

**DELEGATED APPROVAL FORM
DIRECTOR, REAL ESTATE SERVICES
MANAGER, REAL ESTATE SERVICES**

TRACKING NO.: 2020-153

Approved pursuant to the Delegated Authority contained in Item EX27.12, as adopted by City Council on October 2, 3 & 4, 2017, as amended by Item GM27.12, as adopted by City Council on May 22, 23 & 24, 2018 and Item GL9.14, as adopted by City Council on November 26 & 27, 2019 or, where applicable, contained in Item EX28.8, as adopted by City Council on November 7, 8 & 9, 2017.

Prepared By:	Mark Filice	Division:	Corporate Real Estate Management
Date Prepared:	June 30, 2020	Phone No.:	416-392-1830

Purpose	To obtain authority to enter into an easement transfer agreement (the "Agreement") with Steven Katsoulis and Maria Derpanis (the "Transferor") for the purposes of acquiring a permanent easement in gross over existing storm sewer infrastructure, owned and operated by the City of Toronto (the "City"). As part of the overall transaction, the City will also release the Existing Easement, as defined below, in exchange for new permanent easement rights that meet modern City standards.
Property	Part of the property municipally known as 85 Sweeney Drive as shown on the location map attached hereto as Appendix "B", and legally described as Part of PIN 10129-0619 (LT), labeled as Parts 1, 2 and 3 on the drawing attached hereto as Appendix "C" (the "Easement Area").
Actions	<ol style="list-style-type: none"> 1. Authority be granted for the City to enter into the Agreement with the Transferor, substantially on the terms and conditions set out in Appendix "A" together with such other or amended terms and conditions as may be satisfactory to the Director, Real Estate Services, or his/her designate and in a form acceptable to the City Solicitor. 2. Authority be granted for the Director, Real Estate Services, or his/her designate to sign a letter confirming the interpretation of subsection 1.1(w)(v)(1.1) of the Agreement in a form acceptable to the City Solicitor.
Financial Impact	<p>The total maximum cost to the City is \$94,682 (plus HST, where applicable) or \$96,334.64 (net of HST recoveries, where applicable). This is made up of the following costs:</p> <ol style="list-style-type: none"> 1. Acquisition of the Permanent Easement - \$90,700.00 (plus HST) or \$92,296.32 (net of HST recoveries), 2. Land Transfer Tax - \$632.00 3. Registration Costs - \$150.00 4. Transferor's Qualified Legal Expenses - The City has also agreed to reimburse up to \$3,200 (plus HST) or \$3,256.32 (net of HST recoveries) of these legal expenses. <p>Funding is available in the 2020-2029 Council Approved Capital Budget and Plan for Toronto Water under capital project account CWW421-17-16.</p> <p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>The City owns and operates a 1200 millimetre storm sewer within the boundaries of 85 Sweeney Drive under an existing easement registered as Instrument Number A16653 (the "Existing Easement"). The City also owns and operates a 1050 millimetre storm sewer several feet to the west of the Existing Easement, although no easement exists. A portion of the 1050 millimetre sewer runs beneath the Transferor's home. As part of the City's Basement Flooding Protection Program, the City is upgrading the municipal infrastructure system that these storm sewers form part of. In advance of this work, the parties agreed to release the Existing Easement and register a new permanent easement to deal with both existing sewers in an informed, organized and uniform manner. The Agreement also contains a full and final release from any and all claims that arise on or before the date of this Agreement and are related directly or indirectly to the existence or operation of the existing, unpapered sewer and directs that all subsequent claims be resolved under the Agreement.</p> <p>Corporate Real Estate Management staff consider the proposed Agreement to be fair and reasonable to both parties.</p>
Terms	Major Terms and Conditions are set out on page 4: Appendix "A"

Property Details	Ward:	16 – Don Valley East
	Assessment Roll No.:	
	Approximate Size:	
	Approximate Area:	Non-Stratified Easement Area (earth-to-sky): 108.7 m ² or 1170.4 ft ² Stratified Easement Area (subsurface only): 28.2 m ² or 303.5 ft ²
	Other Information:	

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate Services has approval authority for:
1. Acquisitions:	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
2. Expropriations:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.
3. Issuance of RFPs/REOIs:	Delegated to more senior positions.	<input type="checkbox"/> Issuance of RFPs/REOIs.
4. Permanent Highway Closures:	Delegated to more senior positions.	<input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.
5. Transfer of Operational Management to Divisions and Agencies:	Delegated to more senior positions.	Delegated to more senior positions.
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
7. Disposals (including Leases of 21 years or more):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:	Delegated to more senior positions.	<input type="checkbox"/> Exchange of land in Green Space System and Parks and Open Space Areas of Official Plan.
9. Leases/Licences (City as Landlord/Licensor):	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$50,000. <input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding three (3) months, including licences for environmental assessments and/or testing, etc.	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$1 Million. <input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding six (6) months, including licences for environmental assessments and/or testing, etc.
10. Leases/Licences (City as Tenant/Licensee):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000.	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million.
	Delegated to more senior positions.	<input type="checkbox"/> (b) When closing roads, easements to pre-existing utilities for nominal consideration.
12. Easements (City as Grantee):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input checked="" type="checkbox"/> Where total compensation does not exceed \$1 Million.
13. Revisions to Council Decisions in Real Estate Matters:	Delegated to more senior positions.	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).
14. Miscellaneous:	Delegated to more senior positions.	<input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences <input type="checkbox"/> (b) Releases/Discharges <input type="checkbox"/> (c) Surrenders/Abandonments <input type="checkbox"/> (d) Enforcements/Terminations <input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates <input type="checkbox"/> (f) Objections/Waivers/Caution <input type="checkbox"/> (g) Notices of Lease and Sublease <input type="checkbox"/> (h) Consent to regulatory applications by City, as owner <input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title <input type="checkbox"/> (j) Documentation relating to Land Titles applications <input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds

B. Director, Real Estate Services and Manager, Real Estate Services each has signing authority on behalf of the City for:

- Documents required to implement matters for which he or she also has delegated approval authority.
- Expropriation Applications and Notices following Council approval of expropriation (Manager, Transaction Services is only Manager with such signing authority).

Director, Real Estate Services also has signing authority on behalf of the City for:

- Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.
- Community Space Tenancy Leases approved by delegated authority by the Deputy City Manager, Corporate Services and any related documents.

Consultation with Councillor(s)										
Councillor:	Denzil Minnan-Wong					Councillor:				
Contact Name:	Amalia Stefanopoulos					Contact Name:				
Contacted by:	Phone	E-Mail	X	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	No Objections May 5, 2020					Comments:				
Consultation with Divisions and/or Agencies										
Division:	Engineering and Construction Services					Division:	Financial Planning			
Contact Name:	Andrea Ramsay					Contact Name:	Filisha Jenkins			
Comments:	No Objections June 10, 2020					Comments:	No Objections June 24, 2020			
Legal Division Contact										
Contact Name:	Catherine Thomas					Contact Name:	June 9, 2020			

DAF Tracking No.: 2020-153	Date	Signature
<input checked="" type="checkbox"/> Recommended by: Manager, Corporate Real Estate Management: Daran Somas	June 30, 2020	Signed by Daran Somas
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Director, Corporate Real Estate Management: Alison Folosea	July 2, 2020	Signed by Alison Folosea

General Conditions ("GC")

- (a) The local Councillor (or local Councillors if the subject property is located on a ward boundary or if the transaction involves an exchange of properties in more than one ward), will be consulted prior to the exercise of delegated Approving Authority by staff for all Acquisitions, Disposals, Land Exchanges and Leases. In the event of a vacancy in the Ward in which the subject property is located, the Mayor's office shall be consulted in the alternative.
- (b) Where approving power has been delegated to staff, the Deputy City Manager, Corporate Services, in consultation with any other applicable Deputy City Manager or the City Manager, may determine that such matter is of such special interest that same should be returned to the relevant Committee and Council for consideration and determination.
- (c) Exercise of delegated authority is subject to all applicable Council policies, statutes or other applicable law.
- (d) Authority to approve financial commitments/expenditures is subject to all amounts being available in an approved budget, or funding being available from third party sources, except for "Strategic Property Acquisitions" as set out in EX44.22 adopted by Council August 25, 26, 27 and 28, 2014, which identifies alternative funding mechanisms subject to additional approval requirements.
- (e) Property interests are to be based on appraised market value and no interest shall be granted for an amount less than the appraised market value, nor additional compensation paid, unless specifically authorized by City Council.
- (f) Authority to approve any transaction is subject to statutory anti-bonusing provisions.
- (g) Total compensation means the aggregate of all types of payments, including land value, estimated clean-up costs, potential arbitration awards, loss claims, etc., but exclusive of any applicable taxes and registration costs.
- (h) Authority to acquire property is conditional upon provision being made to bring the property into compliance with applicable MOE or other requirements such that it will be fit for its intended municipal purpose, except for property acquisitions of 50M² or less for transit shelter purposes.
- (i) Authority to initiate the permanent road closure process in **A.4** is conditional upon confirmation by the GM of Transportation Services that it is feasible to permanently close the highway.
- (j) Disposal authorities in **A.7** are subject to the property having been declared surplus, and the disposal policy complied with.
- (k) Land exchanges, except for those in **A.8**, may be authorized based on the delegated Approving Authority for disposals in **A.7**.
- (l) Approving Authority with respect to land located in the Designated Waterfront Area as defined in the *Toronto Waterfront Revitalization Corporation Act, 2002* is conditional upon the approval of the Director, Waterfront Secretariat.
- (m) Authority to approve an exchange of land in **A.8** is conditional upon confirmation by the Chief Planner and Executive Director of City Planning, and the GM of Parks, Forestry & Recreation, that the land being exchanged is (i) nearby land of equivalent or larger area, and (ii) of comparable or superior green space utility.
- (n) Approving Authority in **A.9** Leases (City as Landlord) but not Licences (City as Licensor) is limited to periods (including options/renewals) of less than twenty-one (21) years, as leases of 21 years or more may be authorized based on the delegated Approving Authority for disposals in **A.7**.
- (o) Total compensation in leasing matters where the City is landlord (**A.9**) includes the value of tenant improvements if factored into tenant's rental payments.
- (p) Total compensation in leasing matters where the City is the tenant (**A.10**) includes the value of any tenant improvements to be paid by the City.
- (q) Where options/renewals are included in leases, if the renewal rent is to be determined at a date later than the original approval date, total compensation is to be calculated as though all options are exercised, estimating the renewal rent based on the highest rent payable in the first term of the lease.
- (r) Total compensation in leasing matters where the City is landlord (**A.9**) or tenant (**A.10**) is to be calculated from the date of approval pursuant to this delegation (ie. first allowing for the expiry of any prior approvals, whether by Council or a delegated authority).
- (s) Approving Authority in leasing matters includes authority to approve renewals/extensions within the parameters of the delegated Approving Authority.
- (t) Approving Authority includes authority for amendments within the parameters of the delegated Approving Authority, the cumulative total of which may not exceed the delegated financial limit.
- (u) Where proposed additional amounts in **A.13** exceed 10 per cent of the original decision, even if otherwise in compliance with all other conditions, then Approving Authority is transferred upwards to the next more senior level of Approving Authority having the relevant overall financial limit.
- (v) Approving Authority includes authority for all documents necessary to implement the authority, including ancillary agreements, on terms and conditions satisfactory to the Approving Authority, in consultation with the relevant operating Division(s).
- (w) Staff positions referred to in this delegation include successors from time to time.
- (x) Documents are to be in a form satisfactory to the City Solicitor (including indemnity and insurance provisions).
- (y) Delegated signing authorities in **B** are conditional upon the documents having received the City Solicitor's prior "Approval as to Form".
- (z) Authority to use land acquired by the City for parking purposes by the Toronto Parking Authority is conditional upon Council enacting a by-law designating such use.
- (aa) All residential leasing documents shall adhere to the *Residential Tenancies Act, 2006* and any successor legislation.
- (bb) Despite GC(n), Approving Authority in residential leasing matters is not limited to periods of less than twenty-one (21) years and total compensation in residential leasing matters where the City is landlord is to be calculated based on an assumed term of ten years unless the lease term expressly identified therein is longer.
- (cc) Where Approving Authority has been delegated to the Manager level, such authority shall be conditional upon the Manager first having secured the written concurrence of a second Manager within the Real Estate Services Division.
- (dd) Where the City is transacting with a public agency, and such agency requires that an unqualified environmental indemnity be granted by the City, the authority to acquire property includes authority to grant such an indemnity, provided that the Phase I and Phase II environmental site assessments undertaken on behalf of the City have identified no significant environmental impacts or human health threats, with no, or minor action required ("Low Risk").

Appendix A- Term Sheet

Transferee: City of Toronto (the "City")

Transferor: Steven Katsoulis and Maria Derpanis

Easement Lands: Non-Stratified Easement Area (earth-to-sky): 108.7 m² or 1170.4 ft² (Part 1 & 3 Appendix "C")
Stratified Easement Area (starting at a depth of approx. 2.3m): 28.2 m² or 303.5 ft² (Part 2 Appendix "C")

Consideration: The City must pay the Transferor \$90,700.00 plus HST and up to \$3,200.00 plus HST of legal fees which are proven to have been charged in respect of negotiating and executing the Agreement.

Permanent Easement Rights: The City is acquiring the right to :

- (i) to enter in, on, under or through the Permanent Easement Lands with sufficient equipment, gear, apparatus, machinery, tools, implements, supplies, stores and materials to Operate the Works;
- (ii) for ingress and egress over the Non-Stratified Easement Lands;
- (iii) to stage and otherwise store on the Non-Stratified Easement Lands only those vehicles, equipment, gear, apparatus, machinery, tools, implements, supplies, stores and materials required for the duration of the activities;
- (iv) to Operate the Works in, on, under or through the Permanent Easement Lands; and
- (v) to take proactive and remedial measures to prevent and correct any circumstance or condition that is having or could have the effect of interfering with or derogating from the attainment of such purposes, including measures to: (1) temporarily remove some or all of the rear deck from the Non-Stratified Easement lands, provided it is restored at the City's sole expense (1.1) permanently remove from the Permanent Easement Lands any unauthorized natural or human-made fixtures, chattels, and/or utilities; and (2) sever, fell remove or control the growth of any roots, trees, stumps, brush, vegetation or water in, on, under or through the Permanent Easement Lands; and (3) secure and protect the Works from hazard.

Where "Operate" means access, abandon, alter, commission, construct, decommission, demonstrate, enlarge, expand, exploit, improve, inspect, install, lay down, maintain, monitor, operate, reconstruct, re-fit, relocate, remove, renew, repair, replace, substitute, survey, test and "Works" means **the** municipal sewers including all Appurtenances, improvements and services or any of them, as the General Manager may, from time to time, acting reasonably, deem necessary or desirable in order for the City to fully exploit the use, enjoyment and benefit of the sewer.

City obligations: The City must maintain the Works in a good state of repair at all times and must provide 30 days written notice before commencing any routine, capital or other non-emergency work. When its exercise of the Permanent Easement Rights or entry upon the Permanent Easement Lands causes or results in disturbance, damage or removal of any chattels, fixtures or landscaping, the City must restore same as nearly as is reasonably possible to the state in which they existed prior to such disturbance within a reasonable timeframe. The Permanent Easement rights are to be exercised in a minimally intrusive manner that respects the personal use of the Transferor's Lands and residential character of the neighbourhood. The City shall review any materials submitted by the Transferor in when seeking the City's consent under the Agreement in a timely and professional manner.

Transferor obligations: The Transferor shall not, without the written consent of the General Manager of Toronto Water, carry out any work in, on, under or through their property which could have from time to time, any of the following effects:

- (1) reducing, impairing, obstructing or interfering with: (a) the stability, safety or function of the Works; or (b) the ability of any City Representatives to exercise any Permanent Easement Rights;
- (2) materially increasing the costs of the City to exercise any Permanent Easement Rights;
- (3) burdening, loading or encumbering the Non-Stratified Easement Lands at any time, with any buildings, improvements, structures, equipment, supplies, gear, refuse, waste, scrap, vehicles, soils, trees, plant matter, expensive landscaping, construction materials or Hazardous Substances, on either a temporary or permanent basis, save and except the rear deck; or
- (4) altering, whether by blasting, digging, drilling or excavating more than 450 mm below grade, piling, irrigating or other means, the compaction or stability of any soils or fill materials forming part of the Permanent Easement Lands at any time.

The Transferor must also seek the General Manager's consent prior to grant any other easements or other rights or interests in, on, under or through any portion of the Permanent Easement Lands at any time, pursuant to which any person may Operate utilities, pipelines, or any public or private works or other facilities in, on, under or though the Permanent Easement Lands.

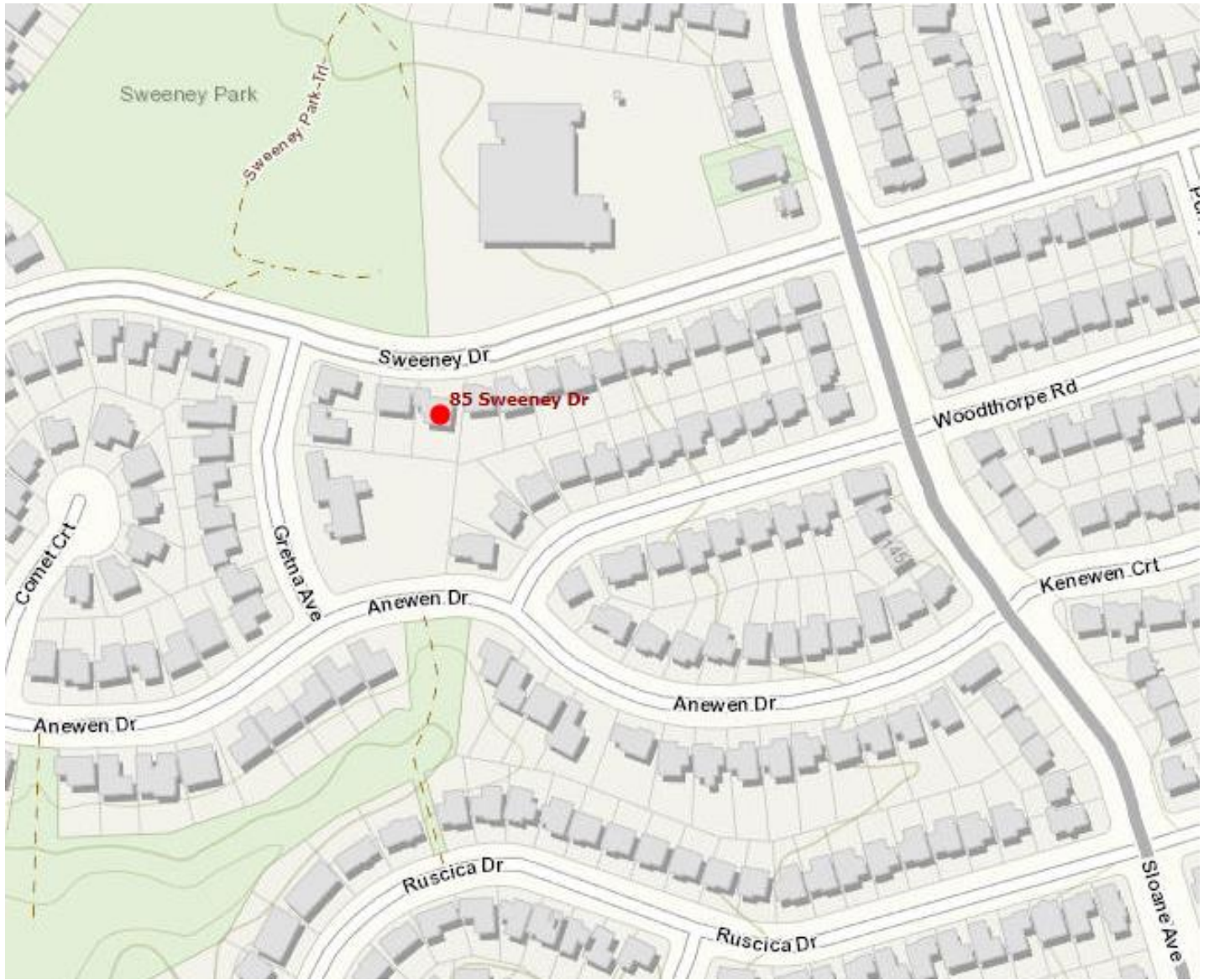
Conservation Easement: The Permanent Easement is a conservation easement created under the *Conservation Land Act*, R.S.O. 1990, Chapter C.28, as amended, for the purpose of protecting water quality and quantity and the protection and management of the Don River watershed and as such all covenants are deemed to be restrictive covenants and are binding on successive owners of the Permanent Easement Lands. The City must seek the consent of the Minister if it were ever to release the easement.

Mutual Indemnity: The City shall fully indemnify and save harmless the Transferor and any person for whom the Transferor is responsible at law from and against any and all claims which are brought against the Transferor in respect of or arising out of any loss, damage or injury (including death resulting from injury) to any person or property which results directly from, is sustained by reason of, or arises out of the rights and privileges granted to the City and/or the use of occupation of the Permanent Easement Lands, whether or not such act or omission is otherwise permitted pursuant to the terms of this Agreement, except to extent the claims are contributed to by, any negligent or intentional act or omission of the Transferor.

The Transferor shall fully indemnify and save harmless the City from and against all claims made against the City in respect of or arising out of any loss, damage, or injury (including death resulting from injury) to any person or property which results directly from, is sustained by reason of, or arises out of the breach by the Transferor of the terms of the Agreement, except to extent they are contributed to by, any negligent or intentional act or omission of any of the City.

Liens: The City shall make all payments and take all steps as may be necessary to ensure that no lien is registered against the Transferor as a result of any work, services or materials supplied to the City. The City shall cause any such registration to be discharged or vacated immediately after notice thereof from the Transferor or within ten (10) days following such registration, whichever is earlier. If the City fails to cause any such registration to be discharged or vacated as aforesaid, then, in addition to any other rights of the Transferor, the Transferor may, but shall not be obliged to, discharge the same by paying the amount claimed into court, and the amount so paid and all related costs incurred in respect thereof by the Transferor, including legal fees and disbursements, shall be paid by the City to the Transferor forthwith upon demand.

Appendix B- Location Map



Appendix C- Permanent Easement Area

ASSIGNMENT A22-15 EASEMENT (SWEENEY DRIVE 85)	
PART	PERMANENT EASEMENT (m ²)
PART 1	51.20 m ²
PART 2	28.32 m ²
PART 3	50.54 m ²

-  SUBSURFACE EASEMENT - DEPTH STARTING AT 2.30 m.
-  PERMANENT EASEMENT
-  EXISTING EASEMENT BOUNDARY
-  EXISTING EASEMENT AREA

