

NOTICE TO BIDDERS  
WORK UNDER THE CONTRACT  
July 8, 2016

Pursuant to Special Provisions Divisions A-Labor, bidders are advised that “work under the contract” for the purposes of performing on a MnDOT contract generally means, “ all construction activities associated with the public works project, including any required hauling activities on the site of, or to or from a public works project and work conducted pursuant to a contract...regardless of whether the construction activity or work is performed by the prime contractor, subcontractor, trucking broker, trucking firms, independent contractor, or employee or agent of any of the foregoing entities, and regardless of which entity or person hire or contracts with another.” *J.D. Donovan, Inc. vs. Minnesota Department of Transportation*, 878 N.W.2d 1 (2016) quoting Minn. R. 5200.1106, subp. 2(A).

Bidders are further advised that pursuant to the Minnesota Supreme Court’s decision in *J.D. Donovan, Inc. vs. Minnesota Department of Transportation*, 878 N.W.2d 1 (2016), “work under the contract” excludes hauling oil offsite in hauling activities **not** to, from, or on the project work site.

For the purposes of the Prevailing Wage Act, a laborer must be “doing or contracting to do all or part of the work under a contract.” Minn. Stat. § 177.44, subd. 1. Therefore, the Prevailing Wage Act does **not** apply to hours worked when hauling oil offsite in hauling activities not to, from, or on the project work site.