



City of  
**Peterborough**

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**To:** **Members of the General Committee**

**From:** **Sandra Clancy, Chief Administrative Officer**  
**David J. Potts, City Solicitor**

**Meeting Date:** **June 8, 2020**

**Subject:** **Report CAO20-005**  
**Completion of Transactions re Sale of Assets of Peterborough**  
**Distribution Inc. to Hydro One Inc.**

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## **Purpose**

To recommend a by-law to approve certain specific matters related to Council's approval of the sale of substantially all of the assets of Peterborough Distribution Inc. to Hydro One Inc. and the completion of the related transactions.

## **Recommendation**

That Council approve the recommendation outlined in Report CAO20-005, dated June 8, 2020, of the Chief Administrative Officer and the City Solicitor, as follows:

That, respecting certain specific matters related to Council's approval of the sale of substantially all of the assets of Peterborough Distribution Inc. to Hydro One Inc. and the completion of the related transactions, Council pass a by-law in the form comprising Appendix "A" to Report CAO20-005.

## **Budget and Financial Implications**

Report CAO19-001 dated January 21, 2019 of the CAO advised that the net proceeds of the transaction are anticipated to be between \$50 million and \$55 million. As noted below, Section 11 of the proposed by-law delegates to the CAO and the City's Treasurer the authority to determine "Net Proceeds" for the purposes of clause 1(i) of By-law 16-173 which provides: "The gross proceeds for the sale transaction net of amounts to be determined and approved by the City, shall be paid to the City ("Net Proceeds")".

## Background

On December 15, 2016, Council passed By-law 16-173 to authorize City of Peterborough Holdings Inc. (CoPHI) to sell substantially all of the assets of Peterborough Distribution Inc. (PDI) to Hydro One Inc. (Hydro One) for the consideration and pursuant to the terms and conditions referred to in By-law 16-173.

Section 2 of By-law 16-173 authorized the City's Chief Administrative Officer (CAO) and certain City staff "to work with legal counsel and other professional advisors to negotiate and finalize the Asset Purchase Agreement, an Agreement of Purchase and Sale for a new Operations Centre, a Transition Services Agreement and various ancillary agreements, documents, deeds and instruments".

Sections 3 and 4 of By-law 16-173 delegated to the Mayor and Clerk authority to execute and deliver agreements in forms approved by City staff and "to do all such acts and things and to execute and deliver all such documents as in their opinion may be necessary or desirable to complete the sale transaction hereby approved and authorized, under the seal of the Corporation as may be necessary."

Various agreements were executed by the City on July 31, 2018 to give effect to By-law 16-173 (City Agreements) including:

- a) "Asset Purchase Agreement" between the City, CoPHI, PDI, Peterborough Utilities Services Inc. (PUSI), 1937680 Ontario Inc. (1937680) and Hydro One;
- b) "Municipal Access Agreement" between the City, Hydro One Networks Inc. (H1 Networks) and 1937680;
- c) "Pole Attachment Agreement" between the City, 1937680 and H1 Networks;
- d) "Site Development Agreement" between the City and H1 Networks;
- e) Agreement of Purchase and Sale between the City as vendor and H1 Networks as purchaser respecting the land and premises known municipally as 1801 Fisher Drive, Peterborough (1801 Fisher APS); and
- f) Agreement of Purchase and Sale between the City as vendor and H1 Networks as purchaser respecting the land and premises known municipally as 290 Jameson Drive, Peterborough (290 Jameson APS).

On January 21, 2019, General Committee reviewed Report CAO19-001 of the CAO "to update Council on the current status, obligations, financial costs and arbitration mechanism of the sale of Peterborough Distribution Inc. to Hydro One". On January 28, 2019, Council approved the Report's recommendation that the report be received for information.

On April 30, 2020, by its Decision and Order EB-2018-0242, the Ontario Energy Board approved the application for approval to amalgamate PDI and PUSI and to transfer the electricity distribution system of PDI to H1 Networks.

On June 1, 2020, PDI and PUSI were amalgamated as PUSI.

As a consequence of the Ontario Energy Board's approval, the completion of the various transactions is now scheduled for Saturday, August 1, 2020 subject to escrow terms to be confirmed that will permit the land-related aspects of the transactions to be completed when the Land Registry Office is next open on Tuesday, August 4, 2020.

Appendix A is the recommended form of by-law to address certain specific matters related to Council's approval of the sale of substantially all of the assets of PDI to Hydro One and to ensure an orderly completion of the related transactions:

- Section 1 of the proposed by-law amends By-law 16-173 to delete its section 6. Section 6 of By-law 16-173 inadvertently repeats recommendation f) in Report CAO16-018 that "a by-law be adopted to authorize the sale", wrongly inferring that there was a further by-law to be passed. Deletion of section 6 will remedy the drafting error.
- Section 2 of the proposed by-law approves the amalgamation of PDI and PUSI as PUSI.
- Section 3 of the proposed by-law declares 1801 Fisher Drive to be surplus to municipal requirements and Section 4 authorizes its transfer from the City to H1 Networks. Similarly, Section 5 declares 290 Jameson Drive surplus to municipal requirements and Section 6 authorizes its transfer from the City to H1 Networks. Sections 4 and 6 also address the City's potential reacquisition of either or both of those properties if the properties are not developed in accordance with certain conditions set out in the City Agreements.
- Section 7 of the proposed by-law approves a transfer by PUSI to the City of the lands and premises known municipally as 543 Park Street North, 1562 Sherbrooke Street West and 555 Parkhill Road West.
- Section 8 of the proposed by-law delegates to the CAO the authority to approve various easements from the City to H1 Networks over the three properties mentioned in the preceding paragraph and over 1500 Water Street North and 1129 Armour Road.
- Section 9 of the proposed by-law delegates to the CAO the authority to approve various releases, discharges and postponements of interests in property and assets to be transferred to H1 Networks and 1937680.

- Section 10 of the proposed by-law authorizes a guarantee by the City in favour of Hydro One and 1937680 pursuant to the terms of the Asset Purchase Agreement. The requirement for the guarantee was also referenced in Report CAO19-001 referred to above.
- Section 11 of the proposed by-law delegates to the CAO and the City's Treasurer the authority to determine "Net Proceeds" for the purposes of clause 1(i) of By-law 16-173 which provides: "The gross proceeds for the sale transaction net of amounts to be determined and approved by the City, shall be paid to the City ("Net Proceeds")".
- Section 12 of the proposed by-law supplements the authority delegated to the Mayor and Clerk respecting execution of documents including specifically delegating authority respecting form and content of transactional documents.

## Summary

Council's approval of the recommended form of by-law (Appendix A) will address certain specific matters related to Council's approval of the sale of substantially all of the assets of PDI to Hydro One and ensure an orderly completion of the related transactions.

Submitted by,

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Attachment:  
Appendix A – Proposed By-law