

**File #:** 2178  
**Date:** August 3, 2022

**Mr. Scott Young**  
Sorbara/Tribute Nigus Holding Inc.  
3700 Steeles Avenue West, Suite 800  
Vaughan, Ontario , L4L 8M9

Dear Mr. Young :

**Re: Confirmation of Substantial Performance - Contract I**  
**Storybrook Subdivison Phase 2A+, Site Serving and Roadworks**  
**Sorbara/Tribute Nigus Holding Inc., Centre of Wellington**

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 \$4,269,992.28
- Incomplete work deferred or deleted (through no fault of Contractor)  
Following items deducted:  
None Total (\$0)

**Net Contract Amount \$4,269,992.28\***

\* 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 \$4,269,992.28\* is:

3% x \$1,000,000 =	\$30,000.00
2% x \$1,000,000 =	\$20,000.00
(remainder of net*) 1% x \$2,269,992.28=	\$22,699.92
<b>Allowed Cost to Complete Deficiencies is</b>	<b>\$72,699.92</b>

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...".

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



**Re: Confirmation of Substantial Performance - Contract I  
Storybrook Subdivision Phase 2A+, Site Servicing and Roadworks  
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**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 2, 2022:

10% Statutory Holdback (to previous PC# 6)	<b>Total</b>	<b>\$388,679.77</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. Austin Chid Ibeson, Sorbora/Tribute Nigus Holding Inc.  
Mr. Mathew Rich, Brantford Engineering and Construction Limited.  
Ms. Shirley Clarke, Brantford Engineering and Construction Limited.  
Ms. Leanne Rich, Brantford Engineering and Construction Limited.

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

**File #:** 2178  
**Date:** August 3, 2022

**OWNER:** Sorbara/Tribute Nigus Holdings Inc.  
**OWNER ADDRESS:** 3700 Steeles Avenue West, Vaughan, Ontario L4L 8M9  
**CONTRACTOR:** Brantford Engineering and Construction Limited  
**CONTRACTOR ADDRESS:** 54 Ewart Avenue, R.R. #8, Brantford, Ontario, N3T 5M1  
**PAYMENT CERTIFIER:** SCS Consulting Group Ltd.  
**PAYMENT CERTIFIER ADDRESS:** 30 Centurian Drive, Suite 100, Markham, Ontario L3R 8B8

**Township of Centre of Wellington**

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

**Northwest corner of Colborne Street and Beatty Line North, Town of Fergus**

(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:  
**Storybrook Subdivision Phase 2A Extension, Site Servicing and Roadworks**

TO THE ABOVE PREMISES WAS SUBSTANTIALY  
PERFORMED ON:

**August 3, 2022**

(date substantially performed)

**CERTIFICATE SIGNED**

**August 3, 2022 - Peter Stelmach**



Date

Name

Signature

IDENTIFICATION OF PREMISES FOR PRESERVATION OF LIENS:  
**Centre Wellington, Concession 14, Lot 18 to 20**

(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.**