

MEMORANDUM

TO	Jeremy Waud
COMPANY	Markham District Energy
FROM	Mettelen Wagar
DATE	October 1 st , 2024
DISTRIBUTION	Sandra Yee, Michael Conte
PROJECT No.	222203
PROJECT NAME	MDE East Precinct DPS Expansion
SUBJECT	Substantial Completion

FVB received a request for issuance of the substantial completion certificate from R.B Somerville for the above mentioned project on September 20th, 2024.

From the last site inspection conducted by FVB the project was deemed substantially complete. FVB estimates the total value of deficiencies and/or outstanding work is less than the acceptable 3-2-1 criteria stated in the Construction Lien Act.

FVB recommends the attached Certificate of Substantial Performance be released to RBS. Per the construction Lien Act, the Contractor is required to advertise substantial performance of the project in the daily commercial news for no less than 45 days. At such time, FVB can certify completion of any outstanding deficiencies and/or incomplete items to aid MDE in releasing complete or partial project holdback.

Please do not hesitate to contact the undersigned should you have any questions or concerns.

Mettelen Wagar

Enclosures

- Form 6 - Certificate of Substantial Performance – 1 page
- Substantial Completion Calculation Summary and Deficiency List – 1 page
- RBS Substantial Completion Letter – 1 page

Form 6

Construction Lien Act, 1983

**CERTIFICATE OF SUBSTANTIAL PERFORMANCE
OF THE CONTRACT UNDER SECTION 32 OF THE ACT**

York Region, Town of Markham

*(County/District or Regional Municipality/City or Borough of
Municipality of Metropolitan Toronto in which premises are situate)*

Birchmount Road and Aviva Way to Enterprise Drive and University Blvd, Markham Ontario

(Street address and city, town, etc. or, if there is not street address, the location of the premises)

This is to certify that the contract for the following improvement:

East Precinct DPS Expansion, FVB Project # 222203

(short description of the improvement)

To the above premises was substantially performed on: July 12th, 2024

(date substantially performed)

Date certificate signed: October 1st, 2024

(Signature of payment certifier where there is one)

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

Name of owner: Markham District Energy

Address for service: 8100 Warden Avenue, Markham, On L6G 1B4

Name of contractor: Robert B. Somerville Co. Limited

Address for service: 13176 Dufferin St., King City, ON, L7B 1K5

Name of payment certifier: FVB Energy Inc.

(where applicable)

Address: 3800 Steeles Ave. West, Suite 103W, Vaughan, ON, L4L 4G9

(Use A or B whichever is appropriate)

A. Identification of premises for preservation of liens:

Birchmount Road and Aviva Way to Enterprise Drive and University Blvd, Markham Ontario

(where liens attach to premises, reference to lot and plan or instrument registration number)

B. Office to which claim for lien and affidavit must be given to preserve lien:

8100 Warden Avenue, Markham L6G 1B4

(where liens do not attach to premises)

Markham District Energy Inc.

East Precinct DPS

FVB Project No. 222203

Substantial Completion Calculation Summary

1	Value of Contract (Incl. Cash Allowances and CO# 1-29)	\$10,289,600.00
2	Allowable Amount for Deficiencies per Construction Lien Act (3-2-1%)	\$117,896.00
3	Outstanding Amount Not Paid* (After Payment Certificate #12 – July 2024)	\$51,206.99
4	Value of Deficiencies (FVB Estimate – October 2024)	Approx. \$8,000.00

*The outstanding amount not paid is unused cash allowances.

Calculation of Allowable Amount for Deficiencies

Value of Contract (as of July 23, 2024)	\$ 10,289,600.00
3% of first \$500,000	\$ 15,000.00
2% of second \$500,000	\$ 10,000.00
1% of remaining value	\$ 92,896.00
Total allowable amount for deficiencies	\$117,896.00
(per Construction Lien Act)	

Outstanding Closeout Action Items and Deficiencies

- Monitoring Well Decommissioning Report
- Enterprise Tie-In Final Cathodic Protection Report (6-month follow-up)
- As-Built – finalization of communication as-builts being coordinated with FVB
- Final site visits for stakeholder inspections (MDE to complete)

Mettelen Wagar

October 1st, 2024

Friday, September 20, 2024

FVB Energy Inc.

3800 Steeles Ave. West
Vaughan, ON
L4L 4G9

Telephone: (613) 876-9565

Email: mwagar@fvbenergy.com

Attention: Mettelen Wager

Reference: **Markam District Energy – East Precinct Distribution Piping System (FVB Project #222203)**

Ms. Wager,

Robert B. Somerville Co. Limited would like to request the release of its Holdback Money. RBS completed substantial completion of this project on Friday July 12, 2024.

- 1) We would like to request the issuance of the Certificate of Substantial Performance and the subsequent release of the statutory holdback money.
- 2) There is no further work anticipated under this contract as it pertains to holdback money being released.
- 3) Somerville releases the owner and the construction manager from any further claims related to the work performed under this contract, and relating to the work performed for which the holdback money is being applied.
- 4) As per the CCDC contract RBS will warranty the work as is identified in the contract for a period of 1 year from the date indicated above (Friday July 12, 2025).

If you have any questions, please do not hesitate to contact the undersigned at (905) 833-3100.

Thank you,



Anthony Sutton