



To: Toronto Public Library Board – April 8, 2002

From: City Librarian

Subject: **Purchase of Electricity Agreement**

Purpose:

To obtain Toronto Public Library Board approval to appoint the City of Toronto as the Board's Agent for the purchase of electricity.

Funding Implications and Impact Statement:

The costs for electricity will be accommodated within Toronto Public Library's operating budget.

Recommendation:

It is recommended that:

- (1) The Toronto Public Library Board (TPLB) appoint the City of Toronto as its Agent for the purposes of:
 - (a) Negotiating the electricity purchase agreement with Toronto Hydro Energy Services Inc. (THESI) for TPLB's estimated pro rata share of electricity based on TPLB's past consumption patterns;
 - (b) Executing the Master Agreement (among THESI, the City of Toronto, The Toronto Transit Commission, and Toronto Community Housing Corporation and those Agencies, Boards, Commissions and Corporations on whose behalf the City is appointed Agent) dated as of April 2002 and any Transactional Agreements for the purchase of various blocks of power on behalf of TPLB;
 - (c) Administering the Master Agreement and any Transactional Agreements, including monitoring any excess sell-back of electrical power or instructing THESI with respect to the acquisition of electrical power to meet shortfalls in the contracted amount on behalf of TPLB, subject to the terms and conditions of those respective Agreements;
 - (d) Receiving monthly invoices and detailed statements of consumption for both the distribution portion and retail portion of TPLB's electricity usage, as well as any ancillary charges, under THESI's Retailer-Consolidated Billing arrangements with Toronto Hydro Electric System Limited;
 - (e) Paying the amounts invoiced to THESI within 24 hours of receipt on behalf of TPLB;

- (f) Forwarding TPLB's portion of the invoice to TPLB forthwith for review and approval by TPLB;
- (g) Receiving payment from TPLB of TPLB's pro rata share of the invoiced amount within fifteen (15) days of the City's payment to THESI on TPLB's behalf; or, alternatively, deducting TPLB's payment from monies which the City would otherwise transfer to TPLB as part of the annual budget approval process;
- (h) Providing notification to THESI of any disputes raised by TPLB with respect to TPLB's invoice and taking any necessary steps to enforce TPLB's rights under the Master Agreement and Transactional Agreements; and,
- (i) Doing such other things as are necessary to implement the Master Agreement and any Transactional Agreements on behalf of TPLB.

(2) TPLB will pay City of Toronto for all amounts paid on TPLB's behalf within the agreed upon time period, failing which City of Toronto shall deduct amounts owing from any funds under the care and control of City Treasurer which have been allocated by City for TPLB and not yet paid to TPLB; and failing such recovery of funds, City shall take any necessary action to enforce payment against TPLB.

(3) The City and TPLB shall each indemnify the other with respect to claims, damages, etc. attributable to any negligent or willful act or omission by one or the other party with respect to the performance of the Agency Agreement, the Master Agreement or any Transactional Agreement.

Background:

At its January 21, 2002 meeting, the Toronto Public Library Board provided authority for appropriate City staff to act on behalf of the Toronto Public Library to negotiate a Power Purchase Agreement (Attachment 1). Since that date, staff in the City's Legal Division have requested that the Board approve a resolution specifically appointing the City of Toronto as the Board's agent.

Comments:

City of Toronto staff have been negotiating a Power Purchase Agreement on behalf of the Board and are in the process of finalizing the Agreement with THESI. The City of Toronto is required to make certain representations and warranties in the Agreement stating that an agreement with the Toronto Public Library Board has been executed.

The Electricity Market Opening is expected to take place on May 1, 2002. It is necessary that Board approval be granted before this date.

Conclusion:

Board approval of the recommendations outlined in the *Purchase of Electricity Agreement* report will provide the City with the authority to negotiate and enter into an electricity pricing arrangement with Toronto Hydro Energy Services Inc.

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City Librarian

List of Attachments:

Attachment #1: Report #13 dated January 21, 2002 to the Toronto Public Library Board from the City Librarian regarding Purchase of Electricity