

## **Bayview Reservoir and Milliken Mills Reservoir Leases with the City of Markham**

**Date:** May 15, 2024

**To:** General Government Committee

**From:** Executive Director, Corporate Real Estate Management

**Wards:** Not Applicable

### **SUMMARY**

---

The purpose of this report is to obtain City Council authority for the City of Toronto (the "Landlord" or the "City") to enter into two 21-year-less-a-day lease agreements with the City of Markham (the "Tenant" or "Markham") to permit the continued use of surface lands at 8127 Bayview Avenue, Markham, Ontario (the "Bayview Reservoir") and 4375 Fourteenth Avenue, Markham, Ontario (the "Milliken Mills Reservoir") as parkland, a parking lot and operating a metering chamber by the Tenant.

Bayview Reservoir and Milliken Mills Reservoir are owned by the City of Toronto and operated by Toronto Water as treated water reservoirs, serving the middle and eastern portions of Toronto and the York Region.

### **RECOMMENDATIONS**

---

The Executive Director, Corporate Real Estate Management recommends that:

1. City Council authorize the Executive Director, Corporate Real Estate Management, or their designate, to enter into two 21-year-less-a-day lease agreements with the City of Markham (the "Lease Agreements"), substantially on the terms and conditions outlined in Appendix A of this report, and such other and amended terms acceptable to the Executive Director, Corporate Real Estate Management, or their designate, from time to time, and in a form acceptable to the City Solicitor.
2. The Director, Transaction Services, Corporate Real Estate Management, or their designate, shall administer and manage the agreements on behalf of the City of Toronto, including the execution and delivery of any consents, amendments, approvals, waivers, and notices, including notices of termination, provided that the Director, Transaction Services, Corporate Real Estate

Management may, at any time, refer consideration of any such matters to City Council for its determination and direction.

## FINANCIAL IMPACT

---

The total compensation to the City for the Lease Agreements is \$274,954 (plus Harmonized Sales Tax) which is attributed to the lease revenue for the metering chamber and parking area at the Milliken Mills Reservoir and will be directed to the Corporate Real Estate Management cost center FA1720. Please see the base rent summary in Appendix A for a detailed breakdown. The annual maintenance cost savings to the City related to the Milliken Mills Reservoir and Bayview Reservoir is \$154,000 and \$106,000 respectively.

*Table 1: Summary of Lease Revenue (net of Harmonized Sales Tax)*

	<b>Amount</b>
Bayview Reservoir (surface area only)	Nominal
Milliken Mills	
- Surface Area	Nominal
- Metering Chamber	\$10,500
- Parking Lot	\$264,454
<b>Total Revenue</b>	<b>\$274,954</b>

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

## DECISION HISTORY

---

On December 10, 2007, the City of Toronto's Facilities and Real Estate Division authorized DAF 2007-180 to enter into a license agreement with the Corporation of the Town of Markham for construction of a metering chamber and external meter on the northeast section of Milliken Mills Reservoir for a period of 10 years with no renewal options.

On April 1, 2005 the City of Toronto's Facilities and Real Estate Division authorized DAF 2005-037 to enter into a licence agreement with the York Region District School Board for access over a portion of the Bayview reservoir lands for the purpose of ingress and egress to the adjacent lands municipally known as 8075 Bayview Avenue, being Thornlea Secondary School, for a term consisting of ten years commencing August 10, 2005 with one renewal option, which was exercised. On October 21, 2015 the City of

Toronto's Real Estate Services Division authorized DAF 2015-184 to enter into a license extension and amending agreement to extend the term to August 9, 2025.

On June 2, 1988, the Municipality of Metropolitan Toronto adopted Clause No.14 of Report No. 11 of the Parks, Recreation and Property Committee authorizing a lease amendment with the Town of Markham for use of the surface area of Milliken Mills Reservoir to include parking use for 39,826 square feet of the already leased area for use by an adjacent property in addition to the already approved parks and recreation purposes. Compensation for the parking was set at \$4,240 per annum.

On March 18, 1979, the Municipality of Metropolitan Toronto adopted Clause No.5 of Report No. 9 of the Works Committee authorizing the execution of a lease with the Town of Markham for use of the surface area of Milliken Mills Reservoir for parks and recreation purposes, under similar terms and conditions to the Bayview Reservoir Lease, for a period of 10 years with one option to renew of 10 years.

On March 12, 1974, the Municipality of Metropolitan Toronto adopted Clause No.1 of Report No. 4 of the Works Committee authorizing the execution of a lease with the Town of Markham for use of the surface area of Bayview Reservoir for recreation purposes, for a period of 10 years with one option to renew of 10 years.

## **COMMENTS**

---

### **Background**

#### *Bayview Reservoir*

Bayview Reservoir, located at 8127 Bayview Avenue, Markham is owned by the City and operated by Toronto Water. The reservoir was built in 1973 and has a maximum capacity of 139 million litres. The reservoir provides drinking water storage for Toronto Water in Pressure District 4 (PD4), which services approximately 600,000 residents in the middle and eastern portions of Toronto. PD4 has a daily demand of approximately 220 million litres. The water in storage can also feed lower areas of the City in times of emergency and provides temporary storage for supply and sale to York Region. See Appendix C for a site plan.

#### *Milliken Mills Reservoir*

Milliken Reservoir, located at 4375 14th Avenue, Markham, is also owned by the City and operated by Toronto Water. The reservoir was built in 1969 to a capacity of 134 million litres and expanded in 2012 to its current maximum capacity of 276 million litres. The reservoir also provides drinking water storage for Toronto Water's PD4 service area as well as York Region. See Appendix C for a site plan.

#### *Previous Lease and Licence Agreements*

For approximately 50 years, the City has provided the surface lands of the Bayview Reservoir and Milliken Mills Reservoir to Markham for use as park space at nominal

consideration. In 1988, the Milliken Mills Reservoir lease was amended to include parking use for 39,826 square feet of the already leased area for use by an adjacent property, in addition to the already approved parks and recreation purposes. In January 2008, the City entered into a licence agreement with the former Town of Markham to construct and operate a ground building and below ground metering chamber at the northeast corner of the Milliken Mills Reservoir surface lands to measure their dedicated water supply line, originating from the City's (Toronto Water) pumping station.

### *New Lease Agreements*

The original lease and licence agreements between the former Municipality of Metropolitan Toronto and the Corporation of the Town of Markham have expired. Markham continues to utilize and maintain the surface areas of the Bayview and Milliken Mills Reservoirs and continues to make lease payments to the City on an overholding basis.

The new Lease Agreements have a term of 21-years-less-a-day (ending on January 13, 2039) and maintain existing use requirements. The surface lands, which are currently and will continue to be, operated as parks, have nominal rent. Rent for the parking portion of the Milliken Mills Reservoir is fair market value while rent for metering chamber at the Milliken Mills Reservoir will remain consistent with the same fee as in the previous license agreement. Markham will continue to be responsible for the maintenance of the surface area lands, except where other license agreements dictate otherwise.

Markham's ongoing secondary use of the City's reservoirs for recreational and municipal purposes minimizes the City's maintenance costs and supports public need in the Greater Toronto Area. As such, City staff recommend entering into the new Lease Agreements with Markham for their continued use of the surface areas at the Bayview and Milliken Mills Reservoirs.

## **CONTACT**

---

Alison Folosea, Director, Transaction Services, Corporate Real Estate Management, 416-338-6943, [Alison.Folosea@toronto.ca](mailto:Alison.Folosea@toronto.ca)

Mike Brannon, Manager, Water Supply, Toronto Water, 416-392-2920, [Mike.Brannon@toronto.ca](mailto:Mike.Brannon@toronto.ca)

## **SIGNATURE**

---

Patrick Matozzo  
Executive Director, Corporate Real Estate Management

## **ATTACHMENTS**

---

Appendix A - Major Terms and Conditions of Lease Agreements  
Appendix B - Site Plans

## **Appendix A - Major Terms and Conditions of Lease Agreements**

Landlord:  
City of Toronto

Tenant:  
City of Markham

### **Leased Premises:**

Bayview Reservoir (8127 Bayview Avenue, Markham) is approximately 956,804 square feet, comprised of the surface area above the City owned reservoir save and except a parcel of land located at 7600 Kennedy Road, Markham, comprised of approximately 1,289 square feet containing a heritage designated property, which will remain in the ownership and control of the City of Toronto. Milliken Mills Reservoir (4375 Fourteenth Avenue, Markham) is approximately 1,396,165 square feet, comprised of 1,333,734 square feet of parkland and 62,431 square feet of parking.

### **Term:**

Each Lease will have a term of 21 years less a day commencing January 15, 2018 and expiring January 13, 2039.

### **Base Rent:**

The total compensation to the City for the Lease Agreements over the 21-year term is \$274,954 (plus Harmonized Sales Tax), broken down as follows:

#### **Milliken Mills Reservoir:**

- Base rent is nominal
- Metering chamber rent is \$500 per year (or \$10,500 over the Term)
- Parking area rent (at fair market value) is \$10,038 per year (year 1) increasing by 2.2 percent per year (or \$264,454 over the Term)

#### **Bayview Reservoir:**

- Base rent is nominal

### **Additional Rent:**

City of Markham to be responsible for all maintenance of the Leased Premises and any fixtures, chattels or improvements, including the ancillary parking, associated with the Leased Premises

### **Use:**

Bayview Reservoir is to continue to be used as park land. Milliken Mills Reservoir is to continue to be used as parkland with a portion to be used for parking for an adjacent property and a metering chamber.

### **Termination:**

Either the Landlord or the Tenant shall have the right to terminate either Lease upon not less than six months written notice to the other party without penalty.

**Exclusivity at Bayview Reservoir:**

The Tenant shall have only non-exclusive use of the Licensed Area Road, as depicted in Appendix C, for access purposes only to the rest of the lands.

**Indemnity:**

The Tenant shall at all times indemnify and save harmless the Landlord of and from any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever, made or brought against, suffered by or imposed on Landlord or its property in respect of any loss, damage or injury (including fatal injury) to any person or property directly or indirectly arising out of, resulting from or sustained as a result of the Tenant's occupation or use of the lands or any fixtures or chattels thereon. The Landlord shall at all times indemnify and save harmless the Tenant from any and all claims, demands, losses, costs, charges and other actions whatsoever resulting from its operation of the reservoirs.

**Insurance:**

Tenant shall maintain commercial general liability insurance which has inclusive limits of not less than \$10,000,000 for bodily injury and property damage resulting from any one occurrence and which is extended to include a cross liability and severability of interest clause, legal liability and non-owned automobile liability is in effect in respect of the licensed area. The tenant shall also add the City of Toronto as an additional insured.

**Option to Construct:**

The Tenant at the Bayview Reservoir shall have the right, subject to the City's approval in their sole and absolute discretion, to construct a private access road through the Leased Premises to access the parking area associated with the park.

## Appendix B - Site Plans



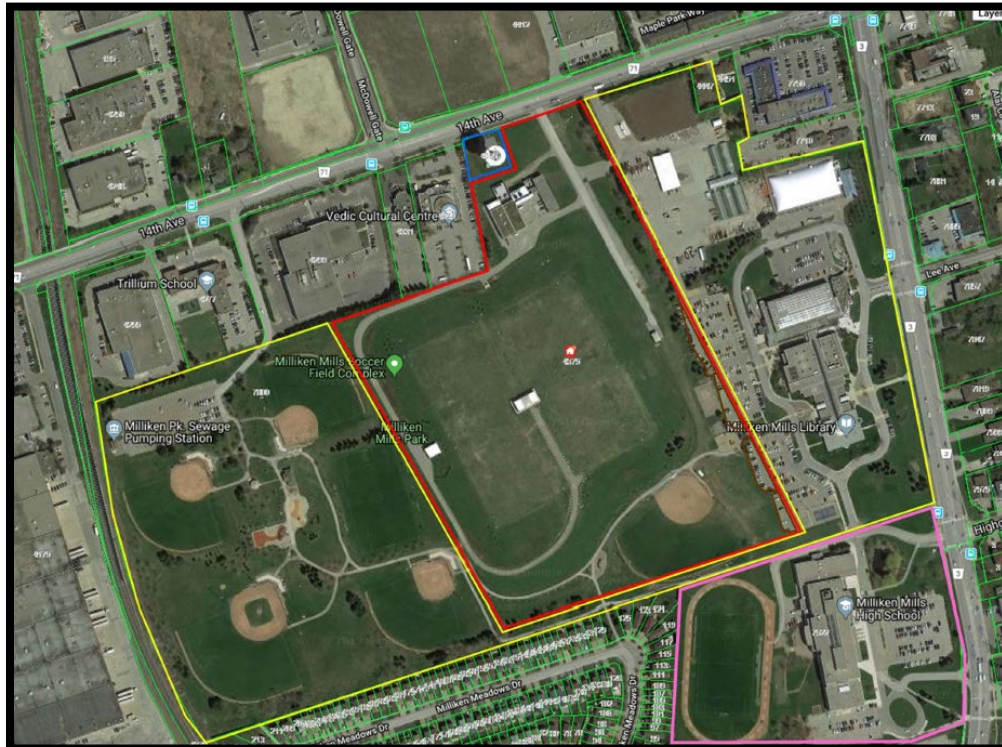
### Bayview Reservoir Land

8127 Bayview Avenue, Markham

- = City of Toronto
- = York Region District School Board
- = Corporation of Markham
- = Crown Land

**Toronto land stats:**  
-956,804 ft<sup>2</sup>

Estimated on site:  
-2 Soccer Fields  
-1 Baseball field  
-2 smaller soccer fields



### Milliken Mills Reservoir Land + Metering Chamber

(4375 14<sup>th</sup> Avenue, Markham)

- = City of Toronto
- = York Region District School Board
- = Corporation of Markham
- = Crown Land
- = City of Toronto land (with parking allowed)

**Toronto land stats:**  
-1,396,165 ft<sup>2</sup> total land  
-1,333,734 ft<sup>2</sup> mainly parkland  
-62,431 ft<sup>2</sup> allowed for parking

Estimated on site:  
-4 Soccer Fields  
-5 smaller soccer fields



