

**SECTION 00195 - PAYMENT**

*(Follow all instructions and make all edits with "Track Changes" turned on. If there are no instructions [purple text] above a subsection, paragraph, sentence, or bullet, then include it in the Project. Delete all purple text before preparing the final document. All other modifications to this Section will require State Specifications Engineer approval and the State Specifications Engineer will obtain approval from the Department of Justice.)*

Comply with Section 00195 of the Standard Specifications modified as follows:

~~(Use one of the following Options for Subsection .10)~~

~~[Option 1 – Use the following subsection .10 on Projects that have at least 150 Tons of liquid asphalt.]~~

~~00195.10 Payment for Changes in Materials Costs~~ Replace this subsection with the following subsection:

~~00195.10 Asphalt Cement Material Price Escalation/De-escalation~~ An asphalt cement escalation/de-escalation clause will be in effect during the life of the Contract.

~~The Agency reserves all of its rights under the Contract, including, but not limited to, its rights for suspension of the Work under 00180.70 and its rights for termination of the Contract under 00180.90, and this escalation/de-escalation provision shall not limit those rights.~~

~~(a) Monthly Asphalt Cement Material Price (MACMP)~~ The monthly asphalt cement material price (MACMP) is established by the Agency each month. For the actual MACMP, go to the Agency website at:

~~<https://www.oregon.gov/ODOT/Business/Pages/Asphalt-Fuel-Price.aspx>~~

~~The MACMP is based on selling prices of asphalt cement published by Poten & Partners, Inc. for primarily PG 64-22 paving grades in the Portland, Oregon area and typical non-modified paving grades in the Boise, Idaho area. The MACMP for a given month is the average of the weekly published prices for each area reported each Friday in that month. If any portion of the Project Site is located within the boundaries of ODOT Maintenance Districts 1 through 10 the MACMP will be based on the prices for the Portland, Oregon area. For Projects entirely in ODOT Maintenance District 13 or 14, the MACMP will be based on the prices for the Boise, Idaho area. For Projects entirely in ODOT Maintenance District 11 or 12 the Contractor may elect to have the MACMP based on the prices of either the Portland, Oregon area or the Boise, Idaho area. If electing to use Boise, Idaho area prices for determination of the MACMP, the Contractor shall notify the Engineer in writing of the Contractor's election before or within 7 Calendar Days after the date of the preconstruction conference. This election, once acknowledged by the Engineer, will be binding for the entire duration of the Contract. If no such written notification is made, the~~

~~Portland, Oregon area prices will be used as the basis of the MACMP. The area selected as the basis of the MACMP, once chosen, will become the sole area to be used as the basis for all asphalt cement used on the Project.~~

~~If the weekly prices cease to be available from Poten & Partners, Inc. for any reason, the Agency, in its discretion will select and begin using a substitute price source or index to establish the MACMP each month. The Agency does not guarantee that asphalt cement will be available at the MACMP.~~

~~**(b) Base Asphalt Cement Material Price (Base)**—The base asphalt cement material price for this Project is the MACMP published on the Agency website for the month immediately preceding the Bid Opening date.~~

~~**(c) Monthly Asphalt Cement Adjustment Factor**—The monthly asphalt cement adjustment factor will be determined each month as follows:~~

~~• If the MACMP is within  $\pm 5\%$  of the Base, there will be no adjustment.~~

~~• If the MACMP is more than 105% of the Base, then:~~

$$\text{Adjustment Factor} = (\text{MACMP}) - (1.05 \times \text{Base})$$

~~• If the MACMP is less than 95% of the Base, then:~~

$$\text{Adjustment Factor} = (\text{MACMP}) - (0.95 \times \text{Base})$$

~~**(d) Asphalt Cement Price Adjustment**—A price adjustment will be made for the items containing asphalt cement listed below. The price adjustment as calculated in (c) above will use the MACMP for the month the asphalt is incorporated into the Project. The price adjustment will be determined by multiplying the asphalt incorporated during the month for subject Pay Items by the Adjustment Factor.~~

~~The Pay Items for which price adjustments will be made are:~~

~~\_\_\_\_\_ Pay Item(s)~~

~~*(List all Pay Items in which price adjustments apply. Use complete and accurate Pay Item names. Add or delete Pay Items as appropriate.)*~~

~~\_\_\_\_\_ Asphalt in \_\_\_\_\_ ACP  
— Emulsified Asphalt in Fog Coat  
— Emulsified Asphalt for Tack Coat  
— Asphalt in Emulsified Asphalt Chip Seal  
— Asphalt in Multiple Application Emulsified Asphalt Surface Treatment  
— Emulsified Asphalt in Mixture  
— Recycling Agent~~

~~**{End Option 1}**~~

~~**{Begin Option 2 - Use the following subsection .10 on Projects that have at least 150 Tons of liquid asphalt and when the project meets the criteria and has been**~~

~~selected by the Contract Administration Unit to use AASHTOWare™ during the Construction phase. When a project meets the criteria seven Sections (00110, 00150, 00160, 00165, 00170, 00195 and 00210) of the boilerplate have AASHTOWare™ related language that needs to be included in the project special provisions. Contact the State Specifications Engineer with any questions. State Specifications Engineer must approve the use of the following subsection for use on the project.]~~

**00195.10 Payment for Changes in Materials Costs** - Replace this subsection with the following subsection:

**00195.10 Asphalt Cement Material Price Escalation/De-escalation** - An asphalt cement escalation/de-escalation clause will be in effect during the life of the Contract.

The Agency reserves all of its rights under the Contract, including, but not limited to, its rights for suspension of the Work under 00180.70 and its rights for termination of the Contract under 00180.90, and this escalation/de-escalation provision shall not limit those rights.

**(a) Monthly Asphalt Cement Material Price (MACMP)** - The monthly asphalt cement material price (MACMP) is established by the Agency each month. For the actual MACMP, go to the Agency website at:

<https://www.oregon.gov/ODOT/Business/Pages/Asphalt-Fuel-Price.aspx>

The MACMP is based on selling prices of asphalt cement published by Poten & Partners, Inc. for primarily PG 64-22 paving grades in the Portland, Oregon area and typical non-modified paving grades in the Boise, Idaho area. The MACMP for a given month is the average of the range of published prices for each area reported for the week ending on the first Friday in that month. If any portion of the Project Site is located within the boundaries of ODOT Maintenance Districts 1 through 10, the MACMP will be based on the prices for the Portland, Oregon area. For Projects entirely in ODOT Maintenance District 13 or 14, the MACMP will be based on the prices for the Boise, Idaho area. For Projects entirely in ODOT Maintenance District 11 or 12, the Contractor may elect to have the MACMP based on the prices of either the Portland, Oregon area or the Boise, Idaho area. If electing to use Boise, Idaho area prices for determination of the MACMP, the Contractor shall notify the Engineer in writing of the Contractor's election before or within 7 Calendar Days after the date of the preconstruction conference. This election, once acknowledged by the Engineer, will be binding for the entire duration of the Contract. If no such written notification is made, the Portland, Oregon area prices will be used as the basis of the MACMP. The area selected as the basis of the MACMP, once chosen, will become the sole area to be used as the basis for all asphalt cement used on the Project.

If the prices cease to be available from Poten & Partners, Inc. for any reason, the Agency, in its discretion will select and begin using a substitute price source or index to establish the MACMP each month. The Agency does not guarantee that asphalt cement will be available at the MACMP.

**(b) Base Asphalt Cement Material Price (Base)** - The base asphalt cement material price for this Project is the MACMP published on the Agency website for the month immediately preceding the Bid Opening date.

**(c) Monthly Asphalt Cement Adjustment Factor** - The monthly asphalt cement adjustment factor will be determined each month as follows:

- If the MACMP is within  $\pm 5\%$  of the Base, there will be no adjustment.
- If the MACMP is more than 105% of the Base, then:

$$\text{Adjustment Factor} = (\text{MACMP}) - (1.05 \times \text{Base})$$

- If the MACMP is less than 95% of the Base, then:

$$\text{Adjustment Factor} = (\text{MACMP}) - (0.95 \times \text{Base})$$

**(d) Asphalt Cement Price Adjustment** - A price adjustment will be made for the items containing asphalt cement listed below. The price adjustment as calculated in (c) above will use the MACMP for the month the asphalt is incorporated into the Project. The price adjustment will be determined by multiplying the asphalt incorporated during the month for subject Pay Items by the Adjustment Factor.

The Pay Items for which price adjustments will be made are:

**Pay Item(s)**

*(List all Pay Items in which price adjustments apply. Use complete and accurate Pay Item names. Add or delete Pay Items as appropriate.)*

\_\_\_\_\_ Asphalt in \_\_\_\_\_ ACP  
Emulsified Asphalt in Fog Coat  
Emulsified Asphalt for Tack Coat  
Asphalt in Emulsified Asphalt Chip Seal  
Asphalt in Multiple Application Emulsified Asphalt Surface Treatment  
Emulsified Asphalt in Mixture  
Recycling Agent

~~{End Option 2}~~

~~[ End subsection .10 ]~~

~~{Use one of the following subsection .11 options}~~

~~[Option 1--Use the following lead-in paragraph and subsection .11 on projects when the Fuel, Steel, Class of Work, and Scheduling program identifies any eligible items for fuel escalation/de-escalation. The estimated fuel usage is for the major Pay Items or for Pay Items under specific Structure Numbers that are listed for coverage under this specification.]~~

~~{Begin Option 1}~~

~~Add the following subsection:~~

~~00195.11 Fuel Cost Price Escalation/De-escalation~~ A fuel escalation/de-escalation clause will be in effect during the life of the Contract.

The Agency reserves all of its rights under the Contract, including, but not limited to, its rights for suspension of the Work under 00180.70 and its rights for termination of the Contract under 00180.90, and this escalation/de-escalation provision will not limit those rights.

~~(a) Monthly Fuel Price (MFP)~~ A Monthly Fuel Price (MFP) is established by the Agency each month. For the actual MFP, go to the Agency website at:

<https://www.oregon.gov/ODOT/Business/Pages/Asphalt-Fuel-Price.aspx>

~~The MFP for a given month is the average rack price obtained from the Oil Price Information Service (OPIS) listing dated the first Monday of that month for ultra low sulfur distillate No. 2 diesel fuel for Portland, Oregon. If the average rack price is not posted by OPIS or is otherwise not available to the Agency for the first Monday of any month for any reason, the Agency may use the average rack price posted by OPIS immediately before or after the first Monday of that month. If the average rack prices cease to be available from OPIS for any reason, the Agency in its discretion will select and begin using a substitute price source or index to establish the MFP each month. The Agency does not guarantee that fuel will be available at the MFP.~~

~~(b) Base Fuel Price (Base)~~ The base fuel price for this Project is the MFP published on the Agency website for the month immediately preceding the Bid Opening date.

~~(c) Monthly Fuel Adjustment Factor~~ A monthly fuel adjustment factor is determined each month as follows:

- ~~• If the MFP is within  $\pm 25\%$  of the Base, there will be no adjustment.~~
- ~~• If the MFP is more than 125% of the Base, then:~~

$$\text{Adjustment Factor} = (\text{MFP}) - (1.25 \times \text{Base})$$

- ~~• If the MFP is less than 75% of the Base, then:~~

$$\text{Adjustment Factor} = (\text{MFP}) - (0.75 \times \text{Base})$$

~~(d) Fuel Price Adjustment~~ A fuel price adjustment for fluctuations in the cost of fuel will apply only to the major fuel usage Pay Items shown in the following list and at the respective fuel factors listed:

~~*(Use the following two tables to list Pay Items or for Pay Items under Structures that are subject to fuel escalation/de-escalation. Use the Fuel, Steel, Class of Work, and Scheduling program to determine the Pay Items or for Pay Items under Structures to which fuel factors apply. Copy and paste lines as needed and delete lines in the tables that do not apply. Check with the ODOT Sr. Cost Engineer.*~~

~~*Use the following table to list all individual Pay Items that are subject to fuel escalation/de-escalation, EXCEPT items that will be included in the Schedule of Items under a Bridge or Structure number listed in the second table. Use complete*~~

~~and accurate Pay Item names. From the fuel escalation worksheet, determine all the appropriate individual Pay Items and list them by Pay Item name under the "Item" heading. Under the "Fuel Factor" heading, fill in the first blank with the fuel factor from the worksheet and the second blank with the unit of measurement for the specific Pay Item.)~~

Item	Fuel Factor
_____	_____ Gal/_____
_____	_____ Gal/_____

~~(Use the following paragraph and table for Bridges and Structures that are subject to fuel escalation/de-escalation. List each Bridge or Structure separately as "Bridge No." or "Structure No." and list all the Pay Items associated with that Bridge or Structure separately under the Bridge or Structure.~~

~~Fill in the first blank with the Bridge or Structure number for all the Pay Items associated with the entire Bridge or Structure.~~

~~List all Pay Items that fuel escalation would apply to under each Bridge or Structure No.~~

**Example:**

Bridge No. 12345 \_\_\_\_\_ 19 Gal/\$1,000

~~—Item—~~

~~Bridge Removal Work  
 Bridge Deck Cold Plane Pavement Removal, 0-2 Inches  
 Furnish Premixed Polymer Concrete  
 Construct PPC Overlay  
 Structure Excavation  
 Granular Wall Backfill  
 Reinforced Concrete End Panel~~

~~Check with the ODOT Sr. Cost Engineer if you have questions.)~~

~~The following Pay Items associated with the following Bridges and Structures:~~

Bridge No. \_\_\_\_\_ 19 Gal/\$1,000

Item

Bridge No. \_\_\_\_\_ 19 Gal/\$1,000

Item

Structure No. \_\_\_\_\_ 19 Gal/\$1,000

Item

Structure No. \_\_\_\_\_ 19 Gal/\$1,000

Item

~~The Contractor is cautioned to consider that its operations may require more or less fuel.~~

~~A price adjustment ( $\pm$ ) to the Contractor for fuel cost changes will be made monthly if the MFP differs 25% or more from the Base. This adjustment will be the product of the monthly fuel adjustment factor and the estimated monthly fuel used. The monthly fuel used will be determined by multiplying the quantities of Work accomplished during the month for subject Pay Items, by the appropriate fuel factors.~~

~~Fuel cost adjustments will continue to be made as specified and will not be revised for any reason, including the Contractor's election to use an alternative fuel (natural gas, wood pellets, propane, or other).~~

~~**[End Option 1]**~~

~~**[Option 2 - Use the following subsection .11 when the project meets the criteria and has been selected by the Contract Administration Unit to use AASHTOWare™ during the Construction phase. When a project meets the criteria seven Sections (00110, 00150, 00160, 00165, 00170, 00195 and 00210) of the boilerplate have AASHTOWare™ related language that needs to be included in the project special provisions. Contact the State Specifications Engineer with any questions. State Specifications Engineer must approve the use of the following subsection for use on the project.]**~~

Add the following subsection:

**00195.11 Fuel Cost Price Escalation/De-escalation** - A fuel escalation/de-escalation clause will be in effect during the life of the Contract.

The Agency reserves all of its rights under the Contract, including, but not limited to, its rights for suspension of the Work under 00180.70 and its rights for termination of the Contract under 00180.90, and this escalation/de-escalation provision will not limit those rights.

**(a) Monthly Fuel Price (MFP)** - A monthly fuel price (MFP) is established by the Agency each month. For the actual MFP, go to the Agency website at:

<https://www.oregon.gov/ODOT/Business/Pages/Asphalt-Fuel-Price.aspx>

The MFP for a given month is the average rack price obtained from the Oil Price Information Service (OPIS) listing dated the first Friday of that month for ultra low sulfur distillate No. 2 diesel fuel for Portland, Oregon. If the average rack price is not posted by OPIS or is otherwise not available to the Agency for the first Friday of any month for any reason, the Agency may use the average rack price posted by OPIS immediately before or after the first Friday of that month. If the average rack prices cease to be available from OPIS for any reason, the Agency in its discretion will select and begin using a substitute price source or index to establish the MFP each month. The Agency does not guarantee that fuel will be available at the MFP.



**(b) Base Fuel Price (Base)** - The base fuel price for this Project is the MFP published on the Agency website for the month immediately preceding the Bid Opening date.

**(c) Monthly Fuel Adjustment Factor** - A monthly fuel adjustment factor is determined each month as follows:

- If the MFP is within  $\pm 10\%$  of the Base, there will be no adjustment.
- If the MFP is more than 110% of the Base, then:

$$\text{Adjustment Factor} = (\text{MFP}) - (1.10 \times \text{Base})$$

- If the MFP is less than 90% of the Base, then:

$$\text{Adjustment Factor} = (\text{MFP}) - (0.90 \times \text{Base})$$

**(d) Fuel Price Adjustment** - A fuel price adjustment for fluctuations in the cost of fuel will apply only to the major fuel usage Pay Items shown in the following list and at the respective fuel factors listed:

*(Use the following two tables to list Pay Items or for Pay Items under Structures that are subject to fuel escalation/de-escalation. Use the Fuel, Steel, Class of Work, and Scheduling program to determine the Pay Items or for Pay Items under Structures to which fuel factors apply. Copy and paste lines as needed and delete lines in the tables that do not apply. Check with the ODOT Sr. Cost Engineer.*

*Use the following table to list all individual Pay Items that are subject to fuel escalation/de-escalation, EXCEPT items that will be included in the Schedule of Items under a Bridge or Structure number listed in the second table. Use complete and accurate Pay Item names. From the fuel escalation worksheet, determine all the appropriate individual Pay Items and list them by Pay Item name under the "Item" heading. Under the "Fuel Factor" heading, fill in the first blank with the fuel factor from the worksheet and the second blank with the unit of measurement for the specific Pay Item.)*

**Item**

**Fuel Factor**

\_\_\_\_\_ Gal/\_\_\_\_\_  
 \_\_\_\_\_ Gal/\_\_\_\_\_

*(Use the following paragraph and table for Bridges and Structures that are subject to fuel escalation/de-escalation. List each Bridge or Structure separately as "Bridge No." or "Structure No." and list all the Pay Items associated with that Bridge or Structure separately under the Bridge or Structure.*

*Fill in the first blank with the Bridge or Structure number for all the Pay Items associated with the entire Bridge or Structure.*

*List all Pay Items that fuel escalation would apply to under each Bridge or Structure No.*



**Example:**

Bridge No. 12345

19 Gal/\$1,000

**Item**

**Bridge Removal Work**  
**Bridge Deck Cold Plane Pavement Removal, 0-2 Inches**  
**Furnish Premixed Polymer Concrete**  
**Construct PPC Overlay**  
**Structure Excavation**  
**Granular Wall Backfill**  
**Reinforced Concrete End Panel**

**Check with the ODOT Sr. Cost Engineer if you have questions.)**

The following Pay Items associated with the following Bridges and Structures:

Bridge No. \_\_\_\_\_

19 Gal/\$1,000

Item

Bridge No. \_\_\_\_\_

19 Gal/\$1,000

Item

Structure No. \_\_\_\_\_

19 Gal/\$1,000

Item

Structure No. \_\_\_\_\_

19 Gal/\$1,000

Item

The Contractor is cautioned to consider that its operations may require more or less fuel.

A price adjustment ( $\pm$ ) to the Contractor for fuel cost changes will be made monthly if the MFP differs more than 10% or more from the Base. This adjustment will be the product of the monthly fuel adjustment factor and the estimated monthly fuel used. The monthly fuel used will be determined by multiplying the quantities of Work accomplished during the month for subject Pay Items, by the appropriate fuel factors.

Fuel cost adjustments will continue to be made as specified and will not be revised for any reason, including the Contractor's election to use an alternative fuel (natural gas, wood pellets, propane, or other).

~~[End Option 2]~~

**[ End subsection .11 ]**

*(Use the following subsection .12(d) when the Fuel, Steel, Class of Work, and Scheduling program identifies there are qualifying Pay Items to list under this subsection.*

*Fill in the table, in .12(d), with only those Pay Items which the Fuel, Steel, Class of Work, and Scheduling program identifies that the project is eligible for steel escalation/de-escalation. Use complete and accurate Pay Item names.)*

**00195.12(d) Steel Materials Pay Item Selection** - Add the following paragraphs to the end of this subsection:

If the Contractor elects not to participate in the steel escalation/de-escalation program for this Project, no response from the Contractor is required.

The Contractor may elect to participate in the steel escalation/de-escalation program for this Project under 00195.12 through 00195.12(d) by marking each check box for each Pay Item in the list below the Contractor is selecting for participation in the program. The completed list must be submitted in writing, signed and dated by the Contractor, to the Project Manager before or within 7 Calendar Days after the date of the preconstruction conference.

<b>PARTICIPATE</b>	<b>PAY ITEM DESCRIPTION</b>	<b>COST BASIS (CB)</b>
<input type="checkbox"/>	Pay Item Name (from the Worksheet)	CB (from the Worksheet)
<input type="checkbox"/>	Pay Item Name (from the Worksheet)	CB (from the Worksheet)
<input type="checkbox"/>	Pay Item Name (from the Worksheet)	CB (from the Worksheet)
<input type="checkbox"/>	Pay Item Name (from the Worksheet)	CB (from the Worksheet)

*(Copy and paste the above list to add additional items. Use complete and accurate Pay Item names.)*

Regardless of the number of Pay Items listed by the Agency or selected by the Contractor, or if no Pay Items qualify for the steel escalation/de-escalation program for this Project or the Contractor elects not to participate in the steel escalation/de-escalation program for this Project, the steel price escalation/de-escalation clause (and program) contained in 00195.12 through 00195.12(d) are included in this Contract and are the only steel price escalation/de-escalation clause (and program) that apply to this Contract.

---

Contractor's Signature

---

Date

*(Use the following subsection .12(d) on Projects which do not have any qualifying Pay Items. Do not use this subsection when using the subsection 00195.12(d) above.)*

**00195.12(d) Steel Materials Pay Item Selection** - Add the following paragraph to the end of this subsection:

No Pay Items under this Contract qualify for the steel escalation/de-escalation program for this Project.

**00195.50(c)(1) Cash, Alternate A** – Replace this subsection, except for the subsection number and title, with the following:

Retainage will be deducted from progress payments and held by the Agency until final payment is made according to 00195.90, unless otherwise specified in the Contract.

Except as otherwise provided, the Agency will deposit the cash retainage withheld in an interest bearing account, established through the State Treasurer for the benefit of the Agency, as required by ORS 279C.560(5). Interest earned on the account shall accrue to the Contractor. Amounts retained and interest earned will be included in the final payment made according to 00195.90, unless otherwise specified in the Contract.

Any retainage withheld on Work performed by a Subcontractor will be released to the Contractor according to 00195.50(d).

**00195.50(c)(2) Cash, Alternate B (Retainage Surety Bond)** - Replace this subsection, except for the subsection number and title, with the following:

The Contractor may submit a Surety bond in lieu of all or a portion of the retainage required under the Contract. The Agency will accept this Surety bond unless the Agency first finds in writing good cause for rejection based on unique project circumstances in accordance with ORS 279C.560(1)(c).

The Surety bond must be in substantially the form specified in ORS 701.435 (4) (Oregon House Bill 4006, 2024), and executed by a Surety bonding company that is authorized to transact Surety business in the State of Oregon and may not be a Surety obligation of an individual. The Surety bond and any proceeds of the Surety bond must be made subject to all claims and liens and in the same manner and priority specified for retainage under ORS 279C.550 to 279C.570 and ORS 279C.600 to 279C.625. Agency will reduce the cash retainage held by an amount equal to the value of the Surety bond and pay the amount of the reduction to Contractor according to ORS 279C.570. Any retainage withheld on Work performed by a Subcontractor will be released to the Contractor according to 00195.50(d).

When the Agency accepts a Surety bond in lieu of retainage from the Contractor, the Contractor shall accept Surety bonds from Subcontractors or Suppliers from which the Contractor has withheld retainage. At any time before final payment a Subcontractor may submit a Surety bond to the Contractor and request that the Contractor submit a Surety bond as described above for the portion of the Contractor's retainage that pertains to the Subcontractor. The Surety bond the Subcontractor provides to the Contractor must meet the Agency requirements specified in the paragraph above. When a Contractor at a Subcontractor's request obtains and submits a Surety bond under this subsection, the Contractor may withhold from payments to the Subcontractor an amount equivalent to the portion of the Contractor's Surety bond premium for which the Subcontractor is responsible in accordance with ORS 279C.560 (Oregon House Bill 4006, 2024).

Within 30 Days after a Subcontractor's request the Contractor shall provide a Surety bond as described above, and the Agency will accept the Surety bond unless:

- The Agency finds in writing good cause for rejection based on unique project circumstances in accordance with ORS 279C.560;
- A Surety bond is not commercially available;
- The Subcontractor refuses to pay to the Contractor the Subcontractor's portion of the Surety bond premium; or
- The Subcontractor refuses to provide the Contractor with a Surety bond that meets the requirements of ORS 279C.560(1)(b).

Notwithstanding 00195.50(d), within 30 Days of receiving a Surety bond from Contractor at a Subcontractor's or Supplier's request, Agency will release to the Contractor the amount held as retainage that is equivalent to the amount the Contractor submitted as a Surety bond. Contractor shall, within 30 Days after receiving a Surety bond from a Subcontractor or Supplier, release to the Subcontractor or Supplier the amount the Contractor holds as retainage that is equivalent to the amount of the Surety bond submitted, in accordance with ORS 279C.560(8).

**00195.50(c)(3) Bonds, Securities, and Other Instruments** - Replace this subsection, except for the subsection number and title, with the following:

Contractor may deposit bonds, securities or other instruments with the Agency or in a bank or other financial institution, to be held by Agency instead of cash retainage for the benefit of the Agency, which the Agency will accept unless the Agency first finds in writing good cause for rejection based on unique project circumstances, in accordance with ORS 279C.560(1)(c).

If the Contractor deposits bonds, securities or other instruments, and Agency does not reject the bonds, securities or other instruments as permitted by ORS 279C.560(1)(c), the Agency will reduce the cash retainage by an amount equal to the value of the bonds, securities and other instruments. Interest or earnings on the bonds, securities and other instruments accrue to the Contractor.

Bonds, securities and other instruments deposited instead of cash retainage shall be of a character approved by the Director of the Oregon Department of Administrative Services, including, but not limited to:

- Bills, certificates, notes or bonds of the United States;
- Other obligations of the United States or agencies of the United States;
- Obligations of a corporation wholly owned by the federal government;
- Indebtedness of the Federal National Mortgage Association;
- General obligation bonds of the State of Oregon or a political subdivision of the State of Oregon;
- Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008.

**00195.50(f) Prompt Payment Policy** - Replace this subsection, except for the subsection number and title, with the following:

Payments shall be made promptly according to ORS 279C.560, ORS 279C.570, ORS 279C.580 and other applicable legal requirements.

