

Extension of Coca-Cola Refreshment Sponsorship Agreement

Date:	April 10, 2012
To:	Executive Committee
From:	Dianne Young, Chief Executive Officer/Exhibition Place
Wards:	Not Applicable
Reference Number:	

SUMMARY

This report recommends that City Council extend the current agreement with Coca-Cola Refreshments (Coca-Cola) as the “Official and exclusive soft drink provider” to Exhibition Place, including Direct Energy Centre, and the Canadian National Exhibition Association (CNEA), for an additional 10-month period from June 1, 2012 to March 31, 2013.

RECOMMENDATIONS

It is recommended that City Council approve:

- (1) Extending the current sponsorship agreement with Coca-Cola Refreshments for a ten-month period (June 1, 2012 to March 31, 2013), 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 Chief Executive Officer of Exhibition Place, the General Manager of the CNEA, 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 of Governors of Exhibition Place.

FINANCIAL IMPACT

The extended agreement recommended in this report provides revenue to the Exhibition Place and the CNEA over the 10-month period as set out in the Confidential Attachment.

DECISION HISTORY

At its meeting of April 5, 2012, the Board of Governors of Exhibition Place considered subject report, and unanimously recommend it for approval by City Council.

At its meeting of April 4, 2012, the Board of Directors of the CNEA considered a similar report, and unanimously recommended it for approval by the Board and City Council.

ISSUE BACKGROUND

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. Exhibition Place and the CNEA have always had a joint agreement with the “official soft drink supplier” however, following independence of the CNEA this may not happen. Accordingly, staff are recommending that a ten-month extension of the current agreement as the most logical way to proceed, and at the end of the ten- month extension, both the CNEA and Exhibition Place will go to the market separately with an RFP to secure sponsors for the future.

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 Attachment. 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: Ten (10) month term commencing June 1, 2012 and expiring March 31, 2013.
- (b) Exclusive Rights: Coke 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 Exhibition Place, acting reasonably, to such new location as may be agreed. The number and location of which will be mutually agreed upon and subject to Exhibition Place 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 2012 is consistent with existing agreement with adjustment for any consumer price index increases negotiated and agreed to by Exhibition Place and CNEA.
- (e) Audited Year-End Reports: Coca-Cola shall provide the Exhibition Place (including Direct Energy Centre) and CNEA with an annual audited statement, in form and content satisfactory to the CEO of Exhibition Place and the General Manager/CNEA, of all revenues earned and commissions owing under the agreement to be submitted with the payment of the percentage commission.
- (f) Right of Audit: Exhibition Place 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 Exhibition Place and any union or association with respect to Exhibition Place.
- (h) Assignment: The agreement between Exhibition Place, CNEA and Coca-Cola shall not be assigned by Coca-Cola without the consent of Exhibition Place.

- (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 Exhibition Place 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 Exhibition Place and containing provisions including Exhibition Place, 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 Exhibition Place shall be entitled to thirty days' notice of any intention to cancel or not to renew the policy. Coca-Cola shall indemnify Exhibition Place, 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.

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Dianne Young
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Attachment 1 – Confidential Information