

June 13, 2023
File: 2018-5197.00.C.03.00

TEL: 416.622.9502
FAX: 905.346-0992
www.ae.ca

Derek Meigs
Project Manager
DeFaveri Group Contracting Inc.
1259 Arvin Avenue
Stoney Creek, ONT
L8E 0H7

**Re: BURLINGTON WATER PURIFICATION PLANT HIGH LIFT PUMPS AND LOX REPLACEMENT
CONTRACT NO. W-3171A-19
ISSUANCE OF SUBSTANTIAL PERFORMANCE CERTIFICATE**

Dear Mr. Meigs:

In response to your request for Substantial Performance dated May 23, 2023 and attached, please find attached to this letter a Certificate of Substantial Performance for the above noted Contract under the Construction Act. As required by the Act, this Certificate must be publicly advertised. Assuming there are no liens placed against the above noted project, the holdback money will be released after 60 days from the advertisement date. The 24- month warranty period will commence from the date of the advertisement for all works excluding the East Header and LOX works. The 24 month warranty for the LOX replacement works commenced on November 5, 2021, and will end on November 6, 2023, and for the East Header replacement works commenced on July 28, 2022 and will end on July 29, 2024. The warranty holdbacks will be released after the 24 month period assuming that all identified warranty issues have been addressed. DeFaveri to organize a Site walkthrough with Associated Engineering and the Region two months prior to the Warranty period ending to determine that there are no more issues, or if there are issues, they be addressed.

Although the Substantial Performance Certificate is being issued at this time, we remind the Contractor of the remaining works outlined in our letter dated April 27, 2023, to you, that have not been completed. As outlined in your Substantial Performance request dated May 23, 2023, you have requested that the following Contractual works be deferred from being completed by May 23, 2023, to being completed, at the latest, by September 12, 2023.

- PPC Line Item 32: HL Building Floor Sloping. The reason for the delay is unexpected floor repairs that were observed on May 25, 2023 after the floor was sacrificed. This delayed the placement of the new floor topping to the end of June 2023. Remaining Contract Amount = \$ 46,011.00

- PPC Line Item 46: Glazing for Windows. The reason for the delay is due to Curtain wall layout changes (from March 2022 to March 2023) and material supply delay issues to the end of July, 2023. Remaining Contract Amount =: \$ 26,000.
- Change Order 153: Curtain wall extension. The reason for the delay is material supply delay issues to the end of July 2023. Remaining Contract Amount = \$ 21,359.32
- Change Order 167: Additional Floor Topping. Similar to PPC Line Item 32, this work is delayed due to unexpected floor repairs observed on May 25, 2023, that need to be repaired before the new concrete topping can be placed. Remaining Contract amount = \$ 16,148.20
- Change Order 163: Extend roof safety railing. The reason for the delay is material supply delivery issues which as resulted in a delay to late July 2023. Remaining Contract amount = \$40,609.96
- Change Order 170: Valve Painting. Delayed due to the 28 day run test of the new pumps and concrete floor scarification completed in late May 2023. Also, the Contractor was addressing a leak in Pump 4 discharge valve which was resolved in mid May 2023.. Also, not critical to the Pumping Operation. Remaining Contract amount = \$ 18,884.25
- Change Order 187: Curtain wall Design revisions. The reason for the delay is material supply delivery issues due to changed Shop drawings required by a change in the location of the new stairs to the Platform . This resulted in material being ordered later then anticipated and therefore a late delivery in late July 2023. Remaining Contract amount = \$ 8,925.00

The total amount being requested to be deferred from May 23, 2023 to September 12, 2023 is \$ 177,937.82. DGC is requesting that this cost be removed from the Construction Act "3,2,1" calculation which is summarized as follows:

1. Upset PO Contract Amount with DeFaveri: \$ 12,503,131
Total Contract Amount Approved to date including CO's 1 to 187: \$ 12,289,304.81 (up to PPC 36)
2. Approved/ completed work total to end of May/23 (PPC 36): \$ 12,075,276
3. Total Value of work not completed that DeFaveri is requesting be deferred from Substantial Performance to Total Completion ("deemed") = \$ 177,937.82 (This value would not be used in the Substantial Performance Financial calculation)
4. Deficiency Amount Held back: \$ 75,500
5. Substantial Performance" Completion Calculation per Construction Act: (Total work completed to end of May 2023 is \$ 12,075,276)

$$\text{\$1M} \times 3 \% = \text{\$ 30,000}$$

$\$1\text{M} \times 2\% = \$20,000$

$\$10,075,274.44 \times 1\% = \$100,752.76$

Total allowable work not completed: \$ 150,757.76

6. Value of remaining work if work requested by DeFaveri is deferred to Total Completion

$\$214,028.80 (\$12,289,304.81 - \$12,075,276) - \$177,937.82 (\text{deferred work}) = \$36,090.98$

Therefore, value of work not completed is $\$36,090.98 + \$75,500 (\text{Deficiency Amount}) = \$111,590.98$ which is less than \$ 150,752.76.

We agree with deferring this work but request the work be completed by the dates outlined in your May 23, 2023 Substantial Performance request and at the very latest by the Total Completion date of September 12, 2023.

Additional items that must be addressed include:

- Provide an updated detailed schedule showing when all remaining Deficiencies and remaining contractual works will be completed.
- Provide Warranty Certificates
- Place Lamacoids on the equipment.
- Provide hard copies of Operations and Maintenance Equipment Manuals
- Completing remaining Contractual items including Security, Floor topping and Curtain wall
- Miscellaneous electrical including Exist signs, smoke and temperature sensors, panel drawings, Analyzer Board lights, etc
- ESA final approval
- Occupancy Permit from the City of Burlington Department
- Final TAB for the Building Mechanical Systems as requested in Specification 15950
- Address the comments provided to you on the Project Record drawings and resubmit.

We request that the above noted works be completed by September 12, 2023.

We will be withholding \$ 75,500 to cover the deficiency works noted above and as detailed in the attachment. This money will be released when the work has been completed. In addition, the warranty holdback for this Project to date is \$ 211,031.31. Assuming there are no warranty issues that need to be addressed, \$ 17,847.74 will be released on November 5, 2023 for the LOX replacement works, \$ 87,005.38 for the East Header replacement works on July 28, 2024 and \$ 106,178.19 released 24 months after the Substantial Performance Certificate is advertised provided that all issues that may come up during this 24-month period have been addressed.

The Statutory Holdback to the end of May 2023 is \$ 1,207,527.64 and will be released after 60 days from Advertisement assuming there are no liens. For the remaining work to be completed, a ten % Finishing Holdback will be retained.

The contractual Substantial Performance completion date was March 30, 2022 but was extended, by agreement, to May 23, 2023. The contractual Project Completion date was July 20, 2022 but was extended, by agreement, to September 12, 2023.

If you have any questions, please contact the undersigned.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Chris Caers'.

Chris Caers, M.E.Sc., P.Eng
Contract Administrator

Cc Patrick Moloughney, Region of Halton

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

Construction Act

The Regional Municipality of Halton

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

Burlington Water Purification Plant, 3249 Lakeshore Road, Burlington, ON L8E 0H7 PIN#: 07041 -0105 & 07041-0107

(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:

Contract No. W-3171A-19, Burlington Water Purification Plant High Lift Pumps and Liquid Oxygen System Replacement

(short description of the improvement)

to the above premises was substantially performed on **May 23, 2023**

(date substantially performed)

Date certificate signed: **June 13, 2023**



(payment certifier where there is one)

(owner and contractor, where there is no payment certifier)

Name of owner: **Regional Municipality of Halton**
Attention: Clerk's Department
1151 Bronte Road

Address for service: **Oakville, Ontario L6M 3L1**

Name of contractor: **DeFaveri Group Contracting Inc.**

Address for service: **1259 Arvin Avenue, Stoney Creek, Ontario L8E0H7**

Chris Caers, M.E.Sc, P.Eng
Associated Engineering (Ont.)

Name of payment certifier (where applicable): **Limited**

Address: **200-165 Commence Valley Drive West, Markham, Ontario L3T 7V8**

(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:

Attention: Clerk's Department
1151 Bronte Road, Oakville, Ontario, L6M 3L1
construction@halton.ca

Premises:

Burlington Water Treatment Plant, 3249 Lakeshore Road, Oakville, ON L8E 0H7 PIN#: 07041 -0105 & 07041-0107

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

Project / Contract	W-3171A-19, BWPP Hi Lift Pumps and LOX System	General Contractor	Sub-Contractors	Prime Consultant	Sub-Consultants	Halton Region
Subject	Issues/Deficiencies Tracking Master Log	Defaveri	General Contractor	Associated Engineering	Eramosa	Project Manager: Patrick Moloughney
Version	v3_external	Black and Mac Donald	Mechanical Contractor	PM: Austin Kanagasuri m	Pgmr: Scott Lille	Plant Ops Supervisor: Ian McLeod
Date Updated	25-May-23	Lexan	Electrical Contractor	CA: Chris Caers		Mtc Primary Rep(& Mech Rep):
Update By	AA			SI: Adrian Aslan		Mtc Electrical Rep:
						Mtc Instrument Rep:

ACTIONS

No.	Location / Equipment / Spec Section	Project Stage (Prior to Substantial or During Warranty Period)	Description	Responsible Parties to Address Issue	Contractor and Consultant Confirmed Issue is Part of Contract Scope (ie. is a Deficiency)	Status	Area	Date Issue Entered into Log	Date Contractor Notified of Issue	Estimated Date Contractor To Complete Deficiency By	Defaveri Comments	OUTSTANDING / EXTRA WORK / DEFICIENCY WORK / ROH REQUEST / COMPLETE	Estimated \$ Value
9	Conduit from GOX skid to tank needs to be relocated to not run under the vaporizers	Prior to Substantial Performance	Conduit from GOX skid to tank needs to be relocated to not run under the vaporizers	Lexan	Yes	Not Complete - Lexan to complete when manpower is on site full time	LOX	19-Aug-2021	19-Aug-2021	n/a	This has been monitored during the construction period and doesn't appear to be an issue. Please Remove	CLOSED	\$0
12	LOX - Building Exterior to Interior	Prior to Substantial Performance	Patching holes through wall at pipe penetrations, finish need to match brick exterior and bird screen is needed on vent line	B&M	Yes	Not Complete - Defaveri to complete	LOX	20-Aug-2021	20-Aug-2021	31-Jan		CLOSED	\$0
23	Hi Lift Warranty Sign	During Warranty Period	Defaveri to install warranty sign similar to LOX identifying warranty period.	n/a	Yes	Defaveri to submit template with wording for review.	HI LIFT	19-Sep-2022	19-Sep-2022	n/a	Not in contract. Please remove	CLOSED	
29	Hi Lift / Cleanup of coring / Cutting Slurry	Prior to Substantial Performance	During cutting of concrete, Slurry has splashed on misc. walls, conduits and piping. GIC to clean up	Defaveri	Yes	Communicated to Defaveri. Confirmed will be cleaned up prior to Substantial	HI LIFT	12-Oct-2022	12-Oct-2022	14-Jul	DFG to Complete this month.	DEFICIENCY	\$5,000
35	Filter Building / SG 1,2 and 3	Prior to Substantial Performance	Slide Gate Actuators 1 / 2 / 3 need to re-orientated as original.	B&M	Yes	Walk thru completed with Andrew on 4-Jan-2023. AG to advise on complete date	FILTER	4-Jan-23	4-Jan-23	n/a	Actuators were installed and accepted in this arrangement. Please issue CCO if the plant wishes them to be changed.	CLOSED	\$0
41	Low Lift Roof / Gas Line Supports	Prior to Substantial Performance	Supports need to be re-installed at the gas line - other sections need to be tightened up. Support Post needs to be properly secured.	Defaveri	Yes	Walk thru completed with Andrew on 4-Jan-2023. AG to advise on complete date	LOW LIFT	4-Jan-23	4-Jan-23	14-Jul	Completed. Not Completed, reviewed with Andrew in the field.	DEFICIENCY	\$1,500
43	Admin Roof / Capping and Pipe Suports	Prior to Substantial Performance	Supports on Admin roof need to be flashed / capped per detail.	Defaveri	Yes	Walk thru completed with Andrew on 4-Jan-2023. AG to advise on complete date	ADMIN	4-Jan-23	4-Jan-23	14-Jul-23	Complete. Flashing and caulking has been installed. Please remove. - Not complete - Flashing needed at all supports. Per RW 220 response.	DEFICIENCY	\$5,000
44	LOX / Blow off valve capping	Prior to Substantial Performance	All blow off valves will need to be capped	CHART	Yes	Walk thru completed with Andrew on 4-Jan-2023. AG to advise on complete date	LOX	4-Jan-23	4-Jan-23	n/a	System has been commissioned and accepted. If caps are required a new threaded end will be needed. Please issue CCO if the region would like installed.	ROH REQUEST	\$0
46	Filter Building / Roof Leaks	Prior to Substantial Performance	Small leaks were identified on the south wall and west wall of the filter building. Potentiall caused by drilled anchors at handrail needing to be sealed up	Defaveri	Yes	Walk thru completed with Andrew on 4-Jan-2023. AG to advise on complete date	FILTER	4-Jan-23	4-Jan-23	21-Jul-23	Still not verified. Supposed to rain later this week - anchors should've had gaskets to help prevent leaking.	DEFICIENCY	\$20,000
49	Site / Site Restoration	Prior to Substantial Performance	Restoration of all existing landscape areas. SOD vs. Seed?	DEFAVERI	Yes	Will be completed at end of project	SITE	23-Jan-23	23-Jan-23	30-Jun-23	PPC only has \$2,500 for seeding. Not sufficient for works. Needs topsoil spread out also. Areas around doors need repair also.	DEFICIENCY	\$12,000
50	Low Lift / Misc. Metals Exterior Stair Tower	Prior to Substantial Performance	Stair Tower at low lift to access roof - joints cut too short, welds need to be fixed, grating not level and step down onto roof is too high (another step is needed).	CMC	Yes	Still need step onto roof, one joint need plate and grating needs to be clipped down	SITE	23-Jan-23	23-Jan-23	21-Jul-23	Still needs step onto roof.	DEFICIENCY	\$7,000
51	Hi Lift / Seal Water Leak on Pump 4 and pump 3	Prior to Substantial Performance	Seal water leak was noted again on pump 4 and 3	DFG / B&M	Yes	Seal water leak was noted again on pump 4. Notification sent to DFG / B&M to advise if they have any concerns. Advised Andrew on site.	HI LIFT	13-Feb-23	13-Feb-23		Volumn of water spewed is significant and needs to be reviewed by Flowserve and Report provided. Moved to Warranty List.	Closed	\$0
53	Project / Red Line Drawings	Prior to Substantial Performance	Redlines need submitted for any changes taking place on the project	DFG	Yes	With Defaveri to submit	ALL	3-Jan-23	3-Jan-23	30-Jun-23		OUTSTANDING	\$2,500
55	Hi Lift / Site Cleanup	Prior to Substantial Performance	Overall cleanup of dust and debris - on floor, equipment and piping	DFG	Yes	Ongoing Discussion with Defaveri	HI LIFT	23-Mar-23	23-Mar-23	14-Jul-23		DEFICIENCY	\$5,000
57	Hi Lift - Hatch at Stop Logs	Prior to Substantial Performance	Screws need to be properly installed and secured	DFG / CMC	Yes	Discussed with Andrew onsite	HI LIFT	4-May-23	4-May-23	21-Jul-23		DEFICIENCY	\$2,000
58	Hi Lift - Metal Stairs	Prior to Substantial Performance	Welds will need to be corrected. Handrail needs to be corrected at joints. Stair may need stiffners at long run	DFG / CMC	Yes	Discussed with Andrew onsite	HI LIFT	10-May-23	10-May-23	21-Jul-23		DEFICIENCY	\$5,000
59	Hi Lift - Emergency Button Signs	Prior to Substantial Performance	Signage at emergency push buttons at exit doors needs to be added. AE to advise if cover is sufficient.	DFG	Yes	E-mail Sent to Defaveri on 9-May-2023	HI LIFT	9-May-23	9-May-23	21-Jul-23		ROH REQUEST	\$0
60	Hi Lift - VTP 1,2,3,4 Guard	Prior to Substantial Performance	Guards on all 4 new vertical pumps needs to fully cover opening at pump column	DFG / B&M	Yes	Discussed with Andrew onsite	HI LIFT	15-May-23	15-May-23	27-Jul-23		DEFICIENCY	\$2,000
61	Hi Lift - Service water lines - patching cored holes	Prior to Substantial Performance	Area around service water lines needs to be filled	DFG	Yes	Discussed with Andrew onsite	HI LIFT	25-May-23	25-May-23	14-Jul-23		DEFICIENCY	\$1,500
62	Hi Lift - HVAC Filters	Prior to Substantial Performance	Filters need to be changed at Fancoils	DFG	Yes	Discussed with Andrew onsite	HI LIFT	25-May-23	25-May-23	14-Jul-23		DEFICIENCY	\$1,500
63	Hi Lift - 2" Water Line to West side needs to be filled	Prior to Substantial Performance	Concrete area around water lines needs to be filled	DFG	Yes	Discussed with Andrew onsite	HI LIFT	25-May-23	25-May-23	30-Jun-23		DEFICIENCY	\$1,500
64	Hi Lift - Sample water line at curb needs to be filled / grouted	Prior to Substantial Performance	Sample line running through curb / carrier pipe needs to be grouted in / sealed.	DFG	Yes	Discussed with Andrew onsite	HI LIFT	25-May-23	25-May-23	30-Jun-23		DEFICIENCY	\$1,500
65	Hi Lift - Misc. Metals - Clean up at outer perimeter of Mezzanine.	Prior to Substantial Performance	Metal frames around on the north end of mezzanine needs to be cleaned. Small area also needs to be grouted in.	DFG	Yes	Discussed with Andrew onsite	HI LIFT	25-May-23	25-May-23	14-Jul-23		DEFICIENCY	\$2,500
TOTAL													\$75,500

TOTAL

\$75,500