



The Corporation of the Town of Milton

Report To: Council

From: Glen Cowan, Chief Financial Officer / Treasurer
Doug Sampano, Senior Director - Facilities, Operations & Environment

Date: December 18, 2023

Report No: CORS-061-23

Subject: Municipal Capital Facilities Designation - Turf Dome

Recommendation: **THAT the Council of the Town of Milton hereby determines and declares that the Seasonal Air Supported Structure and Dome Operation (the “Dome”) located at St. Francis Xavier Secondary School and operated via sub-lease agreement with Razor Management Inc. serves a municipal purpose in the form of providing programmable recreational space for public use.**

THAT the Council of the Town of Milton hereby designates the Dome as operated via agreement with Razor Management Inc. as a municipal capital facility under Section 110 of the Municipal Act, 2001.

THAT the necessary by-law, included on the December 18, 2023 Council meeting agenda to designate the municipal capital facility be considered.

THAT subject to the approval of the aforementioned by-law to designate, the Town Clerk notify the Minister of Finance, the Municipal Property Assessment Corporation, the Region of Halton, and the four local School Boards within the Town of Milton of the passage of the By-law.

EXECUTIVE SUMMARY

- The Municipal Act, 2001 allows exemption from taxation or development charges municipal capital facilities that are established through agreements between the municipality and another party for public use.
- The Town of Milton has executed a sub-lease with Razor Management Inc. for the seasonal air supported structure and dome operation at St. Francis Xavier Secondary School for a period of 21 years less a day.

EXECUTIVE SUMMARY

- The agreement provides for public access and community programs at the Dome with hours and fees that are established in consultation with the Town.
- The establishment of a municipal capital facilities by-law for the site will allow the operation to continue to remain exempt from property taxes during the term of the agreement with the Town for the provision of the public service.

REPORT

Background

In May 2023 through CORS-031-23, Council authorization was provided for the Town (the lessor) to enter into a 21-year less one day sub-lease agreement with Razor Management Inc. (the lessee) for a Seasonal Air Supported Structure and Dome Operator Services. The award followed a competitive request for proposal process, and included the Town providing the grade beam and field house at the Milton Indoor Turf Facility (the “Dome”) located at St. Francis Xavier Secondary School, through a lease agreement with the lessee. The site is property of Halton Catholic District School Board (HCDSB) and this arrangement will be a subletting from the Town’s agreement with the Board. The Board retains ownership and access to the field and facility during school hours and dates subject to the school calendar.

Since May 2023, the Town with the support of legal counsel has engaged in negotiations with the lessee to establish the final terms of the lease in order to ensure a timely opening of the facility for programming in 2023. As part of those discussions, and as contemplated in CORS-031-23, the potential to designate the facility as a municipal capital facility under Section 110 of the Municipal Act, 2001 was further explored. A final sub-lease agreement was executed between the Town and the lessee on September 29, 2023. Included within the terms was the need for the Town to present to Town Council for consideration a by-law to designate the facility under Section 110 within four months of the execution of the agreement. As such, presentation of this report and the related by-law (also on tonight’s agenda) are timely.

Discussion

Section 110 of the Municipal Act 2001

An excerpt of Section 110 is provided as Appendix 1 to this report and summarized here. Section 110 pertains to situations wherein a municipality has entered into an agreement with another party for the provision of a facility that qualifies as a municipal capital facility. Where such an agreement exists, the Act allows for assistance to be provided by the municipality, as well as for property tax and development charge exemptions, so long as they are only in respect to the provision, lease, operation or maintenance of the facility that is the subject of the agreement between the parties.

When Section 110 is utilized, the Town's clerk is required to provide written notice of the by-law to the Minister of Finance, the Municipal Property Assessment Corporation, other impacted Municipalities (i.e. the Region of Halton) and the affected School Boards.

The by-law utilized is authorized to establish an effective date that is on the date of passing said by-law or at a later date. Section 357 of the Act applies with any necessary modifications to allow for a cancellation or refund of taxes that are no longer payable as a result of a by-law under Section 110, and the treasurer shall strike taxes from the tax roll that are exempted.

Ontario Regulation 603/06

This regulation accompanies the Act and provides further clarity with respect to the eligibility and framework to be utilized for Section 110. It outlines the classes of municipal facilities to which the Act applies and related requirements in order for the facility to attract the property tax and development charge exemption.

In the case of the Town's agreement with the lessee, the following eligible use from O.Reg 603/06 is applicable:

2. (1) For the purpose of exempting land from taxation under subsection 110 (6) of the Act, a municipality may enter into an agreement under subsection 110 (1) of the Act for the provision of the following classes of municipal capital facilities:

16. Municipal facilities used for cultural, recreational or tourist purposes.

As such, and as required by section 6 of the regulation, the municipal capital facility (including land) must be owned by the municipality or another public sector entity upon reversion of the

Discussion

land, and the Council of the municipality must declare by resolution that the facility is for a municipal purpose and for public use.

Application of Section 110 to the Seasonal Air Supported Structure and Dome Operation

As outlined in report COMS-004-23, the dome at St. Francis Xavier Secondary School has operated since 2013 as a partnership between the Halton District School Board and the Town of Milton. The Town historically oversaw the operation of the facility including the installation and removal on a seasonal basis, the school board leased the space utilized to the Town, and both parties cost shared on certain elements of the facility (example - cost of turf). Following the significant weather damage to the existing dome in 2022, the Town and School Board re-evaluated the current operating model and identified the potential to undertake a competitive request for proposal process in order to transfer a number of responsibilities to the private sector.

Based on the results of that competitive process, Razor Management Inc. was identified as the successful vendor and an agreement has been executed. Key aspects of that agreement that support the designation of this facility as a municipal capital facility during the term of the agreement include:

- The vendor will supply, install, operate and maintain an air supported structure to provide rental opportunities primarily for Milton youth at this location, which be will surrendered to the Town at the termination of the sub-lease term.
- The vendor shall provide for public access and community programs, maintain operating hours and fees that are to the satisfaction of the Town, and comply with the current agreement between the Town and the HCDSB.
- Operation of the Dome will focus on the period from October 1st to April 30th each year.
- Access for the HCDSB during school hours and dates subject to the school calendar.

As such, the dome will continue to meet the needs of the community and school board, with operating hours, fees and programming that the Town will continue to have a role in establishing in conjunction with the vendor.

By approving the resolutions that are recommended herein and the related by-law on the same meeting agenda, there will be certainty that the location will continue to operate with a similar property tax and development charge exemption status as has been historically applicable for the use of this location.

With respect to property taxes, the operation of the dome has historically not attracted any such cost as municipal and school board uses are exempt under 3(9) of the Assessment Act,



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RSO 1990, c A.31. For private sector operators, a commercial property tax assessment (and therefore tax rate) would otherwise be applicable for private operation of this form of facility. Given the terms of the agreement with Razor specifically require that the operation of the dome at St. Francis Xavier to resemble a municipally owned facility (with respect to public use, fees and hours of operation), it is appropriate to utilize Section 110 during the term of the agreement with the Town of Milton.

Under the Town's Development Charge By-law (By-law 045-2021), development charges are not imposed on seasonal air supported structures so long as they are erected for a maximum of 6 months during a year. Nevertheless, the utilization of Section 110 may provide for additional flexibility in the scheduling of the dome if required and ensure that the treatment of development charges remains consistent with a scenario where the Town and School Board continued to operate it directly.

Financial Impact

The utilization of Section 110 for the seasonal air supported dome at St. Francis Xavier will ensure that the treatment of property taxes and development charges remains consistent with existing practice at the site (i.e. exempt) so long as an agreement remains in place with the lessee to operate the facility for the intended purpose.

The terms of the agreement between the Town and Razor Management Inc. were previously established through a competitive request for proposal process and are reflected in the executed contract.

Respectfully submitted,

Glen Cowan
Chief Financial Officer / Treasurer

Doug Sampano
Senior Director - Facilities, Operations & Environment

For questions, please contact: Doug Sampano, Senior Director, Phone Ext. 2547
Facilities, Operations &
Environment

Glen Cowan, CFO / Treasurer Phone: Ext. 2151



Attachments

Appendix 1 - Section 110 of the Municipal Act

Appendix 2 – Draft By-law

Approved by CAO
Andrew M. Siltala
Chief Administrative Officer

Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.