

EASEMENT AGREEMENT

BETWEEN:

SHELLEY LEE ADAMS and DAVID JOHN STEVENS

(“The Transferors”)

- and -

THE CORPORATION OF THE TOWNSHIP OF EDWARDSBURGH/CARDINAL

(“The Transferee”)

WHEREAS:

1. The Transferors own the servient tenement, being part of lot 15, concession 7 in the Township of Edwardsburgh/Cardinal as in PR201052, being PIN 68142-0232 (“the Servient Lands”).
2. The dominant tenement of the Transferee consists of the sewer infrastructure of The Corporation of The Township of Edwardsburgh/Cardinal situate in the Township of Edwardsburgh/Cardinal together with buildings and other lands benefitting from the sewer infrastructure (the “Dominant Lands”).
3. The Transferee requires an easement be registered on the Transferors’ lands for this sewer infrastructure.

NOW THEREFORE the parties agree as follows:

1. THE LANDS AND PURCHASE PRICE

- 1.1. The Transferors hereby offer to sell and the Transferee hereby agrees to purchase a permanent easement to construct, install, operate, maintain, inspect, alter, remove, replace, reconstruct, enlarge, repair and use and to permit others to construct, install, operate, maintain, inspect, alter, remove, replace, reconstruct, enlarge, repair and use a partially open and partially below ground storm sewer, together with such above-ground accesses, service points and other appurtenances for every such purpose (the "Storm Sewer") over, under and through a portion of the Transferors’ Lands, designated as Part 1 and Part 2 on Plan 15R-12120 and shown on Schedule “A” attached hereto, (the “Permanent Easement Lands”) for a purchase price of Two Dollars (\$2.00) (the “Purchase Price), the sufficiency and receipt of which is hereby acknowledged.
- 1.2. The Transferee has prepared and deposited at its own expense a reference plan for the Permanent Easement Lands.

- 1.3. The Purchase Price does not include any taxes payable under the *Excise Tax Act*, R.S.C. 1985, c. E-15 and the Transferee hereby covenants to self-assess and remit applicable Harmonized Sales Tax (HST) in addition to the Purchase Price in accordance with the provisions of the *Excise Tax Act*.

2. CLOSING

- 2.1. The closing date of this transaction shall be **APRIL 27, 2021**. Vacant, unencumbered possession of the Permanent Easements Lands shall be given to the Transferee on the Closing Date, unless otherwise provided.
- 2.2. Any tender of documents may be made upon either party or their solicitors.
- 2.3. The Transferee shall be allowed to investigate the title to the Permanent Easement Lands, at its own expense, until the Closing Date. If within that time any valid objection to title is made, in writing, which the Transferors are unable to remove and which is not waived by the Transferee, this Agreement shall be null and void.
- 2.4. The Transferee shall not call for the production of any title deed or other evidence of title, except as may be in the possession of the Transferors.
- 2.5. The Transferors shall provide on the Closing Date any certificates, affidavits, declarations or any other documents required for compliance with *the Family Law Act*, R.S.O. 1990, c. F.3, the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp), and any other statutes, where such certificates, affidavits, declarations or documents are required to permit the conveyance of the Permanent Easement Lands to the Transferee free of any claim, lien or interest of any person or government.
- 2.6. The Transfer shall be prepared by the Transferee's solicitor and the Transferors shall execute all necessary Transfer and documents required in connection with this transaction. The Easement Schedule shall be in the form attached hereto as Schedule "B."
- 2.7. This transaction shall be completed by electronic registration pursuant to Part III of the *Land Registration Reform Act*, R.S.O. 1990, c. L.4. The Transferors and the Transferee agree to be bound by the Document Registration Agreement which is recommended from time to time by the Law Society of Upper Canada (the "DRA"). The Transferors and the Transferee acknowledge and agree that the delivery of documents and the release thereof will: (a) not occur at the same time as the registration of the Transfer (and other documents intended to be registered in connection with the completion of this transaction); and (b) be subject to conditions whereby the solicitor(s) receiving documents will be required to hold them in escrow and not release them except in accordance with the terms of the DRA.
- 2.8. Until completion of this transaction on the Closing Date, the Permanent Easement Lands shall be and remain at the risk of the Transferors, except as otherwise provided.
- 2.9. Time is of the essence hereof, provided that the time for doing or completing any matter herein may be extended or abridged by an agreement, in writing, signed by the Transferee and Transferors or by their respective solicitors.

3. RIGHT OF ENTRY

- 3.1. The Transferee, its agents and contractors, shall have the right of entry onto the Permanent Easement Lands from the date of acceptance of this Agreement for the purposes of inspection, survey and performing environmental testing as it deems necessary including, but not limited to, obtaining soil and liquid samples and drilling test holes.
- 3.2. The Transferee shall indemnify and save harmless the Transferors from any kind of liability, suit, claim, demand, fine, action or proceeding of any kind for which the Transferors may become liable or suffer by reason of the Transferee's early entry onto the Permanent Easement Lands, and any breach of or non-performance by the Transferee of this Agreement, save and except any negligence by the Transferors, and those for whom the Transferors are responsible in law.

4. LEGAL EXPENSES AND INDEPENDENT LEGAL ADVICE

- 4.1. The parties agree that the Transferee will pay reasonable legal fees incurred by the Transferors in connection with the negotiations of this Agreement and the conveyance of the Permanent Easement Lands, upon receipt of an itemized statement of account, within a reasonable time after the Closing Date.
- 4.2. The Transferors acknowledges that they have read, understood, and agree with all of the provisions of this Agreement, and acknowledge that they have had the opportunity to obtain independent legal advice with respect to same.

5. TRANSFEROR'S REPRESENTATIONS AND WARRANTIES

- 5.1. If all or any part of the Transferors' Lands are subject to any interest or right to occupy or use the Transferors' Lands, the Transferors hereby warrant:
 - (a) they have disclosed those interests or rights to the Transferee in writing, prior to executing this Agreement; and
 - (b) that they have obtained all necessary consents, authorizations, or surrenders from the tenant for this transaction.

Signed at _____, this ____ day of _____, 2021.

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)	
Witness:)	Shelley Lee Adams
)	
)	
)	

_____))
Witness:) David John Stevens
)

Signed at _____, this ____ day of _____, 2021.

The Corporation of The Township
of Edwardsburgh/Cardinal

Pat Sayeau, Mayor

Dave Grant, CAO

*(We have the authority to bind the
Corporation).*

Schedule "B" to Transfer of Easement

WHEREAS The Transferors own the servient tenement, being part of 15 concession 7 in the Township of Edwardsburgh/Cardinal as in PR201052, being PIN 68142-0232 ("the Servient Lands").

AND WHEREAS the Transferee requires an Easement in Gross be registered permitting the Township of Edwardsburgh/Cardinal to access and maintain the storm sewer infrastructure located on the Servient Lands.

1. The Transferor hereby grants, conveys and transfers unto the Transferee, its successors and assigns, an exclusive unencumbered right, interest and easement in gross upon, over, on, in, under, along, across and through the lands of the Transferors described as Part 1 and Part 2 on reference plan 15R-12120 attached, to construct, install, operate, maintain, inspect, alter, remove, replace, reconstruct, enlarge, repair and use and to permit others to construct, install, operate, maintain, inspect, alter, remove, replace, reconstruct, enlarge, repair and use a partially open and partially below ground storm sewer, together with such above-ground accesses, service points and other appurtenances for every such purpose (the "Storm Sewer").
2. And for every such purpose, the Transferee and those claiming under the Transferee together with their vehicles, machinery, equipment, materials and supplies, shall have the right of free unimpeded access to the Servient Lands at all times and for all purposes and things necessary for or incidental to the exercise and enjoyment of the rights hereby granted.
3. It is understood and agreed by and between the Transferors and the Transferee herein that the burden of this indenture and of all covenants herein contained shall run with and burden the Servient Lands and all those having an interest therein from time to time and that the benefit of this indenture and of all the covenants herein contained shall run with and benefit the Dominant Lands, being a system of municipal works and services and pipes for the movement of surface water including but not limited to a system for the management of rain water for the benefit of lands in proximity to the Servient Lands, and that this indenture shall be binding upon and enure to the benefit of the Transferors and the Transferee and their respective successors and assigns.
4. Subject to this agreement, the Transferors, for themselves, their successors assigns hereby covenant that unless given permission in writing in advance by the Transferee, they will not use or permit the use of the Servient Lands, except for purposes arising in relation to its use as residential land, and the Transferors will not permit any buildings, structures, fences, trees or obstructions to be situate on the Servient Lands that would interfere with the Transferee's rights as defined herein and will not permit the Servient Lands to be paved with concrete, or change the grade or elevations of the Servient Lands or do or permit its forces to do anything to the Servient Lands which may injure or damage the Storm Sewer.
 - 4.1 The Transferee acknowledges that the Storm Sewer runs beneath the driveway located on the Servient Lands. The Transferors shall be permitted to pave, stone, or otherwise finish the driveway from time to time provided that doing so does not interfere with the Transferee's rights created by this agreement.

5. The Transferee, in exercising the rights hereby created, shall take such actions as are necessary in the opinion of the Transferee to restore the elevation, surface conditions of the Servient Lands and repair any harm occasioned to the driveway located on the Servient Lands, but shall not be liable for damages occasioned thereby, except for the negligent performance of such restoration.
6. Further the Transferee agrees as follows:
 - (a) the Transferee shall, except in emergency circumstances, provide not less than 72 hours' advance notice before commencing any normal maintenance, repairs or reconstruction upon the Servient Lands, along with an indication as to the length of time that such maintenance, repairs or reconstruction is expected to last;
 - (b) where the Transferee enters upon the Servient Lands in emergency circumstances, without notice, the Transferee shall provide the Transferors with notice as soon as possible thereafter; and
 - (c) the Transferee shall endeavour, in the course of carrying out the maintenance, repairs, or reconstruction, to take reasonable steps to ensure that the materials and equipment are not transported onto the Servient Lands or left on the Servient Lands for a longer period of time than is necessary to carry out the works contemplated.
7. Subject to 7.1 of this agreement, the Transferee may remove from the said lands by any means necessary any boulders, rocks, buildings or structures and may sever, fell, remove, or prevent or control the growth of any roots, trees, stumps, brush, plants, shrubs, or other vegetation now or from time to time hereafter growing in, on or under the said lands and the Transferee shall not be responsible for the replacement of the boulders, rocks, buildings, structures, trees, stumps, brush, plants, shrubs or other vegetation so removed.
- 7.1 The Transferee acknowledges that the Storm Sewer runs beneath a deck located on the Servient Lands (shown on Plan 15FR-12120). In the event that the Transferee must remove, destroy, damage, modify, or otherwise take any actions which may affect the deck in any manner while exercising the rights hereby created, the Transferee shall reinstall, replace, or repair the deck. The Transferors shall be permitted to modify (including but not limited to completely removing and replacing the deck, which deck may be replaced with any form of deck and will not be limited to one that is substantially similar to the existing deck) from time to time provided that doing so does not interfere with the Transferee's rights created by this agreement. Any obligations of the Transferee hereunder will apply to any such modified, replaced, or new deck.
8. The Transferors, for themselves, their successors and assigns, hereby covenant and agree with the Transferee, its successors and assigns, that the Transferee, its successors and assigns, shall and may peaceably hold and enjoy the rights, privileges and easements hereby granted without hindrance, molestation or interruption on the part of the Transferors, their successors and assigns or of any person, firm or corporation claiming by, through, under or in trust for the Transferors, their successors and assigns.

9. Notwithstanding any rule of law or equity, the Storm Sewer shall be deemed to be and shall remain the property of the Transferee, even though such Storm Sewer may become annexed or affixed to the Servient Lands.