



Example Contract Language to Facilitate an Increase/Decrease in Hot Mix Asphalt Prices, Based on the MTO's Liquid Asphalt Price Index per references to OPSS-PROV. 313, April 2021, and NNSP No. ACPAYADJ, April 2021.

_____ Will adjust the payment to the Contractor based on changes to the
(Name of Municipality/Owner)
Ministry of Transportation's performance graded asphalt cement price index unless the Contractor opts out by notifying _____ in writing within five business days of the award of the contract.
(Name of owner/municipality)

Once the contractor has opted out of payment adjustments based on the index, the Contractor will not be permitted to opt back in. The price index will be published monthly in the **MTO Contract Bulletin** and displayed on the **OAPC website: (<http://www.onasphalt.org/mtopriceindex/index.html>)**.

The price index is based on the price, excluding taxes, FOB the depots in the Toronto area, of asphalt cement grade PG 58-28 or equivalent. One index is used to establish and calculate the payment adjustment for all grades. **Since July 2006**, the price index for each month reflects the average of the same month's prices and is published on the last day of the month and is retroactively applied to HMA laid in the same month.

A payment adjustment per tonne of asphalt cement will be established for each month in which paving occurs when the price index for the month differs by more than \$15.00/tonne from the AC price index for the month prior to tender opening. When the price index differential is less than \$15.00/tonne, there will be no payment adjustment for that month. Payment adjustments due to changes in the price index are independent of any other payment adjustments made to hot mix tender items. Provincial sales tax adjustment should be applied to the adjustment (either way).

The payment adjustment per tonne will apply to the quantity of asphalt cement in the hot mix accepted into the Work during the month for which it is established. The payment adjustment for the month will be calculated by the following means:

1. When AC Prices are Rising by more than a \$15.00/tonne: the payment adjustment to be paid to the Contractor is the result of subtracting the price index for the month prior to tender opening from the price index in effect when paving takes place, minus the \$15.00 float, multiplied by the number of tonnes of PGAC incorporated in the mix(s) as determined by the job mix formula. PST on the adjustment will be included.
2. When AC Prices are Falling by more than \$15.00/tonne: the payment adjustment made in favour of the Owner is the result of subtracting the price index in effect when paving takes place, plus the \$15.00 float from the price index for the month prior to the tender opening, multiplied by the number of tonnes of PGAC incorporated in the mix(s) as determined by the job mix formula. PST on the adjustment will be included.

The quantity of new asphalt cement includes all grades of asphalt cement supplied by the Contractor with and without polymer modifiers. For each month in which a payment adjustment has been established, the quantity of the escalation/de-escalation will be calculated using the hot mix quantity accepted into the Work and its corresponding asphalt cement content as required by the job mix formula.

For mixes which contain reclaimed asphalt pavement, the increase due the contractor or the rebate due the owner will be calculated as if virgin hot mix asphalt has been supplied. This fairly reflects the increasing value of the Contractor's RAP pile when AC prices are increasing and the opposite when they are declining.

Example 1 – AC Prices Increasing

- PGAC 64-28 specified, 3,000 tonnes of HL3 @ 5.2% AC (156.0 tonnes AC)
- The effective Price Index on July 17th, 2006 on tender opening is \$433.80 (June 2006) / tonne (PG 58-28)
- The applicable Price Index as published on August 31st effective for the August 17th - 24th, 2007 actual paving dates is \$504.00/tonne (PG 58-28)
- Payment adjustment to be paid to the Contractor: $(\$504.00 - \$15.00) - \$433.80 \times 156 \text{ tonnes AC} = \$55.20 \times 156 \text{ tonnes AC} = \$8,611.20 + 8\% \text{ PST}$

Example 2 – AC Prices Decreasing

- PGAC 58-28 specified, 4,500 tonnes of HL8 @ 4.6% AC (207.0 tonnes AC)
- The effective Price Index on May 5th, 2007 on tender opening is \$508.60 (April 2007) / tonne (PG 58-28)
- The applicable Price Index as published on October 31st effective for the October 11th- 18th, 2007 actual paving dates is \$451.35/tonne (PG 58-28)
- Payment for hot mix items reduced by: $\$508.60 - (\$451.35 + \$15.00) \times 207 \text{ tonnes AC} = \$42.25 \times 207 \text{ tonnes AC} = \$8,745.75 + 8\% \text{ PST}$.

Notes:

1. Contractors should bid the hot mix asphalt item using the cost of the grade of PGAC specified. The AC Price Index is only a tool for qualifying hot mix prices and is not intended as a standard AC price to be incorporated into the contract bid.
2. The payment adjustment calculated using this formula is full compensation for any and all PGAC grades specified.
3. If the AC index has not changed more than \$15.00 per tonne up or down, no adjustment is required. Only the amount of the change that is greater than \$15.00 is used to calculate payment adjustments.
4. In July 2006 MTO amended its past practice of establishing the monthly AC index amount on the 1st day of the month from the average of the four weekly AC prices received in the previous month to “**a calculation that takes in the average of the four weeks of the current month and is subsequently published on the last day of that month**”. See calculation details referenced in **OPSS-PROV. 313, April 2021** and **NNSP ACPAYADJ, April 2021**

Practices Prior August 2006: The index for June was the result of AC prices received in May and published June 1st.

Current Practice: The index for July is the result of AC prices received in July and published July 31st. For qualifying payment adjustments on the price of HMA the contractor will seek/give a PST adjustment on the total value because Ontario collects a levy of 8% PST on the total manufacturing costs of every tonne of HMA produced.

5. As a result of the implementation of **Note #4** and provisions of OPSS-PROV. 313 and NNSP ACPAYADJ, the AC Price index for the month prior to tender opening will be used as the AC bid price to calculate AC adjustments. Please be advised that, any reference to the outdated SSP 103S20 is not applicable.

Current record of MTO specifications, special provisions, manuals, guidelines, directives, forms, etc. are accessible from the MTO Technical Publications website:

<https://www.library.mto.gov.on.ca/SydneyPLUS/TechPubs/Portal/tp/TechnicalPublications.aspx>