

Authority: Policy and Finance Committee Report No. 8, Clause No. 4, adopted as amended, by City of Toronto Council on September 28, 29 and 30, 2005, and Policy and Finance Committee Report No. 10, Clause No. 8, adopted as amended, by City of Toronto Council on December 14 and 16, 2005  
Enacted by Council: December 14, 2005

## **CITY OF TORONTO**

### **BY-LAW No. 1084-2005**

**To authorize the entering into an agreement for the sale of the City of Toronto Street and Expressway Lighting Assets to Toronto Hydro Street Lighting Inc. and to authorize a Street and Expressway Lighting Service Agreement for the ongoing installation, operation and maintenance of the Street and Expressway Lighting Assets by Toronto Hydro Street Lighting Inc. as a municipal capital facility.**

WHEREAS the City of Toronto is the owner of certain Street and Expressway Lighting Assets on City streets and other places, and such assets are comprised of street lighting poles, fixtures, conduits, luminaires, and other infrastructure; and

WHEREAS the City of Toronto was authorized under section 210, paragraph 59 of the *Municipal Act*, R.S.O. 1990 to establish, acquire, operate and maintain a street lighting system; and

WHEREAS the City of Toronto was authorized under section 210, paragraph 114 of *Municipal Act*, R.S.O. 1990 to authorize the erection and maintenance of electric light, power, telegraph and telephone poles and wires, across or along any highway or public place on terms and conditions; and

WHEREAS Section 210, paragraphs 59 and 114 of the *Municipal Act*, R.S.O., 1990 are now incorporated into the *Municipal Act*, 2001, under subsection 11(1)(d) which permits municipalities to pass by-laws with respect to the highway sphere of jurisdiction; and

WHEREAS section 10 of Ontario Regulation 239/02, Minimum Maintenance Standards for Municipal Highways, regulates the standards for luminaires on highways; and

WHEREAS section 9 of the *Municipal Act*, 2001, deems any power exercisable by a municipality under *Municipal Act*, R.S.O. 1990, which has not been specifically provided for in the *Municipal Act*, 2001, to be incorporated into the *Municipal Act*, 2001; and

WHEREAS section 8 of the *Municipal Act*, 2001, grants municipalities natural person powers; and

WHEREAS section 27 of the *Interpretation Act*, R.S.O. 1990, permits corporations vested with the power to acquire and hold personal property or movables with the power to alienate that property; and

Whereas subsection 110(1) of the *Municipal Act*, 2001, provides that the council of a municipality may enter into agreements for the provision of municipal capital facilities and for the operation and maintenance of the municipal capital facilities; and

WHEREAS subsections 110(3) and (4) of the *Municipal Act, 2001*, provide that a municipality may provide assistance to any person who has entered an agreement, including selling property provided such assistance relates to the operation and maintenance of the facilities; and

WHEREAS section 2, paragraph 3 of Ontario Regulation 46/94, *Municipal and School Capital Facilities – Agreements and Tax Exemptions*, permits municipalities to enter into agreements under section 110 of the *Municipal Act, 2001* for different classes of municipal capital facilities, including municipal roads, highways and bridges; and

WHEREAS the Council of the City of Toronto has deemed it appropriate to enter into an Asset Purchase Agreement to sell the Street and Expressway Lighting Assets to Toronto Hydro Street Lighting Inc. and to enter into a Street and Expressway Lighting Service Agreement for the ongoing installation, operation and maintenance by Toronto Hydro Street Lighting Inc. for the City of Toronto, and to permit the use of City's highways solely for those purposes subject to terms and conditions;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The agreement with Toronto Hydro Street Lighting Inc. respecting the provision of the operation and maintenance of the Street and Expressway Lighting Assets (the "Assets") to the City of Toronto as a municipal capital facility under section 110 of the *Municipal Act, 2001* is authorized.
2. The sale of the Assets to Toronto Hydro Street Lighting Inc. for the purposes of providing the operation and maintenance of the municipal capital facility under section 110 of the *Municipal Act, 2001* is authorized.
3. The appropriate City officials are authorized to execute the Asset Purchase Agreement with Toronto Hydro Street Lighting Inc. dated December 16, 2005 with respect to the sale on terms and conditions satisfactory to the City.
4. The ongoing installation, operation and maintenance of the Assets for a 30-year term, subject to any earlier termination, will be carried out by Toronto Hydro Street Lighting Inc. for the City of Toronto in accordance with the terms and conditions of the Street and Expressway Lighting Service Agreement.
5. The appropriate City officials are authorized to execute the Street and Expressway Lighting Service Agreement with Toronto Hydro Street Lighting Inc. dated as of January 1, 2006 with respect to the services on terms and conditions satisfactory to the City.
6. Permission to use the City's highways and the joint use with the City of certain other assets solely for the purposes of the ongoing installation, operation and maintenance of the Assets is authorized, upon terms and conditions satisfactory to the City. Use of the Assets for any other purposes is subject to the necessary prior City approvals.

7. The appropriate City officials are authorized to execute such further documentation, including ancillary agreements, as may be required in order to give effect to this by-law.

ENACTED AND PASSED this 14th day of December, A.D. 2005.

DAVID R. MILLER,  
Mayor

ULLI S. WATKISS  
City Clerk

(Corporate Seal)