

File #: 1564  
Date: August 18, 2022

**Mr. Chelva Subramaniam**  
Digram Developments Caledon Inc.  
80 Micro Court, Unit 105  
Markham, Ontario, L3R 9Z5

Dear Mr. Subramaniam:

Re: **Confirmation of Substantial Performance - Contract I  
Caledon - Condo Block 132, Site Servicing and Roadworks  
Digram Developments Caledon Inc., Town of Caledon**

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 \$1,266,144.53
- Incomplete work deferred or deleted (through no fault of Contractor)  
Following items deducted:  
None Total (\$0)

**Net Contract Amount \$1,266,144.53\***

\* 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 \$1,266,144.53\* is:

3% x \$1,000,000 =	\$30,000.00
2% x \$266,144.53 =	\$5,322.89
<b>Allowed Cost to Complete Deficiencies is</b>	<b>\$35,322.89</b>

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

- Asphalt paving for watermain connections there was insufficient compaction. \$2,000.00
- Estimated Cost to Complete Deficiencies \$2,000.00**

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...".



Re: Confirmation of Substantial Performance – Contract I  
Caledon – Condo Block 132, Site Servicing and Roadworks  
Digram Developments Caledon Inc., Town of Caledon

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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 October 15, 2022:

10% Statutory Holdback (to previous PC# 2)	<b>Total</b>	<b>\$79,184.67</b>
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Should you have any questions or concerns regarding the above, please contact the undersigned.

Sincerely,

**SCS Consulting Group Ltd.**



Peter Stelmach, CAN-CISEC  
pstelmach@scsconsultinggroup.com

- c. Mr. Ali Memon, Digram Developments Caledon Inc.  
Mr. Stephen Priolo, Niran Construction Ltd.  
Ms. Chris Gasparini, Niran Construction Ltd.

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

**File #:** 1564  
**Date:** August 18, 2022

**OWNER:** Digram Developments Caledon Inc.  
**OWNER ADDRESS:** 80 Micro Court, Unit 105, Markham, Ontario, L3R 9Z5  
**CONTRACTOR:** Niran Construction Ltd.  
**CONTRACTOR ADDRESS:** 333 Humberline Drive, Toronto Ontario, M9W 5X3  
**PAYMENT CERTIFIER:** SCS Consulting Group Ltd.  
**PAYMENT CERTIFIER ADDRESS:** 30 Centurian Drive, Suite 100, Markham, Ontario L3R 8B8

**Town of Caledon, Region of Peel**

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

**Dotchson Avenue and Kennedy Road North**

(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:**  
Block 132 - Site Servicing and Primary Roadworks

**TO THE ABOVE PREMISES WAS SUBSTANTIALLY PERFORMED ON:**

August 18, 2022

(date substantially performed)

**CERTIFICATE SIGNED**

**August 18, 2022 Peter Stelmach**

Date Name Signature

**IDENTIFICATION OF PREMISES FOR PRESERVATION OF LIENS:**

Concession No. 1, East of Hurontario, Part of Lot 21  
(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.

