



**COLORADO**

**Department of Transportation**

Office of the Chief Engineer

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### **Chief Engineer Memo - Fuel Cost Escalation**

**To: CDOT Construction Staff and Contracting Industry**

**From Stephen Harelson, CDOT Chief Engineer**

**Date: August 4, 2022**

CDOT Standard Specification 109.06(i) provides contractors with an opportunity to hedge fuel cost risk on projects they bid upon. In accordance with 109.06(i), the contractor is required when bidding to specify on the Form 85 whether the cost adjustment will apply to the Contract. Normally, after bids are submitted, the contractor is not given any other opportunity to accept or reject this adjustment.

In March of 2022, the fuel price index used to calculate the fuel cost adjustment rose sharply from its twelve month average of \$2.48 to \$3.82. The index again increased in April, 2022 to \$4.31, and remained at \$4.29 in May of 2022, \$4.58 in June, and \$4.11 in July. CDOT recognizes that these unusual market conditions are impacting the contracting industry-and in an effort to share this burden, CDOT will offer contractors an opportunity to modify contracts via change order to include the fuel cost adjustment specification on projects bid between March 2021 and February 2022.

A review of the fuel cost index in the most recent 5 years gives a standard deviation of \$0.625. The index including the 36 months from January 2017 to December 2019 (the most recent period not impacted by the pandemic) has a standard deviation \$0.25 cents. The 36 months ending in February 2022 has a standard deviation of \$0.51 cents. The escalation experienced in 2022 exceeds 300-400% of this historic variance of the fuel cost index.

The Colorado Constitution forbids retroactive payments on contract modifications-so adjustments to construction estimates will only be allowed for work completed after execution of the change order. Once the specification is accepted, it cannot be rescinded regardless of market conditions. Should the fuel index level fall below the project's base index value, the Contractor would be responsible for price reductions calculated in accordance with 109.06(i).

Contractors that choose this opportunity to modify their contract to add the fuel cost adjustment must do so by August 31, 2022. Project engineers are advised to carefully monitor the impact this modification could have on their projects, and adjust scope and funding as necessary. Headquarters staff will monitor the situation on a statewide basis, and identify contingency funding should it become necessary. For this reason, the area engineers should be notified of all projects that execute this modification, along with the uncompleted quantities of all impacted items as listed in 109.06(i)



Project engineers are directed to use the following language on the Form 90 when modifying contracts under this bulletin.

*In accordance with CDOT Chief Engineer Memo, dated August 4, 2022, Contractor agrees to accept the modified Fuel Cost Adjustment specification. The Fuel Cost Adjustment will be calculated in accordance with the Standard Specification 109.06(i), with the exceptions that it will only apply to partial pay estimates for work completed in or after August 2022; and the price index used will be the monthly average for the month that the bids were opened. This project was bid in **Month, Year** when the baseline price index was **\$X.XX**. Contractor acknowledges that this selection is not revocable. Estimates for work completed prior to the execution of this change order will NOT be adjusted retroactively to include payment for the fuel cost adjustment, and the fuel cost adjustment will be calculated for all estimates until the expiration of contract time. The remaining contract quantities subject to this adjustment, as measured at the time of the execution of this change order are:*

<i>202-Removal of Asphalt Mat (Planing)</i>	<i>X.XX Square Yard</i>
<i>203-Excavation</i>	<i>X.XX Cubic Yard</i>
<i>203-Rock Excavation</i>	<i>X.XX Cubic Yard</i>
<i>206-Structure Excavation and Backfill</i>	<i>X.XX Cubic Yard</i>
<i>304-Aggregate Base Course (Class___)</i>	<i>X.XX Cubic Yard</i>
<i>304-Aggregate Base Course (Class___)</i>	<i>X.XX Ton</i>
<i>307-Processing Lime Treated Subgrade</i>	<i>X.XX Square Yard</i>
<i>310-Full Depth Reclamation</i>	<i>X.XX Square Yard</i>
<i>403-Hot Mix Asphalt (HMA) (Grading __) *</i>	<i>X.XX Ton</i>
<i>403-Stone Matrix Asphalt (Grading __)</i>	<i>X.XX Ton</i>
<i>405-Heating and Scarifying Treatment</i>	<i>X.XX Square Yard</i>
<i>405-Heating and Repaving Treatment</i>	<i>X.XX Square Yard</i>
<i>405-Heating and Remixing Treatment</i>	<i>X.XX Square Yard</i>
<i>406-Cold Bituminous Pavement (Recycle)</i>	<i>X.XX Square Yard</i>
<i>412- Concrete Pavement (___Inch)</i>	<i>X.XX Square Yard</i>
<i>412-Place Concrete Pavement**</i>	<i>X.XX Square Yard</i>

