

SCHEDULE OF ITEMS

Company Name: _____

Signature *Date*

Print Bidder's Name and Title

Paper bids must be signed in pen and ink. Signatures shall be original. Stamped or copied signatures will not be accepted.

Section 1) Region(s) for General ITS Work

Check each region in which the Bidder is bidding to perform work in.

Region 1 Region 2 Region 3 Region 4 Region 5

Section 2) Traffic Control and Mobilization to Region		
Bidders must bid every item in Section 2 applicable to the regions they are bidding in. If bidding for Specialized RWIS and/or Specialized WIM, Bidders must bid every item.		
Items	Units	Unit Price
652.365 Work Zone Traffic Control - Two-way road	Day	
652.365 Work Zone Traffic Control - Intersection, 4 way or less	Day	
Mobilization to Region 1	Day	
Mobilization to Region 2	Day	
Mobilization to Region 3	Day	
Mobilization to Region 4	Day	
Mobilization to Region 5	Day	

Section 3) General ITS Work and Parts		
Bidders must bid every item in Section 3 applicable to the regions they are bidding in. If bidding for Specialized RWIS and/or Specialized WIM, Bidders must bid every item.		
Items	Units	Unit Price
Parts Markup	Percent	
General ITS Technician/Electrician Work	Hour	
General ITS Priority Work	Hour	

Section 4) Road Weather Information Systems (RWIS)		
Bidding on Section 4 is optional. Bidders are bidding to perform work in all 5 Regions.		
Items	Units	Unit Price
Specialized RWIS Technician/Electrician Work	Hour	
Specialized RWIS Priority Work	Hour	

Section 5) Weigh in Motion Systems (WIM)		
Bidding on Section 5 is optional. Bidders are bidding to perform work in all 5 Regions.		
Items	Units	Unit Price
Specialized WIM Technician/Electrician Work	Hour	
Specialized WIM Priority Work	Hour	

Section 6) Additional Tasks		
Bidding on Section 6 is optional Bidders are bidding to perform work in the regions identified in Section 1).		
Items	Units	Unit Price
Trenching	Foot	
Pole Setting	Pole	

The Department may award contracts to all responsive, responsible bidders that have the ability to respond in a timely manner and are experienced/qualified and meet “Contractor requirements”.

- The Bid must be Delivered to the precise location and by the precise time set forth in the Notice to Contractors or any applicable Bid Amendment.
- Required unit prices must be provided and legible.
- Do not make handwritten changes to the bid documents.

Scope of Work

General Intelligent Transportation System (ITS): General ITS Work will consist of installation, maintenance, general electronic troubleshooting, and basic electrical repair, such as voltage and resistance testing, for variable message boards, radar activated speed signs, spread spectrum radios, DSRC, cell modems, video cameras, phone systems, pbx, and pots, or other similar equipment. The Contractor may select Regions to bid on or may operate statewide. The Department current has more than 150 ITS units located statewide and intends to install more during the period of this contract. Attachments 1a and 1b outline expected maintenance work by unit type, current ITS unit locations, and available locations for off-road maintenance of mobile units.

Road Weather Information Systems (RWIS): RWIS Work will consist of annual calibration, repair, and maintenance of RWIS equipment. The Department currently has less than 20 RWIS stations located statewide, but may employ more or replace existing stations throughout the period of this Contract. Attachments 1a and 1b outline expected maintenance work and current RWIS unit locations.

Weigh in Motion (WIM): WIM work will consist of annual calibration, repair and maintenance of existing in-road WIM equipment, such as Kistler sensors and in-road induction loops, and maintenance activities to extend the operational life of existing induction loops. The Department currently has 11 WIM stations located statewide, but may employ more or replace existing stations throughout the period of this Contract. Attachments 1a and 1b outline expected maintenance work and current RWIS unit locations.

Additional Tasks: Additional Tasks work will consist of trenching or pole setting. This item is designed to cover all additional mobilization, labor, and equipment expenses associated with these tasks. Labor rates **will not** be paid alongside these rates. Mobilization **will be paid in addition** to these rates. These bid items **do not** include the price of conduit or the price of poles, which will be charged under the parts markup bid item. Attachments 1a and 1b outline expected maintenance work; however, it is most likely that this work will be completed for unplanned work. Current ITS equipment locations are also included in Attachments 1a and 1b.

Regions 1 through 5 are as shown on the maps included with the bid documents.

Contract Administrator

The Contract Administrator for this Contract will be:

Name: Luke Lorrimer
Title: Transportation Engineer II
Address: MDOT Maintenance & Operations
16 State House Station Augusta, Maine 04333-0016

The Contractor shall contact the Contract Administrator, in order to coordinate the Work. The Contractor shall submit invoices to the Contract Administrator as described in this Contract.

General Requirements

All Work must be performed by or under a Master Electrician, Traffic Signal Electrician, or Low Energy Electrician. The electrician responsible for the Work, may be an employee of the Contractor or an employee of a subcontractor hired by the Contractor. All licensure shall be active for Work completed in the state of Maine.

Work will be on an as needed basis. The Contractor shall respond to a call or email for an assignment within 2 business days unless the Department has determined that the Assignment is a priority and specifies a quicker response time. The Contractor shall conduct initial troubleshooting within one week of the date the assignment was made unless otherwise agreed to by the Department or in priority cases. For Priority Work, Contractors shall respond to a call or email within 12 hours of receipt. Priority Work shall be started within 24 hours of response and completed within 48 hours. In cases where Priority Work cannot be completed within 48 hours, the Contractor and Department will agree upon a reasonable time-frame for completion.

All materials and performance of Work shall meet National Electrical Code, Institute of Transportation Engineers (ITE), and Illuminating Engineering Society of North America (IES) Standards that are current at time of service. All materials and performance of Work needed to complete this Contract shall be governed by and be in conformity with the Standard Specifications (March 2020 edition) and the Standard Details (March edition). Traffic Control shall be in conformance with the most recent edition of the Manual on Uniform Traffic Control Devices (MUTCD). All Work will be completed in accordance with the Department's Specifications, Plans and, Best Management Practices for Erosion and Sedimentation Control Manual (MDOT BMP Manual).

Work covered by this Contract consists of providing all labor and furnishing all equipment, supplies and other applicable tools to perform the services stated above. The Department may provide equipment as necessary; however, the Contractor shall supply all tools, equipment (if not supplied by the Department), and Personnel Protective Equipment needed to perform job duties and comply with applicable safety guidelines and procedures.

As Work is assigned, the Contractor shall respond to and perform work in the time specified in the assignment. Should the response not meet the Department's requirements in the Assignment, the Department may request services from another Contractor.

The Contractor shall perform Work as agreed-upon. The Contractor is solely responsible for the planning and execution of Work so that it is completed within the agreed-upon time.

Unless otherwise authorized or directed by the Contract Administrator, the Contractor shall not provide service on holidays.

The Contractor shall furnish the Department with a minimum of one cellular phone number which will be available for contact 24/7 for emergency situations.

The Contractor shall provide erosion control as deemed necessary by the Department and as directed by the MDOT BMP Manual. Erosion Control will be incidental to the contract.

The Contractor shall provide Traffic Control (including all necessary materials and equipment) for shoulder or lane closures on two-way roads, with or without flaggers, as specified in Federal Highway Administration's, Manual of Uniform Traffic Control Devices for Streets and Highways (MUTCD). The Department will provide Traffic Control on divided highways or Interstates, with the exception of shoulder closures. Any work near guardrails requires lane closure.

Contractor Safety – General Requirements

The Bidder shall have a current, applicable Safety Plan on file with the Department or shall submit, prior to Contract award, an acceptable, current Safety Plan or Project and Site Specific Safety Plan to the Department which identifies and addresses job hazards of the expected contract work and complies with all applicable federal, State, and local laws governing safety including all applicable laws and regulations of Occupational Safety and Health Administration (OSHA). Contractor employees completing Work for the Department shall operate according to applicable OSHA 1910 safety requirements and shall complete training, as required by the rules, to safely perform job functions.

The Bidder's Project and Site Specific Safety Plan shall address the specific activities or tasks that require protection and establish the procedures that are to be followed to minimize the hazard. Specific statements which describe both what action is to be taken and how it is to be performed are preferable. The plan shall address the following items which include, but are not limited to:

1. Personal Protective Equipment
2. Materials Handling - Cranes and Rigging
3. Vehicular Access to the Work Zone
4. Work Zone Safety and Traffic Control
5. Fall Prevention/Fall Protection
6. Scaffolding/Ladders/Aerial Lifts

7. Electrical
8. Lock Out Tag Out
9. Hazard Communication
10. Excavation/Trenching
11. Hand Tool Safety
12. Welding & Cutting
13. Fire Prevention and Protection
14. Emergency Action Plans and Response
15. Housekeeping
16. COVID-19

Project Specific Emergency Planning

The Contractor shall ensure that essential police, fire, rescue, and ambulance services have reasonable and timely access to and through the Project Limits. The Contractor shall, as appropriate, contact all emergency service providers in the area, discuss potential impacts on emergency operations (including water supply for fire suppression), and minimize any negative impacts.

Contractor Requirements and Qualification

The Contractor shall employ or subcontract with one or more full time Licensed Maine Master Electrician, Licensed Maine Traffic Signal Electrician, or Licensed Maine Low Energy Electrician to be assigned to this contract. The electricians assigned to the contract shall have and maintain licenses for the duration of the contract. All licensure shall be active for Work completed in the state of Maine.

The Bidder shall be able to comply with the Contract Requirements, be able to deliver according to the contract schedule, and have a history of satisfactory performance.

The General ITS Technician/Electrician shall have a minimum of 2-years of experience working on general ITS devices or shall train to become adequately competent with ITS devices. They shall have the ability to work effectively with minimum supervision and adhere to (1) a comprehensive Lockout/Tagout policy, (2) all electrical codes, and (3) OSHA requirements. The General ITS Technician/Electrician shall have the knowledge and willingness to do all of the above.

The Specialized RWIS Technicians/Electricians shall meet the requirements of the “General ITS Technicians/Electrician.” In addition, the technicians/electricians shall have a minimum of 2 years of experience working on RWIS stations or shall agree to obtain equivalent education/experience and have proper expertise.

The Specialized WIM Technicians/Electricians shall meet the requirements of the “General ITS Technicians/Electrician.” In addition, the technicians/electricians shall have a minimum of 2 years of experience working on WIM stations and be certified by the manufacturer to install the piezo sensors. If an applicant does not have the above listed certification and/or

experience, the agreement to obtain the equivalent education/experience during the period of the contract may be acceptable for Contractors deemed to have proper expertise.

In order to be considered for the award of this contract, the Bidder and key employees that will be assigned to the Work in this Contract shall have successfully completed projects of similar size and scope and have sufficient experience in the maintenance of ITS Devices. Said experience ideally includes at least three (3) projects of equal or greater complexity than the work required by this Contract completed by the Bidder in the last five (5) years; however, the agreement to train and gain experience/certifications may be acceptable for Contractors deemed to have proper expertise.

Materials and Warranty for Parts

The State will supply parts and materials or reimburse the Contractor for procuring the parts and materials, as stated in the *Method of Measurement and Basis of Payment* Section of this Contract, for maintenance and repair of the ITS Devices.

The Contractor will warranty or assure that the manufacturer warranties the replacement or repair of any part that fails to function as intended due to workmanship or material defects within the first 60 months from the date of delivery.

Wage Rates

The applicable wage rates shall be stated in the Assignment Letter. Federal and State wage rates apply, if stated when work is assigned. Maine State wage rates apply, if stated when work is assigned. If the wage rate is not specified when work is assigned, or two or more wage rate apply, the highest rate shall prevail for each classification.

Method of Measurement and Basis of Payment

Travel Time and Equipment Expenses

Travel time for technicians, electricians, bucket truck or van usage, and all other related travel expenses will be included in the Mobilization bid items. Bidders who are assigned work will be paid the mobilization fee for each day. For projects that are in multiple Regions in one day, the highest Region amount will be paid.

Overnight Stays

Overnight meals, lodging and other incidentals will be paid at the Per Diem rate for the State of Maine. Current rates for meals and lodging are located at the following web site: <https://www.maine.gov/osc/travel/per-diem>. Payment will be full compensations for meals, overnight lodging, or other incidentals costs. **All overnight stays must be pre-approved by the Contract Administer.**

Hourly Work

Hourly Work items, including General ITS Technician/Electrician, Specialized RWIS Technician/Electrician, Specialized WIM Technician/Electrician, and Priority Work items will be measured by the number of hours authorized for payment, to the nearest ½ hour. The accepted quantities of Work will be paid for at the contract unit price by the Hour for each Hour Work is performed. The normal work-schedule will be agreed upon by the Contractor and the Contract Administer prior to beginning Work on a Work Assignment.

Priority Work

Priority Work rates will be paid for hours worked within the 48 hours allowed for completion of such work. In cases where another emergency schedule is agreed upon, Priority Work rates will be paid for all hours worked within that period unless the schedule spans longer than 168 hours (7 days) after initial Contractor response. If an agreed upon schedule spans longer than 168 hours after initial Contractor response, Priority Work rates will be paid for all hours worked up to that point.

Materials

Materials incorporated in the Permanent Work, parts for repair and maintenance and parts used to perform maintenance and repair will be supplied by the State or procured by the Contractor. The Contractor will receive the Actual Cost of Materials including freight and Delivery charges (but excluding any sale or use tax) plus the Parts Markup percentage bid by the contractor in the Schedule of Items. There shall be no markup on markups. Most items are exempt from Maine Sales tax. The Contractor shall bid in accordance with the Maine statutory exemption from sales tax.

The Department may supply the Contractor with an inventory of small or often-replaced parts that can be used in cases where repair can be completed immediately after diagnosis or in cases where repair can be completed on unforeseen technical issues.

Training

Field training may be provided by the Department; however, time spent training will be paid at ¼ the hourly rate for the Work being trained for. In-class training expenses or time will not be compensated by the Department. Training provided by the Department precludes safety training, which shall be provided by the Contractor.

Maintenance of Traffic

Traffic Control will be paid for at the contract unit price per Day. Payment will be full compensation for the Traffic Control Supervisor, flaggers, approach signs, work area signs, drums, cones, panel markers, barricades, arrow boards etc. and maintenance thereof including

the setting up and taking down of lane closures and traffic control as many times as necessary, and all other incidentals required.

Maintenance of signs includes: replacing devices damaged, lost, or stolen, and cleaning and moving as many times as necessary throughout the life of the contract, regardless whether the work areas or projects are geographically separated or not separated.

Failure by the contractor to follow the Contract’s Special Provisions related to traffic control, and/or the Standard Specifications Section 652, and/or The Manual on Uniform Traffic Control Devices (MUTCD), and/or the Contractors own Traffic Control Plan will result in a violation and a reduction in payment as shown below

Amount of Penalty Damages per Violation

1 st	2 nd	3 rd & Subsequent
Loss of Per Day Payment	\$250	\$500

The Department’s Resident or any other representative of The Department reserves the right to suspend the work at any time and request a meeting to discuss violations and remedies. The Department shall not be held responsible for any delay in the work due to any suspension under this item.

There will be no extra payment for this pay item after the expiration of contract time.

Task Orders

For each project that requires diagnosis, after diagnosis, and prior to any repairs, the Contractor shall supply the Department with a written Task Order including an estimate of project expenses. The Department will pay for costs associated with diagnosis and may approve or decline work based on the included estimate.

For each project that requires diagnosis, or in situations where unforeseen needed repairs were found, the Contractor shall call the Department with the findings prior to leaving the site. If repairs can be completed by the Contractor while onsite, the Department may approve the work prior to receiving a Task Order.

Invoicing

The Department will pay based upon prices bid and the invoices provided by the Contractor and approved by the Department. Invoice should include the pay item, quantity of hours for hourly rates with the Operator’s name, dates of service, and a copy of the invoices for materials procured.

The Contractor shall submit an invoice and supporting documentation to the Contract Administer within 31 days following the completion of the assignment. Once the Contract Administer confirms acceptance of services, the Contractor shall invoice the Department for

authorized work performed. Invoices need to be broken down and in accordance with Contract Terms and Conditions. Payment of the invoice will be remitted to the Contractor in accordance with the Contract Terms and Conditions.

The Department may withhold payments claimed by the Contractor on account of:

- A. Incomplete, inaccurate or incorrect Invoices
- B. Damage to a third party,
- C. Claims filed or reasonable evidence indicating probable filing of claims,
- D. Failure of the Contractor to make payments to Subcontractors or for materials or labor,
- E. Regulatory non-compliance or enforcement,
- F. Defective Work,
- G. Damages for Non-Conforming Work,
- H. All other causes that the Department reasonably determines negatively affect the State's interest.

Upon receipt and approval of the itemized invoice submitted by the Contractor, the Assignment will be considered Physically Complete and Finally Accepted.

Within 30 days of the acceptance of the invoice, the Contractor shall provide the All Bills Paid Letter and Certified Payroll Reports confirming compliance to Section 104.3.8 Wage Rates and Labor Laws. If the Contractor fails to resolve issues and deliver Closeout Documentation within the 30 Days provided in Section 107.9.5, the Department may provide a final notice informing the Contractor in writing that unless the Contractor Delivers all Closeout Documentation within 30 Days of the date of Receipt of final notice, the Contractor shall be in Default under the Contract. The Contractor shall become ineligible to Bid on any Department Contracts. The Department may then pursue all remedies provided by the Contract or by law, including withholding Final Payment. For a related provision, see Section 102.1.1 - Eligibility to Bid - Basic Requirements.

Bidding Requirements

Bidders shall ensure that all information required herein is submitted with this bid. Inaccurate information or failure to provide all completed and required information may result in the bid being disqualified as non-responsive. The Department reserves the right to reject any or all bids.

Bidder's shall include all items listed in the "Bidding Instructions" and the information requested. The Schedule of Items are to be used for the bid price. Additional information requested in this bid should be typed or printed. The bidder's name should appear on all attachments submitted.

Bidders are asked to respond to Section 1 and 2 below.

Section I – Bidder’s Qualifications and Experience

Bidders must submit the following with their bid (no more than 3- 4 pages):

1. A statement indicating their ability to respond in a timely manner
2. An overview of three (3) successfully completed projects of similar size and scope that demonstrates sufficient experience in the maintenance and repair of ITS Devices, as applicable.
3. If limited or no ITS experience (including WIM and RWIS, as applicable), a statement agreeing to train on ITS equipment and describing the Contractor’s overall expertise.
4. An overview of the Contractor’s staff and their qualifications. The Contractor shall be required to submit evidence of employees with a Master Electrician’s license.
5. A description of locations where Work under this Contract will be performed (As a contractor, what counties, portions of counties or Department Regions are you bidding to perform work in? Bidders are not required to work statewide.)

Section II – Costs

Bidders shall complete and submit the Schedule of Items, including the unit price bid for each item. No variations or alterations should be made on the Schedule of Items.

Post-Bid, Pre-Award Instructions

The Department may ask for clarification or expansion on any of the information submitted with the bid. Bidders shall ensure that all information required herein is submitted. Provision of inaccurate information or failure to provide all completed and required information may result in the Bidder being determined to be “Not Qualified” or disqualified as non-responsive.

The Bidder shall have 3 days to submit additions and clarifications. The Bidder will have no additional opportunity to submit or clarify information, unless directed by the Department. The Department will not provide an opportunity for the Bidder to meet to present evidence.

Post-Bid Safety Instructions

If a submittal of a safety plan is required (see *Contractor Safety – General Requirements* above), the Department will notify the Apparent Successful Bidder of the required submittal of the Contractor’s Safety Plan or the Project and Site Specific Safety Plan and the Bidder shall submit two copies or an electronic copy to the Department within seven (7) days of the notice or the Department will reject the bid as non-responsive.

The Bidder may be required to provide its OSHA 300 Log and its Experience Modification Rate provided by applicable insurance carrier.

Within 14 days, the Department will review the Apparent Low Bidder's Safety Plan. The Department will review a Project and Site Specific Safety Plan to evaluate if the Bidder has a reasonable understanding of job hazards of the expected contract work, has determined preventive measures to overcome these hazards and understands that the work is to be conducted in compliance with this special provision, Contract requirements and all applicable Federal, State, and local laws governing safety including all applicable laws and regulations of OSHA. The Department reserves the right to communicate in writing with Bidders, if needed, to obtain additions to and/or clarification of information contained in the submittals received. Review by the Department, comments by the Department, or any failure to review or comment, shall not absolve the Contractor of its responsibility to develop and implement a Safety Plan in accordance with the Contract, or to shift any responsibility to the Department. The Bidder shall have 3 days to submit additions, changes and clarifications. Following this 3 (three) day period, the Bidder will have no additional opportunity to submit, modify or clarify information. The Department will not provide an opportunity for the Bidder to meet. If the Department and the Apparent Successful Bidder agree, an extension beyond the 3 days may occur and in such case, there shall also be an equivalent or greater extension beyond the 30 days of the Bid and Bid Prices specified in Standard Specification Section 103.4 Notice of Intent to Award and the Bid remains viable. In no case shall these extensions change the specified Contract Completion Date.

Based on these submissions, the Department will make one of the following determinations:

1. Qualified - The Contractor has satisfied the post-bid, pre-award Safety Plan requirements, however, the Contractor may still be required to make minor revisions to the Safety Plan or Project and Site Specific Safety Plan prior to starting on site work.
2. Not Qualified - Bidder is not qualified to properly carry out the terms of the Contract and/or the submission does not meet specifications and accepted standards and is not acceptable, as determined by the Department.

There is no Appeal process and the determination of "Not Qualified" is final. The Department will reject the bid as non-responsive, and the Award process will proceed without the unqualified Bidder.

Basis of Award and Assignments

Upon receipt of the pre-award submittals, the Department will review the submissions and determine if the submitted evidence or information satisfies the Department requirement that the bidder is qualified to properly carry out the terms of the Contract.

The qualifications submitted will be checked for general conformance with the concept of the project and compliance with the requirements set out in the Contract Documents. This review does not modify the Contractor's duty to comply with the Contract documents.

Within 14 days, the Department will review the project specific safety plan, the Traffic Control Plan and the SEWPCP for completeness, conformity with Federal and State requirements,

Contract provisions, applicable laws and regulations of Occupational Safety and Health Administration (OSHA), the current edition of the MUTCD, and Department policy and procedures. The Department reserves the right to communicate in writing with Bidders, if needed, to obtain additions to and/or clarification of information contained in the submittals received. Review by the Department, comments by the Department, or any failure to review or comment, shall not absolve the Contractor of its responsibility to develop and implement the Contractor's Safety Plan or the Project and Site Specific Safety Plan, the TCP or the SEWPCP in accordance with the Contract, or to shift any responsibility to the Department.

A Bidder may be determined to be Qualified in accordance with this Special Provision, and still may need to make minor adjustments to the one or more of the plans submitted in order to meet specifications and/or address Department comments. The determination of qualified does absolve the Contractor of the responsibility to submit plans which comply with applicable specifications.

Based on these submissions, the Department will make one of the following determinations:

1. Qualified - The Contractor has satisfied the post-bid, pre-award qualification requirements and demonstrated to the Department's satisfaction that it is responsible, can meet the Contractor Requirements set forth in this contract, and is qualified to perform this type of work. The Contractor may still be required to make minor revisions to one or more of the plans submitted prior to starting on site work.
2. Not Qualified - Bidder is not qualified to properly carry out the terms of the Contract and/or the submission does not meet specifications and accepted standards and is not acceptable, as determined by the Department.

There is no Appeal process and the determination of "Not Qualified" is final. The Department will reject the bid as non-responsive, and the Award process will proceed without the unqualified Bidder.

The Department will notify the Bidder of its determination in writing. If a determination of "Not Qualified" is rendered, the notice will set forth reasons to the extent practical. Such reasons may include the following:

- a. Not meeting contract Contractor Requirements
- b. Insufficient experience.
- c. No Safety Plan or Project and Site Specific Safety Plan or an unacceptable Safety Plan or Project and Site Specific Safety Plan.
- d. Default(s) or termination(s) on past or current Contracts.
- e. Failure on past or current Contracts to pay or settle all bills for labor, Materials or services; to comply with directives of the Department, to fulfill warranty obligations, or to provide Closeout Documentation.
- f. Failure to comply with directives of the Department on past or current Contracts.
- g. "Below Standard" performance as determined from the Department's Contractor's Performance Rating process.
- h. Failure to accept an Award of a Contract made by the Department.
- i. Failure to provide information requested by the Department in a timely manner.

- j. Debarment, suspension or a denial of prequalification or “award of contract” by any federal, State, or local governmental procurement agency or the Contractor’s Agreement to refrain from Bidding as part of the settlement with any such agencies or any of the reasons contained in Section 102.02 of the “Rules Regarding Debarment of Contractors,” Maine Department of Transportation Register 17-229, Chapter 102 (October 2, 1985).
- k. Failure to demonstrate ability to do work to the satisfaction and at the sole discretion of the Department.
- l. Safety Record, Environmental Record, Civil Rights, or Equal Opportunity Record significantly below industry standards.
- m. Making materially false, deceptive, or misleading Statements or omissions, whether or not under oath, regarding a claim on prior Contracts or on the Contractor’s Prequalification Application or the Post-Bid Qualifications submittals.
- n. Serious misconduct that the Department reasonably determines will substantially and adversely affect the cost, quality, or timeliness of Work, or the safety of workers or the public, any deceptive, evasive, or fraudulent statements or omissions contained in the Application, made or omitted at any interview or hearing, or otherwise made to or omitted from the Department; or any other substantial deficiencies in experience or conduct that are clearly below industry standards and that clearly demonstrate in the sole discretion of the Department that the Contractor is “Not Qualified.”

The Department may award contracts to all responsive, responsible bidders that have the ability to respond in a timely manner and are experienced/qualified and meet “Contractor Requirements and Qualifications.”

The dollar amount of this Contract is in no way a guarantee that the Department will assign Work for any or all of the total amount.

The Department and each responsive Bidder may enter into a Contract that will obligate each Contractor to perform work at prices listed by the bidder in the Schedule of Items depending upon the needs of the Department according to the following terms. Work will be assigned under these contracts according to the following process: The Department will estimate the Contractor with the lowest cost for the particular Work (the “Assignment”) based on the individual unit bid prices for the total quantity of estimated work in that Assignment. **The Department will offer to assign the Work to the adequately qualified Contractor with the lowest cost for the particular Work (the “Assignment”),** that indicated willingness to work in the assignment location, with the ability to perform the Work, and that Contractor will have first option to perform work. Contractors shall have two business days to accept an Assignment unless otherwise stated in the offer to assign work. Contractors are not required to accept work. If Contractors do not respond to requests for assignments in the allotted time, The Department shall proceed as if the Contractor has declined the assignment. If this Contractor is unable to accept the Assignment, respond in the necessary and appropriate time for the Assignment, complete the Assignment in the allotted time, or does not have the equipment, experience or ability to complete the Assignment, then the Contract Administrator will contact an adequately qualified firm that is estimated to have the next lowest assignment cost to see if that Contractor

will accept the Assignment and subsequent Contractors in ascending order of the amount of their bids, until a Contractor accepts the Assignment. The Department will estimate for a particular Assignment based on the individual unit bid prices for the total quantity of estimated work in that Assignment. The Department and the Contractor shall mutually agree to quantities and schedules prior to the Contractor beginning the Assignment. Contractors are not required to accept all Assignments offered.

Upon mutual agreement, an Assignment Letter stating the nature of the Work and any time constraints will then be sent to the successful Contractor. The Work described in this Assignment Letter will become part of the Contract.

The accepted quantities will be paid for in accordance with Special Provisions. **The dollar amount of this Contract does not guarantee that the Department will assign Work for any or all of the total amount.** The regions in which bids are received and accepted, the planned and anticipated unplanned maintenance, previous maintenance expenditures, and anticipated growth will be used to determine the original contract amount. The following are estimated maximum total payments that will be allowed in each region (to compare to total contract amount); these amounts would only be required in emergency weather/technological/personnel situations. Total work per region can be estimated by reviewing attachments 1a and 1b of Appendix B.

Region 1 - \$150,000
Region 2 - \$150,000
Region 3 - \$50,000
Region 4 - \$150,000
Region 5 - \$50,000

Not all ITS maintenance work will be done under these Contracts. These Contracts will not include Work that falls under Capital Work Plan, Program projects, or separately advertised projects. Work may also be done by the Department. Emergency Work may be done by other means not associated with this solicitation.

Default and Termination of Assignment and/or Contract

The Department may Terminate an Assignment or a Contract if conditions in the following sections are met.

Default and Termination of Assignment – Work Performance

The Contractor is in Default of the Assignment if the Contractor:

- A. Fails to adhere to obligations of the Assignment or Contractor Requirements,
- B. Fails to answer or reply to the Department within 24 hour of emergency notification of work,
- C. Fails to provide sufficient labor, Equipment, or Materials to assure the timely Completion of the Assignment,

- D. After work on assignment has commenced, fails to continuously work on assignment without Department approval,
- E. Performs Defective Work neglects or refuses to repair or correct Unacceptable Work when directed by the Department,
- F. Continues to perform Work after the Department directs that Work be stopped.
- G. Performs Defective Work neglects or refuses to repair or correct Unacceptable Work when directed by the Department,
- H. Discontinues the Work without the Department approval,

If Default and Termination of Assignment occurs, the Department may issue a written warning. If the Contractor subsequently fails to work when required or performs it in an unsatisfactory manner, or fails to meet other contractual requirements, the Department reserves the right to immediately terminate the Contract by written Notice of Termination. In this event, the Department may complete the work with its own forces or enter into an Assignment Letter with another entity for the Completion of the Work, or use such other methods as in the opinion of the Department are required for to complete the Assignment. If a party under an assignment letter contract with the Department continually refuses Assignment Letter work, their contract shall be subject to termination.

Default and Termination of Assignment – Safety Concerns

Failure by the Contractor to perform the Work in compliance with their submitted Safety Plan, Federal and State requirements, Contract provisions, applicable laws and regulations of OSHA when required or to substantially meet other contractual requirements will be considered a violation and may result in the following actions:

All Incidents: The Contractor will immediately eliminate all unsafe conditions brought to the Contractor's attention by the Department or any other representative of the Department. The Department reserves the right to suspend the work at any time and request a meeting to discuss violations and remedies. The Department shall not be held responsible for any delay in the work due to any suspension under this item.

1st Incident: If the Contractor has previously received a verbal warning for the same or similar unsafe conditions or does not take corrective action immediately upon receipt of verbal warning, the Department will issue a written warning.

2nd Incident: The Department may (A) give written Notice of Default to the Contractor and immediately terminate the Contract by written Notice of Termination, or (B) take prosecution of the Work away from the Contractor without violating the Contract. Such Contractor will be prohibited from submitting a Bid for the Work in the event that the Work is re-advertised. Further, the Department may refuse to accept any Bid from the Contractor on any Project for a period of two years from the date of such refusal. The Department may then take any action that the Department determines is in the best interest of the Department including re-advertising the Work.

Default and Termination of Contract

The Contractor is in Default of the Contract if the Contractor:

- A. Fails to provide labor, Equipment or Materials specified in the Assignment or Contract,
- B. Fails to perform the Work with sufficient labor, Equipment, or Materials to assure the timely Completion of the Assignment,
- C. Fails to perform Work when specified in the Assignment.
- D. Performs Defective Work neglects or refuses to repair or correct Unacceptable Work when directed by the Department;
- E. Becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency that could affect the Work in any way,
- F. Discontinues the Work without the Department approval,
- G. Continues to perform Work after the Department directs that Work be stopped,
- H. In any other manner, fails to perform the Work in Substantial Conformity with any material provision of the Contract.

Failure by the Contractor to perform the Work when required or to substantially meet other contractual requirements will result in the following actions:

- A. 1st Incident: The Department will issue a verbal warning. If the Contractor does not take corrective action for a non-emergency Assignment within 2 days of receipt of the verbal warning, or within 24 hours of the verbal warning for an emergency Assignment, the Department will issue a written warning.
- B. 2nd Incident: The Department will issue a written warning.
- C. 3rd Incident: The Department may (A) give written Notice of Default to the Contractor and immediately terminate the Contract by written Notice of Termination, or (B) take prosecution of the Work away from the Contractor without violating the Contract (C) for if an emergency will count as 1st incident and no time to cure.

If Default occurs, the Department may give a written Notice of Default to the Contractor. Failure to give a Notice of Default is in no way a waiver by the Department of any provision of the Contract. In this event, the Department may enter into an Agreement with another entity for the Completion of the Work or use such other methods that the Department deems are required for the Completion of the Assignment in an acceptable and timely manner. The Department will pay for all Accepted items of Work as of the date of Termination at agreed upon prices.