

Phone: (519)255-6211

CITY HALL
WINDSOR, ONTARIO
N9A 6S1

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E-mail: clerks@citywindsor.ca

WEBSITE: www.citywindsor.ca

CAO APPROVAL

The Chief Administrative Officer approved the following recommendation:

Report Number: CAO 218/2023

Approved: Friday, August 11, 2023

- I. THAT **APPROVAL BE GIVEN** pursuant to Delegation of Authority Bylaw 208-2008, Section 1.30 (b) "City as Grantor" Licenses, Easements (permanent and temporary) and Consents to Enter (Appendix A), to the granting of the following permanent utility easement:
 - a) **GRANTEE:** Enwin Utilities Ltd.
4545 Rhodes Drive
Windsor, Ontario N8W 5T1
(the "**Grantee**")
 - b) **EASEMENT:** Permanent utility easement in favour of the Grantee for aerial and underground hydro lines, conduit, guy wires and poles (the "**Line**") along the eastern boundary of Derwent Park, as shown on the aerial diagram attached as Appendix B, to be further described on a Reference Plan to be registered by the Grantee, at its sole cost (the "**Easement Lands**")
 - c) **AREA:** Approximately 504.6 m² (5,431.47 sq ft)
 - d) **PRICE:** \$1.00 plus document preparation costs of approximately \$255.14 (plus HST) and registration costs of approximately \$82.00.
 - e) **TERMS & CONDITIONS:**
 1. The Grantee is responsible for all costs related to the Line including, but not limited to, the costs of construction, installation, maintenance, restoration costs and pedestrian control;
 2. Even though the Line may become annexed or affixed to the Easement Lands, title to the Line shall nevertheless remain in the Grantee;

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3. The Grantee shall indemnify and save the City harmless from all actions, causes of actions, suits, claims and demands of every nature and kind whatsoever which may be made against the City relating to or arising out of the placement of the Line by the Grantee and for which the City, in law, is responsible. The Grantee shall ensure they have sufficient insurance over the Easement Lands to provide said indemnity;
4. In the event the Grantee needs to enter the Easement Lands for the purpose of maintaining, repairing or replacing the Line, the Grantee will restore the Easement Lands to a condition satisfactory to the Executive Director of Parks and Facilities or designate, acting reasonably;
5. As the Easement Lands are within a compensation area protected by the *Endangered Species Act, 2007*, the Grantee will be required to:
 - a. Complete all landscape reparation and public notification requirements, to the satisfaction of the City's Naturalist and Outreach Coordinator;
 - b. Prior to starting any maintenance or repair works in the Easement Lands, the Grantee will contact the City Naturalist and Outreach Coordinator at kaalexander@citywindsor.ca so that they can discuss scope of work and determine any necessary landscape reparation and public notification requirements. The Grantee will provide the City's Naturalist and Outreach Coordinator with at least two (2) business days' prior notice before entering the Easement Lands to complete any work authorized herein;
 - c. All work using heavy equipment must be done, as much as possible, within the timing window of December 1st to mid-March to avoid the Active Season of snakes and work must be done when the ground is dry or frozen to avoid damage to the landscape. For activities required outside of this window, scope of work must be first discussed with City Naturalist and Outreach Coordinator (kaalexander@citywindsor.ca); and
 - d. Vehicles must drive slowly through the area to allow slow-moving animals a chance to avoid being run over. Should a snake be found in the work area, the Grantee will notify the City's Species at Risk hotline (519-816-5352) and City staff will attend the site as quickly as possible to remove

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the snake from harm. The same phone number shall be used to report any snakes or other animals found injured or dead.

- II. THAT the Chief Administrative Officer and the City Clerk **BE AUTHORIZED** to sign any required written documents satisfactory in form and content to the City Solicitor, in technical content to the Executive Director of Parks and Facilities and in financial content to the Chief Financial Officer and City Treasurer and that the transaction **BE COMPLETED** electronically pursuant to By-Law 366-2003 and that the City Solicitor or designate **BE AUTHORIZED** to sign any documents related to the completion of a real estate transaction; and
- III. THAT **APPROVAL BE GIVEN** pursuant to Delegation of Authority Bylaw 208-2008, Section 1.30 (b) "City as Grantor" Licenses, Easements (permanent and temporary) and Consents to Enter (Appendix A), to the granting of the following consent to enter:
- a) That the Consent to Enter is provided to the Grantee and its employees, contractors, agents, and assigns to enter upon part of Derwent Park, legally described as Part Lots 125,126 & 127 Con 2 Sandwich East designated as Part 8 on Plan 12R-5834, Parts 5, 6, 7 and 8 on Plan 12R-5929, Part 1 on Plan 12R-7116, Part 4 on Plan 12R-7204, Part 1 on Plan 12R-11625, Parts 31, 32, 33, 34, 35, 38 and 39 on Plan 12R-14377, save and except Part 1 on Plan 12R-15115 and Parts 1 to 10 on Plan 12R-22472; Windsor (the "**Consent Lands**") as shown in the aerial image attached as Appendix C;
 - b) The term of the agreement shall be a period which shall not exceed eighteen (18) months, and will commence no earlier than August 15, 2023 and no later than December 31, 2024, or upon the registration of the easement in Recommendation I, whichever occurs first;
 - c) The Grantee and/or its contractors, subcontractors, agents, employees and assigns will enter the Consent Lands for the purpose of installing or moving poles and installing underground infrastructure to service a new development to the east of the Consent Lands (the "**Works**") in a manner satisfactory to the Executive Director of Parks and Facilities or designate, acting reasonably;

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- d) Access to the Consent Lands will be from Stella Crescent and Lauzon Road;
- e) Before and during the Works, the Grantee is responsible for securing the job site. The Grantee is responsible for erecting signage as needed;
- f) The Grantee agrees that, upon completion of its Works, any disturbance of the Consent Lands resulting from its occupation will be restored at its own costs to the satisfaction of the Executive Director of Parks and Facilities or designate, acting reasonably, and in adherence to the conditions set out in paragraph h) below;
- g) The Grantee will be required to provide the City with indemnification and require proof of insurance with the following minimal coverage, satisfactory to the City:
 - \$5,000,000 Commercial General Liability coverage with "The Corporation of the City of Windsor" listed as an additional insured and cross-liability coverage
 - 30 days' notice of cancellation
 - Each vehicle owned or leased used directly or indirectly in the performance of the Work must be insured with an Automobile Policy in accordance with the laws of the Province of Ontario.

Or as such requirements may be amended, restated and/or supplemented by the City's Risk and Insurance Department from time to time; and

- h) The Grantee will be required to adhere to the following requirements of the City Planning & Building Department in regards to archaeological precautions in the area of the Consent Lands:
 - 1. Should archaeological resources be found during grading, construction or soil removal activities, all work in the area must stop immediately and the City's Planning & Building Department, the City's Manager of Culture and Events, and the Ontario Ministry of Citizenship and Multiculturalism must be notified and confirm satisfaction of any archaeological requirements before work can recommence.

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2. In the event that human remains are encountered during grading, construction or soil removal activities, all work in that area must be stopped immediately and the site secured. The local police or coroner must be contacted to determine whether or not the skeletal remains are human, and whether the remains constitute a part of a crime scene. The Local police or coroner will then notify the Ontario Ministry of Citizenship and Multiculturalism and the Registrar at the Ministry of Government and Consumer Services if needed, and notification and satisfactory confirmation be given by the Ministry of Citizenship and Multiculturalism.

Contacts:

Windsor Planning & Building Department:

519-255-6543 x6179

ktang@citywindsor.ca, planningdept@citywindsor.ca

Windsor Manager of Culture and Events:

Michelle Staadegaard, (O) 519-253-2300 x2726, (C) 519-816-0711,

mstaadegaard@citywindsor.ca

Ontario Ministry of Citizenship and Multiculturalism

Archaeology Programs Unit, 1-416-212-8886,

Archaeology@ontario.ca

Windsor Police: 911

Ontario Ministry of Government & Consumer Services

A/Registrar of Burial Sites, War Graves, Abandoned Cemeteries
and Cemetery Closures, 1-416-212-7499,

Crystal.Forrest@ontario.ca

- IV. THAT the Chief Administrative Officer and the City Clerk **BE AUTHORIZED** to sign a Consent to Enter Agreement with the Grantee for access to the Consent Lands, approved as to form by the City Solicitor or designate and as to content by the Executive Director of Parks and Facilities or designate.

Report Number: CAO 218/2023

Clerk's File: APM/14495



OFFICE OF THE CITY CLERK COUNCIL SERVICES

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Anna Ciacelli

Deputy City Clerk
August 11, 2023

Department Distribution

Title
Coordinator of Real Estate Services
Manager of Real Estate Services
Senior Legal Counsel
City Solicitor, Commissioner, Legal and Legislative Services
Executive Director of Parks and Facilities
Commissioner, Community Services
Commissioner, Corporate Services CFO / City Treasurer
Chief Administrative Officer