



# Exhibition Place

## Item No. 15

November 28, 2014

To: The Board of Governors of Exhibition Place

**ACTION REQUIRED**

From: Dianne Young, Chief Executive Officer

Subject: **Soft-Drink Sponsorship Agreement**

### Summary:

This report recommends a five-year agreement with Pepsico Beverages Canada Ltd. (Pepsico) to be the official and exclusive soft drink provider to Exhibition Place (including the Direct Energy Centre).

### **Recommendations:**

**It is recommended that, subject to the approval of City Council:**

- 1) The Board enter into an agreement with Pepsico for a period of five years, commencing on the date of approval of City Council, to be the official and exclusive soft drink provider to Exhibition Place, including Direct Energy Centre, on the terms and conditions set out in this report and such other terms and conditions as may be satisfactory to the Chief Executive Officer and the City Solicitor; and**
- 2) Direct that the confidential information contained in Attachment 1 to this report not be released publicly in order to protect the competitive position and future economic interests of Exhibition Place and the City of Toronto.**

### Financial Impact:

Financial implications of this sponsorship agreement will be a positive cash contribution as set out in the Confidential Attachment reflecting a sponsorship fee, commissions and contributions' for marketing and promotions.

### Decision History:

The Exhibition Place 2014-2016 Strategic Plan had a Financial Goal to *maintain a positive operating financial performance across Exhibition Place and all its businesses* and as a Strategy to support this Goal *we will seek new or expand revenue opportunities within our existing operations and ensure operating budgets are met or show a positive surplus to budget.*

At its meeting of September 10, 2014, the Board approved an extension to the existing Coca-Cola Sponsorship Agreement for a nine month period from April 1, 2014 to December 31, 2014.

### Issue Background:

The existing sponsorship agreement with Coca-Cola Bottling Ltd. is set to expire on December 31, 2014.

### Comments:

Given the imminent expiry of the current soft drink sponsorship, an RFP was issued to major

suppliers in this category in November (Pepsico Beverages Canada Ltd., Coca-Cola Bottling Ltd., Dr. Pepper Snapple Group and Cott Beverages) with a closing date of November 28, 2014. Both Dr. Pepper Snapple Group and Cott Beverages chose not to submit a proposal and submissions were received from Pepsico and Coca-Cola Bottling Ltd. The RFP that was issued also contained a draft agreement that took into account the requirements of Exhibition Place and Direct Energy Centre.

After reviewing both bids, this report recommends Pepsico as the exclusive soft drink provider being the best financial return to the Board. This proposed agreement provides Pepsico 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. The substantive terms of the proposed agreement are listed below and in the Confidential Attachment. These terms are very similar to ones in the previous soft drink sponsorship agreement.

- a. Term: 5 years term commencing on the date City Council approves in early 2015.
- b. Exclusive Rights: Pepsico shall have the exclusive right to be the soft drink provider to Exhibition Place, including Direct Energy Centre, but excluding the periods of the Toronto 2015 PanAm/Parapan Am Games, 2016 NBA AllStar Jam Session (and both their associated events), Honda Indy, Royal Agricultural Winter Fair, CNEA and CHIN Picnic events and excluding Ricoh Coliseum and BMO Field.
- c. Locations of FSV Machines: Locations of FSV Machines: The parties shall agree to allow Pepsico to place 12 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 location as may be agreed. Additional FSV locations may be considered, the number and location of which will be mutually agreed upon and subject to Board approval. Pepsico 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 2015 and beyond will be based on 3% annual increases.
- e. Audited Year-End Reports: Pepsico shall provide the Board with an annual audited statement, in form and content satisfactory to the Chief Executive Officer, 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, at its discretion, shall be entitled to audit the sales records to be kept in Toronto, of Pepsico operations at Exhibition Place at any time during the term of the agreement and up to three (3) years thereafter.
- g. Union Agreements: Pepsico 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 and Pepsico shall not be assigned by either party without the consent of the other party, not to be unreasonably withheld.
- i. Taxes: Pepsico 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 Pepsico by any taxing authority having jurisdiction.
- j. Insurance/Indemnity: Pepsico shall provide proof of insurance in a form and amount satisfactory to the Board and containing provisions including the Board of Governors of Exhibition Place and the City of Toronto, 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. Pepsico shall indemnify the Board of Governors of Exhibition Place and the City of Toronto, 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 Pepsico, or its employees or any other person for whom it is in law responsible, in the exercise of its rights under the agreement.

Contact:

Arlene Campbell, General Manager, SEM

Tel: 416-263-3030

Fax: 416-263-3640

Email: [acampbell@explace.on.ca](mailto:acampbell@explace.on.ca)