



Contract Modernization

Good Faith

Alberta Infrastructure has listened to its industry partners. Our new, modernized contracts include substantial changes to better align with industry needs and ensure a more balanced approach to project risk.

Disclaimer: This document is for information and context only. It is not legal advice and must not be used as a substitute for reviewing the applicable contract, legislation, or seeking professional legal counsel. Where interpretation is required, the executed contract and governing law prevail.

What we heard

Concerns were raised that the discretion available to each party could create unmanageable risk for the other.

What we did

Good Faith is defined as the overriding obligation that each Party must perform its contractual obligations under the Agreement honestly, forthrightly and reasonably, and not capriciously or arbitrarily, and in carrying out their respective obligations under this Agreement, will deal with each other fairly and act in the spirit of mutual co-operation.

Good Faith does not mean nor imply any obligation to act in accordance with the other Party's or another person's best interests, nor to compromise, waive, or overlook any rights, obligations, or discretions. It simply means that each party is expected to be reasonable and act honestly.

In addition, Alberta Infrastructure removed terms like 'absolute' or 'unfettered' discretion and standardized discretion language. Where the Agreement grants discretion—including 'sole discretion'—that discretion is exercised in Good Faith.

Why we made the change

Industry partners told us that broad, undefined discretion created uncertainty and the potential for unmanageable risk. In response, Alberta Infrastructure introduced an explicit, overarching obligation of Good Faith to ensure both parties act honestly, reasonably, and in a spirit of mutual co-operation throughout the construction agreements.

By defining Good Faith and embedding it across the contract, we have created a clearer and more balanced framework for how decisions are made. While Alberta Infrastructure must still retain discretion in certain areas, that discretion is now guided by the principles of fairness, reasonableness, and transparency.