

File #: 1344E
Date: November 13, 2020

Mr. Bruno Nazzicone
Thames Developments XI Inc.
105B Wings Road
Woodbridge, Ontario, L4L 6C2

Dear Mr. Nazzicone:

**Re: Confirmation of Substantial Performance - Contract I
Havelock Corners Phase 5A and 5B, Tree Clearing, Site Preparation and Earthworks
Thames Developments XI Inc., City of Woodstock**

In accordance with the Construction Lien Act, we have prepared the following concerning 'Substantial Performance' certification for Contract I:

A. Substantial Performance

The following provisions of the Construction Lien Act govern certification.

1. *For the purpose of the Act, a contract is substantially performed,*
 - (a) *when the improvement to be made under the contract or a substantial part thereof is ready for use or is being used for the purposes intended; and*
 - (b) *when the improvement to be made under that contract is capable of completion or, where there is a known defect, correction, at a cost of not more than,*
 - i) *3 percent of the first \$1,000,000 of the contract price,*
 - ii) *2 percent of the next \$1,000,000 of the contract price, and*
 - iii) *1 percent of the balance of the contract amount.*
2. *For the purposes of this Act, where the improvement of a substantial part thereof is ready for use or is being used for the purposes intended and the remainder of the improvement cannot be completed expeditiously for reasons beyond the control of the contractor or, where the owner and the contractor agree not to complete the improvement expeditiously, the price of the services or materials remaining to be supplied and required to complete the improvement shall be deducted from the contract price in determining Substantial Performance.*

B. Assessment of Substantial Performance

At this time, the contract is Substantially Performed as requirements noted above have been fulfilled as follows.

- a) The works are ready for use and are being used for the purpose intended.

- b) The owner agrees that no further work can be initiated due to seasonal and building schedule constraints.
- c) The estimated cost to complete known deficiencies is less than the allowable cost to complete known deficiencies.

i) Net contract amount governing Substantial Performance is calculated as follows:

• Contract I amount, excluding contingency amount	\$2,651,083.85
• Incomplete work deferred or deleted (through no fault of Contractor)	
Following items deducted:	
Topsoil Stripping, Cut/Fill scheduled for 2021	Total \$697,863.70

Net Contract Amount **\$1,953,220.15***

* use this Net Contract Amount for purpose of Substantial Performance calculation below.

ii) The allowed cost to complete deficiencies (per Lien Act) based on a Net Contract Amount of \$1,953,220.15 is:

3% x \$1,000,000 =	\$30,000.00
2% x \$953,220.15 =	\$19,064.40
Allowed Cost to Complete Deficiencies is	\$49,064.40

iii) Estimated Cost to Complete known deficiencies as follows is:

• None	\$0
Estimated Cost to Complete Deficiencies	\$0

We conclude that from the above the total 'Estimated Cost to Complete' known deficiencies is less than the 'Allowed Cost to Complete' known defects and therefore Contract I is 'Substantially Performed'.

C. Contract Provisions - Holdback Release

In accordance with the contract provisions, items which govern holdback release are summarized as follows:

10% Statutory Holdback

The Contract Agreement stipulates that "Sixty (60) days after advertisement of Substantial Performance as described in the Construction Lien Act,... the Engineer will certify payment of the ten (10%) percent Statutory Holdback...".

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Upon your concurrence with our assessment of Substantial Performance, we will issue the 'Substantial Performance Certificate'.

After expiry of the lien period and supply of supporting documentation by the contractor this holdback will be certified for release.

D. Summary

With the determination of Substantial Performance, expiry of the lien period, and supply of the appropriate documentation, the following amounts will be certified for release on or about January 12, 2021:

10% Statutory Holdback (to previous PC# 4)	Total	\$198,038.62
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Should you have any questions or concerns regarding the above, please contact or the undersigned.

Sincerely,

SCS Consulting Group Ltd.



Peter Stelmach, CAN-CISEC
pstelmach@scsconsultinggroup.com

c. Mr. Mike Vanderzee, VanRooyen Earthmoving Ltd.



CERTIFICATE OF SUBSTANTIAL PERFORMANCE OF THE CONTRACT SECTION 32 OF CONSTRUCTION LIEN ACT

File #: 1344
Date: November 13, 2020

OWNER: Thames Developments XI Inc.
OWNER ADDRESS: 105B Wings Road, Woodbridge, Ontario, L4L 6C2
CONTRACTOR: VanRooyen Earthmoving Ltd.
CONTRACTOR ADDRESS: 714389 Middletown Line RR #4, Woodstock, Ontario N4S 7V8
PAYMENT CERTIFIER: SCS Consulting Group Ltd.
PAYMENT CERTIFIER ADDRESS: 30 Centurian Drive, Suite 100, Markham, Ontario L3R 8B8

City of Woodstock, County of Oxford

(Country/District or Regional Municipality/City or Borough of Municipality of Metropolitan Toronto in which premises are situated)

South of County Road 17, East of Pittock Park Road

(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:
Site Preparation and Earthworks – Havelock Corners Phases 5A and 5B

TO THE ABOVE PREMISES WAS SUBSTANTIALLY PERFORMED ON:

November 13, 2020

(date substantially performed)

CERTIFICATE SIGNED

November 13, 2020 Peter Stelmach

Date Name Signature

IDENTIFICATION OF PREMISES FOR PRESERVATION OF LIENS:
Concession 13 and 14, Part of Lot 5

(lot and plan or instrument registration number)

OFFICE TO WHICH CLAIM FOR LIEN AND AFFIDAVIT MUST BE GIVEN TO PRESERVE LIEN:
SCS Consulting Group Ltd.