

**CORPORATION OF THE TOWNSHIP
OF SOUTH ALGONQUIN
BY-LAW NO: 2022-700**

**Being a by-law to authorize the Mayor and CAO/Clerk-Treasurer
to sign the Street Light Maintenance Agreement between the
Township of South Algonquin
and
Hydro One Networks Inc.**

WHEREAS the Township of South Algonquin, deems expedient to enter into an agreement with, Hydro One Networks Inc. for Streetlight Maintenance.

NOW THEREFORE the Municipal Council of The Corporation of the Township of South Algonquin enacts as follows:

1. **THAT** the Mayor and CAO is hereby authorized to execute the Agreement in the form attached to this By-Law and affix the Corporate Seal on behalf of the municipality.
2. **THAT** this By-Law will come into force and take effect on the date of the final passing thereof.

READ A FIRST AND SECOND TIME THIS 6TH DAY OF April, 2022.

Mayor – Jane A. E. Dumas

CAO/Clerk Treasurer-Bryan Martin

READ A THIRD TIME AND PASSED THIS 6TH DAY OF April, 2022.

Mayor – Jane A. E. Dumas

CAO/Clerk Treasurer-Bryan Martin

STREETLIGHT MAINTENANCE AGREEMENT

THIS STREETLIGHT MAINTENANCE AGREEMENT is made in duplicate this 28th day of February, 2022.

BETWEEN:

HYDRO ONE NETWORKS INC., hereinafter referred to as “**HONI**”

OF THE FIRST PART

- and -

THE CORPORATION OF THE TWP OF SOUTH ALGONQUIN, hereinafter referred to as the “**Town**”

OF THE SECOND PART

WHEREAS the Town wishes to have HONI provide maintenance services for the Town’s street light system and HONI is willing to enter into a contract with the Town for such purposes upon the terms and conditions hereinafter appearing.

NOW THEREFORE in consideration of the mutual covenants, agreements, terms and conditions herein and other good and valuable consideration, the receipt and sufficiency of which is hereby irrevocably acknowledged, the parties agree as follows:

1. For the purposes of this Agreement, the lighting of any street in the Town and the number of lights on the street shall be mutually agreed upon between HONI and the Town from time to time.

2. The Town represents and warrants to HONI that the Town has the necessary power, authority and capacity to enter into this Agreement and to perform its obligations hereunder. HONI represents and warrants to the Town that HONI has the necessary corporate power, authority and capacity to enter into this Agreement and to perform its obligations hereunder.

3. The following terms, wherever used in this Agreement, shall mean:

“**Actual Cost**” means Hydro One’s charge for equipment, labour and materials at Hydro One’s standard rates plus Hydro One’s standard overheads.

“**Business Days**” means any day other than a Saturday or Sunday or a statutory holiday in the Province of Ontario. Notwithstanding the foregoing,

Easter Monday shall be deemed to be a statutory holiday in Toronto, Ontario.

“**Street Light**” means an entire street light fixture.

“**Street Light Parts**” means the following parts of a Street Light: bulbs, lamp sockets, photoelectric controllers, ballasts and starters, wiring to the fixtures, refractors and reflectors; brackets and other small items.

4. This Agreement shall be in full force and effect for a period of two (2) years commencing on the date first written above (the “**Term**”).

5. HONI will:

- (a) repair or replace Street Light Parts that have failed due to normal wear and tear.
- (b) repair or replace Street Light Parts that have failed due to wilful damage, damage caused by automobiles, or work equipment of another person.
- (c) purchase and replace the heads of Street Lights that are damaged beyond repair with new energy efficient pressure Sodium Lights and dispose of the damaged unit in accordance with all applicable laws.
- (d) purchase and replace the entire Street Light:
 - (i) upon the Town’s request;
 - (ii) where the existing Street Light has been damaged beyond repair; or
 - (iii) where the required Street Light Parts can no longer be obtained from suppliers; and dispose of the damaged unit in accordance with all applicable laws.
- (e) purchase and install new Street Lights at the request of the Town.
- (f) purchase and install poles for Street Lights at the request of the Town.
- (g) purchase and install new overhead secondary feed conductor at the request of the Town
- (h) locate and repair or replace faulty overhead or underground street light conductor.

6. Notwithstanding anything to the contrary in this Agreement, the Town shall, at the Town’s expense, provide excavating equipment and staff as required to assist HONI in locating and repairing underground Street Light conductor.

7. The Town acknowledges and understands that HONI will perform all its obligations under this Agreement during normal working hours on

Business Days, and that HONI has a maximum of five (5) Business Days of being notified of a failure of a Street Light to repair or replace Street Light Parts, or replace the Street Light in accordance with the terms of this Agreement.

8. During the Term, the Town shall pay HONI's Actual Costs of providing the services described in Section 5 above. As of the date of this Agreement, Hydro One's charge for the labour component of the Actual Costs for the calendar year 2022 is **\$358.00** per hour.

9. All amounts payable by the Town to HONI under this Agreement shall be paid in accordance with the invoices rendered by HONI. Notwithstanding the foregoing, the Town shall pay HONI invoices within 30 days of the date of invoice. This obligation shall survive the termination of this Agreement.

10. Where the Town desires street lighting on any street within the Town but not under the jurisdiction of the Town or the poles are owned by someone other than the Town including, but not limited to, HONI and where a joint use agreement or permit is required by law or by the owner of the pole for the installation, maintenance and operation of Street Lights on that street or pole, the Town shall, at its own expense, execute any joint use agreements or obtain any permits, and this Agreement shall not apply to the street until the permit has been issued to the Town or the appropriate agreements have been executed by the Town.

11. If, at any time, HONI is prevented from performing any obligation under this Agreement by reason of strike, lockout, riot, fire, hurricane, flood, invasion, explosion, act of God, the Queen's enemies, legal acts of the public authorities or any other cause beyond HONI control, then HONI shall not be required to perform such obligation during such time, but the Town shall not be relieved from the performance of any obligation under this Agreement. HONI will exercise its best endeavours to overcome the cause of prevention as expeditiously as possible.

12. All Street Lights or Street Light Parts installed by HONI under this Agreement shall be the property of the Town, but HONI shall have a lien thereon for any monies expended by HONI hereunder and not repaid to it.

13.(a) The Town shall indemnify and hold harmless, HONI, its directors, officers, shareholders, agents and employees from all claims or demands for loss, damage or injury to property or persons including loss of life, caused by or resulting from any street lighting works under this Agreement, or the installation, maintenance or operation thereof, except to the extent that such loss, damage or injury is caused or contributed to by the negligence of HONI or any of its officers, servants or agents. This obligation shall survive the termination of this Agreement.

(b) In no event shall HONI be liable to the Town, whether in contract, tort or otherwise, for direct damages exceeding the aggregate amount of \$50,000.00. Under no circumstances whatsoever will HONI be liable to the Town for any loss of profits or revenues, business interruption losses, loss of contract or loss of goodwill, or for any indirect, consequential, incidental or special damages, including but not limited to punitive or exemplary damages, whet whether any of the said liability, loss or damages arise in contract, tort or otherwise.

14. If either party fails to or neglects at any time to fully perform, observe and comply with all the terms, conditions and covenants herein, then the non-defaulting party shall as soon as practicable, notify the defaulting party in writing of such default and the defaulting party shall correct such default to the satisfaction of the non-defaulting party within 30 days of the issuance of such notice or sooner in the case of an emergency, as may be determined by the non-defaulting party or within a longer time period if agreeable to the other party, failing which the non-defaulting party may forthwith terminate this Agreement and the rights and privileges herein granted, without prejudice to other recourses in law or equity.

15. Any notice or other writing required or permitted to be given under this Agreement or for the purposes of it, to any party, shall be valid only if delivered in writing in accordance with this clause. Notices can be provided to **The Clerk, The Corporation of the Twp of South Algonquin, P.O. Box 217, 7 Third Ave, Whitney, Ontario, K0J 2M0**, in respect of the Town and to: **Gianni DiFilippo, Director, Distribution Lines Work Management, 483 Bay Street 12th Floor, North Tower, Toronto, Ontario M5G 2P5, fax: (416) 345-6230** in respect of HONI.

The parties may change their respective addresses and addressees for delivery by delivering notices of such changes as provided herein. Notice sent accordingly shall be deemed to have been delivered and received:

- (a) If delivered by hand, upon receipt;
- (b) If delivered by fax, 48 hours after the time of transmission, excluding from the calculation weekends and public holidays;
- (c) If delivered by overnight courier, four (4) days after the couriating thereof;
- (d) If delivered by registered mail, six (6) days after the mailing thereof, provided that if there is a postal strike such notice shall be delivered by hand, courier or fax.

16. Upon obtaining the consent of the Town, such consent not to be unreasonably withheld, HONI may assign this Agreement and any or all of its rights, remedies, liabilities and obligations arising under it or by reason of it, although consent of the Town shall not be required where the assignment by HONI is to an Affiliate (as that term is defined in the *Ontario Business Corporations Act*) of HONI. This Agreement shall extend to, be binding upon and ensure to the benefit of the successors and assigns of HONI and the Town, respectively.

17. Unless otherwise specified, references in this Agreement to Sections or Articles are to sections and articles of this Agreement. Any reference in this Agreement to any statute or any section thereof will, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time. The insertions of headings are for convenience only and shall not affect the interpretation of this Agreement. Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

18. No amendment, modification or supplement to this Agreement shall be valid or binding unless set out in writing and executed by the Parties with the same degree of formality as the execution of this Agreement.

19. Each party acknowledges and agrees that it has participated in the drafting of this Agreement and that no portion of this Agreement shall be interpreted less favourably to either party because that party or its counsel was primarily responsible for the drafting of that portion.

20. This Agreement constitutes the entire Agreement between the parties with respect to the matter herein and supersedes all prior oral or written representations and agreements concerning the subject matter of this Agreement.

21. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same agreement.

22. This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Ontario and the laws of Canada applicable therein.

IN WITNESS WHEREOF the Town has caused this Agreement to be executed by the affixing of its Corporate Seal attested by the signatures of its proper officers duly authorized in that behalf and HONI has caused this Agreement to be executed by the signatures of its officer duly authorized in that behalf.

THE CORPORATION OF THE TWP OF SOUTH ALGONQUIN

Mayor

(SEAL)

CAO/Clerk Treasurer

I/We have the authority to bind the THE CORPORATION OF THE TWP OF SOUTH ALGONQUIN

HYDRO ONE NETWORKS INC.

Gianni DiFilippo
Director, Distribution Lines Work Management
I have the authority to bind the Corporation