



Exhibition Place

ACTION REQUIRED

Item No. 20

September 8, 2014

To: The Board of Governors of Exhibition Place

From: Dianne Young
Chief Executive Officer

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

Summary:

This report recommends the Board enter into an interim agreement with Coca-Cola Refreshments (Coca-Cola) as the “Official and exclusive soft drink provider” to Exhibition Place, including Direct Energy Centre, for a nine month period from April 1, 2014 to December 31, 2014.

Financial Impact:

The interim agreement recommended in this report provides revenue to the Board over the 9-month period as set out in the Confidential Attachment.

Recommendations:

It is recommended that:

- (1) The Board enter into an interim sponsorship agreement with Coca-Cola for nine months (April 1, 2014 to December 31, 2014), on the 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 Chief Executive Officer of Exhibition Place, 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.**

Decision History:

The Exhibition Place 2014-2016 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 July 24, 2007.

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 April 12, 2013 the Board approved a one-year extension of the sponsorship agreement with Coca-Cola, which was subsequently approved by City Council at its meeting of June 11, and 12, 2013.

Issue Background:

Exhibition Place staff are in the process of preparing an RFP for a sponsorship consultant. Staff would like to use the sponsorship consultant expertise to assist with the negotiation of an “Official Soft Drink Supplier”. To provide sufficient time to secure a sponsorship consultant, and negotiate a new agreement staff wish to extend the contract with the existing sponsor, Coke.

Comments:

This proposed interim 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: 9 months term commencing April 1, 2014 and expiring December 31, 2014
- (b) Exclusive Rights: Coke shall have the exclusive right to be the soft drink provider to Exhibition Place, including Direct Energy Centre, but excluding the Honda Indy, Royal Agricultural Winter Fair, CNEA 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 2014 is consistent with existing agreement with adjustment for any consumer price index increases negotiated and agreed to by the Board.
- (e) Audited Year-End Reports: Coca-Cola shall provide the Board with an annual audited statement, in form and content satisfactory to the 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 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, , 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, 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.

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