



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**Toronto Street Furniture Program –
Agreement Modifications**

Date:	April 29, 2014
To:	City Council
From:	General Manager, Transportation Services
Wards:	All
Reason for Confidential Information:	This report involves the security of property belonging to the City or one of its agencies, boards, and commissions.
Reference Number:	p:\2014\ClusterB\tra\pr\cc14003pr

SUMMARY

The report provides the results of the confidential instructions to staff from City Council on June 11, 12, and 13, 2013 regarding recommended amendments to the Toronto Street Furniture Agreement.

RECOMMENDATIONS

The General Manager, Transportation Services recommends that:

1. City Council adopt the confidential recommendations in Confidential Attachment 1 and authorize the General Manager, Transportation Services and the City Solicitor to amend the Street Furniture Agreement, on the terms and conditions as set out in Confidential Attachment 1.
2. Confidential Attachment 1 remain confidential as it contains information which relates to the security of property belonging to the City or one of its agencies, boards and commissions, provided that the confidential recommendations may be released publically upon the execution of an approved amending Agreement incorporating the terms and conditions set out in Confidential Attachment 1.

Financial Impact

Adopting Recommendations 1 and 2 contained in this report offers the potential to receive additional revenues beyond what was contemplated in the annual guarantee of the Street Furniture Agreement. Increased revenues will be audited and will be reflected in any future Street Furniture updates to City Council.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information contained in Confidential Attachment 1.

DECISION HISTORY

City Council at its meeting of May 23, 24 and 25, 2007, adopted the motion that "City Council accept the proposal by Astral Media Outdoor LP as having achieved the highest evaluated score, to provide a coordinated street furniture program for the City of Toronto as described in the City's RFP 9103-06-7316."

<http://www.toronto.ca/legdocs/mmis/2007/cc/minutes/2007-05-23-cc08-mn.pdf>

City Council at its meeting of June 11, 12 and 13, 2013, deleted the recommendations of the Public Works and Infrastructure Committee April 10, 2013 in a report entitled, "Toronto Street Furniture Program – Year 5 Status Update and Agreement Modifications" dated March 21, 2013 and issued confidential instructions to staff which remain confidential in accordance with the City of Toronto Act, 2006, as they relate to the security of the property of the municipality or local board. (PW22.9)

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PW22.9>

COMMENTS

1. Existing Agreement

Background

The Coordinated Street Furniture Program will deliver over 25,500 pieces of attractive, functional street furniture across Toronto over a 20-year period. The program is an innovative partnership model between the City and the private sector for addressing budgetary pressures, is located city-wide, unprecedented in its scale and scope and has delivered marked improvement to Toronto's streets while reducing advertising.

At the time this system was being developed, it managed to coordinate 12 different types of advertising systems found in the public right-of-way, including signage on litter bins and benches. City Council determined a number of objectives for this program, including the provision of a system of street furniture at no cost to the City, a program of significant depth that it would generate sufficient revenues to cover the cost, manufacture, supply, installation and maintenance of the furniture, as well as provide a revenue stream to the City, and an improvement to the quality of advertising that would be provided. Advertising was to be permitted only on transit shelters and information pillars – no more than one in a cluster, with minimum separation distances, a limit on square footage and delivered through a single corporate vendor.

This program guarantees a minimum of \$429 million of direct revenue to the City over the contract term, generated from the controlled advertising rights. The capital investment in the program is valued at \$202 million and the on-going maintenance at \$294 million. All elements will be owned by the City upon expiry/termination of the Agreement. Any change that alters the revenues and scope of this contract must be approved by City Council and Astral Media.

Revenue

The Agreement between the City and Astral Media sets out a minimum yearly guaranteed fee or annual revenue to the City from Astral Media received at the start of each fiscal year. The company pays the greater of the stipulated annual fee for each Agreement year or the listed percentage of the gross revenues, as set out in the chart below. The Agreement required Astral Media to provide an upfront payment of \$36.9 million (a \$28.4 million payment including the City's costs for the design links study, third party consulting costs, and a signing fee in addition to the first three years of the contract valued at \$8.5 million) upon signing the contract.

In September 2013 (start of Year 7), the City received \$15,001,287.00 plus an additional \$5 million for the cash out of 11 automated public toilets for purposes of a public bike share program. To date, the City has received \$89,837,905 in revenue from this Agreement including the \$28.4 million upfront lump sum payment. Over the next 12 years the City will receive an additional \$344 million in minimum annual guaranteed revenue (MAG). The yearly revenue has consistently been received at the start of each fiscal year, as required.

Table 1 – Annual Revenues

Agreement Year	Minimum Guaranteed Annual Revenue	Percentage of Gross Revenues	Amount Received to Date
1	\$2,000,000.00	10%	\$2,000,000.00
2	\$2,500,000.00	10%	\$2,500,000.00
3	\$4,000,000.00	20%	\$4,403,256.00 **
4	\$7,816,575.00	25%	\$7,816,575.00
5	\$11,638,531.00	32%	\$11,638,531.00
6	\$13,478,256.00	32%	\$13,478,256.00
7	\$15,001,287.00	32%	\$20,001,287.00 ***
8	\$16,968,168.00	32%	
9	\$17,815,757.00	32%	
10	\$18,706,545.00	32%	
11	\$19,641,872.00	32%	
12	\$23,710,471.00	32%	
13	\$24,895,995.00	32%	
14	\$26,140,795.00	32%	
15	\$27,447,835.00	32%	
16	\$30,510,575.00	32%	
17	\$32,152,565.00	32%	
18	\$33,760,193.00	32%	
19	\$35,448,203.00	32%	
20	\$37,220,613.00	32%	
Total Minimum Guaranteed Annual Revenue	\$400,854,236.00	Total Amount Received to Date	\$61,837,905.00

** Indicates percentage of gross revenues was greater than the minimum annual revenue.

*** This includes \$15,001,287.00, plus a \$5 million additional one-time payment for the cash out of 11 automated public toilets.

Overall Inventory and Completion Rates

The Street Furniture Agreement specifies the number of elements to be installed annually. The program has achieved a 100 percent completion rate in Year 6 and 83 percent complete of the total Schedule H (the contractual rollout schedule) from Years 1-7. Astral Media is now on target with their roll-out schedule. At this time, 46 percent of the over 25,000 elements are on the street.

Representatives of Astral Media were advised by senior staff that any potential change to the Agreement would proceed to City Council once the company was caught up on their roll-out of street furniture elements. The company understands that the delivery of elements is both critical and a condition of any new permissions moving forward. While

Astral has in the past taken the position that there had been mitigating reasons that the initial planned roll-out was set back (including delays in the sign-off of the elements, the 2009 labour disruption, and the concrete settlement pad issue), there should be no reason for any further delay in any yearly roll-out of elements and, by the end of Year 8, the number of elements on the street is expected to reach the level outlined in the original schedule.

Table 2 – Completion Rates

Element	Installed Year 1-7 (March 31, 2014)	Schedule H Year 1 to 7	% Complete Year 1 to 7
Transit Shelter	2016	2451	82.3%
Litter Receptacle	7017	7835	89.6%
Bench	1326	1426	93.0%
Info Pillar/Way-finding	80	120	66.7%
Info Pillar/Way-finding (Non Ad)	46	60	76.7%
Poster Column	498	500	99.6%
Poster Board	546	1023	53.4%
Public Washroom	2	9	22.2%
Kiosk	25	125	20.0%
Corral	290	703	41.3%
Total	11,846	14,252	83.1%

2. Creative Advertising

Creative advertising is the temporary use of creative decals and wraps on transit shelters which draw attention to street level advertising caissons and add value to advertising campaigns. Creative advertising was explicitly permitted on transit shelters by the former City of Toronto (1997) and in the former Harmonized Transit Shelter Agreement in the amalgamated City of Toronto (2000). The Street Furniture Agreement of 2007 was silent on the specific matter of this temporary use.

In the increasingly competitive world of advertising, creative ads are one opportunity for Astral Media to provide additional benefit to their clients and a competitive product. From the public's perspective, creative advertising campaigns animate the streetscape by providing temporary delight and entertainment.

Creative advertising is a common practise in major cities internationally. A staff review of a number of municipalities including New York City, Vancouver, Washington, DC, and Philadelphia reveals that other municipalities do not provide guidelines to their transit shelter providers but review each campaign as it is proposed. Vancouver has an overall limit on the total number it will permit at any one time.

City staff have been working with representatives of Astral Media on further development of the Guidelines for Creative Advertising Proposals, which were previously before City Council. The Guidelines are contained in Attachment 2 and require that any creative ad meet the following test:

- Not compromise public safety and security;
- Not interfere with the public's use and enjoyment of the transit shelter and the adjacent street. In that regard, any type of interactive device must be intentionally set in motion by the public; and
- Provide messaging that is suitable and acceptable to members of the public on city streets.

The City has been working with Astral Media to devise a system that would permit a sufficient amount of decal coverage to provide opportunities for advertising, while at the same time, ensure that transit passengers are easily visible and safe. The agreed upon approach provides a maximum percentage of decal coverage on the end wall and the wall adjacent to the curb. If the campaign requires that the creative advertising is cumulative on one wall, this may occur on the rear wall, providing that the decal application is sufficiently transparent that the public are able to see through the material.

Other guidelines speak to the need for protecting the pedestrian right-of-way, prohibitions against scented advertising and logos beyond the ad face, and maintaining the usability of benches, transit maps and message centres. Any interactive device is to be initiated by a member of the public only. Further, the location adjacent to institutional buildings, heritage areas and heritage view corridors will be taken into consideration in the design of any particular campaign.

The Guidelines will form a new appendix to the Vibrant Streets document which guides the placement of street furniture on City streets.

Creative advertising campaigns usually involve between two to ten transit shelters on the street at any one time, to date, with a maximum of four campaigns at one time. The City currently has 4,218 transit shelters on its streets, of which 2,384 have advertising faces. We are proposing a maximum of 5 percent of all shelters with advertising, which would represent 125 shelters or 3 percent of all transit shelters. While it is unlikely that this cap will be reached, it is intended to provide permission in the event campaigns overlap for a short period of time.

3. Static Electronic Copy on Transit Shelters

Since the previous report on this matter was before City Council in 2013, there has been an increasing growth in the use of digital technology on transit shelters internationally and acceptance of the product. City staff have consulted with a number of cities regarding their experience.

Washington, DC has increased the number of digital faces installed to 90 in 2014 from 10 in 2013. New York City permits digital on every shelter, newsstand and automated toilet, although only 10 have been installed to date. In Montreal in June 2013, Astral Media installed 30 digital faces on information pillars, and Quebecor, the company that manages the transit shelter program, installed 40 shelters in September 2013 and more are forthcoming. Both Philadelphia and Vancouver are in the process of reviewing applications for digital advertising.

Digital advertising on transit shelters provides a state of the art product, will allow Astral to be more competitive in an increasingly complex and competitive advertising world, is being used on street furniture internationally and by Astral itself on information pillars in Montreal. The image is crisp and modern looking and will provide a precise reproduction of still pictures or advertising artwork in comparison to existing paper or scrolling technology. It provides some environmental benefits through the elimination of poster production and since the advertising will be managed remotely from Astral's Control Centre, the use of vehicles on city streets associated with poster installations and maintenance will be eliminated. Further, the City has the potential to share in a significant amount of revenue over the next 12 years.

Toronto Building, in conjunction with Transportation Services, submitted a report to Planning and Growth Management Committee in December of 2013 entitled, "Electronic and Illuminated Sign Study and Recommendations for Amendments to Chapter 694 of the Municipal Code," which was deferred for additional consultation and reconsidered with revised amendments at Planning and Growth Management on April 10, 2014. The Planning and Growth Management Committee deferred consideration of the report until 2015.

This review included a planning and design review of the impact of electronic and illuminated signs on surrounding land uses and methods used in other municipalities to address the impact, a traffic safety study and a public opinion poll. Although no digital signs are yet permitted on transit shelters in Toronto, and although the Street Furniture program is explicitly exempted from Municipal Code, Chapter 694 (the City's "Sign By-law"), a number of general matters were raised about transit shelter placement and other matters and are addressed below.

There are many differences between potential pedestrian-scaled digital advertising on transit shelters and the large scale third-party billboards, or "spectaculars" containing digital advertising which are currently in place in Toronto. Transit shelter technology is LCD, a softer, more domestic light than the LED which is most currently used in existing

billboards. Further, lit transit shelters have been on Toronto streets since the 1980s, forming a part of the existing streetscape and, for this reason, the Street Furniture Agreement requires that all transit shelters are lit all night long since lighting provides safety at night and ambient light for city streets.

The traffic safety studies (apart from those directed to billboard advertising) included a review of research literature on the impacts of transit shelter advertising on traffic safety, as well as a before and after collision analysis of transit shelter scrolling advertising signs. With respect to the transit shelters, the study identified various safety measures that should be taken into account when locating static ads, particularly related to sightlines. A sight line analysis of this nature is already routinely conducted as part of the City's review process for installing new transit shelters. Digital advertising faces will be subject to the same review, and similar to static ads, all digital ad placement will be subject to the agreement of the General Manager of Transportation Services. With respect to scroller units, the studies showed that there was not enough evidence to suggest that scrollers, as opposed to static ads, have any impact on traffic collision rates.

The concept of a multi-ad format shelter as a "scroller" is already permitted for all transit shelters in the Street Furniture Agreement. At this time, there are currently 24 on Toronto streets. The proposal for static electronic advertising provides a modern update to this practice. Digital signs will be situated on existing transit shelters that already include advertising. One of the two static advertising faces will be replaced with a digital advertising face in a transit shelter. The proposed eight second duration time, prohibition against flashing lights or animation, and transition time of less than one second is consistent with the practice in other cities, i.e. Montreal, Washington, DC, and New York City. Digital signage on street level transit shelters responds to the relatively small size of the signs (four by six feet) and the use of this technology in a low speed/low angle local pedestrian and traffic environment. This differentiates these proposed pedestrian-scaled street furniture types of signs from large billboards intended to be visible for significant distances and located adjacent to expressways and high volume arterial roads. The illumination levels will be kept to the existing levels of 5000 nits after sunrise and 300 nits after sunset, now found on static transit shelter ads.

An additional benefit to this permission would provide the opportunity to establish an Amber Alert Program on transit shelters, the first implementation of its kind in Canada. In addition, Astral Media has agreed to work with the City to facilitate its communication with citizens, and the digital technology will bring increased flexibility to react to City needs. The Office of Emergency Management has been engaged for purposes of digital messaging that might be used 1-2 times a year for a period of 24 hours (8 second ads every 3 minutes) for purposes of earthquakes, floods, high speed winds, health emergencies, snow events, nuclear power or hazardous materials accidents.

At this time, the City receives 8.5 percent of all static advertising faces for free public service advertising. Astral Media has offered the same arrangement they have given to the City of Montreal and will guarantee an allocation of 480 ad spots per day to the City on each digital face. At 40 digital faces, this will equal 19,200 ad spots per day. This

represents 4.44 percent of all digital ads that will be on the street dedicated for purposes of free advertising. The City's Strategic Communication staff believe that there is considerable value to this offer, which in addition to the existing 8.5 percent of static advertising, would represent 12.9 percent of all advertising on transit shelters dedicated to public service advertising.

Astral Media has also agreed to ensure that the third automated public toilet (APT) is installed by the end of Year 7.

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SIGNATURE

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ATTACHMENTS

Confidential Attachment 1: Toronto Street Furniture Program – Agreement Modifications
Attachment 2: Guidelines for Creative Advertising Proposals