



ADDENDUM #4

DOWD JUNCTION TO MINTURN TRAIL, PHASE 1 August 25, 2009

**FEDERAL AID PROJECT NO.: ES3 006A-043
FEDERAL PROJECT CODE: 16945**

Bidders shall acknowledge receipt of this Addendum #4 on the Bid Form. Failure to do so may render the Bidder's bid non-responsive. The following changes, additions, or deletions shall be made to the Bid Specifications and Construction Plan Set as indicated, and all other conditions shall remain the same.

1. Pages Missing from CDOT Revised Standard Special Provisions

A potential bidder notified the Town of Minturn that pages were missing from the CDOT Revised Standard Special Provisions. The pages missing are attached to this addendum and include:

Disadvantaged Business Enterprise – Definitions and Requirements, Issued August 14, 2009, 14 pages

Minimum Wages, Colorado, for ARRA Projects, U.S. Department of Labor Decision Numbers CO20080014 and CO20080015, MOD 9, Highway Construction, Statewide, Issued August 07, 2009, 9 pages

2. Sales Tax Exemption

The contract documents are hereby amended to allow for a sales tax exemption of all items purchased for the work being performed for the Town of Minturn. The Town of Minturn, owner of the project is a sales tax exempt government agency. The Town Treasurer will provide the town sales tax exemption information to the contractor awarded the work. All local, state and federal laws governing use of the sales tax exemption number shall apply.

3. Revised Bid Form

Page 1 of the Bid Form is attached and is revised to provide an additional space to acknowledge receipt of Addendum #4.

BID FORM

Revised August 25, 2009 under Addendum #4

PROJECT IDENTIFICATION:

**DOWD JUNCTION TO MINTURN TRAIL PHASE I
FEDERAL AIDE PROJECT NO.: ES3 006A-043
FEDERAL PROJECT CODE: 16945**

THIS BID IS SUBMITTED TO:

Town of Minturn
PO Box 309
302 Pine Street
Minturn, Colorado 81645

1. The undersigned BIDDER proposes and agrees, if this bid is accepted, to enter into an Agreement with OWNER in the form similar to that included in the Contract Documents and acceptable to Town of Minturn to complete all work as specified or indicated in the Contract Documents for the contract price and within the contract time indicated in this bid and in accordance with the Contract Documents.
2. BIDDER accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of bid security. This bid will remain open for thirty (30) days after the day of bid opening. BIDDER will sign the Agreement and submit the contract security and other documents required by the Contract Documents within fifteen (15) days after the date of OWNER's Notice of Award.
3. In submitting this bid, BIDDER represents, as more fully set forth in the Agreement, that:

(a) BIDDER has examined copies of all the Contract Documents and of the following addenda:

<u>Date</u>	<u>Number</u>
_____	_____
_____	_____
_____	_____
_____	_____

Receipt of all of which is hereby acknowledged and also copies of the Advertisement or Invitation to Bid and the Instructions to Bidders;

(b) BIDDER has examined the CDOT forms included in the Bid Documents and has attached the following forms in their submittal:

CDOT FORM 606, Anti-Collusion Affidavit
CDOT FORM 714, Underutilized DBE Bid Conditions Assurance

(b) BIDDER has examined the site and locality where the work is to be performed, the legal requirements (federal, state, and local laws, ordinances, rules, and regulations), and the conditions

August 14, 2009

**DISADVANTAGED BUSINESS ENTERPRISE
DEFINITIONS AND REQUIREMENTS**

NOTICE

This is a standard special provision that revises or modifies CDOT's *Standard Specifications for Road and Bridge Construction*. It has gone through a formal review and approval process and has been issued by CDOT's Project Development Branch with formal instructions regarding its use on CDOT construction projects. It is to be used as written without change. Do not use modified versions of this special provision on CDOT construction projects, and do not use this special provision on CDOT projects in a manner other than that specified in the instructions unless such use is first approved by the Standards and Specifications Unit of the Project Development Branch. The instructions for use on CDOT construction projects appear below.

Other agencies that use the *Standard Specifications for Road and Bridge Construction* to administer construction projects may use this special provision as appropriate and at their own risk.

Instructions for use on CDOT construction projects:

Use this special provision on all projects.

(a) *Definitions and Procedures*

For this project, the following terms are defined:

1. Disadvantaged Business Enterprise (DBE). A small business concern that is certified as being:
 - A. At least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
 - B. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
 - C. Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:
 - (1) Any individual whom the Colorado Department of Transportation Office of Certification or the City and County of Denver Division of Small Business Opportunity (DSBO) finds to be a socially and economically disadvantaged individual.
 - (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - c. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - e. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - f. "Women", which means females of any ethnicity;
 - g. "Other," which means any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such time as the SBA designation becomes effective and/or individuals who have been determined to be socially and economically disadvantaged based on the criteria for social and economic disadvantage.
2. Underutilized DBE (UDBE). A firm which meets the definition of DBE above and is eligible to meet the contract goal as defined in the project special provision titled "Contract Goal."

3. DBE Joint Venture. Joint venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

A DBE joint venture must be certified as a joint venture by the Business Programs Office at CDOT.

- A. For those projects set-aside for bidding by UDBEs only; all of the partners in a joint venture must be UDBEs and certification of the joint venture will not be required.
 - B. For all projects other than the set-aside projects discussed in A. above; one of the partners in a joint venture must be a DBE. The DBE percentage of the joint venture will be determined at the time of certification.
4. Contract Goal. The goal for UDBE participation that the Department determines should appropriately be met by the successful bidder. Contract goal will be the percentage stated in the invitation for bids and in the project special provisions. Successful bidders that are awarded a Contract based on good faith efforts shall continue to make good faith efforts through the period of time that work on the project is in process, to provide for additional UDBE participation toward meeting the goal.
 5. Good Faith Efforts. It is the obligation of the bidder to make good faith efforts to meet the contract goal prior to the bid opening. The bidder can demonstrate that it has done so either by meeting the contract goal or by documenting good faith efforts made. CDOT will evaluate only the good faith efforts made by the bidder prior to the bid opening. Any UDBE Participation submitted on Form 715 that exceeds the participation submitted on Form 714 will be accepted as additional UDBE participation, but will not be counted as Good Faith Efforts and will not exempt a bidder from fulfilling the Good Faith Efforts requirements. The apparently successful bidder shall report all efforts made including but not limited to the efforts required on Form 718. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain UDBE participation sufficient to meet the DBE contract goal.

The bidder may submit information on its UDBE successes in the preparation of this bid and its successes on CDOT projects during the three preceding calendar years. These successes shall be documented in Section IV of the Form 718. Other factors the bidder considers relevant to its past performance in meeting CDOT UDBE contract goals shall also be documented in Section IV of the Form 718.

In determining whether a bidder has made good faith efforts, CDOT will consider the performance of the apparently successful bidder in meeting UDBE contract goals over the preceding three calendar years. This will include performance at the time of Contract bid and at the time of Contract close. CDOT will use this information to help assess the bidder's ongoing level of commitment in performing good faith efforts to meet project goals. CDOT will also take into account the performance of other bidders in meeting the contract goal. For example, when the apparently successful bidder fails to meet the contract goal, but others meet it, CDOT will reasonably raise the question of whether, with additional reasonable efforts, the apparently successful bidder could have met the goal. The greater the difference between the contract goal and the apparently successful bidder's DBE commitments on the Form 714, the greater the level of Good Faith Efforts expected by CDOT. If the apparently successful bidder fails to meet the goal, but meets or exceeds the average UDBE participation obtained by other bidders, CDOT will view this, in conjunction with other factors, as evidence that the apparently successful bidder may have made adequate good faith efforts.

CDOT will accept verifiable comments from persons that have specific information pertaining directly to the efforts made by the bidder to reach the contract goal on this project. CDOT will consider these comments as part of its good faith effort analysis prior to issuing its decision regarding whether good faith efforts were employed by the apparently successful bidder. To be considered during CDOT's good faith effort analysis for the project, such comments must be submitted by letter, fax, or email. Comments must be sufficiently detailed, and must be received by CDOT within seven calendar days after the bid opening. Written comments should be submitted to CDOT based on the contact information listed at <http://www.dot.state.co.us/EEO/ContactUs.htm>.

The Business Programs Office, with the DBE Liaison's Approval, will notify the apparently successful bidder by fax regarding any deficiencies in the documentation and effort demonstrated by the bidder. This fax will include the Business Programs Office's recommendation to the DBE Liaison Officer regarding whether the good faith effort demonstrated was sufficient for the bidder to be regarded as responsible. If the bidder may be regarded as responsible but with minor deficiencies in its good faith effort, the bidder will be expected to correct any deficiencies noted prior to bidding on other CDOT projects.

Within five working days of being informed by the Business Programs Office that it is not a responsible bidder because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration from the Good Faith Efforts (GFE) Committee, which will not have played any role in the original determination that the bidder did not document sufficient good faith efforts. The bidder should make this request to:

Good Faith Efforts Committee
Fax: 303-757-9019
Phone: 303-757-9234

As part of this reconsideration, the bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts prior to the bid opening to do so. The bidder will also have the opportunity to meet in person with CDOT's GFE Committee to discuss the issue of whether it met the goal or made adequate good faith efforts prior to the bid opening to do so. The Business Programs Office, with the DBE Liaison's Approval, will send the bidder a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts prior to the bid opening to do so.

The GFE Review Committee will make a recommendation to the DBE Liaison Officer. The DBE Liaison Officer will review the good faith efforts documentation and the recommendation of the GFE Review Committee, determine whether the required efforts are sufficient for award and notify the Chief Engineer of this finding. The Chief Engineer will make the final decision regarding award. There will be no administrative appeal of the Chief Engineer's decision. The Chief Engineer may pursue award of the Contract to the next lowest responsible bidder based upon this decision.

If award of the Contract is made based on the Contractor's good faith efforts, the goal will not be waived. The Contractor will be expected to continue to make good faith efforts as described below throughout the duration of the Contract.

To demonstrate Good Faith Efforts to meet the contract goal throughout the performance of the Contract, the Contractor shall document to the CDOT Region Civil Rights Professional the steps taken on Form 205. For each subcontract item not identified for DBE participation on Form 718, steps the Contractor must take include but are not limited to the following:

- A. Seek out and consider UDBEs as potential subcontractors.
 - (1) Contact all UDBEs for each category of work that is being subcontracted.
 - (2) Affirmatively solicit their interest, capability, and price quotations.
 - (3) Provide equal time for all prospective subcontractors to prepare their proposals.
 - (4) Provide at least as much time to UDBEs in assisting them to prepare their bids for subcontract work as to non UDBE subcontractors.
 - (5) Award subcontracts to UDBEs where their quotations are reasonably competitive with other quotations received.
- B. Maintain documentation of UDBEs contacted and their responses.
 - (1) Maintain a list of UDBEs contacted as prospective subcontractors.

- (2) Maintain thorough documentation of criteria used to select each subcontractor.
- (3) Where a UDBE expressed an interest in a subcontract and made a quotation, and where the work was not awarded to a UDBE, furnish a detailed letter explaining the reasons.

(b) Certification as a DBE by the Department

1. Any contractor may apply to the Colorado Department of Transportation Office of Certification or the City and County of Denver Division of Small Business Opportunity (DSBO) for status as a DBE. Application shall be made on the USDOT's Uniform Certification Application Form as provided by these agencies for certification of DBEs. Application need not be made in connection with a particular bid. Only work contracted to UDBE contractors or subcontracted to UDBEs and independently performed by UDBEs shall be considered toward contract goals as established elsewhere in these specifications.
2. It shall be the Contractor's responsibility to submit applications so that the certifying agency has sufficient time to render decisions. The certifying agency will review applications in a timely manner but is not committed to render decisions about a firm's DBE status within any given period of time.
3. The Department will publish an online directory of DBE contractors, vendors and suppliers for the purpose of providing a reference source to assist any bidder in identifying DBEs and UDBEs. Bidders will be solely responsible for verifying the Certification of DBEs they intend to use prior to submitting a proposal. The directory is updated daily by the certifying agencies and is accessible online at http://www.dot.state.co.us/app_ucp/.
4. Bidders shall exercise their own judgments in selecting any subcontractor to perform any portion of the work.
5. Permission for a DBE/non-DBE joint venture to bid on a specific project may be obtained from the Business Programs Office based on information provided by the proposed joint venture on Form 893, "Information For Determining DBE Participation When A Joint Venture Includes A DBE". Joint applications should be submitted well in advance of bid openings.

(c) Bidding Requirements

1. All bidders shall submit with their proposals a fully executed Form 714 including a list of the names of their UDBE subcontractors to meet the contract goal. The apparently successful bidder shall submit a fully executed Form 715 for each UDBE used to meet the contract goal (sample attached) no later than 4:00 p.m. on the third work day after the date of bid opening to the Business Programs Office in the Center for Equal Opportunity. Form 715 may be submitted by FAX, at Fax number (303)757-9019, with an original copy to follow. If the contract goal is not met, the apparently successful bidder shall submit a completed Form 718 and corresponding evidence of good faith efforts no later than 4:00 on the day following the bid opening to the Business Programs Office in the Center for Equal Opportunity. CDOT Form No. 718 may be submitted by FAX, at Fax number (303)757-9019, with an original copy to follow. A copy of Form 718 is incorporated into this specification.
2. The award of Contract, if awarded, will be made to the lowest responsible bidder that will meet or exceed the contract goal or, if the goal will not be met, is able to demonstrate that good faith efforts were made to meet the goal. Good faith efforts are explained in (a) of this special provision.
3. The use of the UDBE firms named on Form 714 or on a Form 715, for the items of work described, is a condition of award. The replacement of a named UDBE firm will be allowed only as provided for in (e) of this special provision. Failure to comply will constitute grounds for default and termination of the Contract.

4. Contractor's DBE Obligation. The prime Contractor bidding on construction projects advertised by the Department agrees to ensure that Disadvantaged Business Enterprises (DBEs), as defined in this special provision, have equal opportunity to participate in the performance of contracts or subcontracts financed in whole or in part with Federal or State funds. The prime Contractor shall not discriminate on the basis of race, color, national origin, or sex in the bidding process or the performance of contracts.

To ensure that UDBEs are offered equal opportunity to participate in the performance of contracts, it is the responsibility of the prime Contractor to offer and to provide assistance to UDBEs related to the UDBE performance of the subcontract. However, the UDBE must independently perform a commercially useful function on the project.

(d) *Counting DBE Participation Toward Contract Goals and CDOT's annual DBE goal*

1. Once a firm has been certified as a DBE the total dollar amount of the contract awarded to the firm shall be counted toward CDOT's annual DBE goal and the contract goal as explained below, and as modified for the project in the project special provisions titled "Contract Goal."
2. The actual dollar total of a proposed subcontract, supply or service contract with any DBE firm shall be reported to the Department using Form 713. A Form 713 for subcontracts is to be submitted with the Form 205 and receipt will be a condition of approval. The eligibility of a proposed DBE subcontractor will be finally established based on the firm's status at the time of Form 205 approval.

A Form 713 for a supply or service contract is to be submitted once a contract has been fully executed so the Department will be able to report the DBE participation in a timely manner. The eligibility of a DBE supplier or service firm will be finally established as of the date the Form 713 is received by the Department. A Form 205 is not required for a supply or service contract.

If a firm becomes certified as a DBE during performance under a fully executed contract with CDOT but prior to the DBE performing any work, then 100 percent of the work performed by the firm under that contract may be claimed as eligible work.

3. The Contractor may count toward its contract goal the percentage of the total dollar amount of a contract with a Department certified joint venture that equals the percentage of the ownership and control of the UDBE partner in a joint venture.
4. A The Contractor may count toward its contract goal only that percentage of expenditures to UDBEs which independently perform a commercially useful function in the work of a contract. A DBE is considered to be performing a commercially useful function by actually performing, managing, and supervising the work involved. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, work performed solely by the DBE, industry practices, and other relevant factors.
B. A DBE may enter into subcontracts consistent with normal industry practices. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the DBE shall be presumed not to be performing a commercially useful function. The DBE may present evidence to rebut this presumption to the Department.
5. The Contractor may count toward its contract goal the percentage of expenditures for transportation services obtained from UDBE trucking firms, provided the UDBE controls the trucking operations for which it seeks credit. A UDBE trucking firm must have at least one truck and driver of its own, but it can lease trucks owned by others, both DBEs and non-DBEs, including owner-operators. For work done with its own trucks and drivers, and for work done with DBE lessees, the UDBE trucking firm receives credit for all transportation services provided. For work done with non-DBE lessees, the UDBE trucking firm gets credit only for the fees or commissions it receives for arranging the transportation services, because the services themselves are being performed by non-DBEs.
6. The Contractor may count toward its contract goal the percentage of expenditures for materials and supplies obtained from UDBE suppliers (regular dealers) and manufacturers, provided that the UDBEs assume the actual and contractual responsibility for and actually provide the materials and supplies.

- A. The Contractor may count 100 percent of its expenditures to a UDBE manufacturer. A DBE manufacturer is a certified firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
- B. The Contractor may count 60 percent of its expenditures to UDBE suppliers (regular dealers) that are not manufacturers, provided that the DBE supplier performs a commercially useful function in the supply process. A DBE supplier (regular dealer) is a certified firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the Contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a supplier (regular dealer) the firm must engage in, as its principal business and in its own name, the purchase and sale of the products in question. A supplier in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or suppliers within the meaning of this section.
- C. The Contractor may count toward its contract goal the following expenditures to UDBE firms that are not manufacturers or suppliers (regular dealers):
 - (1) The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, provided that the fee or commission is determined by the Department to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - (2) The fees charged for delivery of materials and supplies required to a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a supplier of the materials and supplies, provided that the fee is determined by the Department to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - (3) The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined by the Department to be reasonable and not excessive as compared with fees customarily allowed for similar services.

- 7. To determine the goals achieved under this Contract the participation as described in (d) of this special provision shall be divided by the original prime Contract amount and multiplied by 100 to determine the percentage of performance. The Contractor shall maintain records of payment that show amounts paid to all DBEs. Upon completion of the project, the Contractor shall submit a Form 17 listing all DBEs that participated in this Contract, the subcontract tier number of each, and the dollar amount paid to each. This dollar amount shall include payments made by nonDBE subcontractors to DBE subcontractors. The Contractor shall certify the amount paid, which may be audited by the Department. When there is no participation by DBEs, the Contractor shall submit a Form 17 that indicates no participation and gives reasons why there was no participation. CDOT will not count the participation of a DBE subcontractor toward the prime contractor's UDBE achievements or CDOT's overall DBE goal until the amount being counted toward the goal has been paid to the DBE.

(e) *Replacement of UDBE Subcontractors used to meet the contract goal*

Based upon a showing of good cause the Contractor may request that a UDBE named on Form 714 or on a Form 715 be replaced with another UDBE pursuant to the terms and conditions of this special provision. In the event that the Contractor is able to both document the need and to offer a replacement UDBE who can perform the work at a reasonable cost, the CDOT Region Civil Rights Professional will approve the replacement at no additional cost to the Department. Replacements will be allowed only with prior written approval of the Region Civil Rights Professional.

- 1. If a replacement is to be requested prior to the time that the named UDBE has begun to effectively prosecute the work under a fully executed subcontract, the Contractor shall furnish to the Region Civil Rights Professional the following:
 - A. Written permission of the named UDBE. Written permission may be waived only if such permission cannot be obtained for reasons beyond the control of the Contractor.

- B. A full written disclosure of the circumstances making it impossible for the Contractor to comply with the condition of award.
 - C. Documentation of the Contractor's assistance to the UDBE named on Form 714 or on Form 715.
 - D. Copies of any pertinent correspondence and documented verbal communications between the Contractor and the named UDBE.
 - E. Documentation of the Good Faith Efforts in finding a replacement UDBE subcontractor and the results of the efforts. It is within the control of the Contractor to locate, prior to award, DBEs that offer reasonable prices and that could reasonably be expected to perform the work. For this reason, increased cost shall not, by itself, be considered sufficient reason for not providing an in-kind replacement.
2. In the event a UDBE subcontractor begins to prosecute the work and is unable to satisfactorily complete performance of the work, the Contractor shall furnish to the Region Civil Rights Professional the following:
- A. Documentation that the subject UDBE subcontractor did not perform in a satisfactory manner.
 - B. Documentation of the Contractor's assistance to the UDBE subcontractor prior to finding the UDBE subcontractor in default.
 - C. A copy of the certified letter finding the UDBE to be in default or a letter from the UDBE stating that it cannot complete the work and it is turning the work back to the Contractor.
 - D. Copy of the contract between the Contractor and the UDBE subcontractor, plus any modifications thereto.
 - E. Documentation of the Good Faith Efforts in finding a replacement UDBE subcontractor and the results of the efforts.

In the event the Contractor is able to locate a replacement UDBE who can perform work at a reasonable cost to the Contractor, and also demonstrates to the satisfaction of the Department that prior to bid it had reason to believe that the named UDBE firm was responsible and not expected to default, the Department may modify or renegotiate the Contract to compensate the Contractor for any reasonable extra costs, because of a higher price in the proposal of the replacement UDBE subcontractor than that of the original UDBE subcontractor who failed to perform.

Provided, however, that the Department will not be obligated to participate in any increased cost to the Contractor if the UDBE that fails to perform has a recent history of performance failure or default that was either known, or should have been known, to the Contractor prior to award.

3. If the Contractor is unable to locate a UDBE replacement that is both interested in and capable of performing the work at a reasonable cost, the Department may waive the requirement that the work be performed by a UDBE and the Contractor shall provide for the satisfactory completion of the work at no additional cost to the Department.

(f) *Sanctions.*

It is the obligation of the Contractor to provide DBE firms with equal opportunity to participate in the performance of the work.

It is the responsibility of DBE firms to perform their work in a responsible manner fully consistent with the intent of the DBE program, and in substantial compliance with the terms and conditions of these DBE definitions and requirements.

DBE firms which fail to perform a commercially useful function as described in subsection (d) of these DBE definitions and requirements or operate in a manner which is not consistent with the intent of the DBE program may be subject to revocation of certification.

A finding by the Department that the Contractor has failed to comply with the terms and conditions of these DBE definitions and requirements shall constitute sufficient grounds for default and termination of the Contract in accordance with subsection 108.09 of the specifications.

Attachments:

Form 714

Form 715

Form 718

THIS PAGE RESERVED FOR FORM 714 Page 1
THIS PAGE RESERVED FOR FORM 714 Page 2
THIS PAGE RESERVED FOR FORM 715 Page 1
THIS PAGE RESERVED FOR FORM 715 Page 2
THIS PAGE RESERVED FOR FORM NO. 718 Page 1
THIS PAGE RESERVED FOR FORM NO. 718 Page 2

See Bid Specifications for Dowd Junction to Minturn Trail issued on July 31 for copies of the above forms.

August 07, 2009

**U.S. DEPT. OF LABOR,
DAVIS BACON MINIMUM WAGES, COLORADO
GENERAL DECISION NUMBERS CO20080014 AND CO20080015**

HIGHWAY CONSTRUCTION

NOTICE

This is a standard special provision that revises or modifies CDOT's *Standard Specifications for Road and Bridge Construction*. It has gone through a formal review and approval process and has been issued by CDOT's Project Development Branch with formal instructions for its use on CDOT construction projects. It is to be used as written without change. Do not use modified versions of this special provision on CDOT construction projects, and do not use this special provision on CDOT projects in a manner other than that specified in the instructions, unless such use is first approved by the Standards and Specification Unit of the Project Development Branch. The instructions for use on CDOT construction projects appear below.

Other agencies which use the *Standard Specifications for Road and Bridge Construction* to administer construction projects may use this special provision as appropriate and at their own risk.

Instructions for use on CDOT construction projects:

Use this standard special provision on all federal-aid projects with contracts exceeding \$2000, except for non-ARRA projects on roadways classified as local roads or rural minor collectors, which are exempt. Projects on local roads, rural minor collectors, and enhancement projects funded with ARRA funds are not exempt.

GENERAL DECISION NUMBERS CO20080014 AND CO20080015, HIGHWAY CONSTRUCTION

<p>Decision Nos. CO20080014 and CO20080015 dated February 08, 2008 supersedes Decision Nos. CO020070014 and CO020070015 dated February 09, 2007.</p> <p>When work within a project is located in two or more counties and the minimum wages and fringe benefits are different for one or more job classifications, the higher minimum wages and fringe benefits shall apply throughout the project.</p>	Modifications			ID
	<u>MOD Number</u>	<u>Date</u>	<u>Pages</u>	
	1	02-15-08	1, 5	1
	2	05-02-08	1, 2, 6	2
	3	06-06-08	1, 5	3
	4	07-04-08	1	4
	5	10-03-08	1, 5	5
	6	03-20-09	1, 5	6
	7	05-01-09	1, 2, 5, 6	7
	8	06-05-09	1, 5	8
	9	08-07-09	1, 3	9

General Decision No. CO20080014 applies to the following counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo, and Weld counties.	4
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General Decision No. CO20080014

The wage and fringe benefits listed below reflect collectively bargained rates.

Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	ELECTRICIANS:			
1200	Electrical work \$150,000 or less (Pueblo county)	22.85	10.79	8
1201	Electrical work over \$150,000 (Pueblo county)	27.00	10.91	8
1202	Electricians (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, and Weld counties)	31.00	11.40	8
1203	Electricians (El Paso county)	28.80	13.10 + 3%	8
1204	Electricians (Mesa county)	20.31	8.56	
1205	Traffic Signal Installer (Zone 1)	23.83	4.75 + 13.75%	
1206	Traffic Signal Installer (Zone 2)	26.83	4.75 + 13.75%	
	<u>Traffic Installer Zone Definitions</u>			
	Zone 1 – Within a 35 mile radius measured from the addresses of the following cities: Colorado Springs - Nevada & Bijou Denver - Ellsworth Avenue & Broadway Ft. Collins - Prospect & College Grand Junction - 12th & North Avenue Pueblo - I-25 & Highway 50 Zone 2 - All work outside these areas.			
	POWER EQUIPMENT OPERATORS:			
1300	Asphalt Screed	23.67	9.22	7
1301	Bituminous or Asphalt Spreader/Laydown Machine	23.67	9.22	7
1302	Bulldozer	23.67	9.22	7

General Decision No. CO20080014				
The wage and fringe benefits listed below reflect collectively bargained rates.				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	POWER EQUIPMENT OPERATORS (cont.):			
	Crane:			
1305	50 tons and under	23.82	9.22	7
1306	51 to 90 tons	23.97	9.22	7
1307	91 to 140 tons	24.12	9.22	7
1308	141 tons and over	24.88	9.22	7
	Drill Operator:			
1309	William MF/Watson 2500 only	23.97	9.22	7
	Grader/Blade:			
1310	Rough	23.67	9.22	7
1311	Finish	23.97	9.22	7
	Loader:			
1312	Barber Green, etc., 6 cubic yards and under	23.67	9.22	7
1313	Over 6 cubic yards	23.82	9.22	7
	Mechanic and/or Welder (Includes heavy duty and combination mechanic and welder):			
1314	Mechanic and/or Welder	23.82	9.22	7
1315	Mechanic/Welder (Heavy duty)	23.97	9.22	7
1316	Oiler	22.97	9.22	7
	Power Broom:			
1317	Under 70 HP	22.97	9.22	7
1318	70 HP and over	23.67	9.22	7
	Roller (excluding dirt and soil compaction):			
1319	Self-propelled, rubber tires under 5 tons	23.32	9.22	7
1320	Self-propelled, all types over 5 tons	23.67	9.22	7
	Scraper:			
1321	Single bowl under 40 cubic yards	23.82	9.22	7
1322	Single bowl including pups 40 cubic yards and tandem bowls and over	23.97	9.22	7
1323	Trackhoe	23.82	9.22	7

General Decision No. CO20080014				
The wage and fringe benefits listed below reflect collectively bargained rates.				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
1400	Laborers: Asphalt Laborer/Raker, Common Laborer, and Concrete Laborer/Mason Tender	18.68	6.78	9
General Decision No. CO20080014				
The wage and fringe benefits listed below do not reflect collectively bargained rates.				
1500	Bricklayers	15.55	2.85	
	Carpenters:			
1600	Form Work (Excluding curbs and gutters)	16.54	3.90	
1601	All other work	16.61	3.88	
1700	Concrete Finishers/Cement Masons	16.05	3.00	
	Ironworkers:			
1900	Reinforcing	16.69	5.45	
1901	Bridge Rail (Excludes guardrail)	18.22	6.01	
	Laborers:			
2001	Fence Erector (Includes fencing on bridges)	13.02	3.20	
2002	Form Work (Curbs and gutters only)	11.85	3.45	
2003	Guardrail Erector (Excludes bridgerail)	12.89	3.20	
2004	Landscape and Irrigation Laborer	12.26	3.16	
2005	Pipelayer	13.55	2.41	
2006	Striping Laborer (Pre-form layout and removal of pavement markings)	12.62	3.21	
2007	Traffic Director/Flagger	9.55	3.05	
2008	Traffic and Sign Laborer (Sets up barricades and cones, and installs permanent signs)	12.43	3.22	
	PAINTERS			
2100	Brush	16.94	2.10	
2101	Spray	16.99	2.87	
	POWER EQUIPMENT OPERATORS:			
2200	Backhoes	16.54	4.24	
2201	Bobcat/Skid Loader	15.37	4.28	
2202	Concrete Pump Operator	16.52	4.30	

General Decision No. CO20080014				
The wage and fringe benefits listed below do not reflect collectively bargained rates.				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	POWER EQUIPMENT OPERATORS (cont.):			
	Drill Operator:			
2203	All except William MF/Watson 2500	16.74	2.66	
2204	Forklift	15.91	4.09	
2205	Rotomill Operator	16.22	4.41	
2206	Post Driver/Punch Machine	16.07	4.41	
2207	Tractor	13.13	2.95	
2208	Compactor (Dirt and soil only)	16.70	3.30	
	Groundman (Traffic signalization)			
2301	Class C	11.44	3.25	
	Truck Drivers:			
2400	Floats-Semi Truck	14.86	3.08	
2401	Multipurpose Truck – Specialty & Hoisting	14.35	3.49	
2402	Truck Mechanic	16.91	3.01	
2403	Pickup Truck (Includes Pilot and Sign/Barricade Truck)	13.93	3.68	
2405	Single Axle Truck	14.24	3.77	
2406	Distributor Truck	15.80	5.27	
2407	Dump Truck:			
2408	14 cubic yards and under	14.93	5.27	
2409	15 to 29 cubic yards	15.27	5.27	
2410	30 to 79 cubic yards	15.80	5.27	
2411	80 cubic yards and over	16.45	5.27	
2412	Low Boy Truck	17.25	5.27	
2413	Water Truck	14.93	5.27	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses [29 CFR 5.5(a)(1)(ii)].

END OF GENERAL DECISION NUMBER CO20080014.

GENERAL DECISION NUMBERS CO20080014 AND CO20080015, HIGHWAY CONSTRUCTION

General Decision No. CO20080015 applies to the following counties: Alamosa, Archuleta, Baca, Bent, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Dolores, Eagle, Elbert, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Kiowa, Kit Carson, La Plata, Lake, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, and Yuma counties.

When work within a project is located in two or more counties, and the minimum wages and fringe benefits are different for one or more job classifications, the higher minimum wages and fringe benefits shall apply throughout the project.

General Decision No. CO20080015

The wage and fringe benefits listed below reflect collectively bargained rates.

Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	ELECTRICIANS: (Including traffic signal installation)			
3200	Electrical work \$150,000 or less (Alamosa, Archuleta, Baca, Bent, Chaffee, Conejos, Costilla, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Rio Grande, and Saguache counties)	22.85	10.79	8
3201	Electrical work over \$150,000 (Alamosa, Archuleta, Baca, Bent, Chaffee, Conejos, Costilla, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Rio Grande, and Saguache counties)	27.00	10.91	8
3202	Electricians (Clear Creek, Eagle, Gilpin, Grand, Jackson, Lake, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, and Yuma counties)	31.00	11.40	8
3203	Electricians (Cheyenne, Elbert, Kit Carson, Lincoln, Park, and Teller counties)	28.80	13.10+ 3%	8
3204	Electricians (Dolores, Garfield, Gunnison, Hinsdale, La Plata, Moffat, Montezuma, Ouray, Pitkin, Rio Blanco, Routt, San Juan, and San Miguel counties)	28.06	8.76	
3205	Electricians (Delta and Montrose counties)	20.31	8.56	
3206	Traffic Signal Installer (Zone 1)	23.83	4.75 + 13.75%	
3207	Traffic Signal Installer (Zone 2)	26.83	4.75 + 13.75%	
	<u>Traffic Installer Zone Definitions</u>			
	Zone 1 – Within a 35 mile radius measured from the addresses of the following cities: Colorado Springs - Nevada & Bijou Denver - Ellsworth Avenue & Broadway Ft. Collins - Prospect & College Grand Junction - 12th & North Avenue Pueblo - I-25 & Highway 50 Zone 2 - All work outside these areas.			

General Decision No. CO20080015				
The wage and fringe benefits listed below reflect collectively bargained rates.				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
POWER EQUIPMENT OPERATORS:				
3300	Bituminous or Asphalt Spreader/Laydown Machine	23.67	9.22	7
3301	Bulldozer	23.67	9.22	7
Crane:				
3302	50 tons and under	23.82	9.22	7
3303	51 to 90 tons	23.97	9.22	7
3304	91 to 140 tons	24.12	9.22	7
3305	141 tons and over	24.88	9.22	7
3306	Grade Checker	23.82	9.22	7
Loader:				
3307	Barber Green, etc., 6 cubic yards and under	23.67	9.22	7
3308	Over 6 cubic yards	23.82	9.22	7
Roller (excluding dirt and soil compaction):				
3309	Self-propelled, rubber tires under 5 tons	23.32	9.22	7
3310	Self-propelled, all types over 5 tons	23.67	9.22	7
3311	Trackhoe	23.82	9.22	7
3312	Oiler	22.97	9.22	7
3313	Water Wagon	23.82	9.22	7
General Decision No. CO20080015				
The wage and fringe benefits listed below do not reflect collectively bargained rates.				
Carpenters:				
3600	Form Building and Setting (Excluding curbs and gutters)	15.92	5.38	
3601	All other work	16.30	3.71	
3700	Concrete Finishers/Cement Masons	15.55	2.85	
3800	Groundman (Traffic signalization)	11.57	3.50	
Ironworkers:				
3900	Reinforcing	16.94	6.77	
3901	Bridge Rail (Excluding guardrail)	16.76	6.01	

General Decision No. CO20080015				
The wage and fringe benefits listed below do not reflect collectively bargained rates.				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
Laborers:				
4000	Asphalt Laborer/Raker	12.40	2.92	
4001	Common	12.44	3.53	
4002	Concrete Laborer/Mason Tender	12.44	3.10	
4003	Striping-Paint Laborer (Pre-form layout and removal of pavement markings)	12.90	3.07	
4004	Traffic Director/Flagger	9.42	3.21	
4005	Traffic/Sign Laborer (Sets up barricades and cones, and installs permanent signs)	12.39	3.20	
4007	Guardrail (Excludes bridgerail)	12.78	3.31	
4008	Formwork (Curbs and gutters only)	12.92	4.54	
4009	Landscape Laborer (Including irrigation work)	12.21	3.16	
Painters:				
4100	Spray	17.54	3.52	
POWER EQUIPMENT OPERATORS:				
4200	Asphalt Plant	17.23	1.20	
4201	Asphalt Screed	16.21	3.76	
4202	Backhoe	16.42	4.42	
4203	Compactor (Dirt and soil only)	16.52	3.13	
4204	Grader/Blade	16.39	4.20	
4205	Mechanic and or Welder (Includes heavy duty and combination mechanic welder)	16.74	4.20	
4206	Post Driver/Punch Machine	16.07	4.41	
4207	Rotomill Operator	16.28	4.41	
4209	Scraper	17.62	3.16	

General Decision No. CO20080015				
The wage and fringe benefits listed below do not reflect collectively bargained rates.				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	Truck Drivers:			
4400	Dump	14.15	3.83	
4401	Low Boy	15.07	4.56	
4402	Truck Mechanic	15.97	4.61	
4403	Multipurpose Truck-Specialty and Hoisting	14.60	3.49	
4404	Pickup (Including pilot car)	14.04	3.49	
4405	Water Truck	14.88	2.07	
4406	Distributor	15.80	5.27	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses [29 CFR 5.5(a)(1)(ii)].

END OF GENERAL DECISION NUMBER CO20080015.

WAGE DETERMINATION APPEALS PROCESS

- 1.) Has there been an initial decision in the matter? This can be:
- ◆ an existing published wage determination
 - ◆ a survey underlying a wage determination
 - ◆ a Wage and Hour Division letter setting forth a position on a wage determination matter
 - ◆ a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of construction wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

- 2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

- 3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

- 4.) All Decisions of the Administrative review board are final.