

FORM 9
CERTIFICATE OF SUBSTANTIAL PERFORMANCE OF THE
CONTRACT UNDER SECTION 32 OF THE ACT

Construction Act

(County/District/Regional Municipality/Town/City in which premises are situated)

Various Locations in the MTO area

(street address and city, town, etc., or, if there is no street address, the location of the premises)

This is to certify that the contract for the following improvement:

MTO Item #4, Special Provision # 050F04M, MTO Ditch Clean Out

(short description of the improvement)

to the above premises was substantially performed on **August 15, 2024**
(date substantially performed)

Date certificate signed: _____

(payment certifier where there is one)

Name of owner: **His Majesty The King in Right of
Ontario as represented by the
Minister of Transportation**

**Ministry of Transportation
437 McKeown Ave. West Wing,
North Bay, ON P1B 9E4**

Address for service: **Fowler Construction Company
Ltd.**

Name of contractor: **PO Box 630
1260 Rosewarne Drive**

Address for service: **Bracebridge, ON P1L 1T9**

Name of payment certifier (where applicable): _____

Address: _____

(Use A or B, whichever is appropriate)

☐ A. Identification of premises for preservation of liens:

(if a lien attaches to the premises, a legal description of the premises,
including all property identifier numbers and addresses for the premises)

☒ B. Office to which claim for lien must be given to preserve lien:

**Ministry of Transportation of Ontario
Director, Legal Services Branch
125 Sir William Hearst Avenue, 1st Floor
Downsview, Ontario
M3M 0B5**

(if the lien does not attach to the premises, the name and address of the person or body to whom the claim for lien must be given)

APPLICATION FOR SUBSTANTIAL
PERFORMANCE/CONTRACT COMPLETION

To: Brian Bell, Manager, Operations Office Northeastern Region
Date:

Contract No.: MTO Item #4, SP #050F04M (MTO Ditch Clean Out)

In accordance with the contract requirements, I/We Fowler Construction Company Limited (Name of Contractor) hereby apply for:

- ☒ Certificate of Substantial Performance
☐ Certificate of Completion

| | |
|---------------------------|--------------|
| All work invoiced to date | \$94,292.82 |
| Payments made to date | -\$ |
| Less holdback | -\$ |
| Less Owner's set-offs | -\$ |
| Amount due | =\$94,292.82 |

I/We Fowler Construction Company Limited (Name of Contractor) hereby release the owner of all further claims related to the contract with the following exceptions:

- List outstanding issues in accordance with MTO General Conditions of Contract

I/We Fowler Construction Company Limited (Name of Contractor) hereby declare and submit with this Application a Statutory Declaration in the form provided that all liabilities incurred by the Contractor, and the Contractor's Sub-Contractors, in carrying out the contract have been discharged, except for the statutory holdbacks properly retained in accordance with the Construction Lien Act.

- List outstanding liabilities:

Name: Diane Landstrom
Position: Project Mgr.

Signature: 

Date: Sept 16/24

STATUTORY DECLARATION

Canada
Province of Ontario

IN THE MATTER OF a contract entered with
**Her Majesty the Queen in right of Ontario, represented by the
Minister of Transportation, (Owner)**

by Fowler Construction Company Limited, (Contractor), at

MTO Contract Number:

I, John McBride,

DO SOLEMNLY DECLARE:

1. that I am Vice President of Operations, of Fowler Construction Company Limited, the Contractor named in the above mentioned Contract, and as such have personal knowledge of the fact herein declared.

2. that all accounts for labour, sub-contracts, products, materials, services and construction machinery and equipment, which have been incurred directly by the Contractor in the performance of the work as required by the Contract, and for which the Owner might in any way be held responsible, have been discharged, except for:

- (1) holdback monies properly retained,
- (2) payments deferred by agreement between the Contractor and the Owner,
- (3) amounts withheld by reason of legitimate dispute which have been identified to the party or parties, from whom payment has been withheld and are listed below and, (identify payees and amounts payable to each)

- (4) payments that are yet to be made because they are subject to the Contractor's verification processes.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the CANADA EVIDENCE ACT.

Declared before me at the Town

Of Bracebridge

in the District Municipality

of Muskoka this 16

day of September A.D. 2024

G. D. Michel
A Commissioner etc.

[Signature]
(Deponent)

INSTRUCTION

This declaration must be sworn before a commissioner for oaths, notary public or justice of the peace.

Statutory declaration to be submitted along with application to the appropriate Regional Contracts Office

Gail Diane Michel, a Commissioner, etc.,
Province of Ontario, for
Fowler Construction Company Limited and
Fowler Construction Holding Ltd.
Expires July 14, 2026.

Ministry of Transportation

Huntsville Operations Office
Northeastern Region
207 Main Street W
Huntsville, ON P1H 1Z9
Tel.: (705) 783-5627
Fax.: (705) 789-3606

Ministère des Transports

Huntsville Bureau des opérations
Région du Nord-Est
207, rue Main Ouest
Huntsville (Ontario) P1H 1Z9
Tel.: (705) 783-5627
Fax.: (705) 789-3606



Aug 15, 2024

Ms. Diane Landstrom, Project Manager
Fowler Construction Company LTD.
1206 Rosewarne Drive, P.O. Box 630
Bracebridge, Ontario, P1L 1T9

Owner's Notice of Conformance (Item 4 – MTO Ditching)

This letter will service to inform the Contractor by issuance of this notice, the construction phase of the work is considered complete, and the warranty period begins on the date the Owner's Notice of Conformance was issued and will continue for two calendar years.

Sincerely,

Brian Bell

Brian Bell
Maintenance Superintendent
Huntsville Operations

TL/tl

c. CDMC 2017-05 file.

X

Diane Landstrom
Project Manager - FCCL