



**ACTION REQUIRED
With Confidential
Attachment**

**Agreement for Food & Beverage Services – Ovations Ontario
Food Services LP**

Date:	May 31, 2013
To:	Executive Committee
From:	Dianne Young, Chief Executive Officer, Exhibition Place
Wards:	NA
Reference Number:	Security of the Property of the Municipality or local Board

SUMMARY

This report recommends that City Council authorize the Board of Governors of Exhibition Place (“the Board”) to enter into an agreement with Ovations Food Services, LP (Ovations) to provide exclusive food and beverage services to Direct Energy Centre (“DEC”) at Exhibition Place and the other buildings utilized for trade and consumer show venues for a term of eleven (11) years, (4) months, and fourteen (14) days commencing July 18, 2013, and terminating on November 30, 2024. Ovations, a division of Comcast-Spectacor, operate in more than 120 venues in Canada and the United States servicing over 9 million guests and exceeding \$250M in sales.

A public Request for Proposals for Food and Beverage Services (RFP) was issued through the City of Toronto, Finance Department, Purchasing and Material Management Division (PMMD) for the exclusive food and beverage services wherein two responses were received for this opportunity. Following a lengthy evaluation, Ovations is being recommended as the Preferred Proponent.

RECOMMENDATIONS

It is recommended that:

- 1) City Council authorize the Board to enter into an agreement with Ovations to provide exclusive food and beverage services to Direct Energy Centre and other buildings utilized for trade and consumer show venues on the substantial business terms and conditions set out in the draft agreement in the RFP, and any other such terms and conditions satisfactory to the Chief Executive Officer and 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.

Financial Impact

Approval of the Agreement between the Board and Ovations will result in a positive revenue stream over the term of the Agreement as outlined in the confidential attachment.

DECISION HISTORY

At its meeting of May 30, 2013, the Board of Governors of Exhibition Place considered subject report, and unanimously recommend it for approval by City Council.

Meeting of the Board	Description
Board of Governors April 25, 1997	Approval of entering into an Agreement with Servomation Inc. as the exclusive provider of food and beverage services within Direct Energy Centre and other buildings on the grounds managed by Exhibition Place for an initial term ending in 2002.
Board of Governors October 26, 2001	Approval of issuing a RFP for an exclusive food service provider which was issued on April 9, 2002.
Board of Governors October 25, 2002	Approval of entering into an agreement with Servomation Inc. for the provision of exclusive food and beverage services for a term ending on June 30, 2010, which report was approved by City Council at its meeting of November 26, 27, & 28, 2002.
Board of Governors May 27, 2010	Approval to entering into an agreement with Servomation Inc. for the provision of exclusive food and beverage for a term ending on June 30, 2012.
Board of Governors August 5, 2011	Approval of the extension of the current agreement with Servomation Inc. to provide exclusive food and beverage services for one additional year, expiring on June 30, 2013.
Board of Governors May 25, 2012	Approval to issue a public RFP for the provision of food and beverage services to DEC and other buildings utilized for trade and consumer show events.

ISSUE BACKGROUND

The agreement with Servomation Inc. to deliver food and beverage services to DEC and other buildings utilized for trade and consumer show events expires on June 30, 2013.

COMMENTS

At the end of 2010, Exhibition Place engaged fsSTRATEGY to undertake an analysis on possible future directions for the delivery of food and beverage, generally in the industry and specifically in the Toronto marketplace, and at DEC. Following this study, a recommendation was approved by the Board to issue a public RFP for the exclusive provision of food and beverage services for DEC, and other venues used for trade and consumer show events at Exhibition Place.

A public RFP was drafted by Exhibition Place with assistance from its consultant fsSTRATEGY, and was sent to the City of Toronto's Finance Department, Purchasing and Materials Management Division (PMMD) on December 14, 2012, and issued by PMMD on February 27, 2013, with a closing date of April 9, 2013. The Closing Date was extended at the request of the potential proponents to April 12, 2013, and Exhibition Place staff received two submissions from the City on April 26, 2013.

Despite the initial interest of five companies, only two proposals were received. One from Servomation d/b/a Centerplate Inc., and the other from Ovations. As part of the RFP process, the Board made public the historical gross sales information and one of the challenges faced by any proponent would be to increase food and beverage sales which have fallen. As indicated in the RFP document, food and beverage sales since the opening of DEC have fallen from \$6,080,252 in 1998 to \$2,723,195 in 2012. A portion of this decline has been the transfer of catering sales from DEC to the new Allstream Centre in October 2009.

The Exhibition Place staff formed the Evaluation Team and the Board's food service consultant, fsSTRATEGY Inc. provided supporting analysis and advice. The Evaluation Criteria as set out in the RFP document was as follows:

Criteria	Points Available
Stage I – Proposal Content (Technical Proposal)	
Total	65
A. Executive Summary and Proponent Profile	10
B. Experience and Qualifications of the Proponent	20
C. Proposed Staff Team and Resources	10
D. Sales and Marketing	10
E. Products and Services	10
F. Environmental Initiatives	5
Stage 2 – Financial Proposal	35

After evaluating both submissions in accordance with the RFP Selection Process which included scoring the paper submissions, interviews, reference checks and written responses by both Proponents to clarification questions, the Board is recommending that City Council approve Ovations as the Preferred Proponent having achieved the highest score and being the overall best proposal received.

Ovations, a division of Comcast-Spectacor, operates more than 120 venues in Canada and the United States servicing over 9 million guests and exceeding \$250M in sales, and in the past five years, Ovations experience for renewals is almost 100%. In its proposal Ovations outlined how it will provide an effective new food and beverage marketing plan for DEC; introduce guest experience programs that have been effective in its other venues; maintain its commitment to freshness, a key brand of Ovations; and initiate original creative concepts for Exhibition Place staff to consider. In its proposal, Ovations committed to working with existing show producers as well as creating events that will drive more revenue and profit growth to DEC and indeed, as part of its outreach to develop its Proposal, Ovations has already met with some of DEC's major event organizers. Finally, Ovations proposed an aggressive capital investment plan to kick-start its programs and to drive additional revenues and a commission package to the Board based on its aggressive marketing strategy. Ovations have indicated that award of this agreement to the company would be a major achievement and this agreement would be one of the most significant properties within its portfolio.

Ovations can draw on the experience from its existing venues and also from Comcast Spectacor, which is the Philadelphia-based sports and entertainment company, that owns the Philadelphia Flyers (NHL), the Wells Fargo Center, and four Flyers Skate Zone community ice skating and hockey rinks. In addition, Comcast-Spectacor is also the principal owner of Global Spectrum, the fastest growing firm in the public assembly management field with almost 100 facilities throughout the United States and Canada; Ovations Food Services, a food and beverage service provider; New Era Tickets, a ticketing and marketing company for public assembly facilities; Front Row Marketing Services, a commercial right sales company; and Paciolan, the leading provider of venue enablement, ticketing, fundraising and marketing solutions. In partnership with Disson Skating, Comcast-Spectacor annually produces 10 nationally televised figure skating spectacles on NBC.

Ovations has proposed in its marketing and operations strategy that it could look to other sister companies such as Global Spectrum which is a multi-faceted, dynamic company which provides innovative management, pre-opening, consulting, marketing and event bookings services for public assembly facilities throughout United States, Canada and Southeast Asia.

The substantial terms and conditions included within the RFP draft agreement and agreed to by the parties is set out in Appendix "A" attached.

CONTACT

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Dianne Young
Chief Executive Officer

ATTACHMENTS

Appendix “A” – Substantial Terms and Conditions of Agreement with Ovations

Substantial Terms and Conditions of the Agreement with Ovations

1. Term: A Term commencing July 18, 2013 terminating on November 30, 2024.
2. Scope of Rights:
 - (i) Except to the extent otherwise provided in this Agreement, the Ovations shall have the exclusive rights during the Term:
 - (a) to occupy the Food Service Premises;
 - (b) to provide all Food Services and sell all Food Products for:
 - (c) events held in the DEC; and
 - (d) events held in the Other Buildings which are trade and consumer show events booked by the Board.
 - (e) Ovations will provide food services for the 2015 Pan American and Parapan American Games ("Toronto 2015") as outlined in Appendix L of the RFP.

(ii) EXCEPTIONS

Notwithstanding any other provision in this Agreement, the rights granted to the Ovations under section (i) may, in the discretion of the Board, be granted to others in the following circumstances:

- (a) During the period of the annual Canadian National Exhibition (CNE) at Exhibition Place except as negotiated with the CNEA;
- (b) Within the DEC and the Coliseum during the Royal Agricultural Winter Fair;
- (c) During the Honda Indy, Scotiabank Caribbean Carnival and the CHIN Picnic.
- (d) During events having as a primary or necessary ancillary purpose the displaying or dispensing, or both, of food and beverage products, whether or not there is a charge therefor.
- (e) Where samples of food and beverage products are provided on a complimentary basis by a sponsor of a Licencee or the Board, provided such samples shall be not more than 28 grams, if by weight, or 30 milliliters, if by volume;
- (f) Where food and beverage products are sold in bulk quantities not intended for consumption at Exhibition Place, in units of not less than one (1) kilogram if sold by weight, or two (2) litres if sold by volume;
- (g) In the Other Buildings where a single event, booked by the Board, is held by or on behalf of one or more organizations which are registered as charitable organizations under the Income Tax Act (Canada) or not organized for the purpose of commercial gain or profit and are providing food and beverage at a nominal charge to assist in defraying the cost of the event or on a complimentary basis.

3. Performance Bond: Ovations will provide a performance bond in the amount of \$250,000 for the duration of the agreement in a form and content satisfactory to the City Solicitor.
4. Marketing Fund: Ovations will contribute 2.0% of Gross Revenues not to exceed \$100,000 annually to market the food services operations.
5. Repair and Maintenance: Ovations will contribute 1.5% of Gross Revenue not to exceed \$75,000 annually to maintain and repair all Board Equipment.
6. Capital Investment (Contribution): Payment of a Capital Contribution of \$1,600,000 over the term of the agreement towards the purchase and upgrade of portable and permanent food and beverage equipment (“New Equipment”) which purchases must be approved by the Board. As is customary, the Board would have to pay the unamortized amount (undepreciated capital cost) of the Capital Contribution of the “New Equipment” remaining at the end of the Term.
7. Collective Agreements: Ovations will comply with all collective union agreements in force between the Board and any union or association with respect to Exhibition Place.
8. Insurance/Indemnity: Ovations shall obtain and maintain in force at all times during the Term, as a direct cost of its operation, insurance coverage as required by the Board and which is acceptable to the City Treasurer. Such coverage shall be obtained from an insurance company acceptable to the Board authorized and licensed to do business in the Province of Ontario and shall include:
 - i. Comprehensive General Liability Coverage in the amount of \$5,000,000.00 per occurrence. This Comprehensive General Liability insurance shall cover Ovations, the Board and the City of Toronto, and their direct employees, agents, officers and elected officials from and against any claim arising out of personal injury and/or property damage as a result of the operations of Ovations or Ovations failure to comply with the terms of this Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by the Ovations or by any other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in the contract. The policy shall also be endorsed to include coverage for products and completed operations.
 - ii. Workers' Safety and Insurance Board Coverage, as statutorily required for all employees of Ovations. Employers' Liability coverage on the WSIB policy shall be written in the minimal amount of \$1,000,000.00 per occurrence.
 - iii. Excess Liability Coverage, in the amount of \$10,000,000.00 per occurrence shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required Comprehensive General Liability Coverage, the Employers' Liability Coverage on the WSIB policy, and the Comprehensive Automobile Liability policy.
 - iv. Comprehensive Automobile Liability Coverage, in an amount not less than \$1,000,000.00 per occurrence shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles which may be used

- by Ovations in connection with the provision of the Food Services under this Agreement.
- v. Comprehensive Liquor Liability Coverage, in an amount not less than \$10,000,000.00 per occurrence. Such coverage shall provide protection for Ovations, the Board and the City of Toronto and their employees, agents, officers, elected officials and subsidiaries, for claims or damages, for personal injury and/or the providing of alcoholic beverages in the food service premises.
 - vi. Crime Insurance, covering all employees of Ovations, and in a form acceptable to the Board, for theft of money and deposits, in the amount of Seventy Five Thousand Dollars (\$75,000.00) per occurrence; said bond to be in place upon execution of this Agreement.
 - vii. Evidence of required insurance coverage shall be promptly delivered to the Board prior to the commencement of the Term of the Agreement.
9. Indemnities: Ovations shall indemnify and save harmless the City of Toronto and The Board of Governors of Exhibition Place and all their respective agents, officials, servants, elected and appointed officials (the “Indemnitees”) from and against any and all actions, claims, suits and demands which may be brought against any or all of them including, without limiting the generality of the foregoing, by reason of any bodily injury to death of, or any property damage suffered or sustained by, any person including, without limiting the generality of the foregoing, any employees, workmen, servants or agents of Ovations, and from all loss, costs, charges and expenses which may be paid, sustained or incurred by any of the Indemnitees resulting from or arising in any way out of any negligent acts or omissions of Ovations or any other conduct intentional or otherwise of Ovations in the performance or purported performance of its duties under the Agreement or any such actionable acts or omissions of any person for whom Ovations is in law responsible.