

SCHEDULE "A"

THIS AGREEMENT made in duplicate this day of , 2020

B E T W E E N:

YORK DEVELOPMENTS (LONDON) INC.
hereinafter called "York"

-and-

THE CORPORATION OF THE CITY OF LONDON
hereinafter called the "City"

WHEREAS subsection 10(1) of the *Municipal Act, 2001*, as amended, authorizes the City to provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001*, as amended, provides that the City may pass by-laws respecting matters that are for the economic, social and environmental well-being of the municipality;

AND WHEREAS the City has established a park known as White Oaks Park located municipally at 560 Bradley Avenue in the City of London (hereinafter called "White Oaks Park") for the social and environmental well-being of the municipality;

AND WHEREAS York has proposed to the City that an outdoor pavilion be established for the purpose of staging events for the community and the City (hereinafter called the "Pavilion");

AND WHEREAS the City considers it desirable for the public and in the public interest that the Pavilion be established and maintained in White Oaks Park;

AND WHEREAS York desires to donate materials and services for the purpose of establishing the Pavilion;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual promises, covenants and agreements hereinafter, the parties agree as follows:

1. The parties agree that the Pavilion shall be located in White Oaks Park, and the location being more particularly described in Appendix "1" attached hereto.
2. The parties agree that the final layout and design of the Pavilion shall be approved by the City of London in writing.
3. The parties agree that this agreement does not confer any interest to any person in the property of the City including but not limited to White Oaks Park, the Pavilion and all associated improvements and fixtures. The parties further agree that the Pavilion is available to the community for use.
4. York agrees that the Pavilion shall be constructed and installed at the sole risk and expense of York, including but not limited to:
 - a) design and construction of the new Pavilion structure;
 - b) construction of all new hardscape surfaces beneath and around the Pavilion, blending into the existing hard surface plaza;
 - c) restoration of site within the Work Area (dashed line on Appendix 1) that has been disturbed by construction, or damaged for access to the site;
 - d) all site works to change the orientation of the existing ball diamond, in accordance with City Standard Detail Baseball Diamond Detail SPO 11.1 and associated topsoil & seeding specifications. Re-orientation of the ball diamond (in order to accommodate the Pavilion) also includes but is not limited to

- removal and re-install existing fencing, benches, gravel infield, grading and turf restoration;
- e) extension of existing electrical power source from existing box to service the Pavilion to the City's satisfaction (see Appendix "1" for location);
- f) acting as project manager for site construction and ensuring all applicable Health and Safety requirements are met as per Ontario H&S Act, and;
- g) obtaining all necessary permits and approvals, including but not limited to a Building Permit for the Pavilion structure.

5. York agrees that it shall complete the installation of the Pavilion by no later than June 5th, 2021 (the 'outside date'). York is not entitled to make any modifications to the Pavilion by way of alterations or enhancements unless it first obtains written approval to do so from the Managing Director of Parks and Recreation or their designate.

6. The City agrees that it shall install signage, at the City's own expense with design mutually agreed upon by the City and York on the site that recognizes the contributions of York and their partners.

7. York agrees that it shall indemnify and keep the City indemnified against all actions, suits, claims, liens including any liens under the *Construction Act*, R.S.O. 1990, c. C.30, as amended, and demands which may be brought against or made upon the City and from all loss, costs, damages, charges, liens or expenses which may be incurred, sustained or paid by the City in consequence of the installation and maintenance of the Pavilion as permitted by this Agreement or otherwise by reason of this exercise by the City of the permission hereby granted. York grants to the City full power and authority to settle any such actions, suits, claims and demands on such reasonable terms as the City may deem advisable and hereby covenants and agrees with the City to pay the City on demand all monies paid by the City in pursuance of such settlement and also such sum as shall represent the reasonable costs of the City or its solicitor in defending or settling any such actions, suits, claims or demands and this Agreement shall not be alleged as a defence by York in any action by any person for actual damage suffered by reason of the permission hereby granted to maintain the encroachment hereby permitted as aforesaid over the road allowance. The City agrees to give to York written notice of any such actions, suits, claims, liens and demands promptly upon receipt thereof.

8. In the event, from time to time, that any lien including a claim for lien by a lien claimant and any certificate of action, all within the meaning of the *Construction Act*, R.S.O. 1990, c. C.30, as amended, are given to the Clerk and preserved or perfected in respect of any works or services in connection with the Pavilion, constructed and installed by or on behalf of York, York after having been given notice by any person or of becoming aware of the existence of any such preserved or perfected lien, within the time provided for, and following the procedures set out and prescribed in the *Construction Act*, shall forthwith discharge (or have vacated) any preserved or perfected claim for lien made in respect of any works or services in connection with the Pavilion, constructed and installed by or on behalf of York.

9. York shall take out and maintain with an insurer licensed to carry on business in Ontario, a commercial third party liability insurance acceptable to the City providing insurance coverage in an amount of not less than TWO MILLION DOLLARS (\$2,000,000.00) for any act or omission on the part of York, its employees, guests, invitees and agents arising in any way. Such policy shall include the City as an additional insured thereunder. Further, York shall take out and maintain with an insurer licensed to carry on business on Ontario, Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than \$ 2,000,000 per occurrence for Third Party Liability, in respect of the use or operation of vehicles owned, operated or leased by the Contractor. York agrees not to commence work until satisfactory evidence of insurance has been filed with the City's Manager of Risk Management, a completed Certificate of Insurance form 0788. This insurance will not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the effective date of cancellation or expiry. The City reserves the right to request such higher limits of insurance or other types of policies appropriate to the work as the City may reasonably require.

APPENDIX "1"

Location of Pavilion and Defined Work Area

