

City of Mississauga
Additional Agenda



Council

Date

November 9, 2016

Time

9:00 a.m.

Location

Council Chamber, 2nd Floor Civic Centre
300 City Centre Drive, Mississauga, ON L5B3C1

8. **INTRODUCTION AND CONSIDERATION OF CORPORATE REPORTS**

- 8.2 Report dated November 3, 2016, from the Commissioner of Community Services re: **Cavalia.**

Recommendation

1. That the Commissioner of Community Services be authorized to execute an agreement and other ancillary documentation on behalf of the City with Cavalia Inc. for the construction of an Event Pad and the production of Cavalia's performance adjacent to the Hershey Centre in accordance with the terms and conditions as outlined in this report from the Commissioner of Community Services dated November 3, 2016, which agreement and ancillary documentation shall be in a form satisfactory to Legal Services.
2. That Council authorize Cavalia Inc. to apply for any approvals associated with the construction of the event pad and temporary structures on City-owned land adjacent to the Hershey Centre as shown in Appendix 1 of this report from the Commissioner of Community Services dated November 3, 2016 (the "Site"), including but not limited to site plan approval; building permit; sign permit; and minor variances.
3. That Council approve the construction of an Event Pad on the Site in the amount of \$381,600 (\$375,000 + \$6600 1.76% non-rebatable HST) for 2017.

4. That a Hershey Event Pad Project PN #17-443 be established with a gross and net budget of \$381,600.
5. That funds of \$381,600 from the Reserve for the Arts (Account 305195) be allocated to PN#17-443.
6. That the Commissioner of Community Services or his designate be authorized to negotiate with SMG Canada Inc. ("SMG") for the provision of event management services at the Site.
7. That the Commissioner of Community Services and City Clerk be authorized to execute an amendment on behalf of the City to the Mississauga Spectator Arena Complex Management Agreement with SMG ("Management Agreement"), to allow SMG to promote events and provide event management services at the Site, in a form satisfactory to Legal Services.
8. That all necessary bylaws be enacted.

Motion

14. **MOTIONS**

- 14.5 To authorize the Commissioner of Community Services to execute an agreement and other ancillary documentation on behalf of the City with Cavalia Inc. for the construction of an Event Pad and the production of Cavalia's performance adjacent to the Hershey Centre in accordance with the terms and conditions as outlined in this report from the Commissioner of Community Services dated November 3, 2016, which agreement and ancillary documentation shall be in a form satisfactory to Legal Services.

Corporate Report 8.2

- 14.6 To request to light up the Clock Tower red on Saturday November 12, 2016 to mark the next important milestone in the Canada 150 Countdown – 50 days to go until the year-long celebration of Canada's 150th Anniversary of Confederation.

15. **INTRODUCTION AND CONSIDERATION OF BY-LAWS**

- 15.9 A by-law to authorize the execution of an agreement with Cavalia Inc. and other related matters to the Hershey Event Pad

Corporate Report 8.2

City of Mississauga
Corporate Report



<p>Date: 2016/11/03</p> <p>To: Mayor and Members of Council</p>	<p>Originator's files:</p>
<p>From: Paul Mitcham, P. Eng, MBA, Commissioner of Community Services</p>	<p>Meeting date: 2016/11/09</p>

Subject

Cavalia

Recommendation

1. That the Commissioner of Community Services be authorized to execute an agreement and other ancillary documentation on behalf of the City with Cavalia Inc. for the construction of an Event Pad and the production of Cavalia's performance adjacent to the Hershey Centre in accordance with the terms and conditions as outlined in this report from the Commissioner of Community Services dated November 3, 2016, which agreement and ancillary documentation shall be in a form satisfactory to Legal Services.
2. That Council authorize Cavalia Inc. to apply for any approvals associated with the construction of the event pad and temporary structures on City-owned land adjacent to the Hershey Centre as shown in Appendix 1 of this report from the Commissioner of Community Services dated November 3, 2016 (the "Site"), including but not limited to site plan approval; building permit; sign permit; and minor variances.
3. That Council approve the construction of an Event Pad on the Site in the amount of \$381,600 (\$375,000 + \$6600 1.76% non-rebatable HST) for 2017.
4. That a Hershey Event Pad Project PN #17-443 be established with a gross and net budget of \$381,600.
5. That funds of \$381,600 from the Reserve for the Arts (Account 305195) be allocated to PN#17-443.
6. That the Commissioner of Community Services or his designate be authorized to negotiate with SMG Canada Inc. ("SMG") for the provision of event management services at the Site.
7. That the Commissioner of Community Services and City Clerk be authorized to execute an amendment on behalf of the City to the Mississauga Spectator Arena Complex Management

Agreement with SMG ("Management Agreement"), to allow SMG to promote events and provide event management services at the Site, in a form satisfactory to Legal Services.

8. That all necessary bylaws be enacted.

Report Highlights

- This report presents a negotiated Term Sheet for Council's consideration. The Term Sheet was accepted and approved by representative of Cavalia Inc. prior to the submission of this report.
- Cavalia Inc., a Canadian entertainment company requires a 10 acre parcel of land to accommodate the production of "Odysseo" for an 8-12 week period. Staff have identified that land adjacent to the Hershey Centre is a suitable location for the development of an Event Pad for the Cavalia's production and future event considerations.
- A Draft Negotiated Term Sheet details the financial and development responsibilities of both Cavalia and the City of Mississauga for the construction and use of the Event Pad for Council's consideration. Subject to Council's approval, the Term Sheet forms the basis on a Project Agreement between the Cavalia Inc. and the City.
- Cavalia Inc. will construct the Event Pad within the negotiated terms of the agreement and will be reimbursed to a maximum of \$381,600 by the City of Mississauga. Cavalia Inc. will have exclusive license to use the event pad during the event period for a licence fee \$5,000 per week for each week that the show runs, and an additional flat fee of \$25,000 for the use of existing parking facilities at the Hershey Centre.
- A parking surcharge will be added to tickets sold by Cavalia Inc. The City will not permit pay parking or collection of parking fees on site at the Hershey Centre.
- City and Region development charges do not apply to temporary structures erected for less than 8 months. Similar exemptions for temporary structures are not provided for in both school boards' Development Charges Bylaws. The charges could total an estimated \$172,000. Further discussions are required to resolve this issue to mutual satisfaction of the parties.
- Long-term use and operation of the site is recommended to be assumed by SMG Canada Inc. through an amendment to the City's Management Agreement with SMG Canada Inc.
- In the first three years, it is estimated that the Event Pad will generate rental income of almost \$200,000, as cost recovery against the capital cost of development.

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Background

On October 26, 2016, Council adopted the following motion from the General Committee:

GC-0631-2016

1. That the holding of the Cavalia Inc. show *Odysseo* on City-owned land adjacent to the Hershey Centre be approved in principle, including the allocation of \$381,600 in funding.
2. That the Commissioner of Community Services be authorized to negotiate an agreement with Cavalia Inc. for the show *Odysseo* to be held in Mississauga Spring of 2017, on City-owned property adjacent to the Hershey Centre, for Council's approval.

This report presents a negotiated Term Sheet for Council's consideration. The Term Sheet was accepted and approved by representatives of Cavalia Inc. prior to the submission of this report.

Comments

Corporate and Event History

Cavalia is a Canadian entertainment company founded in 2003 by Normand Latourelle, one of the founders of Cirque du Soleil. Since inception, the company has produced two shows – Cavalia and *Odysseo*. The *Odysseo* show's last Canadian stop was in Winnipeg in 2015 where it ran for 11 weeks. Cavalia Inc. plans to operate shows in Irvine, Vancouver, Chicago (Soldier Field), Mississauga and Ottawa in 2016 and 2017. The production cost of a show in each market is between 8 – 10 million dollars.

The production requires a site of approximately ten (10) acres to accommodate five (5) tents – the largest of which is 5,500 square meters (59,203 sq. ft.) to accommodate seating and a stage. Cavalia Inc. has approached the City to temporarily use the undeveloped, City-owned land between the Hershey Centre, Matheson Road and Highway 403 which can accommodate their primary requirements, as shown in Appendix 1. An estimated 600-800 parking spaces at the Hershey Centre and Mississauga SportZone would be required to satisfy Cavalia's Inc. specified parking requirements.

Negotiated Term Sheet

The Term Sheet negotiated by City Staff and representatives of Cavalia Inc. is provided in Appendix 1. The Term Sheet is a legally non-binding document that establishes an agreement in principle on the critical business terms that will form a binding Project Agreement between the City and Cavalia. The Project Agreement will be negotiated with Cavalia immediately after the Term Sheet is approved by Council. Highlights of the Term Sheet are as follows:

- Cavalia will be granted an exclusive licence to use the Site for site preparation work and the construction of an Event Pad, set up and performance of their shows. Cavalia will also be

granted an exclusive licence to use portions of the Hershey parking (as shown in Appendix 1) from two hours before until two hours after each performance.

- Cavalia agrees to pay rent of \$5,000 per week during the time when the show is running (approximately 8-12 weeks) plus a flat licence fee of \$25,000 for the entire Event period for use of parking on the Hershey Centre and Mississauga Sport Zone site.
- The Event Period will be the time when Cavalia operates the shows, which is between June 21, 2017 and September 17, 2017. There are no major events scheduled at the Hershey Centre, Community Rinks or the Mississauga SportZone during this period, which will mitigate any parking pressures caused by Cavalia's temporary use of parking facilities at the Hershey Centre. At the time of this report, Cavalia has indicated that they plan to run an 8-week show, with the potential to extend it to 12 weeks. Further extensions, if requested shall be approved by Council.
- Cavalia shall obtain all necessary approvals and permits from the City and other approval agencies for all works on the Site, at their cost.
- Cavalia shall construct an Event Pad for the City using materials that are approved by the City. It is the intention of the parties that the City will pay for the construction of an Event Pad that can be used in the future after Cavalia departs, up to \$381,600. Cavalia shall also only use contractor(s) for the work approved by the City and the City will have the right to inspect during the construction period. Any construction work that Cavalia wishes to conduct themselves shall also be subject to City's prior approval. The City will reimburse Cavalia for the actual cost to construct the Event Pad up to the maximum capped amount, after staff approves the completion of the work.
- Cavalia may charge for parking by charging it as part of their ticket price but they may not accept payment for parking only from cars arriving on site.

Planning Approvals and Engineering Review

Prior to construction occurring on the subject lands, Cavalia Inc. will be required to obtain Site Plan approval in accordance with Section 41 of the *Planning Act* and a building permit in accordance with the *Ontario Building Code*. Through these processes additional development requirements may be identified including, but not limited to: Ministry of Transportation permit; road occupancy permit; erosion and sediment control permit; temporary sign permit; municipal service protection deposit; grading deposit; application fees; access modification fee; inspection fees; administration fees; securities. The cost of all fees/deposits/securities will be borne by Cavalia Inc.

Through the site plan process, consideration will be given to satisfying the requirements and approval for: fire access; storm water management; storm, sanitary, water and electrical

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servicing and connections; drainage; grading; site circulation; traffic, pedestrian movement and parking. Requirements for minor variances will be identified through the site plan process.

In addition to providing site plan and development drawings the applicant will be required to provide engineering and geotechnical certification that the proposed construction details, materials and supporting specifications meet the development standards and structural requirements for the intended uses and are in accordance with the City's development standards. Review and approval by the City's Transportation and Works Department is required. Further, the applicant shall ensure that all construction is carried out in accordance with the approved site plan and development drawings and all applicable laws.

Council's authorization is required in order to allow the applicant to apply for any development related applications on City owned lands as is requested through this report.

Long-Term Use and Operations of Site

Upon closeout, Cavalia Inc. will be required to clean up and mechanically grade and compact the Site to ensure that the Event Pad remains as a smooth, hard surface. Permanent water and electrical connections will remain on the site. The Event Pad's design will be suitable for accommodating a range of future outdoor and tented event entertainment uses, including outdoor boat, RV and vehicle shows, fairs, carnival/amusements, a rodeo, and culture and food festivals. All future event pad bookings must be coordinated with scheduled events and community programming at the Hershey Centre and Community Rinks and the Mississauga Sport Zone to ensure availability of parking for all committed uses.

The City's contracted operator of the Hershey Centre and Community Rinks, currently SMG Canada Inc., has agreed in principle to assume an additional responsibility for managing the event pad, including minor maintenance, marketing, and event contracting. This report requests authority for the Commissioner of Community Services to negotiate and execute a minor amendment to the City's Management Agreement with SMG Canada Inc. to provide these services within the framework of the existing agreement.

Financial Impact

Capital Construction Payment

Council has approved a capital contribution of \$381,600 for Cavalia Inc. for the purpose of constructing an Event Pad that will have future application and community benefit. The Term Sheet specifies that the City will reimburse Cavalia for the actual cost of approved completed work, up to \$381,600. This funding will be required in early 2017. Consequently, this report requests funding from the Reserve for the Arts (Account 305195) in the amount of \$381,600 to initiate and complete this project. Also, any staff time related to labour chargebacks is to be exempted from this PN#17-443.

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Future capital maintenance costs of the Event Pad are not anticipated. All necessary upgrades and design adjustments required to accommodate future events will be the responsibility of the event owner and the site will be restored to its original condition after each event.

Operating Requirements

Cavalía agrees to pay rent in the amount of \$5,000/week for the weeks in which they will be running performances. The Event Period is between June 21, 2017 and September 17, 2017 (approximately 8 to 12 weeks) generating estimated one time income in 2017 of up to \$60,000. This will be absorbed in Recreation's 2017 operation budget. Cavalía also agrees to pay a one-time flat fee for utilizing parts of the Hershey parking in the amount of \$25,000. This will be absorbed in Recreation's 2017 operation budget as well.

Future rent revenue from the contracted use of the Event Pad will be accounted for through an adjustment to the 2018 Hershey Centre operations budget. It is estimated that rental fees will approach \$200,000 cost recovery in the first three years of operation of the Event Pad.

Cavalía agrees to pay all utilities, including set up, to operate this venue including any deposits and or fees.

The City will incur an annual storm water charge for this site in the amount of \$13,000/year (estimated).

Future event services expenses provided by SMG Canada Inc. will be fully recovered from the event owner. Fees for the management of the Event Pad services by SMG Canada will be charged in accordance with the Management Agreement between the City and SMG Canada Inc., as amended subject to the approval of Council.

Cavalía Project Operating Impact

2017	12 Week Event
Rent Revenue	60,000
Parking Revenue	25,000
Storm Water Expenses	-13,000
Net Budget Impact	72,000

Development Charges

Structures which are erected for less than 8 months in a 12 month period are exempt from the payment of City development charges. As per section 5(b) of the City's Development Charges Bylaw, the owner is required to enter into an agreement with the City and provide security which

the City will draw upon in the event that the structure is no longer deemed to be temporary. The Region of Peel has a similar exemption for temporary structures in its by-law.

The two school boards do not exempt temporary structures from the payment of education development charges ("EDCs"). EDCs totalling approximately \$172,000 would be payable prior to building permit issuance. Any requests for relief from the payment of EDCs would have to be made directly to the two school boards as the City has no jurisdiction over the education development charges by-laws. It should be noted that if EDCs are paid in year one and the tent is taken down, EDCs would not be payable in subsequent years by the payer as a "demolition credit" would be applicable. Additional review is requested to resolve the matter of payment of EDCs to the satisfaction of the parties.

Conclusion

This report provides the terms of an agreement in principle that will provide a world class entertainment show to Mississauga. Once approved by Council, a Project Agreement will be negotiated with Cavalia to finalize the terms of the arrangements. The project will provide a large outdoor event pad that will accommodate a broad range of event genres and entertainment companies to Mississauga. Future rentals of this site will generate revenue and may reduce pressure on existing event sites throughout Mississauga.

Attachments

Appendix 1: Draft Negotiated Terms of Arrangement



Paul Mitcham, P. Eng, MBA, Commissioner of Community Services

Prepared by: Michael Cleland, Area Manager, Hershey Facilities, Sport Development & Tourism, Community Development



November 4, 2016

Mr. Dimitri Soudas
Senior Advisor to the President
Cavalía Inc.
200 - 5100 Hutchison, bureau
Montréal, Québec, Canada
H2V 4A9

Dear Mr. Soudas,

RE: Terms of Arrangement

Attached please find the final Terms of Arrangement reflecting discussions between City and Cavalía staff in the last two weeks. I am prepared to propose these terms to City Council's approval, subject to receiving confirmation from you of Cavalía's acceptance.

If Cavalía agrees with the Terms of Arrangement as attached, please return a signed copy of this letter to my attention as soon as possible. A report has been prepared for this matter to be considered by City Council on Wednesday November 9, and confirmation from Cavalía is required prior to the meeting.

Thank you,

Yours truly,

Paul A. Mitcham, P.Eng., MBA
Commissioner, Community Services

On behalf of Cavalía Inc., I confirm acceptance of the Term of Arrangements as attached to this letter.

Name: Dimitri Soudas
Title: Senior Advisor to the President

Date: November 4, 2016

T: 905-615-3200 x 3100

201 City Centre Drive
Suite 900, Mississauga, ON L5R 2T4

F: 905-615-4440

www.mississauga.ca

November 4, 2016

**TERMS OF ARRANGEMENT BETWEEN
THE CORPORATION OF THE CITY OF MISSISSAUGA AND CAVALIA INC.**

1. DEFINED TERMS

In this Terms of Arrangement:

- a) “**Cavalialia**” means Cavalialia Inc.
- b) “**City**” means The Corporation of the City of Mississauga.
- c) “**City Parking**” means the parking spots allocated for Cavalialia’s use at the Hershey Centre as specifically set out in Schedules “A” and “B” attached to this Terms of Arrangement;
- d) “**City Parking Licence**” means the City Parking licence defined in Section 2.
- e) “**City Reimbursement**” means the City’s reimbursement to Cavalialia of the actual cost paid or incurred by Cavalialia for constructing the Event Pad with a maximum reimbursement of up to \$375,870 CDN plus applicable taxes.
- f) “**Construction Period**” means the period commencing the date of the Term and ending on the day prior to the first day of the Event Period, inclusive.
- g) “**Event**” means a performance of Cavalialia’s equestrian arts show, Odysseo, produced and managed by Cavalialia.
- h) “**Event Dates**” means the dates and times during which the Event will be performed on the Event Pad as provided by Cavalialia to the City in a schedule to the Project Agreement or as otherwise agreed upon by the City.
- i) “**Event Pad**” means the event pad to be constructed by Cavalialia on the Site.
- j) “**Event Period**” means the period commencing June 15, 2017 and ending September 17th, 2017.
- k) “**Licence Fees**” means the Licence Fees described in Section 6.
- l) “**Site**” means the property described as the “Site Area” in Schedule “A” attached to this Terms of Arrangement.
- m) “**Site Licence**” means the Site licence defined in Section 2.
- n) “**Site Licence Period**” means the commencement of the Term until the completion of Project Closeout.
- o) “**Project**” means the design, development and construction of the Site and the performance of the Event by Cavalialia and all related activities as further identified in the Project Agreement.

- p) **“Project Agreement”** means the resulting agreement to be entered into by the City and Cavalia to carry out the Project.
- q) **“Project Closeout”** means the return of the Site by Cavalia to the City in accordance with Section 4.3, which shall be completed by October 15, 2017.
- r) **“Term”** means the term of the Project Agreement as defined in Section 2.

2. **PROJECT AGREEMENT**

- 2.1 **Purpose:** The City and Cavalia intend to enter into a Project Agreement with respect to the Project. The parties intend to construct an Event Pad that will become a City asset upon completion of construction and the Event Pad will become an improvement on the land for the City’s use.
- 2.2 **Site Licence:** The City will grant an exclusive licence to Cavalia for the development, construction and use of the Site during the Site Licence Period in accordance with plans approved by the City in writing.
- 2.3 **City Parking Licence:**
 - a) The City will grant a non-exclusive licence to Cavalia to use City Parking during the Event Period, with the exception of Event Dates, on which dates Cavalia shall have the exclusive right to use the City Parking from two (2) hours before the Event up to two (2) hours after the Event on each Event Date.
 - b) Schedule A of this Term of Arrangement provides the City Parking designated for Cavalia’s uses on Event Dates between the commencement of the Event Period until September 4, 2017 inclusive. Schedule B provides the City Parking designated for Cavalia’s uses on Event Dates starting September 5, 2017 until the end of the Event Period.
 - c) Cavalia may charge for parking during the term of the City Parking Licence but such fees must be charged and payable prior to patrons entering the property that is subject to the City Parking Licence or at the designated location on the Site. For greater clarity, the designated location on Site is Cavalia’s box office for show tickets, and payment for parking may be charged on top of the ticket purchase process.
 - d) As part of Cavalia’s design and development plan submissions, Cavalia shall submit a parking management proposal to the City for its approval which shall include the following: (i) manner in which the parking fee, if any, will be charged; (ii) modes of automobile access and egress; (iii) pedestrian movement and safety; and (iv) method of communication to the public with regards to parking rules and fees.
 - e) Cavalia shall be responsible for the management of parking on the property that is subject to and during the term of the City Parking Licence.

2.4 **Term:** The Term of the Project Agreement will commence in March, 2017 and expire on the last day of the Project Closeout unless extended upon agreement by the City and Cavalia. City Council approval is required for any Project extension.

2.5 **Responsibilities of the Parties**

- a) Cavalia shall be responsible for:
- (i) The design, construction and commissioning of the Event Pad to satisfy the intended use in accordance with the terms of the Project Agreement.
 - (ii) The maintenance and security of the Site during the Site Licence Period and City Parking during the Event Period;
 - (iii) The return of the Site at its expense, upon termination or expiry of the Site Licence Period in accordance with Section 4.3;
 - (iv) The keeping of animals in a safe and humane manner and to ensure that they remain under the control of Cavalia at all times;
 - (v) Removing any liens or encumbrances or other security interests that may be registered on title or otherwise attached to City property as a result of Cavalia's activities under the Project Agreement and indemnifying the City for any costs that the City may incur as a result of such liens or encumbrances or security interests and/or the removal of same;
 - (vi) The compliance with site plan requirements and approval processes as mandated by the City as the planning authority in law, including any minor variances that may be required, all at its own costs and all which must be completed prior to any construction taking place on the Site;
 - (vii) Obtaining, at its cost, all required permits, approvals and site servicing in order to design, develop, construct and to carry on its operations on the Site, to utilize City Parking and to carry out its obligations under the Project Agreement from all applicable approval authorities, including the City;
 - (viii) The security of the Site, including all equipment and materials brought on and used on Site. Cavalia agrees that the City will not be responsible for any damages or losses arising from or related to the construction of the Event Pad or Cavalia's operations and that it will indemnify and save the City harmless from any claims or liabilities arising from Cavalia's operations and activities on the Site, until the Project Closeout;
 - (ix) Costs identified in Section 6;
 - (x) Protection of existing trees on the Site; and
 - (xi) Providing confirmed Event Dates to the City by May 1, 2017 provided that the end date of such Event Dates shall not be later than September 17, 2017. Amendments to Event dates must be approved by the City.

- b) The City shall be responsible for:
 - (i) Appointing a staff member to act as the central point of contact with Cavalia;
 - (ii) The City Reimbursement.

2.6 **Holdback:**

The City will hold back \$25,000 CDN from the City Reimbursement until such time as the requirements set out in Sections 2.5(a)(iii), 4.3, 7.2 and 7.3 are fulfilled. For greater certainty, the aforementioned holdback is not a holdback for the purposes of the *Construction Lien Act*, R.S.O. 1990, c. C.30, but an amount held as security for completion of Project Closeout.

3. **DESIGN/DEVELOPMENT**

3.1 Cavalia shall submit to the City for its approval a design/development and approvals plan for review and approval no later than thirty (30) days following the execution of the Project Agreement. The design and development plan shall include information required as set out in the letter dated October 26, 2016 to Cavalia from the City, as well as the following temporary measures which are not part of the Event Pad:

- a) washrooms
- b) any parking
- c) accessibility requirements (AODA)
- d) emergency services requirements
- e) lighting
- f) noise control
- g) security, including animal security
- h) how access to the Site will be secured, including how access will be secured during the Construction Period
- i) placement of tents and all Event set up and take down
- j) utility access
- k) seating capacity
- l) facilities for the safe handling of food and beverage

3.2 Cavalia agrees not to erect or construct any permanent buildings, structures, obstructions or any other improvements or make any alterations on the Site or City Parking, other than those that the City has consented to in writing.

4. **CONSTRUCTION AND PROJECT CLOSEOUT OBLIGATIONS**

4.1 **Construction of Site**

- a) Cavalia shall be responsible for the construction of the Event Pad. Cavalia, or its contractor, shall be the constructor and shall obtain and maintain all necessary permits and approvals for the construction.

- b) Cavalia shall submit for the City's approval specifications of the Event Pad to be constructed. The approved specifications will form part of the Project Agreement.
- c) Cavalia shall not import any soil to the Site without the prior written consent of the City.
- d) Cavalia shall submit construction timelines to the City for approval and no construction shall take place without the City's approval.
- e) Cavalia shall obtain the City's approval of the contractor to be retained for the construction of the Event Pad prior to construction, unless the work is performed by Cavalia. If Cavalia wishes to perform any of the construction work itself, it shall first obtain the City's approval.
- f) All rights with respect to inspection as set out in Section 5 apply to all stages of construction to ensure all work is performed by Cavalia and/or its contractor as approved by the City and Cavalia. In addition, Cavalia shall provide the City with its contract with its contractor(s) for the design, development and construction of the Event Pad, for the City's review at the City's request.
- g) The City will have the right to inspect and approve the completed construction to confirm that it is in accordance with the City-approved drawings and specifications. No payment will be made by the City unless the City approves the construction in accordance with such drawings and specifications.

4.2 Liens

Cavalia will promptly pay all of its vendors for materials/services supplied and work done in respect of the Site and each Event and do all things necessary so as to ensure that no lien is claimed or registered against any portion of the Site or against the City's or Cavalia's interest in the Site. If a lien is claimed or registered, Cavalia must cause it to be discharged or vacated at its sole expense within thirty (30) days of it being claimed/registered, failing which the City, may cause the lien to be discharged or vacated by paying it due together with any other amounts into court and the amounts so paid and all expenses of the City including legal fees shall be paid by the Cavalia to the City immediately upon notice from the City.

4.3 Project Closeout

By the last day of Project Closeout, Cavalia shall have returned the Site to the City having met the following conditions to the satisfaction of the City:

- a) Event Pad is dewatered, safe and free from the accumulation of waste products (including animal waste) and debris;
- b) Site is free from environmental contamination, excluding any pre-existing contamination prior to the start of the Term;

- c) All remaining products, tools, materials, equipment, temporary work and operational facilities have been removed from the Site;
- d) Event Pad is mechanically graded, raked and compacted to a smooth, even firm surface.

In the event that Cavalia fails to perform Project Closeout in accordance with the above, the City may conduct such Project Closeout at the expense of Cavalia by drawing on security held as per Section 2.6. If the cost of the City's work exceeds the amount of the security held by the City, Cavalia shall pay all such expenses to the City within ten (10) days of the date of an invoice from the City regarding same. The City shall be entitled to charge administration costs for any work conducted under this section in accordance with the applicable City's Fees and Charges Bylaw.

5. CITY'S RIGHT TO INSPECT

5.1 Inspection

During the Term, the City has the right to inspect Cavalia's work and to enter upon the Site at any time without notice to Cavalia in order to ensure that all work performed on or related to it is in accordance with City approvals and standards and Cavalia is in compliance with the terms of the Project Agreement. For clarity, such inspections may include random quality assurance testing of the thickness and compaction of the Event Pad.

6. LICENCE FEES, COSTS AND CONTRIBUTIONS

6.1 Site Licence Fees

Cavalia will pay to the City \$5000 each week in which the Event is actually performed during the Event Period for the Site Licence.

6.2 City Parking Licence Fees

Cavalia will pay to the City \$25,000 for the Parking Licence. No portion of the City Parking Licence fee will be returned to Cavalia regardless of the number of weeks that the Event is actually performed during the Event Period.

6.3 Additional Fees:

In addition to Site Licence fees, the City Parking Licence fees and any other costs identified in the Project Agreement, Cavalia will be solely responsible for the following additional costs, during the Term:

- (i) Design, development, repair, maintenance and security of the Site;
- (ii) Engineering and construction costs;
- (iii) Seeking, obtaining and maintaining regulatory approvals;

- (iv) Any and all costs of its operations, including but not limited to those costs associated with promotional activities, production of the Events, the keeping of animals, utilities, labour, audio and visual, medical services, catering services, security, electrical, mechanical and custodial costs;
- (v) Insurance;
- (vi) Utilities, including any set up fees (pay direct to utility companies);
- (vii) All applicable taxes and fees;
- (viii) SOCAN/broadcast fees, as applicable.

7. PAYMENT TERMS

7.1 City Reimbursement

Provided that the City has inspected and approved that the work that is the subject of each invoice has been performed as per City requirements, the City will reimburse Cavalia for amounts incurred by it or paid by it to third parties for the construction of the Event Pad up to the City Reimbursement less the holdback set out in Section 2.6, within thirty (30) days of the City's receipt of a detailed invoice detailing the work completed, with the invoice from Cavalia's contractor(s) (as applicable) and proof of payment by Cavalia thereto attached. The City may also holdback monies required to be held back under the *Construction Lien Act* as applicable.

7.2 Site License Fees

Cavalia will pay the City fifty percent (50%) of the Site Licence fees by December 31, 2016 with the remaining fifty percent (50%) to be paid by the first Event Date.

7.3 City Parking Licence Fee

Cavalia shall pay the City Parking Licence fee at the first Event Date.

8. COMMUNICATIONS

8.1 Communications

Cavalia will not make any formal public announcements or press releases referencing the City or its involvement in the Project without the prior written consent of the City.

9. COMMUNITY BENEFIT

9.1 Tickets: Cavalia shall provide the following to the City,:

- a) A minimum of sixty (60) complimentary VIP tickets in groups of two (2) to the opening night Event; and
- b) A minimum of five hundred (500) complimentary tickets in groups of two (2) to Events.

The City agrees that it will not resell any of these tickets to third parties.

9.2 Special Programs: Cavalia shall provide the following:

- a) One (1) complimentary forty-five (45) minute kids Event (in July or in August) to be held from Tuesday to Friday, as a special "Mississauga Camp Day" with the ability to host up to 1800 minor camp participants and adults per clinic;
- b) Three (3) one (1) hour clinics offered during July and/or August a week providing educational and cultural daytime programs to up to 100 minor camp participants and adults per clinic; and
- c) The Blind Touch Program which is a special program for persons who are visually impaired.

10. INSURANCE

10.1 Cavalia shall at its sole cost and expense, obtain and maintain insurance throughout the term of the Project Agreement with financially sound and reputable insurance companies licensed to underwrite insurance in the Province of Ontario . Such insurance shall include the following:

- a) Commercial general liability to the inclusive limit of not less than Ten Million (\$10,000,000.00) Dollars per occurrence with the City listed as an additional insured.
- b) Automobile liability insurance with limits of not less than Two Million (\$5,000,000) dollars per occurrence.
- c) All Risk Property and machinery insurance coverage on a replacement cost basis to adequately cover Cavalia's equipment and other such property in the care, custody and control of Cavalia.

11. GENERAL

11.1 City Approvals

Notwithstanding anything to the contrary herein, all approvals and consents of any kind required by the City as set out in these Terms of Arrangement must be in writing.

11.2 Assignment and Sublicensing

Cavalia may not assign the Project Agreement or sublicense the Site or City Parking without the consent of the City. Cavalia shall not authorize the assignment of the construction contract from the City approved contractor to another contractor without the City's prior approval.

11.3 City as Planning and other Approval Authority

Cavalia acknowledges that although the City shall be a party to the Project Agreement, nevertheless the City is and shall remain an independent planning and approval authority and municipality with all requisite powers and discretion provided under law, including without limitation, the *Planning Act*, the *Building Code Act, 1992*, the *Fire Prevention and Protection Act, 1997*, and the *Municipal Act, 2001*. Without limiting the generality of the foregoing, no provision contained in this Terms of Arrangement or to be contained in the Project Agreement shall in any manner be intended or deemed to be a delegation or derogation of authority of the City as an independent planning and approval authority.

11.4 Termination of Project Agreement

The City may terminate the Project Agreement at any time upon notice if Cavalia fails to meet the requirements under the Project Agreement, including its failure to obtain and maintain any approvals required by the Project Agreement.

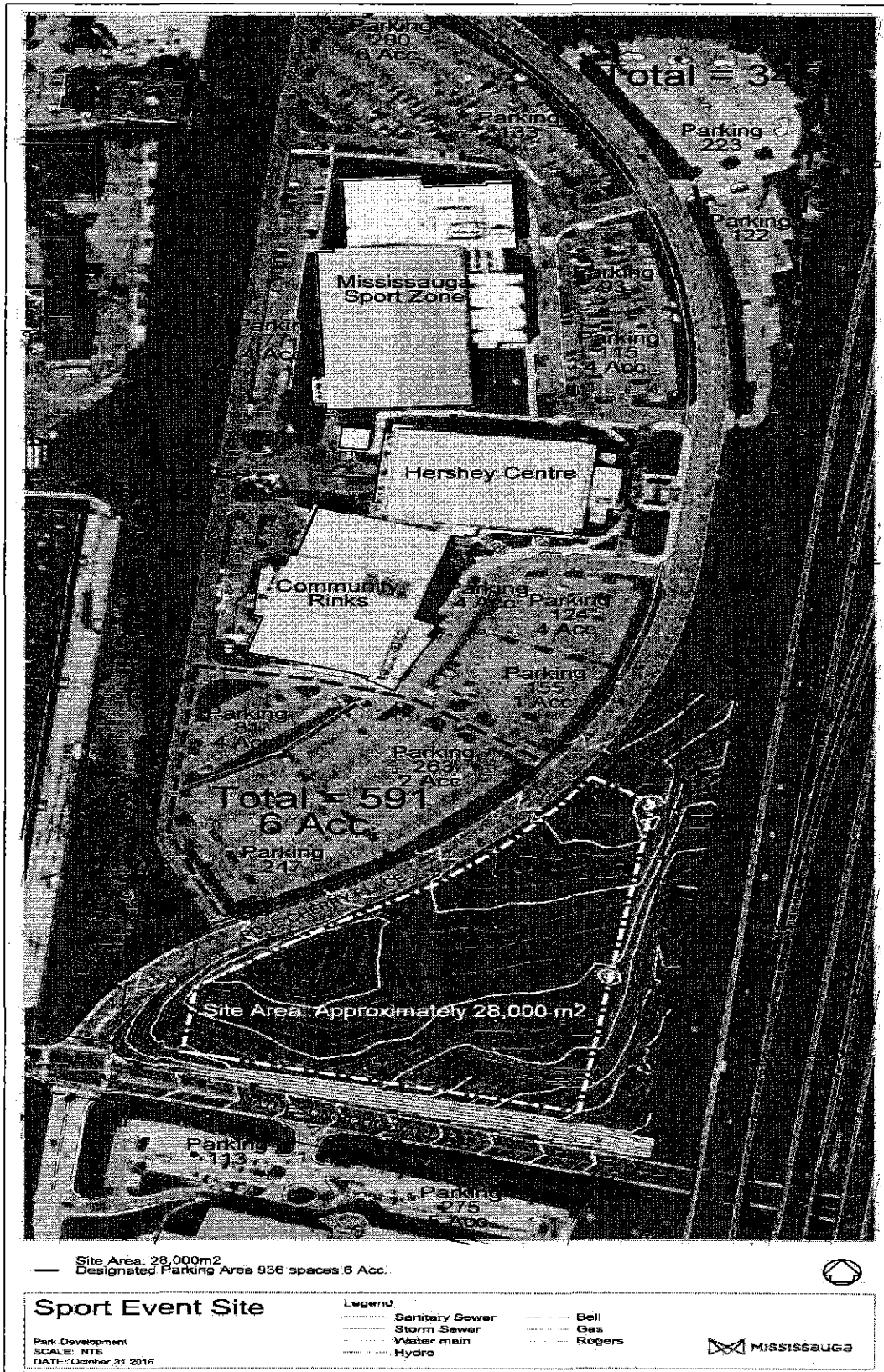
11.5 Applicable Laws

Cavalia will comply with all applicable Federal, Provincial and Municipal laws including City By-laws, as well as, all applicable City corporate policies and procedures, including all those with respect to the security and treatment of animals.

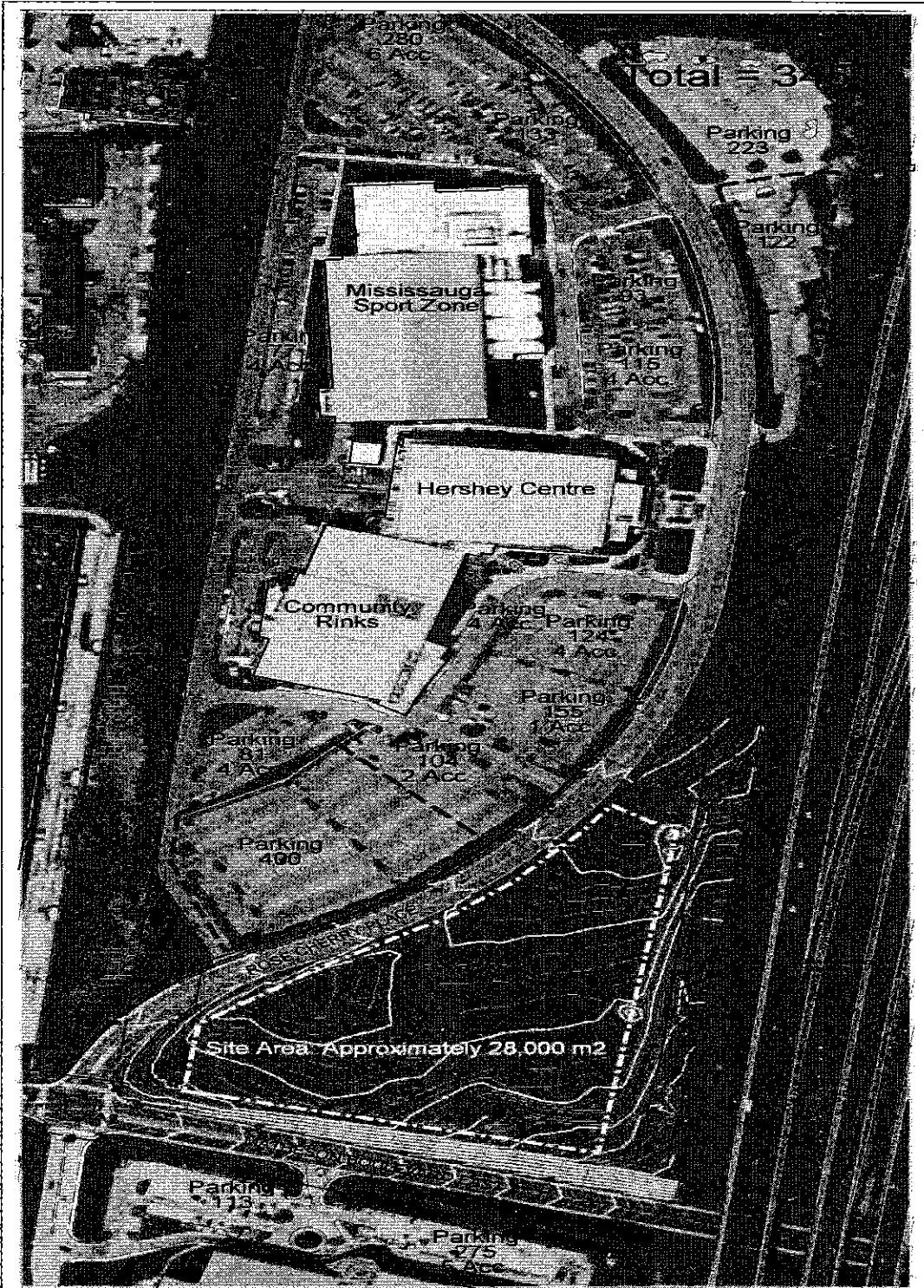
11.6 Non-Binding Terms of Arrangement

This proposed Terms of Arrangement is not intended to and shall not constitute an offer or an invitation to treat by the City nor is it intended nor shall it be deemed to be an agreement between the parties. Without limiting the generality of the foregoing, any arrangement or agreement to be entered into by the City with Cavalia in order to be binding, shall require the approval of the City Council.

Schedule "A" Site and City Parking until September 4, 2017 inclusive



Schedule "B" Site and City Parking commencing September 5, 2017



Site Area: 28,000m2
 Designated Parking Area 522 spaces from SEPT 5 to SEPT 17

Sport Event Site

Park Development
 SCALE: NTS
 DATE: October 31 2016

- Legend
- Sanitary Sewer
 - Storm Sewer
 - Water main
 - Hydro
 - Bell
 - Gas
 - Rogers

