



Exhibition Place

Item No. 14

November 26, 2014

To: The Board of Governors of Exhibition Place

ACTION REQUIRED

From: Dianne Young, Chief Executive Officer

Subject: **Name-in-Title Sponsorship of Direct Energy Centre**

Summary:

This report recommends that the Board enter into a Memorandum of Understanding and authorize staff to negotiate an agreement with EnerCare Inc. (EnerCare) for the name-in-title sponsorship of Direct Energy Centre commencing at the expiry of the existing agreement (Direct Energy Sponsorship Agreement) dated December 31, 2005 between Direct Energy Marketing Limited (Direct Energy) and the Board. Accordingly, the Enercare Agreement will commence June 1, 2016 and continue for 10 years. The proposed terms and conditions are as set out in Appendix A and the confidential terms related to the financial return paid for the specific rights received are set out in the Confidential Attachment.

Recommendation(s):

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

- 1) Authorize staff to execute the Memorandum of Understanding with EnerCare attached as Appendix "A" and the Confidential Attachment I to this report, and to negotiate an agreement with EnerCare for a name-in-title sponsorship for the Direct Energy Centre substantially on the terms and conditions set out in the Memorandum of Understanding and such other terms and conditions as may be satisfactory to the Chief Executive Officer, and in a form satisfactory to 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 Implications:

The proposed agreement has a significant and positive financial return to the Board as set out in this report and the attached Confidential Attachment 1.

Decision History:

The Exhibition Place 2014-2016 Strategic Plan has 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 March 4, 2005, the Board approved entering into an agreement with Direct Energy for the naming rights to The National Trade Centre.

At its meeting of April 12, 13 and 14, 2005, City Council approved of Clause No. 34 of Report No. 4 of the Policy & Finance Committee, which was the naming rights report from the Board.

At its meeting of May 23, 2014 the Board approved of the engagement of Wakeham & Associates Marketing, Inc. ("WAM") to act as exclusive agent of the Owner with regard to name-in-title sponsorship rights for Direct Energy Centre.

At its meeting on November 7, 2014, the Board approved of the assignment of the Direct Energy Agreement from Direct Energy to EnerCare.

Issue Background:

On May 31, 2016, the existing 10 years name-in-title agreement with Direct Energy will expire.

Comments:

While naming of entertainment and sports venues has been common, corporate naming sponsorship of convention/trade facilities has been more difficult to achieve. However, this trend is beginning to change as other Canadian conference and convention facilities have partnered with the private sector for name-in-title opportunities. Some examples include the Scotiabank Convention Centre in Niagara Falls; Shaw Centre in Ottawa; and the Shaw Conference Centre in Edmonton.

Initially when The National Trade Centre opened in 1997, Exhibition Place faced some hurdles in finding an appropriate name-in-title sponsor but we were finally successful in 2006 and entered into an agreement with Direct Energy. It has been a very successful partnership throughout the last nine years both from a financial perspective and also from a partnership working together to promote the Board's environmental mandate.

On October 20, 2014, Direct Energy concluded the sale of its Ontario home and small commercial businesses to EnerCare Home and Commercial Services Limited Partnership, an indirect wholly-owned subsidiary of EnerCare, and such sale included the assignment, upon consent of the Board, of the rights and obligations under the Direct Energy Sponsorship Agreement. Direct Energy and EnerCare have jointly served customers in the home services and water heater rental business for more than 12 years, with EnerCare owning the water heater and other assets and Direct Energy providing servicing and managing the customer relationships. The sale noted above combined these operations under the EnerCare banner. At its meeting of November 7, 2014, the Board approved of the assignment of the naming rights agreement from Direct Energy to EnerCare.

In accordance with the Direct Energy Sponsorship Agreement, Direct Energy and EnerCare as the assignee had a right to negotiate in the first instance a new name-in-title sponsorship agreement at Exhibition Place. Direct Energy / EnerCare gave notice to exercise this right and the parties have been working on the substantive terms and conditions of this new agreement. EnerCare was very interested in the name-in-title sponsorship as it launches its rebranding related to the purchase of the Direct Energy business and giving the timing of this rebranding EnerCare is interested in receiving all approvals to proceed as soon as possible.

From the perspective of Exhibition Place, it is very positive to have confirmed our new name-in-title sponsor now as it allows Exhibition Place staff time to undertake the necessary work with its clients and the public to allow for a smooth transition and rebranding of the name change of the facility.

EnerCare is publicly traded on the Toronto Stock Exchange and currently have an investment grade credit rating. They are a respected Canadian company with their head office in Toronto. The purchase of Direct Energy's Ontario home services business by EnerCare Home and Commercial Services Limited Partnership ("EnerCare Home Services") created a single Canadian company, EnerCare Home Services. EnerCare Home Services and EnerCare Solutions together are one of Canada's largest home and commercial services companies with more than 900 employees. The business enterprise provides water heaters, furnaces, air conditioners and other HVAC rental products, protection plans and related services to approximately 1.1 million customers. Another subsidiary, EnerCare Connections Inc., is a leading sub-meter provider offering sub-metering and remote measurement of electricity, heat and water in multi-unit condominium complexes and apartment buildings in Ontario, Alberta and elsewhere in Canada.

Assessment Objectives

When Exhibition Place initially pursued a naming rights partnership for the former National Trade Centre, it established criteria to guide the process of selecting an appropriate partner. In considering new naming rights partners for the Direct Energy Centre, we followed the same guidelines as follows:

- (a) Build Profile of Exhibition Place and Awareness of Direct Energy Centre – The sponsor must make a commitment to elevating the profile and stature of Exhibition Place and the facility.
- (b) Reinforce Environmental Initiatives – The Board has positioned the grounds as a 'green zone' where new forms of energy are utilized, and state-of-the-art energy conservation programs are implemented. It is important to establish a relationship with a company that shares this mandate, and can help Exhibition Place to achieve its environmental initiatives.
- (c) Generate Business Efficiencies – The corporate alliance partner will not simply acquire a 'sponsorship', but will work hand-in-hand with Exhibition Place to create a showcase for public/private cooperation with resulting cost-savings for the Board.
- (d) Offer Benefits to Exhibition Place Tenants, Show Producers and Visitors - An effective sponsor is able to add value to the experience of the tenants, show producers and visitors to the facility.
- (e) Generate Incremental Operating Income for Special Projects - The sponsor will pay a "rights" fee to Exhibition Place which will allow Exhibition Place to pursue incremental programs to further its mandate and meet its objectives.

Alignment of Objectives Between Exhibition Place, Direct Energy Centre and EnerCare

There are multiple areas of alignment between the objectives of Exhibition Place and EnerCare which are summarized below.

Exhibition Place Community Focused Environmentally Conscious Progressive Inclusive Respects Traditions Supports Major Events Showcase of Innovation Delivers Quality Experience	EnerCare Community Focused Environmentally Conscious Progressive Inclusive Respects Traditions Supports Major Events Pursues Innovation Delivers Quality Experience
Direct Energy Centre Service-Oriented Professional Reliable Progressive Supports Community Events Delivers Quality Experience	EnerCare Service-Oriented Professional Reliable Progressive Supports Community Events Delivers Quality Experience

Conference Centre Reserve Fund (“CCRF”)

Finally, since the commencement of the Direct Energy Sponsorship Agreement in June 2006, City Council approved that all fees received under this agreement be placed in the CCRF, a reserve fund for the benefit of Exhibition Place to provide a source of funding for any shortfalls in loan payments to the City for the Allstream Centre. On November 5, 2012 City Council approved an administrative amendment to the CCRF changing the purpose to “provide a source of funding, in the first instance, for any shortfalls in the loan payments to the City, and this being provided for, to support any cash shortfalls with respect to capital funding required to maintain the Direct Energy Centre and the Allstream Centre in a state of good repair.” The intent would be to continue contributing all fees from the EnerCare name-in-title sponsorship to this reserve fund subject to any deduction from the fees for the payment of all costs associated with the name change (annual sponsorship commission, building identification, logos, marketing materials, etc).

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Appendix "A" – EnerCare Memorandum of Understanding

- a) **Earnest Fee.** EnerCare shall pay the Owner an earnest fee as outlined in Schedule A.
- b) **Exclusivity.** Upon the signing of this MOU, it is the intent of the parties to engage in a period of negotiations with the intention of entering into the Agreement, subject to all required approvals and consents. The parties agree to negotiate in good faith and as promptly as commercially reasonable. Each party agrees to commit reasonably necessary resources in order to complete such negotiations by January 31, 2015 or such other date as mutually agreed to by the parties. Until the negotiations have ended either in an executed Agreement or by notice from EnerCare that it is terminating such negotiations, the Owner agrees not to directly or indirectly engage in discussions with or take any action to solicit, initiate, encourage, accept or agree to any proposals from other persons or entities in connection with the proposed name-in-title sponsorship arrangement for the Facility as described herein. The Owner also agrees that it will not, at any time during the Term, (a) grant any person or entity other than EnerCare the right to advertise or promote at the Facility products or services that are the same as or competitive with EnerCare or the Products and Services (as defined in Schedule A and B hereto) on the same terms and conditions as in the Existing Agreement.
- c) **Costs.** Each party shall bear its own expenses and costs with regard to all negotiations and activities relating to this MOU and the Agreement.
- d) **Confidentiality.** Both parties recognize the proprietary nature of the other's business and agree to hold in absolute confidentiality and not to make any disclosure respecting this MOU and all matters discussed and materials shared in connection with the name-in-title sponsorship arrangement to possibly be entered into between EnerCare and the Owner without the other party's prior written approval and subject to any disclosure required by law, including under *the Municipal Freedom of Information and Protection of Privacy Act* and securities laws, and as required for the Owner to obtain the required approvals, provided that to the extent permitted by law, the disclosing party advise the non-disclosing party prior to making such disclosure.
- e) **Approvals.** EnerCare acknowledges and agrees that the entering into of the Agreement is conditional upon approval by The Board of Governors of Exhibition Place and City of Toronto Council. In the event either the Board and/or City Council do not provide the required approvals, this MOU shall be at an end and neither party shall have any liability to the other in respect of the subject matter of this MOU.
- f) **Governing Law.** This MOU shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.