

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

Construction Act

The City of Kitchener

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

137 Glasgow Street , Kitchener, ON N2G 4X8

(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:

University of Waterloo Multi-Scale Additive Manufacturing Laboratory

(short description of the improvement)

to the above premises was substantially performed on June 12th 2023

(date substantially performed)

Date certificate signed: June 14, 2023

Stephen Ginsberg

Digitally signed by Stephen Ginsberg
DN: CN=Stephen Ginsberg, OU=General,
OU=Users, OU=TORONTO, OU=DIALOG,
DC=designdialog, DC=ca
Date: 2023.06.14 09:56:30-04'00'

(payment certifier where there is one - signature required)

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

Name of owner: University of Waterloo

Address for service: Unit 320, 137 Glasgow Street , Kitchener, ON N2G 4X8

Name of contractor: Govan Brown & Associates Ltd.

Address for service: 108 Vine Ave, Toronto, ON M6P 1V7

Name of payment certifier (where applicable): Dialog Design

Address: 500, 35 John Street Toronto, ON, M5V 3G6

(Use A or B, whichever is appropriate)

☐ A. Identification of premises for preservation of liens:

Unit 320, 137 Glasgow Street, Kitchener, ON N2G 4X8

(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:

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

SUBSTANTIAL PERFORMANCE CALCULATION

Reference: 23.06.13 Draw#11 -May 2023

Contract Amount to date including Changes	TOTAL	\$ 3,013,208.24
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Substantial Performance calculation (3,2,1 Rule)	\$ 1,000,000.00	3%	\$ 30,000.00
	\$ 1,000,000.00	2%	\$ 20,000.00
	\$ 1,013,208.24	1%	\$ 10,132.08
	TOTAL		\$ 60,132.08

Balance to Contract including deficiencies		Remaining Amount
QFC to be completed: 063,072,073,074,076,079, and 082		\$ 22,533.94
	TOTAL	\$ 22,533.94

NOTE:

The remaining amount of work to be completed is \$22,533.94 which is less than the Substantial performance calculation using the 3,2,1% Rule which is \$60,132.08. Therefore, project is substantially complete.

Prepared By:

Steven Dasilva
Govan Brown Project Manager

Steven Dasilva

From: Allan David Rogalsky <allan.rogalsky@uwaterloo.ca>
Sent: June 12, 2023 5:37 PM
To: Tom Mason; Steven Dasilva; Stephen Ginsberg
Cc: Melissa Moogk-Soulis; Dwayne Sewers; Sophia Clark
Subject: Re: UofW MSAM Labs - May Progress Billing

EXTERNAL EMAIL

Hi Tom / Steven,
(cc Melissa / Dwayne)

Nelco came as promised and all the fans have been confirmed to be running. As such it is my opinion that the functional definition of substantial performance has been met.

Regards,
Allan

Allan Rogalsky, PhD
Operations and Safety Manager
Multi-Scale Additive Manufacturing Lab (MSAM)
University of Waterloo
<https://msam.uwaterloo.ca/>

From: Allan David Rogalsky <allan.rogalsky@uwaterloo.ca>
Sent: Monday, June 12, 2023 11:52 AM
To: Tom Mason <Tom.Mason@govanbrown.com>; Steven Dasilva <Steven.Dasilva@govanbrown.com>; Stephen Ginsberg <sginsberg@dialogdesign.ca>
Cc: Melissa Moogk-Soulis <melissa.moogk-soulis@uwaterloo.ca>; Dwayne Sewers <dwayne.sewers@uwaterloo.ca>; Sophia Clark <Sophia.Clark@govanbrown.com>
Subject: Re: UofW MSAM Labs - May Progress Billing

Hi Tom,
(cc Melissa / Dwayne)

My thoughts in the event that UW is the delay on this and may need some feedback from me:

1) I had missed that all exhaust fans were set to zero flow during the final inspection prior to my holidays. This is the last facility wide thing standing in the way of us starting operations. Per discussions with Dan this should be trivial to fix and Nelco will be on site today to rectify (setting a reasonable preliminary level that was achieved during balancing such that we can limp along until a proper re-balancing occurs). Once this is accomplished you will have my support (for what it is worth) that the functional definition of Substantial Performance has been met.

2) From a practical perspective it is my sense based on how things have been going on site that if the fans come up as expected today, there are unlikely to be 60K in other deficiencies as measured against the

approved design (with its known problems) meaning the 1,2,3 formula should be met if there is no trouble with the fans.

3) MSAM is likely to start operating imminently, meaning liability in all fairness should be transferred from Goven Brom to UW (something I understand is linked to this paperwork).

Note that any final decision at UW rests with plant operations and I also welcome any feedback from Dialog regarding challenges that might be holding up the paperwork.

Regards,
Allan

Allan Rogalsky, PhD
Operations and Safety Manager
Multi-Scale Additive Manufacturing Lab (MSAM)
University of Waterloo
<https://msam.uwaterloo.ca/>

From: Tom Mason <Tom.Mason@govanbrown.com>
Sent: Monday, June 12, 2023 11:33 AM
To: Steven Dasilva <Steven.Dasilva@GovanBrown.com>; Stephen Ginsberg <sginsberg@dialogdesign.ca>
Cc: Melissa Moogk-Soulis <melissa.moogk-soulis@uwaterloo.ca>; Dwayne Sewers <dwayne.sewers@uwaterloo.ca>; Sophia Clark <Sophia.Clark@govanbrown.com>; Allan David Rogalsky <allan.rogalsky@uwaterloo.ca>
Subject: RE: UofW MSAM Labs - May Progress Billing

Morning all,
Following up on the status of the Form 9 review.

I know that we have some items we are working through, however, I understand that these are day 2 items or deficiencies. As such, I don't believe they will impact the calculation. Please let us know what else is required for us to agree on Substantial Performance of the space.

Many thanks,



Tom Mason, LEED® AP
Director of Operations, SW Ontario
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From: Tom Mason <Tom.Mason@govanbrown.com>
Sent: June 8, 2023 2:52 PM
To: Steven Dasilva <Steven.Dasilva@govanbrown.com>; Stephen Ginsberg <sginsberg@dialogdesign.ca>
Cc: Melissa Moogk-Soulis <melissa.moogk-soulis@uwaterloo.ca>; Dwayne Sewers <dwayne.sewers@uwaterloo.ca>; Sophia Clark <Sophia.Clark@govanbrown.com>; Allan David Rogalsky <allan.rogalsky@uwaterloo.ca>
Subject: Re: UofW MSAM Labs - May Progress Billing

Hi all

Apologies I was not able to make the meeting this afternoon. Has there been a review of our form 9? As you can appreciate, we would like to agree to the substantial complete date for holdback and warranty purposes.

Many thanks,



Tom Mason, LEED® AP

Director of Operations, SW Ontario

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From: Steven Dasilva <Steven.Dasilva@govanbrown.com>

Sent: Tuesday, June 6, 2023 4:40:41 PM

To: Stephen Ginsberg <sginsberg@dialogdesign.ca>

Cc: Melissa Moogk-Soulis <melissa.moogk-soulis@uwaterloo.ca>; Dwayne Sewers <dwayne.sewers@uwaterloo.ca>; Sophia Clark <Sophia.Clark@govanbrown.com>; Allan David Rogalsky <allan.rogalsky@uwaterloo.ca>; Tom Mason <Tom.Mason@govanbrown.com>

Subject: RE: UofW MSAM Labs - May Progress Billing

Hi All:

Following up on the status of Form 9. Can you let us know if anything is required further on this?

Thanks,



Steven Dasilva

Project Management

C: (437) 770-2271 | E: Steven.Dasilva@govanbrown.com

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From: Steven Dasilva <Steven.Dasilva@govanbrown.com>

Sent: June 1, 2023 12:42 PM

To: Stephen Ginsberg <sginsberg@dialogdesign.ca>

Cc: Melissa Moogk-Soulis <melissa.moogk-soulis@uwaterloo.ca>; Dwayne Sewers <dwayne.sewers@uwaterloo.ca>; Sophia Clark <Sophia.Clark@govanbrown.com>; Allan David Rogalsky <allan.rogalsky@uwaterloo.ca>; Tom Mason <Tom.Mason@govanbrown.com>

Subject: UofW MSAM Labs - May Progress Billing

Importance: High

Hi Steph,

Please see attached for Progress Billing Application #11 for May.

As well attached is WSIB, latest stat dec, and the 3-2-1 calculation that brings us within the substantial threshold. Please advise on when form 9 will be issued back to GB for posting.

Let me know if there are any questions.

Thanks,



Steven Dasilva

Project Management

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