



Report to: General Committee

Meeting Date: November 29, 2021

SUBJECT: Municipal Capital Facilities - Reesor Park Seasonal Tennis Bubbles

PREPARED BY: Shane Manson, Senior Manager, Revenue & Property Tax
Ext. 7514

RECOMMENDATION:

- 1) That the report entitled “Municipal Capital Facilities - Reesor Park Seasonal Tennis Bubbles” be received; and,
- 2) That, further to the City entering into a lease agreement (the “**Lease**”) with Premier Racquet Clubs Markham Corp. (the “**Tenant**”) for that part of the lands municipally known as 73 Wootten Way N, Markham, depicted in Appendix “A” (the “**Reesor Park Tennis Bubbles Lands**”), a by-law be passed pursuant to Section 110 of the *Municipal Act, 2001* in a form substantially similar to the draft by-law attached as Appendix “B” to:
 - a. Authorize the City to enter into a Municipal Capital Facility Agreement (the “**MCF Agreement**”), and any and all associated or related agreements, with the Tenant for the provision of municipal capital facilities at the Reesor Park Tennis Bubbles Lands; and
 - b. Exempt the Reesor Park Tennis Bubbles Lands from taxation for municipal, regional and education purposes. Tax exemption is to be effective from the later of the following dates: (i) the commencement date of the lease; (ii) the date the Municipal Capital Facility Agreement is signed; (iii) or the date the tax exemption by-law is enacted; and,
- 3) That further to the City and The Tenant entering into the Lease, Council declares that the Reesor Park Tennis Bubbles Lands are for the purposes of the municipality and are for public use as more particularly set out in the Lease; and,
- 4) That subject to the by-law described in Recommendation #2 being passed, the City Clerk be directed to give written notice of the by-law to the Minister of Education, and also provide a written notice of the contents of the by-law to the Municipal Property Assessment Corporation, the Secretary of any affected school board(s) and the clerk of the Region of York; and further,
- 5) That staff be authorized and directed to do all things necessary to give effect to these resolutions.

PURPOSE:

The purpose of this report is to obtain Council endorsement of a by-law authorizing the municipality to enter into the MCF Agreement with respect to the Reesor Park Tennis Bubbles Lands and to exempt the property from all property taxes pursuant to section 110 (6) of the *Municipal Act, 2001* (the “**Act**”).

BACKGROUND:

Section 110 of the Act authorizes a municipal council to pass a by-law authorizing the municipality to enter into a MCF Agreement with any person for the provision of municipal capital facilities and to exempt from property taxes land on which such municipal capital facilities are located. The authority is subject to compliance with the criteria set out in section 110 of the Act and Ontario Regulation 603/06 (the “Regulation”). One such criterion is that if the proposed municipal capital facility is for the purpose of recreation, the municipality is required to purchase the municipal capital facility at the end of any lease term. Another criterion is that Council must declare, by resolution that the municipal capital facilities are for the purposes of the municipality and are for public use.

Upon the passing of the by-law, the City Clerk must give written notice of the by-law to the Municipal Property Assessment Corporation, the Secretary of any affected school board(s) and the clerk of any other municipality that would, but for the by-law, have authority to levy taxes on the lands being exempted, in this case, the Region of York.

OPTIONS/ DISCUSSION:

In June 2021, the City entered into the Lease with the Tenant, for the installation and operation of seasonal tennis bubbles at the Reesor Park Tennis Bubbles Lands.

Staff recommend that the City enter into a MCF Agreement with the Tenant and exempt the Reesor Park Tennis Bubbles Lands from property tax. Staff have reviewed the criteria for exempting land from property tax set out in the legislation noted above and in order for the City to declare the Reesor Park Tennis Bubbles Lands exempt from property tax, the following criteria must be met:

1. The Reesor Park Tennis Bubbles Lands are leased by the Tenant which has entered into a MCF Agreement with the City.
2. The Tenant’s permitted use of the Reesor Park Tennis Bubbles Lands set out in the Lease includes the Tenant to providing services that may be provided by the City.
3. The municipal capital facility being provided by The Tenant, is for recreational purposes and falls within one of the classes of permitted municipal capital facilities listed in Section 2 of the Regulation.
4. If the municipal capital facility being provided is for “recreational purposes” then:
 - (i) the City must own or agree to purchase the municipal capital facility at the end of the lease term; and
 - (ii) Council must declare by resolution “that the municipal capital facilities are for the purposes of the municipality and are for public use.”

Criteria no. 1 has been met in part by virtue of the City and the Tenant entering into the Lease and will be fully satisfied upon the execution of a MCF Agreement. Criteria no. 2 is satisfied pursuant to the terms of the Lease, which provide that the Tenant will operate an indoor tennis facility (which is a recreational service that the City could have provided at its own cost) with City usage. Criteria no. 3 is met as the indoor tennis facility falls within

one of the classes of permitted municipal capital facilities in the Regulation. Criteria no. 4(i) above is satisfied as the Lease provides that the City will acquire the bubbles at no cost at the end of the Lease term. Criteria no. 4(ii) will be satisfied if Council adopts Recommendation No. 3 above.

Staff further recommend that Council declare that the Reesor Park Tennis Bubbles Lands are for the purposes of the municipality and are for public use. Since the Tenant has agreed to offer annual memberships to the public (“**Members**”) and offer City of Markham resident membership fee discounts of a minimum of 12.5%, the tennis bubbles can be considered a municipal capital facility for the purpose of the municipality. The Tenant has essentially agreed to provide a service that the City would otherwise provide. In addition, the City will receive hours of usage of the bubbles, the bubbles will be available for use by the public subject to the payment of membership fees, and rental fees shall be in accordance with the rental rates charges by the Landlord for the Angus Glen sports dome/bubble.

Staff recommend that the City enter into a MCF Agreement with the Tenant and that Council exempt the Reesor Park Tennis Bubbles Lands from taxation for municipal, regional, and educational purposes.

FINANCIAL CONSIDERATIONS

As set out in the previous Council Report and under the proposed arrangement with The Tenant, the City will receive lease payments of \$59,621 (plus Harmonized Sales Tax) commencing in the fifth (5th) year of the Term (being that portion of the Term that commences on October 1, 2026), subject to an annual increase of two percent (2%) for each subsequent year of the Term. This will result in the City receiving approximately \$1,537,227 over the 25 year term of the agreement.

HUMAN RESOURCES CONSIDERATIONS

N/A

ALIGNMENT WITH STRATEGIC PRIORITIES:

N/A

BUSINESS UNITS CONSULTED AND AFFECTED:

Legal Services Department
Real Property Division
Recreation Services Department

RECOMMENDED BY:

Joel Lustig
Treasurer

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

APPENDIX A: SUBJECT LANDS DESCRIPTION AND MAP
APPENDIX B: DRAFT MUNICIPAL CAPITAL FACILITIES BY-LAW 2021 - XX

APPENDIX A: Subject Lands Description and Map / Sketch

73 Wootten Way N, Markham



APPENDIX B – Draft Municipal Capital Facilities By-law**BY-LAW NO. 2020 - XX
CITY OF MARKHAM**

A by-law of the City of Markham to designate certain lands as a municipal capital facility.

WHEREAS Section 110 of the *Municipal Act, 2001*, S.O., c.25, as amended (the “**Municipal Act, 2001**”) permits a municipality to enter into agreements for the provision of municipal capital facilities;

AND WHEREAS Section 110 of the *Municipal Act, 2001* permits a Council of a municipality to designate lands within the classes of lands described in Ontario Regulation 603/06 as a municipal capital facility and exempt the facilities from taxation for municipal and school purposes;

AND WHEREAS the City and the Tenant have entered into a Lease dated June 22, 2021 (the “**Lease**”) whereby the City has leased to the Tenant a portion of the City-owned lands municipally known as 73 Wootten Way N, Markham, depicted in Schedule “A” of this by-law (the “**Lands**”) for the installation and operation of seasonal tennis bubbles;

AND WHEREAS the Lands and the tennis bubbles to be installed by the Tenant on the Lands are municipal capital facilities used for recreational purposes;

AND WHEREAS the Lands are owned by the City and the City has agreed to purchase the tennis bubbles to be erected on the Lands upon termination of the Lease;

AND WHEREAS Council has declared by resolution on **December xx, 2021** that the tennis bubbles to be located at Lands are for the purposes of the City and are for public use;

AND WHEREAS Council for the City of Markham, dated on **December xx, 2021** approved the passing of a by-law authorizing the City to enter into a Municipal Capital Facility Agreement (the “**MCF Agreement**”) with the Tenant for the provision of municipal capital facilities by the Tenant on the Lands;

AND WHEREAS the MCF Agreement also provides for the exemption of the Lands from taxes for municipal and school purposes and specifies that the municipal capital facilities to be provided by the Tenant on the Lands will be (a) used for recreational purposes; (b) are for the purposes of the City; and (c) are for public use.

AND WHEREAS Council for the City of Markham, on **December xx, 2021** approved the passing of a by-law to exempt the Lands from taxes for municipal and school purposes to be effective from the later of the following dates: (a) the commencement date of the Lease; and (b) the date the MCF Agreement is signed; and (c) the date the by-law exempting the Lands from taxes is enacted;

THEREFORE the Council of the City of Markham enacts as follows:

1. The Council hereby designates the Lands and the tennis bubbles to be located thereon, together with all ancillary improvements, as municipal capital facilities for recreational purposes.
2. The Lands and the tennis bubbles, together with ancillary improvements, to be erected on the Lands are for the purposes of the City and for public use.
3. The Mayor and Clerk are hereby authorized to execute the MCF Agreement and any and all associated or related agreements with the Tenant for the provision of municipal capital facilities on the Lands, provided that the form and content of the MCF Agreement are satisfactory to the City Solicitor and the Director of Recreation Services.
4. The Lands and the tennis bubbles, together with ancillary improvements, to be located on the Lands are hereby exempted from taxation for municipal and school purposes to be effective on the later of the following dates: (a) the commencement date of the Lease; and (b) the date the MCF Agreement is signed; and (c) the date this by-law is enacted.

ENACTED AND PASSED this day of **December xx, 2021**

CITY CLERK

MAYOR