For detailed instructions on how to complete this document, click [ ¶ ] icon under Home tab to display Hidden Help text.

**Document Purpose**: The Certificate of Substantial Performance indicates the Date of Substantial Performance and the Date of Service in which it is given/served to the Contractor by the City of Winnipeg. The ‘given/served’ date (that is, the Date of Service of the Certificate) is important to note as it determines the Expiry Date for when Builders’ Liens can be filed and, subsequently, when any holdbacks may then be paid out.

**Definition** of Substantial Performance as per Section 2(1) of The Builders’ Liens Act (Manitoba):

2(1) For the purposes of this Act, a contract or sub-contract shall be conclusively deemed to be substantially performed when:

1. The structure to be constructed under the contract or sub-contract or a substantial part thereof is ready for use or is being used for the purpose intended or, where the contract or sub-contract relates solely to improving land, the improved land or a substantial part thereof is ready for use or is being used for the purpose intended; and
2. The work to be done under the contract or sub-contract is capable of completion or correction at a cost of not more than: (i) 3% of the first $250,000 of the contract price; (ii) 2% of the next $250,000 of the contract price; and (iii) 1% of the balance of the contract price.

**Responsibility**: The Contract Administrator, whether a City employee or a Consultant representing the City who has the designated authority to certify substantial performance, is responsible for ensuring:

1. all conditions have been met as per The Builders’ Liens Act and as written in the Contract;
2. the Contractor has been given/served the Certificate within seven (7) days from the Date of Substantial Performance (as per Section 46(1) of The Builders’ Liens Act); and
3. all holdbacks are paid at the specified time.

**I CERTIFY THAT** the Contract made between:

**THE CITY OF WINNIPEG**

as Owner,

and

Enter the LEGAL business name of Contractor as on the Administrative Report or Award Report.

**ENTER THE CONTRACTOR`s LEGAL business NAME**

of Enter Contractor`s Street Address, City, Province and Postal Code

as Contractor.

**AND DATED** the Enter Contract’s numeric day day of Enter Contract’s month in full, Enter Contract’s 4-digit year in respect of under-mentioned Land and Work has been substantially performed within the meaning of The Builders’ Liens Act on the Enter numeric day of substantial performance day of Enter month in full, Enter 4-digit year to be known as the DATE OF SUBSTANTIAL PERFORMANCE.

**Short Description of the Work**

Provide a brief description of the Work performed, including the Contract Title in full, the Project ID as listed on the Capital Budget Detail Sheet, and the Bid Opportunity Number.

|  |  |
| --- | --- |
| Contract Title: Enter Contract’s full title. |   |
| Project ID: Enter Project ID number as listed on the Capital Budget Detail Sheet. |   |
| Bid Opportunity No.: Enter Bid Opportunity Number. |   |
| Brief Description of Work Performed: Enter a brief description of the work performed. | Enter a brief description of the Work performed. |

**Description of the Land**

Describe the land location where the Work took place. Enter ONE of the following descriptions where the Work took place in the order of priority:
 1) Land Titles Legal Description; or
 2) General municipal address; or
 3) Location using cross streets.

Enter the land location. Enter ONE of the following descriptions where the Work took place in order of priority:

(1) Land Titles Legal Description; or
(2) General municipal address; or
(3) Location using cross streets.

**Person upon whose Certificate Payment is to be made**

This is the Contract Administrator who has designated authority to certify that substantial performance is satisfactory.

|  |  |
| --- | --- |
| Contract Administrator: Enter Contract Administrator’s Name (Consultant or City Employee) certifying the payment. |   |
| Position Title: Enter Position Title of the person certifying the payment. |   |
| Company/City-Department-Division-Branch: If Consultant is CA, enter Company name; if City Staff is CA, enter The City of Winnipeg – Department-Division-Branch. ie: The City of Winnipeg, Corporate Finance-Accounts Payable.  |   |
| Company/Department Address: Enter Street Address, City, Province,and Postal Code. |   |

**Person giving/serving the Certificate**

This is the Contract Administrator who is authorized to certify and give/serve the Certificate of Substantial Performance to the Contractor. This is often the same person upon whose Certificate Payment is to be made.

|  |  |
| --- | --- |
| Contract Administrator: Enter Contract Administrator’s Name. (Consultant of City Staff) |   |
| Position Title: Enter Position Title of the Contract Administrator. |   |
| Company/City-Department-Division-Branch: If Consultant is CA, enter Company Name; if City Staff is CA, enter The City of Winnipeg-Department-Division-Branch. |   |
| Company/Department Address: Enter Street Address, City, Province and Postal Code. |   |

**Date of Service**

The ‘Date of Service’ is the date when the City gives/serves the Certificate Substantial Performance to the Contractor.

As per The Builders’ Liens Act, the City must give/serve the Contractor the Certificate of Substantial Performance **within seven (7) days** from the Date of Substantial Performance.

It is important to keep a record as to how and when the Certificate of Substantial Performance is given/served.

There are two (2) recommended methods for giving/serving the Certificate that indicate proof of service:

1. Personally delivered;

 or

1. Registered mailed.

For additional information on when the Certificate has been received through this method, refer to The Builders’ Liens Act, Section 79(2). **Note when the 40 day count starts**.

*79(2) A notice or document sent to an intended recipient by registered mail shall, in the absence of evidence to the contrary, be deemed to have been given on the third day, excluding Saturdays and holidays, after the date on which it was mailed.*

Record the method in detail in the “*For City of Winnipeg Office Use Only*” box below.

While it is important to give/serve the Certificate to a Contractor’s authorized designated person, obtaining a receipt signature is not required under The Builders’ Liens Act.

THIS CERTIFICATE OF SUBSTANTIAL PERFORMANCE within the meaning of The Builders’ Liens Act was given/served on the Enter numeric day which is within 7 days of the Date of Substantial Performance day of Enter month in full, Enter 4-digit year.

**THE UNDERSIGNED HEREBY CERTIFIES** the above information is correct and that she/he is the person required or authorized under The Builders’ Liens Act to give/serve this Certificate.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contract Administrator

Enter Contract Administrator`s Name

|  |
| --- |
| **For Office Use Only** (to be completed by the Contract Administrator) |
| **This Certificate of Substantial Performance was issued by Notice to the following Contractor:** |
| . | Recipient’s Name: An intended recipient is a person who is authorized to receive items on behalf of the Contractor. As per General Conditions C6.20:“The supervisor shall represent the Contractor on the site.” Enter name of designated person authorized to receive this Certificate on behalf of the Contractor. |   |
| Contractor’s Legal Business Name: Enter Contractor’s Legal Business Name.  |   |
| Recipient’s Street Address: Enter Street Address, City and Province. Do not enter PO Box numbers. |   |
| Recipient’s Mailing Address: (if different from Street Address above) Enter Mailing Address: PO Box, or Street Address, City, Province and Postal Code. If Mailing Address is the same as Street Address listed above, indicate “Same as above”. |   |
| . |
| **This Certificate of Substantial Performance was issued to the above Contractor by ONE of the following methods:** (Select the applicable method and complete its information.) |
| [ ]  **The Certificate was given/served personally** Enter the person indicated in the “Person giving/serving the Certificate”. Although another person may be physically handing the Certificate to the Contractor, it is ultimately the responsibility of the authorized designate to ensure service. |
| . | Name of Person giving/serving Certificate: Enter Name of Person who certified this Certificate. |   |
| Title of Person giving/serving Certificate: Enter Title of Person who certified this Certificate. |   |
| Address of Person giving/serving Certificate: Enter Street Address, City, Province and Postal Code. |   |
| Name of Person/Company physically handing the Certificate to the Recipient: Enter name of the Person/Company who is physically handing the Certificate to the Recepient.  |   |
| . |  | . |  |
| Date of Service The date the Certificate is received by the Recipient.  | Signature of Person giving/serving the Certificate.  |
|  | Commencement Date for Holdback Period: Select the appropriate “Commencment Date for Holdback Period”, which is the **next full business day after the “Date of Service”** stated above, as per The Builders’ Liens Act. |  |
|  | Attach record(s) of courier delivery or other acceptance documents, if applicable. |
| . |
| [ ]  **The Certificate was given/served by Registered Mail**  Enter the person indicated in the “Person giving/serving the Certificate” Although another person may be mailing the Certificate to the Contractor, it is ultimately the responsibility of the authorized designate to ensure service. |
| . | Name of Person giving/serving Certificate: Enter Name of Person who certified this Certificate. |   |
| Name of Person physically mailing the Certificate: Enter Name of Person who physically mailed the Certificate.  |   |
|  |  |  |  |
| Date of Mailing The date the Certificate was sent by Registered Mail. |  | Signature of Person giving/serving the Certificate. |
| Commencement Date for Holdback Period: This date starts **3 full business days after the Date of Mailing** stated above. Select the appropriate “Commencement Date for Holdback Period”, which is 3 full business days after the “Date of Mailing” as per 79(2) of The Builders’ Liens Act. |  |
| Attach record(s) of Registered Mail. |
| . |
| **Expiry Date for Filing Liens:** Select the appropriate “Expiry Date for Filing Liens” as per 24(1), 46, and 79(1) of The Builders’ Liens Act. |  |
| **Release of Holdback Date:** This date is the next business day after the Expiry Date for Filing Liens stated above. Select the appropriate “Release of Holdback Date”, which is the next business day after the “Expiry Date for Filing Liens”. |  |