



Consent to Assignment of the 2 Strachan Outdoor Billboard Agreement

Date: April 24, 2017
To: The Board of Governors of Exhibition Place
From: Dianne Young, Chief Executive Officer
Wards: All

SUMMARY

This report recommends that the Board consent to an assignment to Astral Media Outdoor LP ("Astral") of the existing agreement between Metromedia CMR Plus Inc. ("Metromedia") and the Board dated July 1, 2010 (the "Billboard Agreement") for the 2 Strachan outdoor billboard sign. Such assignment has been requested due to an internal reorganisation of Bell Media Inc. ("Bell Media"), which transaction closed on April 1, 2017. As set out in the Billboard Agreement such assignment requires the consent of the Board.

RECOMMENDATIONS

The Chief Executive Officer Official recommends that the Board consent to the assignment of the Billboard Agreement from Metromedia to Astral on the terms and conditions set out in this report.

FINANCIAL IMPACT

Consent to the assignment to Astral from Metromedia would not affect the terms of the Billboard Agreement and therefore has no financial implications.

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 and/or expand revenue opportunities within our existing operations".

At its meeting on January 20, 2017 the Board approved the consent of assignment of the Agreement to Bell Media Inc. from Cieslok Media Ltd. as a result of the share purchase by Bell of all of the shares of Cieslok.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EP1.3>

At its meeting on September 4, 2015 and then subsequently by Council on October 2, 2015 the Board approved specific amendments to the Lease Agreement with Cieslok.

<http://www.toronto.ca/legdocs/mmis/2015/ex/bgrd/backgroundfile-84460.pdf>

At its meeting of May 23, 2014, the Board approved the assignment of the Agreement to Cieslok Media Ltd. from Clarity Outdoor Media Inc. (“Clarity”).

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At its meeting of June 16, 2013, City Council adopted Item PG25.3 to enact a site specific by-law amendment to Chapter 694 Signs, General to permit a reconfiguration of the west facing side of the sign.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG25.3>

At its meeting of October 2, 2012, City Council adopted Item PG17.2 to enact a site specific by-law amendment to Chapter 694 Signs, General to permit the replacement of the east facing sign faces to be modified to include two faces displaying from static copy with mechanical (trivision) sign and one face displaying electronic moving sign copy.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.PG17.2>

At its meeting of May 25, 2012, the Board approved of amendments to the Agreement to permit modifications to the east and west sides of the sign which amendments were approved by City Council Item EX 21.32 at its meeting of July 11, 2012.

<Q:\BOG Public\BOG Reports\2012 Reports\May 25\Clarity Outdoor Billboard Sign Upgrades Final-1.docx>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX21.32>

At its meeting of May 29, 2009, the Board approved entering into a 15-year agreement with Clarity for the Strachan Billboard which Agreement was approved by City Council (EX 33.50) at its meeting of August 5, 2009. Subsequently, amendments to the agreement were approved by the Board and Council in January 2010 (EX 39.3) and in August 2010 (EX 46.52).

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<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.EX33.50>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.EX46.52>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.TE32.82>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.EX39.3>

COMMENTS

Bell Media acquired all of the issued and outstanding shares of Cieslok on January 3, 2017 which results in a change of control which is deemed to be an assignment under the Billboard Agreement (EP1.3). However the agreement itself was not assigned and Cieslok remained a party. On April 1, 2017, due to an internal reorganization, Cieslok amalgamated with Metromedia with the resulting entity being Metromedia.

The Billboard Agreement requires the written consent of the Board to an assignment by Metromedia to Astral. Bell Media wrote to staff on March 20, 2017 to request this assignment to be effective on April 1, 2017. Upon completion of the proposed transaction, Cieslok, a wholly-owned subsidiary of Bell Media will amalgamate with Metromedia CMR Plus Inc ("Metromedia") a wholly-owned subsidiary of Bell Media to form a new amalgamated company.

The new amalgamated company will then immediately transfer all of Metromedia's assets, including Metromedia's rights, title and interest in its agreement with Exhibition Place and all liabilities of Metromedia under the agreement, to Astral Media Outdoor LP. Pursuant to the Billboard Agreement, this assignment requires the Board consent.

Sections 14.1 and 14.2 of the Billboard Agreement provides for a right of assignment, the pertinent parts read as follows:

“14.1 This Agreement shall not be assigned by the Company without the prior consent in writing of the Board. The consent of the Board shall not be unreasonably withheld, delayed or subject to any fee. It shall be unreasonable for the Board to withhold its consent where the proposed assignee is a media company with the financial wherewithal, reputation and creditworthiness required to fulfill the obligations of the Company under the Agreement.

14.2 Any consent by the Board will be subject to the Assignee signing an agreement with the Board providing that the Assignee will be bound under the Agreement as if it had originally executed it as the Company. Notwithstanding any assignment the Company shall remain jointly and severally liable with any permitted assignee with respect to the performance of all the terms and conditions of this Agreement for the balance of the Term, excluding any renewals or extensions thereof.”

Bell Media owns "Astral Out of Home" with a network of more than 30,000 advertising faces in British Columbia, Alberta, Ontario, Québec, and Nova Scotia. Bell Media also operates more than 200 websites; delivers TV Everywhere with its Cravat and GO video streaming services; operates multi-channel network Much Digital Studios; produces live theatrical shows via its partnership with Iconic Entertainment Studios; and owns Dome Productions Inc., a multi-platform production company.

As of the date of this report, there are no outstanding violations in respect of the 2 Strachan Sign issued by the City of Toronto.

The reorganization will not affect the terms of the agreement and Astral would assume all liabilities thereunder.

Terms & Conditions of the Assignment

The general terms and conditions of the Consent to Assignment proposed below reflect the rights of the parties as set out in the Billboard Agreement and address some of the financial issues that are of particular importance to Exhibition Place.

- Parties: The Board, Metromedia and Astral.
- Assignment Date: April 1, 2017.
- Assignment: As of the Assignment Date, Metromedia assigns to Astral all of Metromedia's rights, obligations and liability under the Agreement and Astral assumes all such rights, obligations and liabilities. Without limiting the generality of the foregoing, Astral will be bound under the Agreement as if it had originally executed such Agreement on the commencement of the Term of the Agreement being July 1, 2010 and notwithstanding this Assignment Agreement, Astral, Bell Media and Metromedia shall continue to remain jointly and severally liable with respect to all the terms and conditions of the Agreement until the expiry of the Term of the Agreement being June 30, 2025.
- Payment of Outstanding Accounts: On the Assignment Date, Metromedia will arrange to pay any outstanding accounts receivable owing to the Board by Metromedia under the terms of the Agreement.
- Future Payments: Commencing on the Assignment Date, Astral shall make payments to the Board as provided for in the Agreement.
- Other such terms as acceptable to the Chief Executive Officer and the City Solicitor

CONTACT

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SIGNATURE

Dianne Young
Chief Executive Officer