



August 15, 2022

Consulting Architects of Alberta  
Board of Directors A/ Allan Partridge, Chair

**RE: Notice to City of Edmonton Architectural and Engineering Consultants -  
*Prompt Payment and Construction Lien Act Implementation***

Dear Allan,

As you are likely aware, the Government of Alberta has passed legislation affecting builders' liens and payment for construction-related contracts within Alberta. The *Prompt Payment and Construction Lien Act* (the "Act"), takes effect on **August 29, 2022**.

The *Prompt Payment and Adjudication Regulation* clarifies that the Act applies to regulated professional engineers and architects. Accordingly, where applicable, new City contracts will contain clauses relating to statutory holdbacks and prompt payment.

There are many existing contracts which were signed before the effective date of the Act. The Act's Regulations set out a two-year grace period to update these contracts where they are expected to remain in force longer than the grace period. In these cases, the City will reach out to you to discuss an amending agreement to align with the Act.

A Q&A document has been attached to this notice to try to address any questions you may have with regard to the City's practice going forward. Should you have any additional questions on this matter, please do not hesitate to contact me at [pascale.ladouceur@edmonton.ca](mailto:pascale.ladouceur@edmonton.ca).

Yours truly,

A handwritten signature in blue ink, appearing to be "PL" with a stylized flourish.

Pascale Ladouceur

Branch Manager, Infrastructure Planning and Design

# Questions & Answers

*Prompt Payment and Construction Lien Act*

Edmonton

**Q: How will this affect consultant obligations to certify contractor invoices?**

**A:** Consultants will need to be prepared to turn around contractor invoices in a timely manner (i.e. 5 working days or less, unless otherwise set out in the contract) to allow the City the opportunity to dispute and pay contractor invoices within the time set out by the Act.

**Q: When can I invoice for work done under my contract with the City?**

**A:** Work must be completed and materials furnished in order to be included in an invoice.

For consulting contracts using the City's standard template, deliverables must be completed and provided to the City.

For construction delivery contracts using the City's standard templates, this means that products must be placed in their final position, fixed to, or otherwise incorporated into the work in their final form. The work included in the invoice must be in accordance with the Contract. The City may also require that work not be included in an invoice until testing and/or commissioning requirements are met.

Specific contracts may also include additional specific requirements and you are encouraged to review them.

**Q: Do I have to follow the IIS Invoice Instructions (Consultant and Contractor) document provided by the City?**

**A:** The IIS Invoice Instructions (Consultant and Contractor) document was produced by the City in order to try to minimize the chances that consultants and contractors submitting invoices to the City through SAP Ariba will have those invoices rejected due to a failure to include all required information or input the required information in the proper manner and format. The City's new contract language will require consultants and contractors to comply with the IIS Invoice Instructions (Consultant and Contractor) document when submitting invoices.

**Q: What documentation and information do I need to include in my invoices?**

**A:** Where contracts are covered by the new Act, you will need to include all of the information listed in section 32.1(1) of the Act. In addition, your City contract will list all items and information which must be included for it to be considered a "proper invoice" for the purposes of the Act and the contract. You will also need to

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comply with the IIS Invoice Instructions (Consultant and Contractor), a document that will be included in future contracts.

**Q: What can I do to avoid having my invoice rejected by SAP Ariba?**

**A:** The IIS Invoice Instructions (Consultant and Contractor) document will be included in new contracts. It is designed to, when used correctly, assist you in minimizing the chance for errors and incorrect formatting. Even when this document is followed, however, it is possible that errors still may occur. You are encouraged to carefully review your invoices to ensure that they contain no discrepancies or errors.

**Q: If I make an error and the City rejects my invoice, is the 28 day deadline reset when I submit the corrected invoice? For example, if I enter my GST number incorrectly.**

**A:** If your invoice is rejected by the City due to a failure to include certain required information, or due to an error in the information you have provided, it is not considered a “proper invoice” for the purposes of the Act and the 28-day payment timeline will not start to run. The 28-day timeline starts to run when you submit the corrected invoice, provided all other requirements to be a “proper invoice” are met.

**Q: What will happen if the City disputes my invoice?**

**A:** The City may, in accordance with the Act, dispute proper invoices within 14 days of receipt. In these cases, the City would issue a notice of dispute, specifying the amount of the invoice not being paid and the reasons for non-payment. The City will not pay the amounts included in the notice of dispute, and the City may require a revised invoice with the disputed amounts deleted. The submission of a revised invoice will not mean that the consultant or contractor has admitted that the disputed amount is not owing, but will rather facilitate payment of the undisputed amounts. The City also reserves the right to dispute invoices after paying them.

**Q: If a statutory holdback is held by the City on my project, when will it be released?**

**A:** This will depend upon whether a certificate of substantial performance is issued on a contract.

If a certificate of substantial performance is issued, the City will release the holdback after the required number of days has passed following the issuance of the certificate. In the old legislation, the default period was 45 days, but the new

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Act has a default period of 60 days. Where concrete is involved, the period may be 90 days.

If no certificate of substantial performance is issued, the City will release the holdback after the required number of days has passed following the completion of the contract.

The City will not release the holdback if a lien is registered or submitted for registration before the required number of days has passed.

**Q: Will the City be using progressive holdback release in its contracts?**

**A:** The City intends to use progressive holdback release in contracts where the Act and its Regulations require it, i.e. for contracts over \$10 million.

**Q: When will the City keep a holdback for engineering and architectural contracts?**

**A:** The City intends to keep a holdback in cases where the services provided are covered by the Act's lien rules, for example, where detailed design services are being provided on a facility project. Not all contracts with engineers and architects will be covered, for example, where detailed design services are being provided on a road or bridge project.

**Q: Will the City still be including a dispute resolution mechanism in its contracts going forward?**

**A:** Yes. The Act's adjudication process is not mandatory. The City will continue to include a dispute resolution mechanism in its contract templates.