



Exhibition Place

ACTION REQUIRED

Item No. 16

March 27, 2013

To: The Board of Governors of Exhibition Place

From: Dianne Young
Chief Executive Officer

Subject: **Extension of Coca-Cola Refreshment Sponsorship Agreement**

Summary:

This report recommends the Board extend the current agreement with the CNEA and Coca-Cola Refreshments (Coca-Cola) as the “Official and exclusive soft drink provider” to Exhibition Place, including Direct Energy Centre for an additional one year period from April 1, 2013 to March 31, 2014.

Recommendations:

It is recommended that:

- (1) Subject to the approval of City Council, the Board extend the current sponsorship agreement with the CNEA and Coca-Cola for one year (April 1, 2013 to March 31, 2014), on the same terms and conditions as in the existing agreement save and except for the financial terms as outlined in this report and any such other terms and conditions satisfactory to the CEO and the City Solicitor; and**
- (2) Direct that the confidential report contained in Attachment 1 to this report not be released publicly in order to protect the competitive position and future economic interests of the Board.**

Financial Impact:

The extended agreement recommended in this report provides revenue to the Board over the 12-month period as set out in the Confidential Attachment.

Decision History:

The Exhibition Place 2009-2012 Strategic Plan had a Financial Goal to *seek additional revenue opportunities* and as a Strategy to support this Goal we will *foster long-term partnerships and alliances with public and private sector organizations*.

At its meeting of May 4, 2007, the Board approved a five-year exclusive sponsorship agreement with Coca-Cola, which was subsequently approved by City Council at its meeting of June 6-8, 2012.

At its meeting of April 5, 2012 the Board approved a 10-month extension of the sponsorship agreement with Coca-Cola, which was subsequently approved by City Council at its meeting of June 6, 7, and 8, 2012.

At its meeting of March 5, 6 and 7, 2012, City Council approved that the CNEA operate as an independent entity, separate from the Board and the City of Toronto as of April 1, 2013.

Issue Background:

The Board and the CNEA have always had a joint agreement with the “official soft drink supplier”. This tri-party agreement expired March 31, 2013. The staff of Exhibition Place has met with the CNEA and Coca-Cola and all parties agreed to extend the agreement by one additional year. This provides all parties with time to deal with any transitional issues related to the CNEA independence. Accordingly, staff are recommending a one year extension of the current agreement as the most logical way to proceed.

The CNEA Board will consider this extension at their meeting of April 18, 2013.

Comments:

This proposed extension of the existing agreement provides Coca-Cola with the right to be the sole distributor of certain soft drink products on the Exhibition Place grounds in return for payment of a sponsorship fee as provided in the Confidential Appendix. All the terms and conditions of the existing agreement that was approved by City Council in 2007 will remain in effect except for the Term. The substantive terms of the existing agreement are listed below and in the Confidential Attachment.

- (a) Term: One year term commencing April 1, 2013 and expiring March 31, 2014
- (b) Exclusive Rights: Coca-Cola shall have the exclusive right to be the soft drink provider to Exhibition Place, including Direct Energy Centre, and the CNEA, but excluding the Honda Indy, Royal Agricultural Winter Fair and CHIN Picnic events, and excluding Ricoh Coliseum and BMO Field.
- (c) Locations of FSV Machines: The parties shall agree to allow Coca-Cola to place additional FSV Machines across the grounds on a permanent basis, subject to relocation, in the case of event requirements or development of the grounds, at the request of the Board, acting reasonably, to such new location as may be agreed. The number and location of which will be mutually agreed upon and subject to Board approval. Coca-Cola will be fully responsible for all costs associated with the installation, maintenance, repair, replacement and removal of all existing and new FSV Machines.
- (d) Pricing: Overall product pricing levels for the year 2013 is consistent with existing agreement with adjustment for any consumer price index increases negotiated and agreed to by the Board and CNEA.
- (e) Audited Year-End Reports: Coca-Cola shall provide the Board (including Direct Energy Centre) and CNEA with an annual audited statement, in form and content satisfactory to the General Manager & CEO, of all revenues earned and commissions owing under the agreement to be submitted with the payment of the percentage commission.

- (f) Right of Audit: The Board shall, at its discretion, be entitled to audit the sales records, to be kept in Toronto, of Coca-Cola operations at Exhibition Place at any time during the term of the agreement and up to three (3) years thereafter.
- (g) Union Agreements: Coca-Cola shall comply with all agreements in force between the Board and any union or association with respect to Exhibition Place.
- (h) Assignment: The agreement between the Board, CNEA and Coca-Cola shall not be assigned by Coca-Cola without the consent of the Board.
- (i) Taxes: Coca-Cola shall be responsible for the payment of any and all rates, taxes or assessments with respect to the location and operation of the machines which are imposed upon the Board or Coca-Cola by any taxing authority having jurisdiction.
- (j) Insurance/Indemnity: Coca-Cola shall provide proof of insurance in a form and amount satisfactory to the Board and containing provisions including the Board, CNEA, the City of Toronto, and Maple Leaf Sports & Entertainment Ltd. as additional insured with a cross liability/severability of interest clause of standard wording. Insurance shall be primary before any insurance held by the additional insured and the Board shall be entitled to thirty days' notice of any intention to cancel or not to renew the policy. Coca-Cola shall indemnify the Board, CNEA, the City of Toronto, Maple Leaf Sports & Entertainment Ltd., and their respective elected and appointed officials, directors, officers, employees and agents, with respect to any and all liability arising from any damage or injury as a result of the acts or omissions of Coca-Cola, or its employees or any other person for whom it is in law responsible, in the exercise of its rights under the agreement.

Contact:

Dianne Young, CEO

Tel: 416-263-3611

Fax: 416-263-3640

Email: dyoung@explace.on.ca

Submitted by:

Dianne Young
Chief Executive Officer