City of Peterborough

To:	**Members of the General Committee**
From:	**Allan Seabrooke, Chief Administrative Officer**
Meeting Date:	**April 23, 2018**
Subject:	**Report CAO18-003** **Peterborough Distribution Inc. Divestment to Hydro One Update**

Purpose

A report to update Council on the Peterborough Distribution Inc. divestment to Hydro One.

Recommendation

That Council approve the recommendation outlined in Report CAO18-003, dated April 23, 2018, of the Chief Administrative Officer as follows:

That Report CAO18-003 of the Chief Administrative Officer regarding Peterborough Distribution Inc. divestment to Hydro One be received for information.

Budget and Financial Implications

There are no budget or financial implications as a result of the recommendation.

The total direct costs, as of March 26, 2018, that have been incurred by the City of Peterborough for expenses pertaining to activities and negotiations for the Peterborough Distribution Inc. (PDI) divestment to Hydro One are approximately $1.1 million. Significant legal fees have also been incurred by PDI. While the legal documentation may have been specific to an asset sale, the nature of many of the

representations, warranties, covenants and indemnities could be applied to other potential sales or mergers, including documentation relating to transitions and ongoing relations after such a sale or merger. The City is in the process of examining recovery options.

In addition to direct costs, substantial staff time was spent over the last two-plus years during negotiations with Hydro One.

Background

City of Peterborough Holdings Inc. (CoPHI) is a private business corporation, comprised of a number of subsidiaries, wholly owned by the City of Peterborough. One of the subsidiaries is PDI, Peterborough's regulated electricity distribution company. In recent years, the Province has stated that well capitalized, larger distribution companies will be needed to achieve efficiency gains and cost reduction. Smaller distributors have been strongly encouraged to voluntarily sell or merge to reduce the number of electricity distributors in the Province.

Hydro One approached Peterborough in 2014 expressing an interest in purchasing PDI. As the City is CoPHI's sole shareholder, Council approval was required to divest part or all of PDI.

Council, at its meeting of December 15, 2016, approved the recommendations in Report CAO16-018, City of Peterborough Holdings Inc. (CoPHI) Recommendation to City of Peterborough – PDI Divestment to Hydro One (see Appendix A). The City authorized CoPHI to sell substantially all of the assets of PDI to Hydro One pursuant to the terms and conditions set out in a signed proposal letter and term sheet from Hydro One to CoPHI. Council authorized City staff to work with legal counsel and other professional advisors to negotiate and finalize the sale agreements.

The City and PDI staff worked with Hydro One staff and their respective legal counsel over the last two years negotiating a number of required legal agreements pertaining to an asset sale. The City negotiated for a competitive, above market value price, job and benefit guarantees for existing PDI workers, distribution and other electricity rate protections for customers and commitments for new jobs and new investments such as building a new regional Hydro One center in our community.

Hydro One has informed the City and PDI that they will not proceed with negotiations. Those involved in the negotiations are very disappointed with this decision and thought we were on a path that would satisfy both Hydro One and Peterborough's needs. As other communities across Ontario move forward or have moved forward with decisions as how to ensure the efficiency of their distribution companies, Peterborough has lost valuable time in that endeavour.

The City of Peterborough, as the sole shareholder of CoPHI, has requested the Board of Directors of PDI to report back to Council on the implications to the existing distribution in the short term and options moving forward.

Summary

The negotiations for the purchase of PDI have been ceased by Hydro One. The City, as sole shareholder of CoPHI, has requested PDI executives to report back on the implications to the existing distribution in the short term and options moving forward and next steps.

Submitted by,

Allan Seabrooke
Chief Administrative Officer

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Attachment:
Appendix A – Memorandum on Resolutions Adopted from Report CAO16-018 at December 15, 2016 Council meeting.

Memorandum

To: **Allan Seabrooke, Chief Administrative Officer**

From: **John Kennedy, City Clerk**

Date: **December 16, 2016**

Subject: **Report CAO16-018**
City of Peterborough Holdings Inc. Recommendation to City of Peterborough – Peterborough Distribution Inc. Divestment to Hydro One Inc.

The following resolution, adopted by City Council at its meeting held on December 15, 2016 is forwarded for your information and necessary action. Thank you.

That Council approve the recommendations outlined in Report CAO16-018 dated December 7, 2016, of the Chief Administrative Officer, as follows:

a) That in accordance with the Shareholder Direction and Unanimous Shareholder Declaration dated July 30, 2012, the City hereby authorizes City of Peterborough Holdings Inc. ("CoPHI") to sell substantially all of the assets of Peterborough Distribution Inc. ("PDI") to Hydro One Inc. for the consideration and pursuant to the terms and conditions set out in the signed proposal letter and term sheet from Hydro One Inc. to CoPHI, dated September 26, 2016 ("Term Sheet") provided that:

(i) 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") and

(ii) Such payment of Net Proceeds shall be supported by declarations of dividends equal to such Net Proceeds from PDI to CoPHI and from CoPHI to the City.

(iii) PDI and PUSI be reorganized as required by the Chief Administrative Officer, the Director of Corporate Services and the City Solicitor, Director of Legal Services (collectively the "City Staff"), in consultation with legal counsel and other professional advisors.

b) **That the City authorizes the Chief Administrative Officer, the Director of Corporate Services and the City Solicitor, Director of Legal Services (collectively the "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, collectively the "Sale Agreements".**

c) **That the Mayor and the City Clerk are authorized for and on behalf of the City to execute and deliver the Sale Agreements, in the forms reviewed and approved by City Staff.**

d) **That the Mayor and the Clerk are also authorized 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.**

e) **That the Net Proceeds of the sale be placed in an interest bearing reserve account under the control of the City Treasurer with details and options available to Council for investment of the funds to be reported to Council in the second quarter of 2017, including an option to reinvest the funds in City of Peterborough Holdings Inc. to support renewable power generation projects with an interest rate of at least 6% as a point to compare all other options.**

f) **That a by-law be adopted to authorize the sale of substantially all of the assets of PDI to Hydro One, authorize staff to negotiate and finalize the Sale Agreements and authorize the Mayor and Clerk to execute any documents pertaining to the sale transaction.**

g) **That through the Asset Purchase Agreement, Hydro One Inc. shall establish an Advisory Committee, to provide a forum for communication between the City and Hydro One as soon as practicable after closing. The City in consultation with Hydro One Inc. and CoPHI shall establish the mandate of the Advisory Committee, which will be comprised of representatives of the City, Hydro One Inc. and CoPHI.**

John Kennedy
City Clerk