2. Any change to the Contract, including but not limited to the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procuring agency in writing, or made unilaterally by the supplier, is a breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including unauthorized written Addendums, shall be void and without effect, and the supplier shall not be entitled to any claim under this Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the resultant Contract.

A.17. Delivery, Inspection and Acceptance

A.17.1. Unless otherwise specified in the solicitation or awarding documents, all deliveries shall be F.O.B. Destination. The supplier(s) awarded the Contract shall prepay all packaging, handling, shipping and delivery charges and firm prices quoted in the bid shall include all such charges. All products and/or services to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the State at destination. "Destination" shall mean delivered to the receiving dock or other point specified in the purchase order. The State assumes no responsibility for goods until accepted by the State at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the supplier until accepted by the receiving agency. The supplier(s) awarded the Contract shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.

A.17.2. Supplier(s) awarded the Contract shall be required to deliver products and services as bid on or before the required date. Deviations, substitutions or changes in products and services shall not be made unless expressly authorized in writing by the procuring agency.

A.18. Invoicing and Payment

A.18.1. Upon submission of an accurate and proper invoice, the invoice shall be paid in arrears after products have been delivered or services provided and in accordance with applicable law. Invoices shall contain the purchase order number, a description of the products delivered or services provided, and the dates of such delivery or provision of services. An invoice is considered proper if sent to the proper recipient and goods or services have been received.

A.18.2. State Acquisitions are exempt from sales taxes and federal excise taxes.

A.18.3. Pursuant to 74 O.S. §85.44(B), invoices will be paid in arrears after products have been delivered or services provided.

A.18.4. Payment terms will be net 45. Interest on late payments made by the State of Oklahoma is governed by 62 O.S. § 34.72.

A.18.5. Additional terms which provide discounts for earlier payment may be evaluated when making an award. Any such additional terms shall be no less than ten (10) days increasing in five (5) day increments up to thirty (30) days. The date from which the discount time is calculated shall be the date of a proper invoice.

A.19. Tax Exemption

State agency acquisitions are exempt from sales taxes and federal excise taxes. Bidders shall not include these taxes in price quotes.

A.20. Audit and Records Clause

A.20.1. As used in this clause, “records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any Contract with the State, the successful bidder(s) agree any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant Contract.

A.20.2. The successful supplier(s) awarded the Contract(s) is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion and/or termination of the Contract. If an audit, litigation, or other action involving such records is started before the end of the seven (7) year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

A.21. Non-Appropriation Clause

The terms of any Contract resulting from the solicitation and any Purchase Order issued for multiple years under the Contract are contingent upon sufficient appropriations being made by the Legislature or other appropriate government entity. Notwithstanding any language to the contrary in the solicitation, purchase order, or any other Contract document, the procuring agency may terminate its obligations under the Contract if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The Requesting (procuring) Agency's decisions as to whether sufficient appropriations are available shall be accepted by the supplier and shall be final and binding.

A.22. Choice of Law

Any claims, disputes, or litigation relating to the solicitation, or the execution, interpretation, performance, or enforcement of the Contract shall be governed by the laws of the State of Oklahoma.

A.23. Choice of Venue

Venue for any action, claim, dispute or litigation relating in any way to the Contract shall be in Oklahoma County, Oklahoma.

A.24. Termination for Cause

A.24.1. The supplier may terminate the Contract for default or other just cause with a 30-day written request and upon written approval from the procuring agency. The State may terminate the Contract for default or any other just cause upon a 30-day written notification to the supplier.

A.24.2. The State may terminate the Contract immediately, without a 30-day written notice to the supplier, when violations are found to be an impediment to the function of an agency and detrimental to its cause, when conditions preclude the 30-day notice, or when the State Purchasing Director determines that an administrative error occurred prior to Contract performance.

A.24.3. If the Contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

A.25. Termination for Convenience

A.25.1. The State may terminate the Contract, in whole or in part, for convenience if the State Purchasing Director determines that termination is in the State's best interest. The State Purchasing Director shall terminate the contract by delivering to the supplier a Notice of Termination for Convenience specifying the terms and effective date of Contract termination. The Contract termination date shall be a minimum of 60 days from the date the Notice of Termination for Convenience is issued by the State Purchasing Director.

A.25.2. If the Contract is terminated, the State shall be liable only for products and/or services delivered and accepted, and for costs and expenses (exclusive of profit) reasonably incurred prior to the date upon which the Notice of Termination for Convenience was received by the supplier.

A.26. Insurance

The successful supplier(s) awarded the Contract shall obtain and retain insurance, including workers' compensation, automobile insurance, medical malpractice, and general liability, as applicable, or as required by State or Federal law, prior to commencement of any work in connection with the Contract. The supplier awarded the Contract shall timely renew the policies to be carried pursuant to this section throughout the term of the Contract and shall provide the procuring agency with evidence of such insurance and renewals.

A.27. Employment Relationship

The Contract does not create an employment relationship. Individuals performing services required by this Contract are not employees of the State of Oklahoma or the procuring agency. The supplier's employees shall not be considered employees of the State of Oklahoma nor of the procuring agency for any purpose, and accordingly shall not be eligible for rights or benefits accruing to state employees.

A.28. Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007

By submitting a bid for services, the bidder certifies that they, and any proposed subcontractors, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security and available at www.dhs.gov/E-Verify .

A.29. Compliance with Applicable Laws

The products and services supplied under the Contract shall comply with all applicable Federal, State, and local laws, and the supplier shall maintain all applicable licenses and permit requirements.

A.30. Special Provisions

Special Provisions set forth in SECTION B apply with the same force and effect as these General Provisions. However, conflicts or inconsistencies shall be resolved in favor of the Special Provisions.

B. SPECIAL PROVISIONS

B.1.0. The Solicitation is let pursuant to the Public Competitive Bidding Act of 1974, Title 61, Sec. 101 et. Seq. and accordance with Oklahoma Statute, Title 74, Section 85.12.B.3.

B.2.0. Form of Contract Agreement

B.2.1. A contract is to be used as the agreement between the Oklahoma Department of Transportation (Department) and the successful Contractor.

B.3.0. Response Documents

B.3.1. Copies

B.3.1.1 There are no plans for this project and the documents provided in the Solicitation Package are what have been made available for this project.

B.3.1.2 Vendors shall use complete sets of Response Documents obtained from the source indicated in the Solicitation for Responses. The Owner assumes any responsibility for errors or misrepresentation resulting from the use of incomplete sets of Response Documents.

B.3.1.3 The Owner, in making copies of the Response Documents available on the above terms, does so only for the purpose of obtaining bids on the work and does not confer a license or grant for any other use.

B.3.2. Addenda

B.3.2.1 Addenda will be posted on the website and sent electronically, or delivered to all who are known by the Department to have received a complete set of Response Documents from the Department.

B.3.2.2 Copies of the Addenda will be made available for inspection at the Department.

B.3.2.3 No Addenda will be issued later than seven (7) calendar days prior to the date for receipt of Responses except an Addendum withdrawing the request for Responses or one which includes postponement of the date for receipt of Responses.

B.3.2.4 Each Vendor shall acknowledge that all Addenda and Amendments were received, by signing the Addenda and Amendment Forms.

B.3.3. Bid Security

B.3.3.1 Each response must be accompanied by a certified or cashier's check, or bid bond in an amount equal to five percent (5%) of the total amount of the Response and all alternates as a guaranty that, if awarded the contract, the Vendor will execute the contract and furnish bonds and insurance as required in Section B.4.0 and of this solicitation packet. An Irrevocable Bid Letter of Credit used as bid security must be issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation on a form obtained from the Division. The State reserves the right to hold the bid security of the three (3) lowest vendors until the successful Vendor has executed contract and furnished the required bonds and proof of insurance. **No bid security is required if the total of the Base Response and Alternates is Fifty Thousand Dollars ($50,000.00) or less.**

B.3.3.2 Failure of the successful Vendor to enter into a contract within the time specified in B.3.3.3. of these instructions shall result in forfeiture to the Department of Transportation of the cost of republication of Notice to Vendors, all actual expenses incurred by reason of the Vendor's default and the difference between the low Response of the defaulting Vendor and the amount of the Response of the Vendor to whom the contract is subsequently awarded, but not to exceed the amount of said check or bond.

B.3.3.3 An extension of sixty (60) days may be given to the normal twenty (20) days permitted Vendors to return the contracts when the Vendor is having difficulty obtaining bonds. The extension may be granted by the Department only upon written request from the Vendor.

B.3.3.4 Bid security for non-binding, non-encumbered contracts where no estimated quantities for Unit Prices are given will be stated in the Response Documents. If the required bid security is not stated in the Response Documents, then Vendors should provide Bid Security in the amount of five percent (5%) of the Bid.

B.3.3.5 Bid security for this solicitation will be 5% of the total response submitted based upon the project locations covered by the Vendor's response.

B.4.0. Surety Bonds

B.4.1. Bond Requirements

B.4.1.1 All bonds are for the full value of the contract and shall be issued by a surety company authorized by the Oklahoma Insurance Department to do business in the State of Oklahoma and approved by the Division.

B.4.1.2 A bond is required for all contracts with a value exceeding Fifty Thousand Dollars ($50,000.00) that includes coverage for (1) Performance: to ensure the completion of the work in accordance with contract documents in the time stipulated; (2) Defect – to provide for defects in construction or materials for a period of one (1) year from the date of acceptance of the completed work; and (3) Payment – to assure the State is protected from the actions of subcontractors, suppliers and employees for unpaid debts of the contractor.

B.4.1.3 All bonds must be on the forms prescribed and issued by the Department and included in the solicitation material.

B.4.1.4 Irrevocable Letters of Credit may be used as a substitute for the bonds required in B.4.1.2 of these instructions. The letters of credit must be issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation on forms obtained from the Division.

B.4.1.5 Each project awarded will require the submission of a Payment Bond, Performance Bond and Statutory Defect Bond.

B.5.0. Insurance Requirements

B.5.1. The Vendor shall carry on his work in accordance with the Worker's Compensation Act (85 O.S. § 1 et seq.) of the State of Oklahoma and shall not reject the provisions thereof during the life of the contract. A certificate of coverage must be returned with the contract.

B.5.2. General and Automobile Liability Insurance in the amount of not less than $100,000/$300,000, and Property Damage Insurance of not less than $50,000/$100,000 shall be carried by the vendor during the life of the contract. Certificates of such coverage must be returned with the contract.

B.5.3. Builder's Risk Insurance is required to be provided by the Vendor.

B.6.0. Labor

B.6.1. The Vendor shall comply with all State and Federal Laws in the employment and payment of labor.

B.6.2. There is no Federal funding for this project and Davis Bacon Wages do not apply for this project.

B.7.0. Waiver of Subrogation:

B.7.1. Contractor shall be liable for any damages to the locations, equipment, supplies and materials at the project location at the three Purcell, OK locations listed in Section C.2.0. of the Solicitation Package.

B.7.2. Contractor will also be liable for damages caused by casualty occurrence, it being understood that Contractor shall repair such damages and look to its insurer for reimbursement and shall obtain from its insurer waiver of subrogation rights against the Oklahoma Department of Transportation.

B.8.0 Taxation Status

B.8.1. THE DEPARTMENT IS A TAX EXEMPT STATE AGENCY AND IS EXEMPT FROM SALES TAXES AND FEDERAL EXCISE TAXES. VENDORS ARE NOT TAX EXEMPT AND ARE REQUIRED TO PAY ANY SALES TAXES AND FEDERAL EXCISE TAXES ON ANY MATERIALS, OR OTHER PURCHASES, THAT ARISE FROM THIS PROJECT. THIS SUPERCEDES SECTIONS A.18.2, AND A.19 OF THE GENERAL PROVISIONS.

C. SOLICITATION SPECIFICATIONS

C.1.0. Definitions

C.1.1. The Department or Division is the Oklahoma Department of Transportation, Procurement Division.

C.1.2. Response Documents include the Solicitation for Responses, these Instructions for Vendors, the Response Forms, other sample response forms, and any addenda issued prior to the receipt of Responses.

C.1.3. Addenda are written or graphic instruments issued by the Department prior to the execution of the contract, which modify or interpret the Response Documents by additions, deletions, clarifications, or corrections.

C.1.4. A Response is a complete and properly signed proposal to do the work or designated portion thereof for the sums stipulated therein, submitted in accordance with the Responding Documents.

C.1.5. The Base Response is the sum stated in the Response for which the Vendor offers to perform the work described in the Response Documents as the Base Response, to which work may be added or from which work may be deleted for sums stated in the Alternate Responses.

C.1.6. An Alternate Response (or Alternate) is an amount stated in the Response to be added or to be deducted from the amount of the Base Response if the corresponding change in the work as described in the Responding Documents is accepted.

C.1.7. The Consultant is the Licensed Architect, Licensed Landscaped Architect, Registered Professional Engineer, or Registered Land Surveyor under contract to the State of Oklahoma for the purpose of designing and monitoring the construction of the project.

C.1.8. A Unit Price is an amount stated in the Response as a price per unit of measurement for materials or services as described in the Response Documents or in the proposed contract documents.

C.1.9. A Vendor or Contractor is a person or entity that submits a Response.

C.1.10. The Owner is the State of Oklahoma represented by the Department of Transportation.

C.1.0. Scope of Project:

C.1.1. This solicitation is for the removal and replacement of windows and doors at three ODOT locations in Purcell, OK.

C.2.0. Location of Project:

C.2.1. The project locations are as follows:

C.2.1.1 Purcell Residenty, 23404 SH-74, Purcell, OK 73080; and

C.2.1.2 Purcell Interstate & McClain County Maintenance Yard, 2614 SH-74 South, Purcell, OK 73080 (same address, different facilities).

D. EVALUATION

D.1.0. Evaluation Criteria

D1.1. This Solicitation is a Request for a Proposal (RFP). Contractor responses for the purposes of this Solicitation are considered Responses and not Bids. The RFP will be evaluated on the following criteria: Cost, Experience, and Compliance with Specification(s).

D.1.2. To be considered for award, each Vendor should have three (3) current references complete the Reference Questionnaire Form (Appendix D) and include the completed forms with the Response. A form is included with the solicitation document package. References should be for projects of similar scope and size and for non-ODOT projects.

D.2.0. Negotiation

D.2.1. The Department of Transportation may negotiate with vendors to get the best price, value, and terms. Once the Department of Transportation identifies the candidates, negotiations may take place through the Oklahoma Department of Transportation Purchasing Office. The Oklahoma Department of

Transportation considers all costs and business terms negotiable. The Department of Transportation reserves the right to make an award to the lowest, responsive bid if it is deemed in the best interest of the Department.

D.3.0. Construction Period:

D.3.1. Construction period for this project is Two to Three Calendar Days per location from the issuance of a Notice to Proceed. There will be some coordination between the Construction Contractor and the Technology Contractor.

E. INSTRUCTIONS TO VENDOR

E.1.0. Important Information

Important Dates	
Weds., May 27, 2020, by 3:00 P.M.	Written Questions
Tuesday, June 2, 2020, by 3:00 P.M.	Responses to Questions Posted on Website
Thursday, June 11, 4:00 P.M. CST	Solicitation Closes

E.1.1. Non-Mandatory Pre-Bid Conference

E.1.1. Non Pre-Bid Conference has been scheduled for this project.

E.2.0. Non-Mandatory Site Visit

E.2.1. A Non-Mandatory Site Visit has not been scheduled for this project. The awarded Contractor shall complete a site visit prior to ordering and materials or beginning work.

E.3.0. Bidding Procedure

E.3.1. Modification, Withdrawal or Cancellation of Responses

E.3.1.1 Vendors may withdraw, change and resubmit their Responses by appearing in person prior to the time set for the closing of the Response period. Upon presenting proper picture identification to Cheryl Emerson, CPO, the sealed Response will be returned to the Vendor. A new or changed sealed Response will be accepted until the time designated for the closing of the response period.

E.3.1.2 Bid Security, if any is required, shall be in an amount of five percent (5%) of the Response as modified. Bid Security will be based upon the total response of the project locations for which there is a Response.

E.3.2. Submission of Responses

E.3.2.1 All the copies of the Response, the Bid Security, if any, and any other documentation required to be submitted with the Response shall be enclosed in a sealed, opaque envelope. The Response shall be addressed and delivered to the Oklahoma Department of Transportation, Purchasing Division, 200 NE 21st St, Room 3C6, Oklahoma City, OK 73105. Place on the outside of the envelope the name of the Vendor, the Solicitation #, the words “Sealed Response” and the date set for Opening.

E.3.2.2 The Vendor shall assume full responsibility for timely delivery at the location designated for receipt of Responses.

E.3.2.3 Responses received after the opening of Responses will not be considered and will be returned unopened to the Vendor.

E.3.2.4 ***Oral, telephonic, or telegraphic or other forms of electronic Responses are invalid and will not receive consideration.***

NOTE:As of 03/18/2020 and until further notice, due to concerns about the possible spread of the coronavirus on packages, bids should be submitted to ODOT via email. Electronic bids will still be considered sealed bids and the attachments will not be opened until bid closing. Electronic bids should be emailed to the Buyer handling the solicitation. The Subject Line of the Email should include the Solicitation Number and Closing Date & Time. This supercedes Section E.2.2.1 and E.2.2.4 of the Solicitation Package.

E.4.0. Consideration of Responses

E.4.1. Responses will be opened publicly immediately after the time set for receipt of Responses at the Department of Transportation, 200 NE 21st St, Oklahoma City, OK 73105. This Solicitation is an RFP and not a Request for Bid therefore only the names of the responding Vendors will be made public at the time of the closing. Vendors may receive a copy of the response tabulation on the solicitation website after a Contract has been awarded.

F. CHECKLIST

_____ Completed Responding Bidder Information page

_____ Completed and Signed Non-Collusion Certification page

_____ Completed and Signed Pay Item Response Form (Appendix A) and Response Form (Appendix B)

_____ Completed and Signed Addenda and Amendment Receipts

_____ Completed Bid Security (for Response Greater Than $50,000.00)

_____ Provide Sales Tax Permit # on Responding Bidder Information

_____ Include explanation if claiming Oklahoma Sales Tax Permit Exception in response package

_____ Read Section E.1.1 regarding no scheduled Non-Mandatory Pre-Bid Conference

_____ Read Section E.1.2 regarding no scheduled Non-Mandatory Site Visit

_____ Read Section G.2 regarding communication during Solicitation Period

_____ Read B.7.1 regarding Taxation Status

_____ Read A.2.4 which related to the completion of the Pay Item Response Sheet regarding corrections made to the Pay Item Sheet

_____ Include mandatory documents in the Vendor Response envelope

G. OTHER

G.1.0 Communications During the Solicitation Process

G.1.1 Communication with anyone but the Buyer may result in a Vendor not be allowed to bid on this project.

G.2.0 Questions

G.2.1 Questions regarding this solicitation are due no later than Wednesday, May 27, 2020 by 3:00 P.M. Questions must be writing and are to be sent to the CPO's attention listed on the solicitation. Questions must have the Section and Item Number that the Vendor is questioning. Questions received after the deadline will not be answered.

G.3.0. Vendor's Representations and Prequalification

G.3.1. Each Vendor, by making a response, represents that:

G.3.2. The Vendor has read and understands the Response Documents and the Response is made in accordance therewith.

G.3.3. The Vendor has visited the site, is familiar with the local conditions under which the work is to be performed and has correlated observations with the requirements of the proposed contract documents.

G.3.4. The submitted Response is based upon the materials, systems and equipment required by the Response Documents without exception.

G.3.5. Pre-qualification of Vendors is not required but three (3) references (on completed reference questionnaire forms) must be included with the Response.

G.4. Forms

G.4.1. Appendix A – Solicitation Request Form

G.4.2. Appendix B – Scope of Work

G.4.3. Appendix C – Bond Form

G.4.4 Appendix D – Reference Questionnaire

G.4.5. Appendix E – Payment Bond

G.4.6. Appendix F – Performance Bond

G.4.7. Appendix G – Statutory Defect Bond

H. PRICE AND COST

H.1. Pricing Submission

H.1.1. Vendors are to submit pricing using the Solicitation Request Form (Appendix A).

SOLICITATION REQUEST

APPENDIX A

☐ Request for Quote ☒ Request for Proposal ☐ Request for Bid

Dispatch via Print

Request Quote ID.	Date	Buyer	Page
3450004910	12/06/2019	Cheryl Emerson	1
Payment Terms	**DateTime Quote Open**	**Closing**	
0 Days	03/17/2020 11:14 AM	06/11/2020 04:00 AM	

Requisition Number Reference: From Req ID - 3450032101

Department of Transportation

Dept of Transportation
Procurement Branch
200 NE 21st Street
Oklahoma City OK 73105

VENDOR INFORMATION

Supplier: NAME
Address:_____
Address:_____
City:_____ST:____ ZIP:_____

Ship To: DEPT OF TRANSPORTATION
SEE BELOW
OK

Bill To: Dept of Transportation
Div 3 HQ
PO Box 549
Ada OK 74821

Line	Cat CD / Item # - Descr		Qty.	UOM	Supplier Responses Unit Cost	Ext. Cost
1	72101500 /	Removal & Installation of Doors & Windows	1	JA	_____	_____

Windows & Doors to be removed & replaced at three ODOT facilities located in Purcell, OK

Scope of work, including pictures, is attached.

Addresses for each location listed below:
Purcell Residency- 23404 SH-74, Purcell, OK 73080
Purcell Interstate & McClain Co Yard- 2614 SH-74 South, Purcell, OK 73080 (same address, different facilities)

Freight Terms: FOB DEST **Ship Via:** COMMON

Lead Time: _____

Supplier Remarks:

COMMENTS:
The Solicitation is let pursuant to the Public Competitive Bidding Act of 1974, Title 61, Sec. 101 Et. Seq. and in accordance with Oklahoma Statute, Title 74, Section 85.12.B.3.

This Solicitation is a Request for Proposal (RFP). Contractor responses for the purposes of this Solicitation are considered Responses and not Bids.
.
Agency Req. No. 20-3-0150
Requisition No.: 3450032101
.
Fund: 310
ODOT Expense Account: 712300
Object Code: 462100
.
Project #: B-J3-4678(004)
JP No: 34678(04)
.
Bill To: 03000B
Department of Transportation
PO Box 549
Ada, OK 74820
.
2019/12/13 Approved by Secretary of Transportation Tim J. Gatz

This is NOT AN ORDER
All returned quotes and related documents must be identified with our request for quote Number.

Authorized Signature

SIGN HERE

Scope of work for Purcell Residency, Purcell Interstate, and McClain County Yard.

Purcell Residency:

Remove and replace 1 door and jamb with steel commercial walk door w/ glass and new hardware.

(See attachment 1.)

Remove and replace 1 double doors and jamb with steel commercial walk door w/ glass and new hardware.

(See attachment 2.)

Remove and replace 2 doors and jambs with aluminum doors w/ glass and new hardware.

(See attachments 3 and 4.)

Remove and replace 11 windows with sliding window with insulating glass.

(Approximate size is 34" wide by 36" long. See attachment 5.)

Address for the Purcell Residency is 23404 SH-74, Purcell, OK, 73080

Purcell Interstate:

Remove and replace 4 doors and jambs with steel commercial walk doors w/ glass and new hardware.

(See attachments 6, 7, 8 and 9.)

Remove and replace 2 windows with white single hung windows with insulating glass.

(Approximate size is 47" wide by 47" long. See attachments 10 and 11.)

Address for Purcell Interstate is 2614 SH-74 South, Purcell, OK, 73080

McClain County Yard:

Remove and replace 4 doors and jambs with steel commercial walk doors w/ glass and new hardware.

(See attachments 12, 13, 14 and 15.)

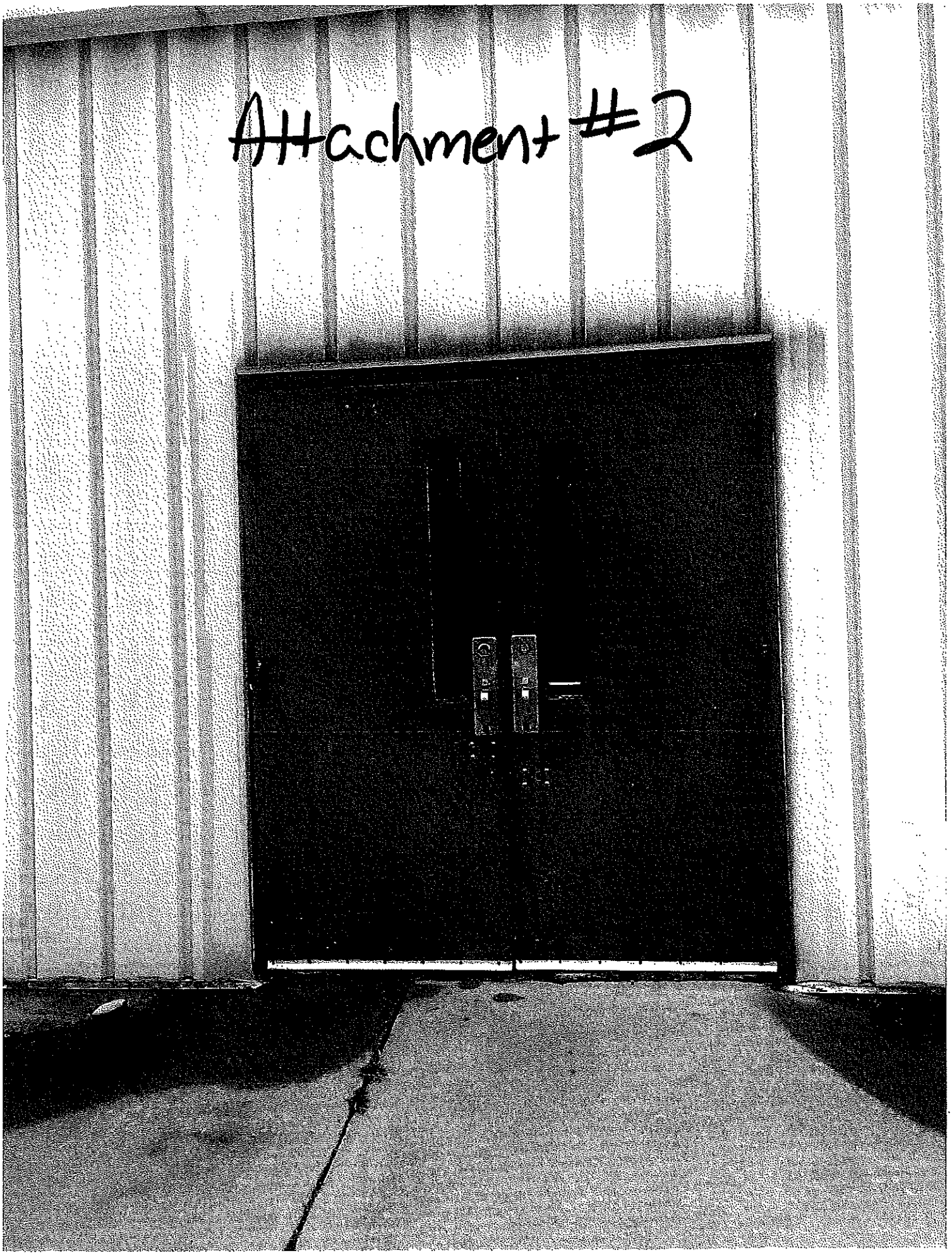
Remove and replace 2 windows with white single hung windows with insulating glass.

(Approximate size is 47" wide by 47" long. See attachments 16 and 17.)

Address for McClain County Yard is 2614 SH-74 South, Purcell, OK, 73080

Attachment #1

Attachment #2

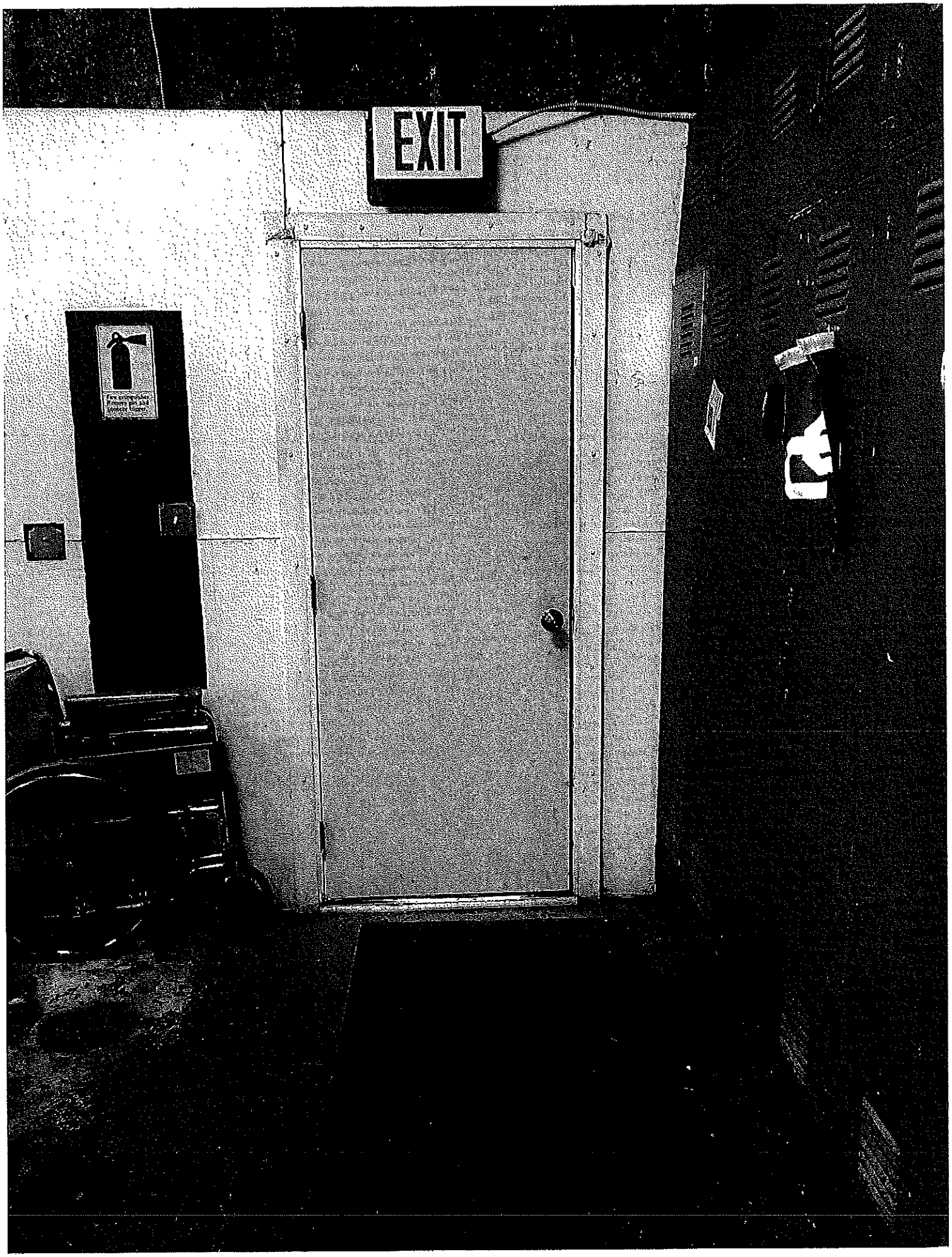


Attachment #4

Attachment #5

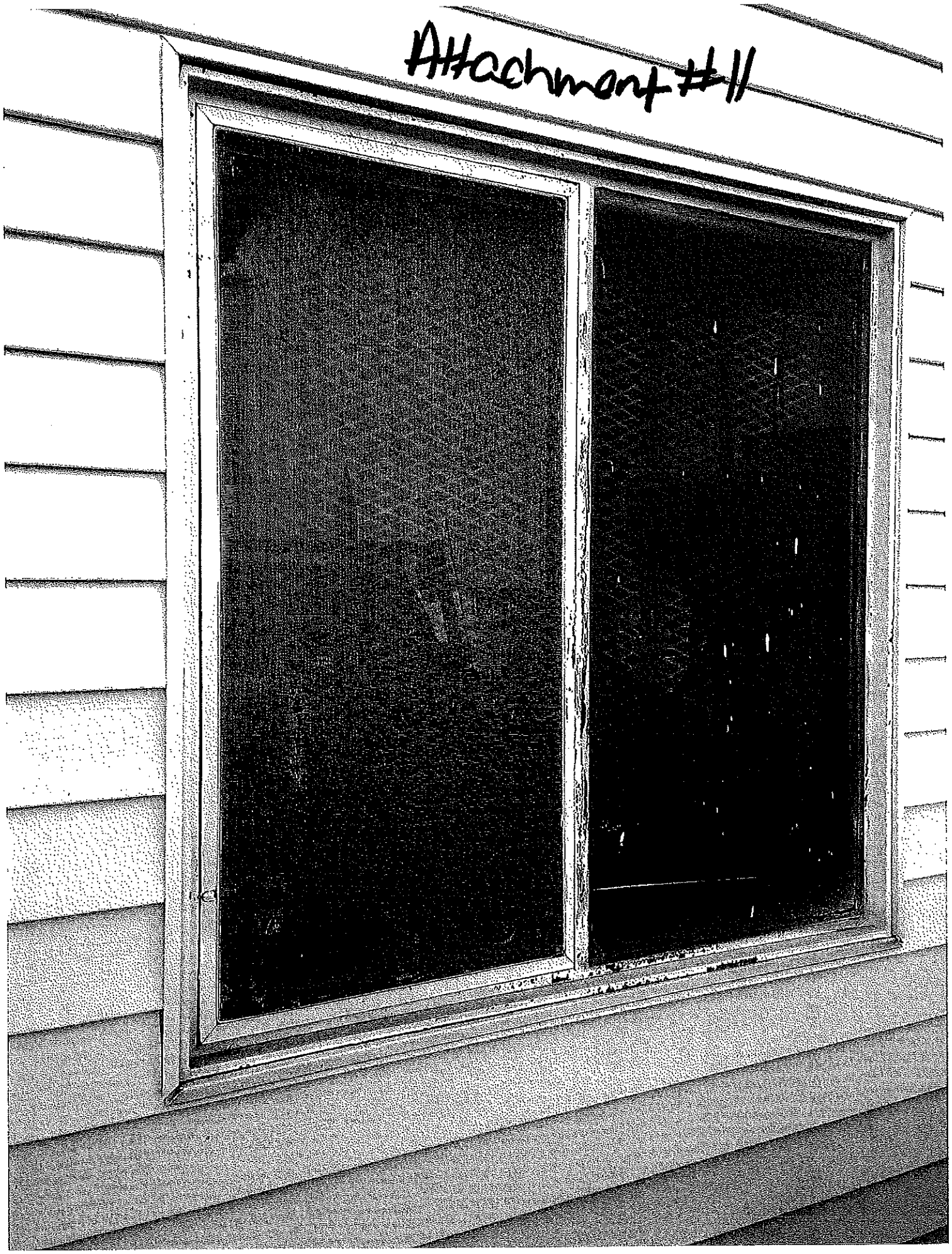
FIRE
EXTINGUISHER
EXIT
NO
SMOKING

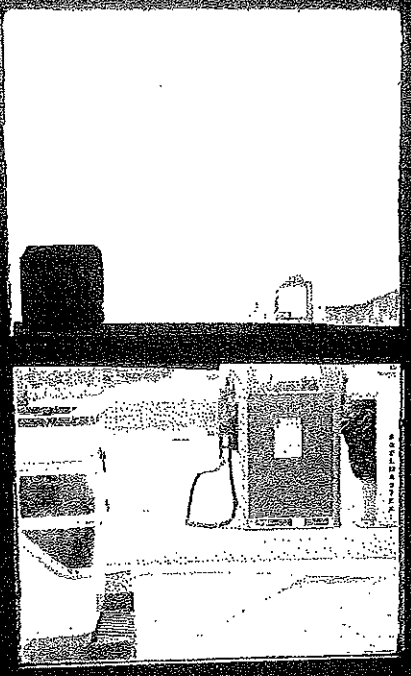
Attachment #8


EXIT

Attachment #10

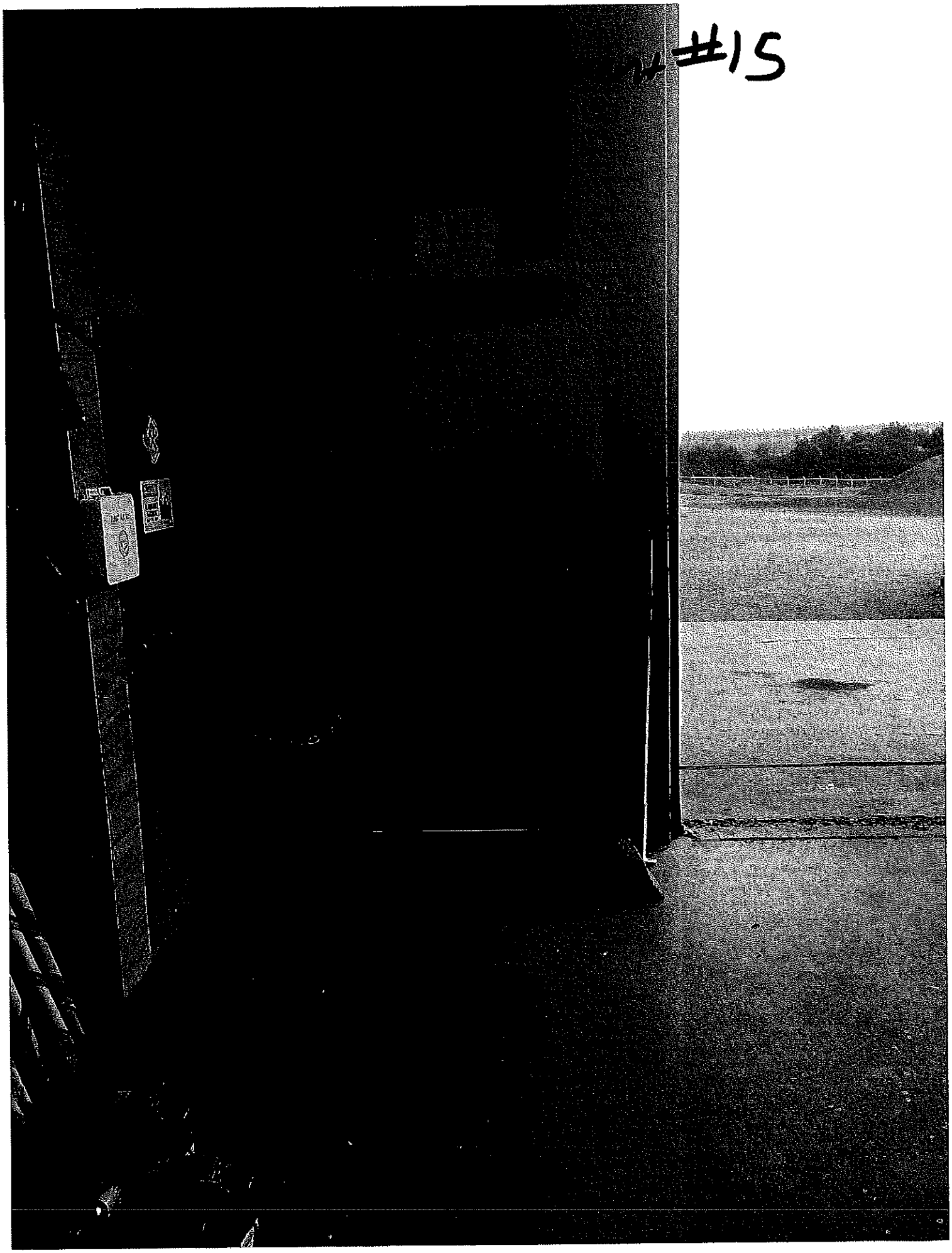
Attachment #11

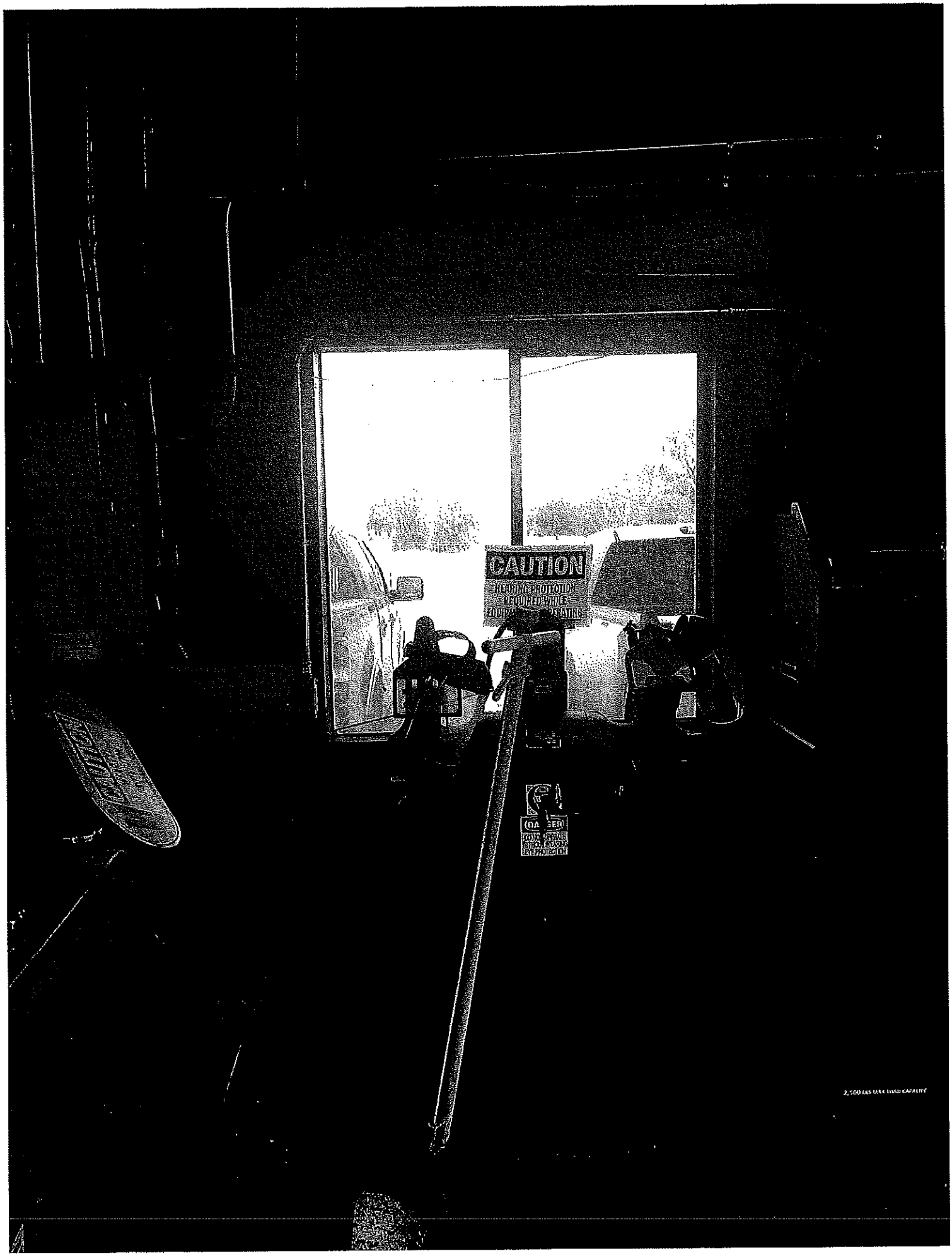




Attachment #14

#15




CAUTION
DANGER

Attachment #17

Response Form

Bidder Company Name: _____

Address: _____

City/State/Zip: _____

Telephone #: _____ FEI: _____

1. The undersigned, being familiar with the local conditions affecting the cost of the work, and the Contract Documents, including the Solicitation for Bids Notice, General Conditions, Special Conditions for Construction Contracts, Specifications, Plans and Addendum (if any), on file at the Oklahoma Department of Transportation, 200 NE 21st St, Room 3C6, Oklahoma City, OK 73105 and posted at the solicitation website; And in accordance with the provisions thereof, herby proposes to furnish all labor, materials and equipment necessary for the following, in accordance with the plans and specifications for Solicitation # 3450004910 for the sums listed.
2. In submitting the bid, it is understood that the right is reserved by the State of Oklahoma to reject any and all bids, and it is agreed that this bid may not be withdrawn for a period of thirty (30) days after the date of closing of same. Work is to start within ten (10) days after receipt of Work Order Notice to Proceed.
3. If the bid exceeds $50,000.00, it shall be accompanied by a certified check or cashier's check made payable to the State of Oklahoma, or a Corporate Surety Bond of a surety company duly authorized to do business in the State of Oklahoma, in the sum of five percent (5%) of the total amount of the bid (unless otherwise specified in the bid documents) which is submitted as bid security, conditioned upon the Bidder's entering into a contract with the State of Oklahoma in accordance with the terms of the bid. It is agreed that said bid security of the successful bidder will constitute liquidated damages, and not a penalty for the failure of the bidder to enter into a contract in accordance with this bid.
4. We propose to complete this work within Two to Three Calendar Days for each location- from the date of the receipt of the Notice to Proceed.

Signature: _____

Reference Questionnaire

This form should be completed by three (3) current references for projects of similar scope and scale and not ODOT Projects. Completed reference forms should be returned with bid documents in order to be considered for award of this project.

Reference Completed for: _____

Completed by (Company Name): _____

Completed by (Your Name): _____ Phone #: _____

Signature: _____ Date: _____

Questions

1. What was the scope of the project you obtained from the vendor?

2. What year(s) were the services performed (example: 2009-2011)?

3. What would you do differently the next time you undertake a similar contract?

4. Explain why you would, or would not, do business with this vendor again.

Using a scale where (0 is Poor, 2 is Fair, 4 is Good, and 5 is Excellent), please complete:

1. How would you rate the quality of the vendor's performance? _____
2. How would you rate the responsiveness of this vendor? _____
3. Did the vendor complete the work within the required timeline? _____
4. Did the vendor maintain communication with you? _____
5. Did the vendor keep you informed of problems that occurred? _____
6. Did you experience any problems with invoicing/billing accuracy? _____
7. Were any problems experienced dealt with to your satisfaction? _____
8. Was this vendor flexible in meeting your requirements? _____

Solicitation # 3450004910 *Appendix E*

Payment Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable. This document may not be altered or modified.

Contractor (Name & Address):

Surety (Name & Principal Place of Business):

Owner: Purchasing Division
Oklahoma Department of Transportation
State of Oklahoma
200 NE 21st St, Room 3C6
Oklahoma City, Ok 73105

Construction Contract

Date:

Amount: $

Description (Name & Location):

Bond:

Date (Not earlier than construction contract date):

Amount: $

Contractor (Representative)

Signature: _____

Name & Title:

Surety (Representative)

Signature: _____

Name & Title

Agent or Broker:

_____

Name and Title:
(Name, Address & Phone Only)

Owner's Representative:

_____

Name and Title:
(Architect, Engineer or other party)

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

2. With respect to the Owner, this obligation shall be null and void if the Contractor:
   2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
   2.2 Defends, indemnifies and holds harmless the owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment of labor, materials, or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4. The Surety shall have no obligation to Claimants under this Bond until:

   1.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

   1.2 Claimants who do not have a direct contract with the Contractor:
   4.2.1 Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
   4.2.2 Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and

4.2.3 Not having paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under the Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

   6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

   6.2 Pay or arrange for payment of any undisputed amounts.

7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond subject to the Owner's priority to use the funds for the completion of the work.

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

10. No suit or action shall be commenced by a claimant under this Bond other than in a court of competent jurisdiction or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. 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.

11. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice of Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

12. 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 here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent Is that the Bond shall be construed as a statutory bond and not as a common law bond.

13. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

14. DEFINITIONS

14.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of the Bond shall be to include without limitation in the terms “labor, materials or equipment” that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor’s subcontractors, and all other items for which a mechanic’s lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

14.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

14.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract.

Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable. This document may not be altered or modified.

Contractor (Name & Address):

Surety (Name & Principal Place of Business):

Owner: Purchasing Division
Oklahoma Department of Transportation
State of Oklahoma
200 NE 21st St, Room 3C6
Oklahoma City, Ok 73105

Construction Contract

Date:

Amount: $

Description (Name & Location):

Bond:

Date (Not earlier than construction contract date):

Amount: $

Contractor (Representative)

_____

Signature

_____

Name & Title: Agent or Broker
(Name, Address, & Phone Only)

Surety (Representative)

_____

Signature

_____

Owner's Representative
(Architect , Engineer or other party)

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

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligations under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3. The Surety's obligation under this bond may arise after:
   3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than ten (10) days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor's Default; and

   3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than seven (7) days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

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

4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions.
   4.1 Arrange for a Contractor, with consent of the 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 the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the 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 the

Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the 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:

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

4.4.2 Deny liability in whole or in part and notify the Owner citing reasons therefor.

5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fourteen (14) days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

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

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the 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 performances or non-performance of the Contractor.

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

8. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

9. 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 provisions in this Bond conflicting with said statutory or legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

10. DEFINITIONS

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

10.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

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

10.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract.

Statutory Defect Bond

61 O.S. 1991, Section 113 (B)(3)

Know all men by these presents;

That _____, as Principal and _____ a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Oklahoma, as surety, are held and firmly bound unto the State of Oklahoma in the penal sum of _____ Dollars ($_____) in lawful money in the United States of America, said sum being equal to one hundred percent (100%) of the Contract price, for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, executors, administrator, trustees, successors, and assigns jointly and severally, firmly by these presents:

The condition of this obligation is such that:

Whereas, said Principal entered into a written contract with the State of Oklahoma, dated _____, for _____.

ODOT Solicitation # 3450004910 all in compliance with the plans and specifications; therefore, made a part of said contract and on file in the Department of Transportation, Purchasing Division, 200 NE 21st St, Room 3C6, Oklahoma City, OK 73105.

Now therefore, if said Principal shall pay or cause to be paid to the State of Oklahoma all damage, loss, and expense which may result by reason of defective materials and/or workmanship in connection with said work, occurring within a period of one (1) year from and after the acceptance of said project by the State of Oklahoma; then this obligation shall be null and void, otherwise to be and remain in full force and effect.

It is expressly agreed and understood by the parties hereto that no charges or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

In witness whereof, the said Principal has caused these present to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers, and the said Surety has caused these present to be executed in its name and its corporate seal to be hereunto affixed by its attorney in fact, duly authorized so to do, the day and year set forth below.

Date this _____ day of _____, 20_____.

Principal: _____
By (Title):

Attest: _____

Surety: _____
(Attorney in fact)
By:
Name:
Address:
City: State:
Zip Code: Telephone #: