

City of Mississauga

Additional Agenda



Council

Date

April 25, 2018

Time

9:00 AM

Location

Council Chamber, 2nd Floor Civic Centre
300 City Centre Drive, Mississauga, ON L5B 3C1

6. PRESENTATIONS

- 6.1 Julius Lindsay, Climate Change Specialist, regarding the 2017 Earth Market Peel Secondary School Video Challenge: What are YOU going to do about Climate Change; first place winners from Father Michael Goetz Secondary School students Shania Mendes, Zain Masood, Davinah Abraham, Eliana Faizani, and teacher Jason Haraschuck with their video entitled, "Open Your Eyes".

10. INTRODUCTION AND CONSIDERATION OF CORPORATE REPORTS

- 10.3. Report dated April 20, 2018 from the Commissioner of Community Services: **Boxed Soccer Field and Sole Contract Award (Ward 4)**

Recommendation

1. That as per By-Law 0149-2017, funds set aside for community benefits in Ward 4 be used to purchase and install a boxed soccer field at Mississauga Valley Park (P-096).
2. That Project Number (PN) 18349 be used for the project and be established with a gross and net budget of \$200,000 funded from Account # 590104 (Rebates and Recoveries) to develop a boxed soccer field.
3. That the Purchasing Agent be authorized to execute an agreement with Centaur Products Inc. ("Centaur") on a sole source basis, for the supply and installation of a complete boxed soccer field, comprised of the GreenCourt™ soccer pitch manufactured by Helo Sports with Nexxfield™ portable artificial turf panels, in the amount not to exceed \$200,000 in a form satisfactory to Legal Services.

Motion

City of Mississauga

Corporate Report



Date: 2018/04/20

To: Chair and Members of Council

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

Originator's files:
CD.10.096

Meeting date:
2018/04/25

Subject

Boxed Soccer Field and Sole Contract Award (Ward 4)

Recommendations

1. That as per By-Law 0149-2017, funds set aside for community benefits in Ward 4 be used to purchase and install a boxed soccer field at Mississauga Valley Park (P-096).
2. That Project Number (PN) 18349 be used for the project and be established with a gross and net budget of \$200,000 funded from Account # 590104 (Rebates and Recoveries) to develop a boxed soccer field.
3. That the Purchasing Agent be authorized to execute an agreement with Centaur Products Inc. ("Centaur") on a sole source basis, for the supply and installation of a complete boxed soccer field, comprised of the GreenCourt™ soccer pitch manufactured by Helo Sports with Nexxfield™ portable artificial turf panels, in the amount not to exceed \$200,000 in a form satisfactory to Legal Services.

Background

At the Council Meeting of July 5, 2017 Council adopted General Committee recommendation GC-0398-2017, that a By-law be enacted to authorize the Commissioner of Transportation and Works and the City Clerk to execute a Section 45(9.1) agreement and any ancillary documents, between Kaneff Homes Compass Creek Inc (Kaneff) and The Corporation of the City of Mississauga. The contribution confirmed an obligation from Kaneff to fund all costs associated with the design and installation of a new intersection, including traffic signals at 202-204 Burnhamthorpe Road East (Ward 4), and other community benefits. Legal Services recommended that the agreement between Kaneff and The Corporation of the City of Mississauga be renamed a 'Contribution Agreement' in the place of a Section 45(9.1) agreement.

Kaneff agreed to provide the City a contribution in the amount of Five Hundred Thousand Dollars (\$500,000.00) and agreed that the City could use the contribution for any purpose for the benefit of the community provided that the City constructed and/or installed the Traffic

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Originators files: CD.10.096

Signals and Related Road Works in accordance with the terms of the Contribution Agreement (the "Kaneff Contribution"). Community benefit funds in the amount of \$200,000 have been identified.

Councillor Kovac asked Community Services explore the provision of the City's second boxed soccer field at Mississauga Valley Community Centre using funds remaining from the Kaneff contribution.

The City's first boxed soccer location (known as Daniels Community Field) opened to the public on September 30, 2017 and has been very successful. Using Parkland Counting Technology, it was established that as of April 5, 2018, the field's utilization has surpassed 25,000 visits through fall, winter and spring months alone. Given that success, City staff investigated the most appropriate location to install a second boxed soccer field in Ward 4.

Staff chose a portion of park land at Mississauga Valley (Park-096), located at 1275 Mississauga Valley Boulevard. Installation of the soccer pitch in Ward 4 would commence in summer/fall 2018.

Comments

With the support of Councillor John Kovac, staff chose a location in the northwest quadrant of Mississauga Valley (Park-096) for the second boxed soccer field. This site is appropriate given proximity to Mississauga Valley Community Centre for access to washrooms and proximity to residential population.

Similar to the first boxed soccer location within City Centre, staff will not formally program the field in order to maintain the nature of "pop-up" sports, continuing to encourage informal soccer play. Staff from Parks & Forestry will monitor and maintain the boxed soccer field.

Options

The GreenCourt™ soccer field is recommended because of its modular, and durable welded aluminum design. Staff has confidence in the product given their experience with installing, disassembling, testing and reviewing the soccer field during the 2016 pilot phase and 2017 Daniels Community Field installation.

Dimensions of the second boxed soccer field are 15m x 30m (49.21ft x 98.43 ft) and the package includes an artificial turf surface, soccer boards, two goals, and netting. The soccer field is modular and transferable to other locations should it ever need to be moved.

The desired soccer field will be supplied and installed by Centaur Products Inc. and is comprised of the GreenCourt™ model number B09051 which is manufactured by Helo Sports of Germany and includes Nexxfield™ portable artificial turf panels.

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Originators files: CD.10.096

Centaur holds exclusive rights to distribute this soccer field and the portable artificial turf panels in Canada. The complete field system is supplied and installed by Centaur.

In accordance with Purchasing By-law #374-2006, Schedule A, 1(a). (iv) provides for sole source contract awards under these circumstances wherein it states: the complete item, service, or system is unique to one vendor and no alternative or substitute exists with Canada.

Financial Impact

The cost to purchase and install the boxed soccer pitch is \$200,000. The City will purchase the field system using funds set aside in the amount of \$200,000 from account 590104 for community benefits within Ward 4 per recommendation from GC-0398-2017 and Council By-law 0149-2017.

Conclusion

Soccer continues to grow in popularity in Mississauga. The establishment of a second boxed soccer field in Mississauga and Ward 4 is a community benefit given limited recreational space in the downtown and a need for active recreation amenities. The boxed soccer field supports active and healthy lifestyles and provides an additional recreational amenity for all people without requirement of a permit. The field will not be programmed by staff and will be available for drop-in play. Centaur Products Inc. holds exclusive rights to distribute this soccer field and the portable artificial turf panels in Canada and is therefore a sole source vendor in accordance with By-law # 374-2006.

Use of this amenity will be monitored which will provide staff with more information on the suitability of additional locations in future.

Attachments

Appendix 1: BL-0149-2017

Appendix 2: GC-0398-2017

Appendix 3: Boxed Soccer Location in Mississauga Valley (P-096)



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

Prepared by: Justin Agius, Planner, Community Services



THE CORPORATION OF THE CITY OF MISSISSAUGA
BY-LAW NUMBER 0149-2017

A By-law to authorize the execution of a Contribution Agreement between The Corporation of the City of Mississauga (the “City”) and Kaneff Homes Compass Creek Inc. (“Kaneff”), with respect to lands municipally known as 202-204 Burnhamthorpe Road East

WHEREAS Kaneff made an application to the City of Mississauga Committee of Adjustment for minor variances to permit the development of its property located at 202-204 Burnhamthorpe Road East (the “Subject Lands”);

AND WHEREAS the Committee of Adjustment refused the variances and Kaneff appealed to the Ontario Municipal Board (the “OMB”);

AND WHEREAS prior to the hearing Kaneff agreed to contribute towards the cost of intersection improvements including traffic signals for 202-204 Burnhamthorpe Road East and other community benefits, to a maximum payment of \$500,000, and have requested that the work be completed by March, 2018;

AND WHEREAS the OMB ordered that the appeal be allowed and the variances requested be authorized;

AND WHEREAS the City wishes to enter into an agreement with Kaneff for cost recovery related to the construction of intersection improvements including installation of traffic signals and to provide for other community benefits within Ward 4;

NOW THEREFORE the Council of The Corporation of the City of Mississauga ENACTS as follows:

- 1. That the Commissioner of Transportation and Works and the City Clerk are authorized to execute and affix the Corporate Seal on behalf of the Corporation of the City of Mississauga to a Contribution Agreement and any ancillary documents, with Kaneff Homes Compass Creek Inc., for cost recovery related to the design and installation of intersection improvements including traffic signals, at 202-204 Burnhamthorpe Road East, and other community benefits, in a form satisfactory to the City Solicitor.

ENACTED AND PASSED this 13 day of September 2017.

Bonnie Crombie
MAYOR

W. O. [Signature]
CLERK

APPROVED AS TO FORM City Solicitor MISSISSAUGA			
MJT			
Date	2017	7	9

CONTRIBUTION AGREEMENT

THIS CONTRIBUTION AGREEMENT made this 19th day of September, 2017 (the
“**Contribution Agreement**”)

BETWEEN:

THE CORPORATION OF THE CITY OF MISSISSAUGA
 (“**City**”)

- and -

KANEFF HOMES COMPASS CREEK INC.
 (“**Kaneff**”)

RECITALS:

- A. Kaneff represents and warrants that it is the registered owner of the lands legally described at Schedule “A” attached hereto and known municipally in the year 2017 as 202-204 Burnhamthorpe Road East in the City of Mississauga (the “**Lands**”).
- B. Kaneff is in the process of redeveloping the Lands with two apartment building towers, and seeks access for its Lands to be through a driveway connecting to Burnhamthorpe Road East (the “**Access Driveway**”). The Access Driveway is shown on the plan at Schedule “B” attached hereto.
- C. Kaneff has requested the City to signalize the Access Driveway by installing and/or constructing traffic signals and all ancillary equipment (the “**Traffic Signals**”). The installation and/or construction of the Traffic Signals necessitates certain Related Road Works (as hereinafter defined) that Kaneff has also requested the City to construct and/or install. The location of the Traffic Signals and Related Road Works are shown on Schedule “B” attached hereto.
- D. Kaneff’s redevelopment of the Lands will require a watermain connection and ancillary works shown on Schedule “B” attached hereto (the “**Watermain Works**”). As a matter of convenience, Kaneff has requested the City to construct and/or install the Watermain Works on its behalf.
- E. The City has agreed to construct and/or install the Traffic Signal, the Related Road Works and the Watermain Works in accordance with the terms of this Contribution Agreement.
- F. The City seeks Kaneff to enter into this Contribution Agreement for cost recovery related to the City’s construction of the Traffic Signals, the Related Road Works and/or the Watermain Works and to document such further obligations between the Parties.
- G. Kaneff’s contribution to the City for the cost of the Traffic Signals, Related Road Works, and other community benefits shall be no more or less than Five Hundred Thousand

Dollars (\$500,000.00). Kaneff agrees that the City may use the contribution monies for any purpose for the benefit of the community provided that the City constructs and/or installs the Traffic Signals and Related Road Works and uses the contribution monies in accordance with the terms of this Contribution Agreement.

- H. Kaneff's contribution to the City for the cost of the Watermain Works shall be equal to the City's actual cost to construct and/or install the Watermain Works. Kaneff agrees to provide the City an irrevocable letter of credit in the amount of Two Hundred Thousand Dollars (\$200,000.00) to secure Kaneff's obligation to pay for the actual cost of the Watermain Works (the "**Watermain Works LC**").

IN CONSIDERATION of the mutual covenants contained in this Contribution Agreement, and for other good and valuable consideration, Kaneff and the City (each a "**Party**", and together, the "**Parties**") covenant and agree as follows:

ARTICLE I RECITALS, TRAFFIC SIGNAL & RELATED ROAD WORKS

- 1.1 The above recitals are true.
- 1.2 The City agrees to construct and/or install Traffic Signals for the Access Driveway at the location shown on Schedule "B" attached hereto.
- 1.3 The City agrees to construct and install any other modifications required to Burnhamthorpe Road East to accommodate the Traffic Signals and the signalized intersection at the Access Driveway consisting of median installation or adjustments, widening of the traveled portion of the road, curb adjustments, road lane reconfiguration and painting, and modifications to the Access Driveway, all substantially in accordance with Schedule "B" attached hereto (the "**Related Road Works**").
- 1.4 The City will phase construction and/or installation of the Traffic Signals and the Related Road Works.
- 1.5 Phase 1 of construction and/or installation of the Traffic Signals and the Related Road Works will consist of:
 - (a) construction and/or installation of that portion of the Traffic Signals consisting of the poles and related appurtenances; and
 - (b) construction and/or installation of all of the Related Road Works.
- 1.6 Phase 2 of construction and/or installation of the Traffic Signals and the Related Road Works will consist of:
 - (a) construction and/or installation of the traffic signal heads for the Traffic Signals and related appurtenances and commissioning of same; and
 - (b) installation of the pavement markings for the pedestrian crosswalks.

- 1.7 The City shall prepare drawings issued for construction for the Traffic Signals and Related Road Works substantially in accordance Schedule “B” attached hereto, and the standards and specifications of the City’s Transportation and Works Department.
- 1.8 The City shall not be obligated to commence construction of the Traffic Signals and Related Road Works unless Kaneff has complied with the following obligations:
 - (a) Kaneff has submitted a complete application for the expedited site plan approval (SPAX) process to the City for a sales office on the Lands, which application is marked as received by the City on or before September 19, 2017;
 - (b) Kaneff has submitted a complete application for a building permit to the City for a sales office on the Lands, which application is marked as received by the City on or before September 19, 2017;
 - (c) On or prior to September 19, 2017, Kaneff has paid or provided the City security for the contributions required in Article III of this Contribution Agreement; and
 - (d) Kaneff shall install sign(s) on the Lands marketing its proposed development within five (5) business days of being issued a permit by the City, which sign(s) shall be installed in accordance with City of Mississauga Sign By-law 54-02, as amended.
- 1.9 Kaneff agrees to obtain a building permit for construction of the sales office from the City’s Building Department and to complete construction of the shell of the sales office by December 31, 2017.
- 1.10 Kaneff agrees to open a sales office on the Lands by March 15, 2018. If Kaneff seeks to adjust the opening date to an earlier date, it shall provide the City at least 60 days prior written notice. Kaneff agrees not to adjust the date for opening the sales office to a date later than March 15, 2018. Opening the sales office means the sales office is operating as an establishment that markets the development to the public and provides for the registration of potential unit purchasers in any proposed development on the Lands.
- 1.11 The City agrees to tender and procure all design and construction elements of the Traffic Signals and Related Road Works, and undertake all contract administration, in a commercially reasonable manner following standard City protocols applicable to such works.
- 1.12 Provided Kaneff has completed construction of the shell of the sales office by December 31, 2017 and opens the sales office on March 15, 2018, or on such earlier date as Kaneff notifies the City in writing in accordance with section 1.10, the City agrees to complete installation and/or construction of the Traffic Signals and Related Road Works such that they are commissioned and in full operation prior to Kaneff opening the sales office on the Lands.
- 1.13 The City shall:

- (a) obtain all approvals required to complete the Traffic Signal and Related Road Works including internal approvals and other applicable governmental agency approvals;
 - (b) comply with all requirements under applicable law in undertaking the Traffic Signal and Related Road Works; and
 - (c) complete the Traffic Signal and Related Road Works in a good and workmanlike manner and expeditiously.
- 1.14 Kaneff shall identify the location of the curb returns for the Access Driveway, by designating the center point for layout of the two radii, with survey stakes. Kaneff shall complete this task within five (5) business days of receiving notice from the City to proceed with same.
- 1.15 Kaneff agrees that if the Traffic Signals and Related Road Works are completed by the City in accordance with this Contribution Agreement, Kaneff will not seek any approval under the *Planning Act* for, nor otherwise construct or provide, a vehicular connection between the Lands and the abutting property owned by Peel Condominium Corporation No. 613, whether above or below grade, without the prior written consent of the City, which consent may be unreasonably or arbitrarily withheld.
- 1.16 Kaneff agrees that the construction and/or installation of the Traffic Signals, Related Road Works and/or Watermain Works may require certain related works to be undertaken on a portion of the Lands. Kaneff hereby consents to the City proceeding with these works on its Lands on a temporary basis such that the works are undertaken in a manner that does not disrupt the sales office and parking on the Lands. Notwithstanding the foregoing, the City may be temporarily required to partially obstruct access to the Lands in order to undertake construction / installation of the Traffic Signals, Related Road Works and Watermain Works, while still permitting vehicles ingress/egress to the Lands via driveways existing as of the date of this Agreement and not being signalized. The City shall provide Kaneff written notice at least 24 hours prior to any works that will impact access to the Lands.
- 1.17 Kaneff agrees that as the City will be making certain improvements to the Access Driveway as part of construction and/or installation of the Traffic Signals and Related Road Works, Kaneff will not seek to modify the Access Driveway through the site plan approval process for its development on the Lands.

ARTICLE II WATERMAIN WORKS

- 2.1 The City agrees to install and/or construct the Watermain Works as part of phase 1 of construction and/or installation of the Traffic Signals and Related Road Works.
- 2.2 The Watermain Works shall consist of construction and/or installation of the watermain connection and ancillary works to the northern property boundary of the Lands. The

Watermain Works shall be constructed and/or installed substantially in accordance with the design shown on Schedule “B” attached hereto.

- 2.3 Kaneff shall prepare drawings issued for construction for the Watermain Works substantially in accordance Schedule “B” attached hereto, and these drawings shall be forwarded to the City by September 19, 2017.
- 2.4 In order for the City to proceed with construction and/or installation of the Watermain Works, Kaneff shall:
 - (a) have met certain obligations Kaneff is required to meet in order for the City to proceed with construction and/or installation of the Traffic Signal and Related Road Works as contained at Section 1.8 of this Contribution Agreement;
 - (b) on or prior to September 19, 2017, provide the City with proof of confirmation of site servicing approval from the Region of Peel for the Watermain Works; and
 - (c) on or prior to September 19, 2017, provide the City with the Watermain Works LC.
- 2.5 The City agrees to tender the construction elements of the Watermain Works, and undertake all contract administration, in a commercially reasonable manner following standard City protocols applicable to such works.
- 2.6 The City shall:
 - (a) comply with all requirements and standards of the Region of Peel with respect to the Watermain Works; and
 - (b) complete the Watermain Works in a good and workmanlike manner and expeditiously.
- 2.7 Kaneff shall obtain all approvals required to complete the Watermain Works including internal approvals and other applicable governmental agency approvals.
- 2.8 Kaneff shall identify the location of the watermain connection at the property line of the Lands with survey stakes. Kaneff shall complete this task within five (5) business days of receiving notice from the City to proceed with same. If Kaneff fails to do this, the City may not proceed with construction and/or installation of the Watermain Works.

ARTICLE III FUNDING OBLIGATIONS

- 3.1 Kaneff agrees to provide the City a contribution in an amount of not more or less than Five Hundred Thousand Dollars (\$500,000.00) for the cost of the Traffic Signal, Related Road Works, and other community benefits. Kaneff agrees that the City may use this contribution for any purpose for the benefit of the community provided that the City constructs and/or installs the Traffic Signals and Related Road Works in accordance with

the terms of this Contribution Agreement (the “**Kaneff Contribution**”). After accounting for the cost of the Traffic Signals and Related Road Works, if any remaining portion of the Kaneff Contribution is used for a community benefit, the Ward 4 Councillor will consult with Kaneff in respect of said community benefit. For clarity, Kaneff is not responsible for the actual cost of the Traffic Signals and Related Road Works.

- 3.2 The Kaneff Contribution may be made by certified cheque or by Kaneff posting an irrevocable letter of credit in a form and content satisfactory to the City’s Commissioner of Transportation & Works (the “**Contribution LC**”). If Kaneff provides the City the Contribution LC, Kaneff acknowledges and agrees that the City may at its convenience draw down on the Contribution LC for the entire Five Hundred Thousand Dollars (\$500,000) or the City may draw down on the Contribution LC in incremental amounts as it may determine. The City shall provide to Kaneff an itemized statement setting out the full costs incurred by the City for the Traffic Signals and the Related Road Works as certified by a professional engineer of the City’s contractor (or by the City’s engineer if the contractor does not have a professional engineer, together with the contractor’s statement of charges to the City).
- 3.3 If the final total costs incurred by the City to design, construct and commission the Traffic Signals and Related Road Works (the “**Final Signals Costs**”) exceed the Kaneff Contribution, Kaneff shall not be required to supplement the Kaneff Contribution or the Contribution LC or in any other way reimburse the City or its agents for the excess cost incurred by the City to complete the Traffic Signals and Related Road Works, including without limitation by way of any tax, charge, levy, administration fee or condition of approval imposed on Kaneff by the City. For greater clarity, Kaneff’s maximum aggregate obligation to reimburse the City for the Final Signals Costs, including without limitation all hard and soft costs, taxes, fees and charges of any kind incurred by the City, shall be \$500,000.00.
- 3.4 Kaneff shall not be responsible for the maintenance, repair or replacement of the Traffic Signals, Related Road Works, or any other community benefit paid for by the Kaneff Contribution nor for the costs of such maintenance, repair and replacement, unless Kaneff otherwise agrees in writing and subject to Section 4.1 below.
- 3.5 Subject to Section 3.6 below, Kaneff shall keep the Contribution LC provided to the City in full force and effect until the City draws down on the entirety of the Contribution LC.
- 3.6 In the event of any default by the City in the construction and/or installation of the Traffic Signals and/or Related Road Works as determined by Kaneff acting reasonably, in addition to any other remedies available to Kaneff, and if the default is not caused by a delay caused by an act or omission of Kaneff:
 - (a) Kaneff may seek approvals from the City and other applicable governmental authorities to undertake any or all of the work related to the construction and/or installation of the Traffic Signals and/or Related Road Works (the “**Remedy Works**”);

- (b) if the Remedy Works are not approved, the City shall release the Contribution LC and refund in full any portion of the Contribution LC already drawn by it within ten (10) business days of Kaneff notifying the City that approvals have been refused;
 - (c) if the Remedy Works are approved, then:
 - (i) Kaneff may proceed to complete the Remedy Works at its own expense;
 - (ii) Kaneff shall provide to the City an itemized accounting of the actual hard and soft costs incurred by Kaneff to complete the Remedy Works, including the cost to obtain approvals and including all taxes, governmental administration fees, charges and levies incurred by Kaneff, certified by a professional engineer (the “**Remedy Works Costs**”), and the City shall within ten (10) business of receipt of said accounting reimburse to Kaneff the Remedy Works Costs in full and without deduction (regardless of whether the Remedy Works Cost exceed the Kaneff Contribution of \$500,000.00; and
 - (iii) the City may, after making payment of the Remedy Work Costs in full, draw down the full remaining balance of the Contribution LC, if any, and shall thereafter release the Contribution LC, and shall not thereafter seek to recover from Kaneff any amount reimbursed pursuant to (ii) above, including by way of tax, charge, levy, administration fee or condition of approval..
- 3.7 Prior to exercising the remedies described in Section 3.6 above with respect to a default of the City, Kaneff will first provide written notice to the City of the specific default and the City shall have ten (10) business days from receipt of such notice to rectify the default unless a longer time to cure the default is requested by the City and approved by Kaneff, acting reasonably.
- 3.8 Kaneff’s contribution to the City for the cost of the Watermain Works shall be equal to the City’s actual cost to construct and/or install the Watermain Works including any excess cost incurred by the City to complete the Watermain Works, including without limitation, by way of any tax (including non-rebate portion of HST), administration fee, charge, levy or condition of approval imposed. The City shall ensure that the Watermain Works are constructed and/or installed in a commercially reasonable manner.
- 3.9 Kaneff agrees to provide the City the Watermain Works LC in the amount of Two Hundred Thousand Dollars (\$200,000.00) to secure for Kaneff’s obligation to pay for the actual cost of the Watermain Works by September 19, 2017. The Parties agree that the Watermain Works LC may not necessarily equal the actual cost of the Watermain Works.
- 3.10 The Watermain Works LC shall be used by the City to off-set all costs incurred by the City to construct and/or install the Watermain Works. The City may draw down on the Watermain Works LC from time to time as work on the Watermain Works progresses, in a commercially reasonable manner, in order to defray costs then incurred.

- 3.11 Kaneff shall keep the Watermain Works LC in full force and effect until the City releases said security.
- 3.12 Upon completion of the Watermain Works, the City shall provide to Kaneff a statement of the actual costs of the Watermain Works certified by a professional engineer for the contractor (or by the City's engineer if the contractor does not have a professional engineer, together with the contractor's statement of charges to the City), setting out in an itemized manner the full costs incurred by the City. The City shall draw down on the Watermain Works LC to reimburse it for any actual costs incurred that remain to be reimbursed through the Watermain Works LC. The City shall then release the Watermain Works LC within ten (10) business days. In the event that the remaining balance on the Watermain Works LC is less than the actual cost of the Watermain Works that remain to be reimbursed as set out in the statement of actual costs, Kaneff shall remit within ten (10) business days a certified cheque to the City to reimburse it for the difference.

ARTICLE IV

DAMAGE SECURITY FOR TRAFFIC SIGNALS & RELATED ROAD WORKS

- 4.1 If the Traffic Signals and/or Related Road Works are damaged by Kaneff or those for whom it is in law responsible during any construction of any proposed development on the Lands or during any construction of a sales office on the Lands, Kaneff shall promptly provide the City written notice of same. The City will, subject to Section 4.6, proceed to undertake, in a timely manner, such repairs that are necessary as determined by the City acting reasonably, to repair any damage, and restore the Traffic Signals and/or Related Road Works to their condition prior to such damage. The City will invoice Kaneff for the cost of the actual cost of the repairs including without limitation by way of any tax (including non-rebate portion of HST), administration fee, charge, levy or condition of approval imposed (the "**Repair Costs**"). The City may also draw down on the Damage LC (as hereinafter defined) for the Repair Costs.
- 4.2 Upon execution of this Contribution Agreement, Kaneff shall provide the City with security by irrevocable letter of credit, in a form and content satisfactory to the City's Commissioner of Transportation and Works, in the amount of One Hundred Thousand Dollars (\$100,000.00), to be held by the City as security for repair of any material damage to the Traffic Signals and/or Related Road Works by Kaneff or those for whom it is in law responsible during construction of any proposed development on the Lands or of a sales office on the Lands (the "**Damage LC**").
- 4.3 Kaneff shall keep the Damage LC in full force and effect until the City releases said security. The City shall release the Damage LC within five (5) business days of the date that the City issues an occupancy permit for any proposed development on the Lands.
- 4.4 The City shall not be required to refund or account for any security utilized by the City as a result of any material and uncured default by Kaneff under the provisions of this Contribution Agreement.

- 4.5 In the event of any material and uncured default by Kaneff under Section 4.1 of this Contribution Agreement, as determined by the City acting reasonably, in addition to any other remedies available to the City, the City may, if the default is not caused by a delay caused by an act or omission of the City:
- (a) draw on the Damage LC, in full or in part; and
 - (b) recover from Kaneff all costs and expenses incurred by the City with respect to the default.
- 4.6 Unless considered to be an emergency by the City's Commissioner of Transportation and Works, prior to exercising the remedies described in Sections 4.1 and 4.5 above with respect to repair of damage and a default of Kaneff the City will permit Kaneff to seek the City's approval for Kaneff to cure the default (by undertaking the repairs), which application for approval shall be made by Kaneff within ten (10) business days of Kaneff providing the notice under Section 4.1, and the City may in its sole discretion grant such approval on such terms and conditions as the City requires, or may refuse approval. If the City refuses approval, or if Kaneff does not accept the terms and conditions of City approval, the City may proceed to complete the repairs as set out in Section 4.1.

ARTICLE V INDEMNITIES AND INSURANCE

- 5.1 Kaneff shall indemnify, defend and hold the City, its elected officials, councillors, employees, contractors, sub-contractors, agents and any other persons for whom the City may be responsible in law (the "**City Indemnified Persons**") harmless from and against any and all direct or indirect damages, incidental damages, and special damages, or any suits, claims, actions and judgements for damages or losses sustained or incurred by other persons, in relation to death, injury or damage to property including without limitation, court costs, arbitration fees, penalties, fines, amounts paid in settlement of claims and legal fees and expenses of investigation (collectively, "**Losses**") as may be incurred or sustained by the City Indemnified Persons, or which may be commenced or brought against the City Indemnified Persons or which any of them may suffer or become liable for, as result of, or in relation to any matter or obligation completed or failed to be completed by Kaneff, and those for whom in law it is responsible, under this Contribution Agreement including without limitation the construction of any works by Kaneff under this Contribution Agreement, the enforcement or non-enforcement of Kaneff's obligations under this Contribution Agreement, or in consequence of any breach of any warranty, representation, term, obligation or covenant of Kaneff contained in this Contribution Agreement, except in the case of a negligent act or omission by the City or someone for whom the City is responsible in law.
- 5.2 Kaneff hereby absolutely and unconditionally releases the City Indemnified Persons from any and all claims, suits, liability or responsibility for any Losses which may now or at any time hereafter be incurred or sustained directly or indirectly by Kaneff as a result of, or in

connection with the design, installation, construction and provision of any works by Kaneff or those for whom Kaneff is responsible for in law pursuant to this Contribution Agreement, except in the case of a negligent act or omission or breach of this Contribution Agreement by the City or someone for whom the City is responsible in law.

- 5.3 The City shall indemnify, defend and hold Kaneff, its directors, officers, employees, contractors, sub-contractors, agents and any other persons for whom Kaneff may be responsible in law (the “**Kaneff Indemnified Persons**”) harmless from and against any and all Losses as may be incurred or sustained by the Kaneff Indemnified Persons, or which may be commenced or brought against the Kaneff Indemnified Persons or which any of them may suffer or become liable for, as result of, or in relation to any construction activity by the City (or any persons for whom the City may be responsible for in law) on the Lands authorized by this Contribution Agreement, or any works completed or failed to be completed by the City (or any persons for whom the City may be responsible for in law) on the Lands pursuant to this Contribution Agreement, except in the case of a negligent act or omission by Kaneff or someone for whom Kaneff is responsible in law.
- 5.4 The City hereby absolutely and unconditionally releases the Kaneff Indemnified Persons from any and all claims, suits, liability or responsibility for any Losses which may now or at any time hereafter be incurred or sustained directly or indirectly by the City, as a result of, or in relation to any construction activity by the City (or any persons for whom the City may be responsible for in law) on the Lands authorized by this Contribution Agreement, or any works completed or failed to be completed by the City (or any persons for whom the City may be responsible for in law) on the Lands pursuant to this Contribution Agreement, except in the case of a negligent act or omission or breach of this Contribution Agreement by Kaneff or someone for whom Kaneff is responsible in law and save and except in respect of the Kaneff’s obligation under Section 4.1.
- 5.5 Without limiting the indemnification provisions of this Contribution Agreement, the City shall cause its contractors providing work, services or materials in relation to the construction and/or installation of the Traffic Signals, Related Road Works and/or the Watermain Works to take out and keep in full force and effect throughout the construction of the facilities and works under this Contribution Agreement, insurance with a financially sound and reputable insurance companies licensed to underwrite insurance in the Province of Ontario. The City shall be responsible for payment of all amounts within the deductible or self-insured retention under each policy of insurance.

The insurance shall include but not be limited to:

1. Commercial general liability insurance or Wrap-up liability insurance on an occurrence basis with respect to any use and occupancy of or things on the Lands by the City, its contractors and subcontractors, and those for whom it is responsible in law, against claims for bodily injury, including personal injury and death, and property damage or loss, indemnifying and protecting the City and its employees, servants, agents, contractors, invitees or licensees, to the inclusive limit of not less than Ten Million (\$10,000,000.00) Dollars per occurrence or such

other amount as Kaneff may from time to time determine. Such insurance shall specifically state by its wording or by endorsement that:

- (a) Kaneff and the Kaneff Indemnified Persons are included as additional or named insureds under the policy with respect to the obligations of the City as outlined in this Agreement;
 - (b) such policy shall contain completed operations and products liability, contractual liability, contingent employers liability and non-owned licensed motor vehicles used in connection with the work;
 - (c) if applicable, such policy shall include coverage for excavation, pile driving, blasting, shoring, underpinning, raising or demolition of any building or structure, collapse of any structure or subsidence of any structure or land from any cause;
 - (d) the policy contains a cross-liability clause which shall have the effect of insuring each person, firm or corporation named in the policy as an insured in the same manner and to the same extent as if a separate policy had been issued to each; and
 - (e) such other requirements, terms, conditions and stipulations including deductible limits as Kaneff may require.
2. Environmental Impairment Liability insurance having an inclusive limit of not less than **Two Million Dollars (\$2,000,000)** per occurrence to insure the contractor's liability for third-party claims caused by pollution events arising out of operations performed by or on behalf of the insured in the performance of work under this Contribution Agreement.
 3. If applicable, Automobile Liability insurance with limits of not less than Five Million (\$5,000,000) dollars per occurrence, and must include Legal Liability for Damage to Non-owned automobiles coverage and/or Cargo Insurance. The policy must provide coverage for bodily injury or property damage arising out of the ownership, use or operation of all owned and/leased automobiles.
 4. "All Risks" insurance covering the Lands and the machinery, equipment, trade fixtures and improvements to be made under this Contribution Agreement on or adjacent to the Lands of and by the City and its contractors, for not less than the full replacement cost thereof (with a replacement cost endorsement). The policy shall protect the interests of Kaneff and the City in the improvements and that loss, if any, be payable to Kaneff and the City as each of their respective interests may appear.

All policies of insurance required of the City and/or its contractors pursuant to this Contribution Agreement shall:

- (a) contain an undertaking by the insurers to notify Kaneff in writing not less than thirty (30) days prior to any material change or cancellation of the policies;
 - (b) contain a waiver of rights of subrogation against Kaneff; and
 - (c) be primary and shall not call into contribution any insurance available to Kaneff.
- 5.6 On or before September 15, 2017 and thereafter at any other time if requested in writing by Kaneff, the City shall deliver to Kaneff certificates of the City's insurance policies which are in good standing and in compliance with the City's obligations herein.

ARTICLE VI GENERAL

- 6.1 Any notice, demand or request provided for or permitted to be given pursuant to this Agreement shall be sufficiently made if delivered either personally, by prepaid registered mail or by facsimile transmission from one party to another addressed as follows:
- (a) In the case of notice to the City:

THE CORPORATION OF THE CITY OF MISSISSAUGA
300 City Centre Drive, 7th Floor
Mississauga, ON L5B 3C1
Attention: Commissioner of Transportation and Works
Facsimile: 905-615-4494

with a copy to its solicitors:

Legal Services, City Manager's Office
300 City Centre Drive, 4th Floor
Mississauga, ON L5B 3C1
Attention: City Solicitor
Facsimile: 905-896-5106
 - (b) In the case of notice to Kaneff:

KANEFF COMPASS CREEK HOMES INC.
Kaneff Group of Companies
8501 Mississauga Road
Brampton, ON L6Y 5G8
Attention: Kristina Kaneff, General Counsel
Facsimile: 905-454-7107
 - (c) In the case of notice to Kaneff under sections 1.14 and 2.8, in addition to notice under (b) above, notice shall also be provided to Jean Pella, Abtin Khoshgo and

George Nikolov at the facsimile number given in (b) and by email to: jpella@kaneff.com ; akhoshgo@kaneff.com ; and gnikolov@kaneff.com .

Such notice is deemed to have been received, if by personal delivery on the date of delivery, and if by facsimile transmission on the date of delivery with electronic confirmation of receipt obtained if received before 4:30 on a business day and if thereafter then on the next business day. If notice is given by mail, it is deemed to be received five (5) business days after it was mailed, or upon proof of delivery by return receipt; however in the event of the interruption of postal services, the notice shall not be deemed to have been given during such period of interruption unless the notice has been actually received.

- 6.2 The following provisions shall govern any dispute, controversy, claim or alleged breach arising out of or in connection with this Contribution Agreement (a “**Dispute**”):
- (a) the City’s representative (Helen Noehammer in consultation with the City Solicitor) and Kaneff’s representative (Kristina Kaneff) shall first attempt to resolve the Dispute (the “**First Level**”);
 - (b) if the Dispute is not resolved at the First Level, the Dispute may be escalated by either Party by written notice to the Kaneff Chairman and CEO and the City’s Commissioner of Transportation and Works, and those individuals shall attempt to resolve the Dispute (the “**Second Level**”);
 - (c) if the Dispute is not resolved at the Second Level, either Party may exercise their rights available at law; and
 - (d) except where clearly prevented by the nature of the Dispute, the Parties shall throughout the period of the Dispute resolution process endeavour to perform their respective obligations under the terms of this Contribution Agreement to the best of their respective abilities.
- 6.3 The Parties shall keep, in accordance with generally accepted accounting principles, all accounts, receipts and other documentation with respect to the matters dealt with in this Agreement for a period of not less than seven (7) years following completion of the works or obligations hereunder giving rise to the creation of such records.
- 6.4 Nothing in this Contribution Agreement shall relieve Kaneff or the City from compliance with all applicable federal, provincial or municipal statutes, regulations, by-laws, orders, ordinances, rules, policies or resolutions.
- 6.5 Time is of the essence in this Contribution Agreement. Any time limits specified in this Contribution Agreement may be extended with the consent in writing of both Parties, but no such extension of time will operate as an extension of any other time limit, time will remain of the essence in this Contribution Agreement, and any such extension shall not act as a waiver of the obligations of the Parties or of their respective rights and remedies.
- 6.6 The Parties will not call into question, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the right, authority and jurisdiction of either

Party to enter into and enforce this Contribution Agreement. The law of contract applies to this Contribution Agreement and the Parties are entitled to all remedies arising from it. The provisions of this Section may be pleaded, by either Party, in any action or proceeding as an estoppel of any denial of such right. If any of the provisions contained in this Contribution Agreement are found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained herein shall not be in any way affected or impaired thereby.

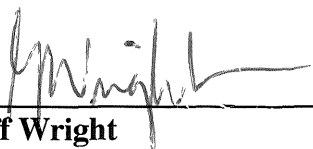
- 6.7 The Parties agree that if the City so requires, this Contribution Agreement may be registered on title to the Lands by the City at no cost to Kaneff, and this Contribution Agreement binds successors in title. This Contribution Agreement may only be deleted from title either with written consent of both Parties or upon termination of this Contribution Agreement for any reason, and such deletion shall be at the expense of the City.
- 6.8 This Contribution Agreement may not be assigned by a Party without the written consent of the other Party, such consent not to be unreasonably or arbitrarily withheld.
- 6.9 All obligations contained in this Contribution Agreement, although not expressed to be covenants, are deemed to be covenants. This Contribution Agreement and the covenants contained in this Contribution Agreement are intended and shall be deemed to enure to the benefit of and be binding upon the respective successors and permitted assigns of each of the Parties hereto and all subsequent owners of the Lands, except that should the City obtain ownership of any part of the Lands the City shall not be bound by this Contribution Agreement as an owner or in the capacity as Kaneff.
- 6.10 Nothing in this Contribution Agreement shall constitute or be construed to create a partnership or joint venture between the Parties.
- 6.11 This Agreement contains the entire agreement between the Parties hereto with respect to the subject matter hereof, and the Parties acknowledge and agree that there is no representation, warranty, collateral agreement or condition affecting this Contribution Agreement except as expressed in it.
- 6.12 All obligations and duties which by their nature extend beyond the expiration or termination of this Contribution Agreement shall survive and remain in effect beyond any such expiration or termination, including without limitation the indemnities and releases stated herein.
- 6.13 This Contribution Agreement shall not commit the City, City Council, the City's Commissioner of Planning and Building, the City's Commissioner of Transportation and Works or other City staff to recommending or granting approvals for any proposed development on the Lands. The Contribution Agreement shall not fetter in any way the discretion or authority of City Council, the City's Commissioner of Planning and Building, the City's Commissioner of Transportation and Works or other City staff in regard to any


further applications with respect to Lands, including applications for site plan approval, building permits, subdivision or condominium approval.

- 6.14 The Schedules attached hereto form part of this Contribution Agreement and have the same force and effect as if the information on them were contained in the body of this Contribution Agreement.
- 6.15 This Agreement shall be effective commencing on the date that City Council passes the by-law authorizing execution of this Contribution Agreement by the City's Commissioner of Transportation and Works.

IN WITNESS WHEREOF the Parties have duly executed this Contribution Agreement.

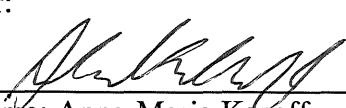
THE CORPORATION OF THE CITY OF MISSISSAUGA

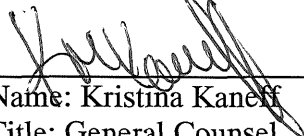
per: 
Name: **Geoff Wright**
Title: Commissioner, Transportation & Works


Name: **Diana Rusnov**
Title: City Clerk

Authorized by By-law No. 0149 - 2017

KANEFF HOMES COMPASS CREEK INC.

per: 
Name: Anna-Maria Kaneff
Title: Vice President


Name: Kristina Kaneff
Title: General Counsel

I/We have authority to bind the Corporation.

APPROVED AS TO FORM City Solicitor MISSISSAUGA			
MJT			
Legal Counsel			
FILE:			
Date	2018	01	02

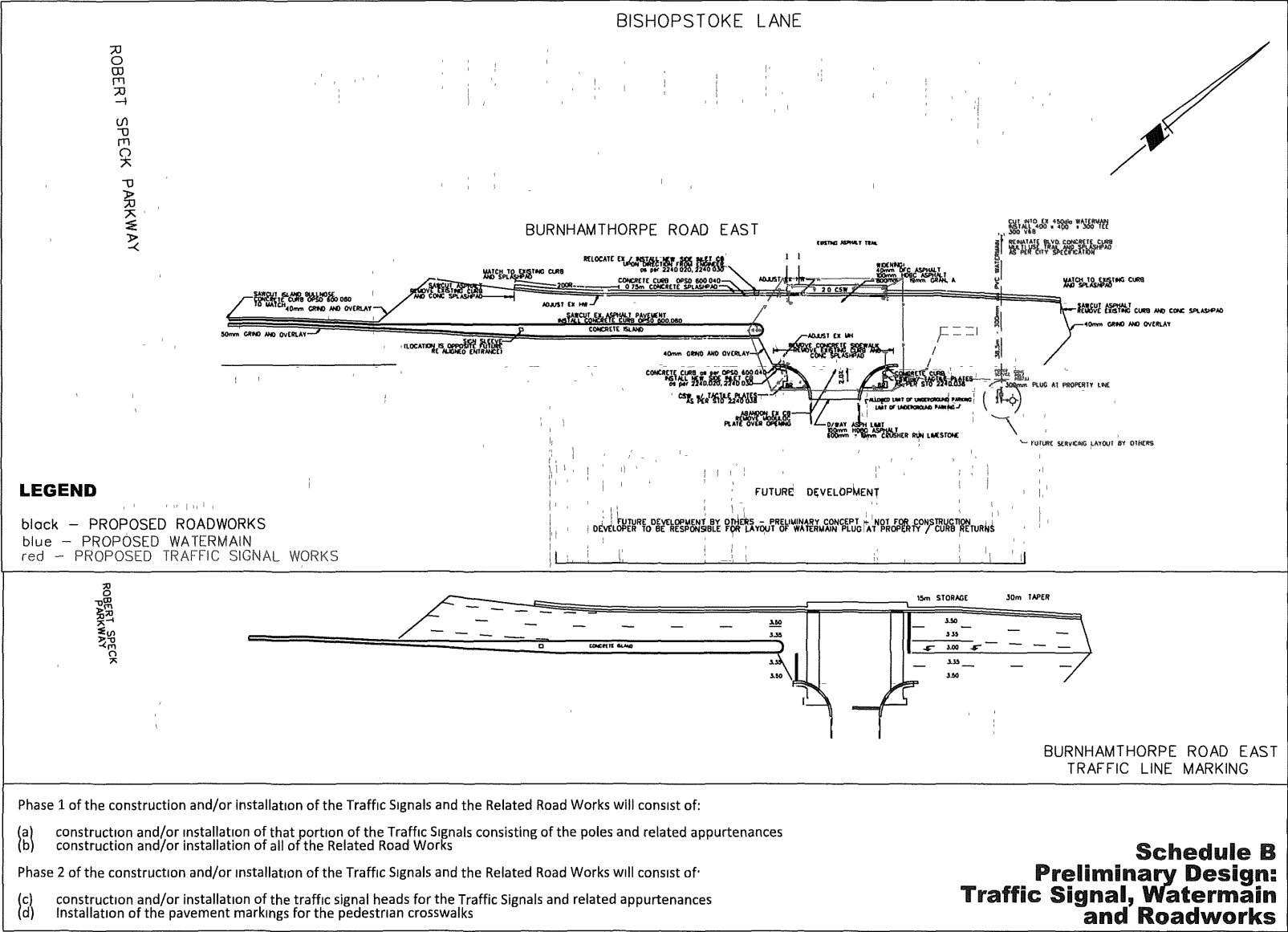
Schedule “A”
Legal Description of the Lands

PIN: 13164-0087 (LT)

PT BLK D & BX R.P. 957 & PT LT 14, CON 1 NDS (TOR. TWP.) DES PTS 14, 15, 16 & 17,
43R-23935

Schedule “B”
Preliminary Design for Traffic Signals Location, Related Road Works & Watermain
Connection

See Attached



Motion to Amend General Committee Recommendation GC-0398-2017

September 13, 2017

WHEREAS at the Council Meeting of July 5, 2017 Council adopted General Committee Recommendation GC-0398-2017 that a by-law be enacted to authorize the Commissioner of Transportation and Works and the City Clerk to execute a Section 45(9.1) agreement and any ancillary documents, between Kaneff Homes Compass Creek Inc. and The Corporation of the City of Mississauga, that secures from Kaneff Homes Compass Creek Inc., an obligation to fund all costs associated with the design and installation of a new intersection, including traffic signals, at 202-204 Burnhamthorpe Road East, in a form acceptable to the City Solicitor;

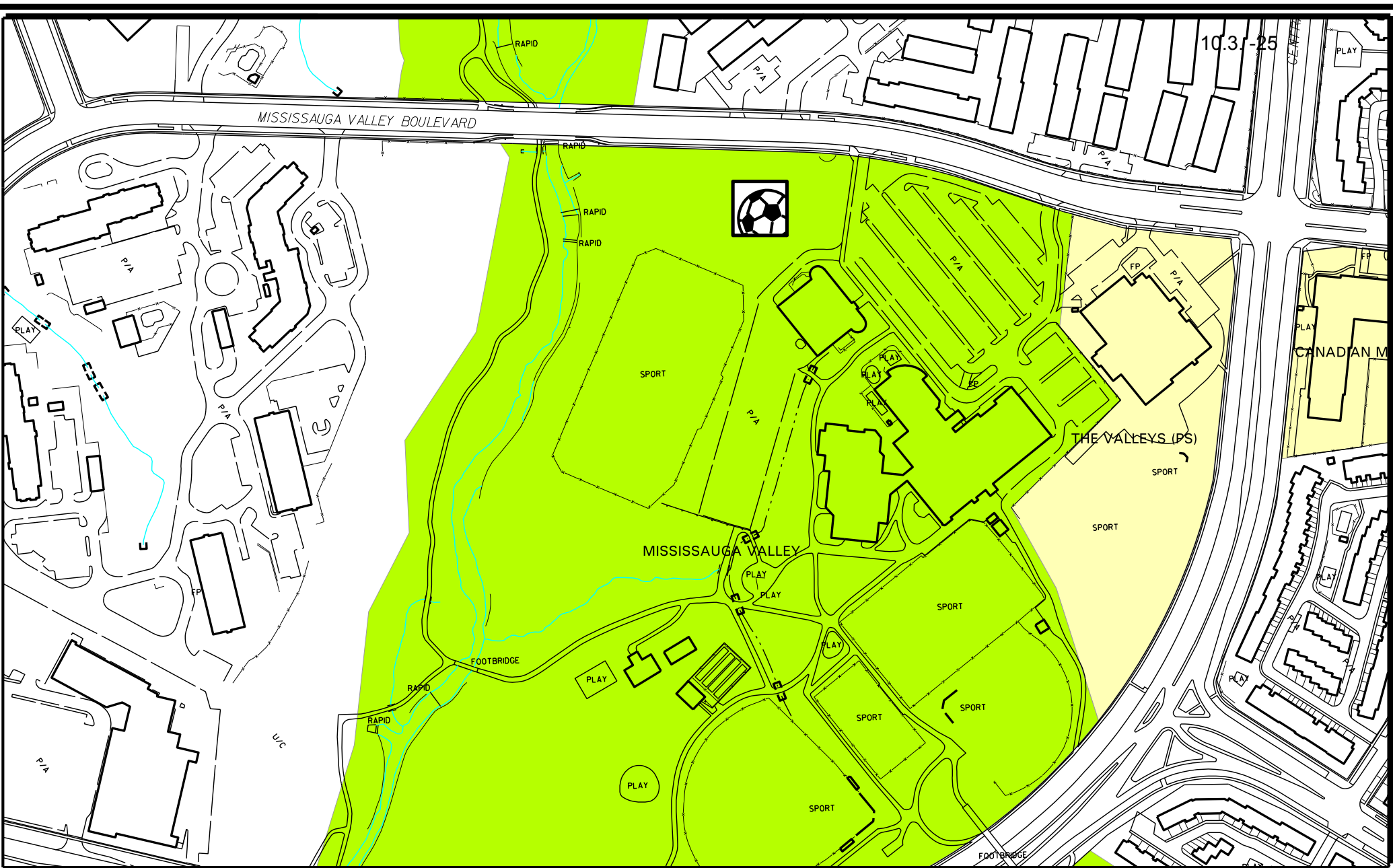
AND WHEREAS Legal Services has recommended that the agreement between Kaneff Homes Compass Creek Inc., and The Corporation of the City of Mississauga be renamed a Contribution Agreement in the place of a Section 45(9.1) agreement;

AND WHEREAS Kaneff Homes are contributing to the cost of intersection improvements including traffic signals for 202-204 Burnhamthorpe Road East to a maximum payment of \$500,000;

AND WHEREAS the City wishes to set aside \$200,000 of these funds for other community benefits within Ward 4;

NOW THEREFORE BE IT RESOLVED that:

General Committee Recommendation GC-0398-2017 be amended to authorize as follows: That a by-law be enacted to authorize the Commissioner of Transportation and Works and the City Clerk to execute a Contribution Agreement and any ancillary documents, between Kaneff homes Compass Creek Inc. and The Corporation of the City of Mississauga, for cost recovery related to the design and installation of intersection improvements including traffic signals, at 202-204 Burnhamthorpe Road East, and other community benefits, in a form acceptable to the City Solicitor.



Boxed Soccer Location in Mississauga Valley (P-096)



Proposed Box Soccer Location



Park



School

Appendix 3 - Boxed Soccer Location in Mississauga Valley (P-096)

FILE NUMBER:

P-096

SCALE:



MISSISSAUGA

APPENDIX 3

Produced by T&W, Geomatics