



COMMITTEE OF THE WHOLE

For meeting to be held on:
August 27, 2013

Submitted by:
Sally Bennett, Director of
Social Services

For:
Action

Subject:

CHILD CARE FEE SUBSIDY AGREEMENT WITH DORCHESTER CO-OPERATIVE PLAYSCHOOL

BACKGROUND

Child care fee subsidy is a program delivered by the Municipality to Middlesex County residents who qualify after an income test has been administered. Funding for this subsidy is cost shared 80% by the Province and 20% by the municipality, and is provided to child care centres that have an agreement with the County. I have been approached by the President of the Dorchester Co-operative Playschool for a fee subsidy agreement.

ANALYSIS

This non profit co-operative playschool has been operating in Dorchester since March of 1992. The addition of this site to our fee subsidy centres will expand the choices for our residents with preschool aged children in an under represented area of the County. The centre has submitted all required documentation to support this request, including a copy of their licence, insurance and current rates.

RECOMMENDATION

That the fee subsidy agreement with Dorchester Co-operative Playschool Inc., be approved and that the necessary by-law be presented to County Council authorizing the Warden and the County Clerk to sign the agreement.

Attachment



FEE SUBSIDY SERVICE AGREEMENT

This Contract made in duplicate the 27thrd day of August, 2013

B E T W E E N:

The Corporation of the County of Middlesex
(Hereinafter referred to as "the Municipality")
OF THE FIRST PART

- And -

Dorchester Co-operative Nursery School Inc.
(Hereinafter referred to as "the Service Provider")
OF THE SECOND PART

Operating as

WHEREAS The Ministry of Community and Social Services (the "Ministry") administered fee subsidy funding with certain Service Providers prior to January 1, 2000;

AND WHEREAS The Corporation of the City of London has agreed to contract with the Municipality in its capacity as a designated delivery agent pursuant to the *Day Nurseries Act*, R.S.O. 1990 c. D. 2, as amended, and Regulations there under, and having thereby been transferred the responsibility of administering fee subsidies to the Municipality, the Municipality has authority to enter into an agreement with the Service Provider for the provision of child care services as set out in the attached Service Description;

AND WHEREAS prior to January 1, 2000, the Service Provider qualified for fee subsidy funding pursuant to the *Day Nurseries Act* has agreed to provide child care services described in the attached Service Description;

THEREFORE THE PARTIES agree as follows:

Definitions

1. in this Agreement,
 - a) "Director" means the Director of Social Services for the Corporation of the County of Middlesex.
 - b) "Municipality" means The Corporation of the County of Middlesex.
 - c) "Service Provider" means the party of the Second Part.
 - d) "Service Agreement" means this Agreement and the attached Schedules which embody the entire Agreement between the parties.
 - e) "Fiscal Year" means the calendar year beginning January 1st and ending December 31st.

General Conditions

2. The Service Provider agrees to provide services in accordance with the attached Service Description Schedule(s) and Service Data Schedule and in accordance with the policies, guidelines and requirements of the Municipality.
 - a) The Municipality may designate a maximum number of children for whom it will pay the service provider, and may from time to time designate a different maximum number according to the needs of the Municipality.
 - b) The Municipality will give the service provider thirty (30) days written notice before reducing the maximum number of children for whom it will pay the cost of the day care.
 - c) The service provider will assist the Municipality in determining whether a parent is a person in need by providing all relevant information within its knowledge or control.

Term

3. This Agreement will be in force from August 27th, 2013, until it is superseded or replaced by a subsequent Agreement or until it is terminated in its entirety by either party by giving sixty (60) days' written notice.

Licensing Provisions

4. It is a condition of this agreement that the service provider be licensed under the Day Nurseries Act and produces the license or any renewal of it to the Municipality upon request.

Income Testing and Parent Fees

5. a) Whenever an application is made to the Service Provider for day nursery services and it appears that the applicant may be a person in need within the meaning of the Regulations under the Act, the Service Provider shall refer such applicant to the Director and said Director shall determine the annual net income as determined by the Federal Notice of Assessment of such applicant in accordance with the Regulations under the Act.
- b) The fees payable by a parent who is a person in need shall be determined in accordance with the Day Nursery Regulations and Guidelines and the County of Middlesex Child Care Policy by the Director of Social Services or his designate. The Service Provider is responsible for the collection of fees payable by a parent, and the Service Providers fee subsidies from the Municipality will be adjusted by the Director by the applicable parent fee.

Fee Subsidy Schedule

6. a) The Municipality will pay to the Service Provider, in respect of each child, subject to the said Act and Regulations made there under, a per diem rate not exceeding the per diem rate established from time to time by the County Council Policy, approved by the City of London and the Director of the Child Care Branch of the Ontario Ministry of Community and Social Services as set out in the Fee Subsidy Schedule (refer to Schedule B attached). An exception to the aforesaid per diem rate would be for a parent who is deemed to be eligible for subsidy of full market rate as determined by the Child Care Fee Subsidy Guidelines. The Municipality reserves the right to determine the amounts, times and manner of such payments.
- b) The parties agree that the Fee Subsidy Schedule will be approved on or before the start of the applicable fiscal year while this Agreement is in force. In the event the Fee Subsidy Schedule is not approved by that time, payments will continue to be made in accordance with the approved Fee Subsidy Schedule for the fiscal year immediately preceding until such time as the new Fee Subsidy Schedule is approved or this Agreement is terminated.
- c) A new agreement shall not be required to affect an amendment of rates only.

Payment

7. a) The Service Provider will submit monthly accounts no later than the 5th day in each month showing the calculation of costs in detail as required by the Municipality.
- b) Subject to c), d) and e) hereof, the Municipality agrees to pay to the service provider in respect of each child approved by the Director who resides with and is dependent for support and maintenance upon a parent who is a person in need as defined by the Regulations and Guidelines established under the Day Nurseries Act, and in accordance with the criteria outlined by the Municipality, the cost of providing day nursery service to that child, less the parent fees assessed with respect to that child.
- c) The Municipality may at its option withhold payment of any amount that is not eligible for subsidy by the Province of Ontario under the Day Nurseries Act.
- d) It is agreed and understood that the Municipality may withhold payments if the Service Provider is in breach of its obligations under this Agreement.
- e) The Service Provider agrees that any errors or omissions with respect to payment made under this Agreement must be reconciled within thirty (30) days of receipt of the payment by the Service Provider.

8. In the event the Service Provider spend monies advanced by the Municipality for the approved services or does not achieve its target levels or, the Municipality may, in its sole discretion, require the Service Provider to refund such amounts as may be determined by the Municipality

Access and Consultation

9. a) The Service Provider will permit Municipal staff or its agents to enter at reasonable times any premises used by the Service Provider in connection with the provision of services pursuant to this Agreement and under its control in order to observe and evaluate the services and inspect all records relating to the services provided pursuant to this Agreement.
- b) The Service Provider agrees that the staff providing services pursuant to this Agreement will, upon reasonable request, be available for consultation with the Municipality.

Service Reports

10. a) The Service Provider will maintain service records respecting each site where service is being provided and prepare and submit at such intervals as determined by the Municipality, reports respecting the services being provided pursuant to this Agreement, acceptable to Municipal staff which shall include service data such as statistics on target achievements and such other information as the Municipality requires.
 - b) The Service Provider will also prepare and submit to the Municipality, annually, or at any time upon reasonable request, fee schedules, budget documentation and/or a comprehensive report acceptable to Municipal staff respecting the services being provided.
 - c) The Service Provider will maintain financial and attendance records as required by the Municipality and in accordance with the Day Nurseries Act and will supply to the Municipality any information from these records that it may request.
11. In the event the Service Provider ceases operation, it is agreed that the Service Provider will not dispose of any records related to the services provided for under this Agreement without the prior consent of the Municipality, which may be given subject to such conditions as the Municipality may impose.

Financial Records and Reports

12. a) The Service Provider will maintain financial records and books of account respecting services provided pursuant to this Agreement for each site where service is being provided and will allow Municipal staff or such other persons appointed by the Municipality to inspect and audit such books and records at all reasonable times both during the term of this Agreement and subsequent to its expiration or termination.
 - b) The Service Provider will comply with Generally Accepted Accounting Principles (GAAP) in the treatment of revenues and expenditures.
 - c) The Service Provider will retain all records and books of account referred to in a) hereof for a period of seven (7) years.
13. The Service Provider will prepare and submit to the Municipality for each quarter or at any other time upon reasonable request, a financial report containing such information as the Municipality may require, in a form acceptable to the Municipality.
14. a) The Service Provider will, unless the Municipality indicates otherwise, submit to the Municipality an audited financial statement with respect to the services provided pursuant to this Agreement within three (3) months of the Service Provider's financial year end.
 - b) The Service Provider will, unless the Municipality indicates otherwise, submit in a form acceptable to the Municipality its annual reconciliation report with respect to the services provided pursuant to this Agreement by March 31st each year.

Confidentiality

15. a) The Service Provider, its directors, officers, employees, agents and volunteers will hold confidential and not disclose or release other than to the Municipality or its delegate at any time during or following the term of this Agreement, except where required by law or statute, any information or document that identifies any individual in receipt of services without first obtaining the written consent of the individual or the individual's parent or guardian.
- b) The Service Provider acknowledges that any information collected by the Municipality pursuant to this Agreement is subject to the Municipal *Freedom of Information and Protection of Privacy Act*.

Conflict of Interest

16. a) The Service Provider, its directors, officers, employees, agents, consultants, advisors and volunteers will not engage in any activity or provide any services to the Municipality where such activity or the provision of such services would create an actual or perceived conflict of interest pursuant to this Agreement as may be determined by the Municipality.
- b) The Service Provider, its directors, officers, employees, agents, consultants, advisors and volunteers will disclose to the Municipality without delay any circumstances or actual or potential situation that may reasonably be interpreted as either a conflict of interest or a potential conflict of interest or perceived conflict of interest.
- c) A breach of this Clause shall entitle the Municipality to terminate this Agreement and to avail itself of such additional remedies as may be available in this Agreement, in law or in equity.

Indemnification

17. (a) The Service Provider will, both during and following the term of this Agreement, indemnify and save harmless the Municipality, its officers, council members, partners, agents and employees, as well as the City of London (as the Consolidated Municipal Service Manager) and the Province of Ontario from all costs, losses, damages, judgements, claims, demand, suits, actions, complaints or other proceedings in any manner based upon, occasioned by or attributable to anything done or omitted to be done by the Service Provider, its directors, officers, employees, agents or volunteers in connection with the services provided, purported to be provided or required to be provided by the Service Provider pursuant to this Agreement.

Insurance

18. a) During the term of this Agreement, the Service Provider will obtain and maintain in full force and effect, general liability insurance issued by an insurance company authorized by law to carry on business in the Province of Ontario. The policy will:
 - i) have inclusive limits of not less than Five Million Dollars (\$5,000,000) for injury, loss or damage resulting from any one occurrence.
 - ii) Contain a cross liability clause endorsement of standard wording, and
 - iii) Name the Corporation of the County of Middlesex and the Corporation of the City of London as the additional insured with respect to any claim arising out of the Service Provider's obligations under this Agreement or the provision of services subsidized by the Municipality to this Agreement.
- b) At the time of execution of this Agreement, the Service Provider shall deposit with the Municipality proof of insurance in a form satisfactory to the Director.
- c) The Municipality shall be given thirty (30) days written notice of alteration or cancellation of any liability policies.

Termination

19. a) This Agreement may be terminated in whole or in part by either party giving sixty (60) days written notice to the other party.
- b) If the agreement is terminated in part with respect to the provision of a specific service as outlined in the Service Agreement, all obligations with respect to the provision of all other services continue in full force and effect.

- c) Notwithstanding Clauses 19 a) and b), the Director may in his sole and absolute discretion and for any or no reason whatsoever, terminate this Agreement without prior notice to the Service Provider, and such termination shall take effect upon the Service Provider being verbally advised of the Director's decision to terminate this Agreement.
- d) It is a condition of this Agreement and every agreement entered into in pursuance the performance of this Agreement that no right under the Human Rights Code or other applicable Human Rights Policy will be infringed. Breach of this condition is sufficient grounds for termination of this contract.
- e) If, in the opinion of the Municipality, the Service Provider is in breach of any of the terms of this Agreement or of any of the provisions of the Day Nurseries Act or Regulations made there under, and written notice of the breach has been given to the Service Provider, the Municipality may, in addition to whatever other remedies are available to it in law or equity, terminate the Agreement immediately, if the operator fails to remedy the breach within fifteen (15) days after delivery of written notice.

Observance of the Law

- 20. a) The Service Provider agrees to at all times comply with all applicable federal, provincial, municipal laws, rules, statues, regulations, and so forth in respect of fulfilling the terms and conditions of this Agreement.
- b) At the time of execution of this Agreement, the Service Provider must submit a copy of its current licence to operate the service and thereafter, must file annually with the Director, a copy of the license renewal.
- c) Without limiting the generality of Clause 20 a) hereof, the service provider shall ensure that all health, fire and building regulations and recommendations are adhered to at all times and shall permit the Medical Officer of Health, a Fire Chief, a Chief Building Inspector, the Director of the Child Care Branch of the Ontario Ministry of Community and Social Services, the Director, and/or any of their authorized representatives to enter the premises at any reasonable time to inspect the premises.
- d) The service provider shall furnish day nursery services in accordance with all applicable laws and regulations to each child approved by the Director of the Municipality or his delegate.

Amendments

- 21. This Agreement may be amended by substitution of the Schedules, duly signed by the parties to this Agreement.

Assignment

- 22. The Service Provider will not assign this Agreement, or any part thereof, without the prior written approval of the Municipality, which approval may be withheld by the Municipality in its sole discretion or given subject to such conditions as the Municipality may impose.

Schedules

- 23. All the terms of the Schedules are incorporated into this Agreement except where they are inconsistent with this Agreement. This Agreement and the attached Schedules embody the entire Agreement and supersede any other understanding or agreement, collateral, oral or otherwise, existing between the parties at the date of execution and relating to the subject matter of this Agreement.

Notice

- 24. a) Any written notice given pursuant to this Agreement must be addressed to:

In the case of notice to the Municipality:

Director of Social Services
 County of Middlesex
 Department of Social Services
 County Building, 399 Ridout Street
 London, ON N6A 2P1

And

In the case of notice to the Service Provider:

Dorchester Co-operative Playschool Inc.
P.O. Box 48
Dorchester, ON N0L 1G2

- b) If hand delivered, the notice is effective on the date of delivery; if faxed, the notice is effective on the date and time the fax is sent; if sent by electronic mail, the notice is effective on the date sent; and if mailed, the notice is deemed to be effective on the fifth business day following the day of mailing.
- c) Any notice given to the Service Provider by or on behalf of the Municipality shall be sufficiently given if signed by the Director or by a person authorized by or acting under the direction or control of the Director.

Status of Agency

- 25. a) The Service Provider acknowledges and agrees this Agreement is in no way deemed or construed to be an Agreement of employment. Specifically, the parties agree that it is not intended by this Agreement that the Service Provider or its employees, are not to be employees of the Municipality for the purpose of the *Income Tax Act*, R.S.C. 1985 c.1 (1st Supp); the *Canada Pension Plan Act*, R.S.C. 1985, c. C-8, the *Employment Insurance Act*, S.O. 1996, c.23; the *Workplace Safety and Insurance Act*, 1997 S.O. 1997, c.26 (Schedule "A"); the *Occupational Health and Safety Act*, R.S.O. 1990, c. 0.1; the *Pay Equity Act*, R.S.O. 1990, c. P.7; or the *Health Insurance Act*, R.S.O. 1990, c. H.6; all as amended from time to time, and any legislation in substitution therefore
- b) Notwithstanding the above paragraph, it is the sole and exclusive responsibility of the Service Provider to make its own determination as to its status under the Acts referred to above and, in particular, to comply with the provisions of any of the aforesaid Acts and to make any payments required there under.
- c) The Service Provider shall indemnify and hold harmless the Municipality and the Corporation of the City of London from any and all amounts required to be paid by the Service Provider, or claimed to be due and owing and for any and all legal costs, including fees and disbursements and for any administrative costs, incurred by the Municipality, relating to any failure of the Service Provider to comply with all provisions of the Acts described above.

Further Assurances

- 26. The Service Provider and the Municipality agree that each of them shall and will, upon the reasonable request of the other, provide or execute such further documents or assurances necessary to give effect to this Agreement.

Waiver

- 27. Except as specifically set out in this Agreement, no waiver of any clause, term or condition of this Agreement by any employee, agent or contract of the Municipality shall constitute an enforceable or continuing waiver by the Municipality, nor shall the Service Provider be entitled to rely thereon.

Rights and Remedies

- 28. Nothing contained in this Agreement shall be construed as restricting or prevent either party from relying on any right or remedy otherwise available to it at law in the event of any breach of this Agreement.

Binding Effect

- 29. This Agreement shall enure to the benefit of, and be binding upon, the parties and their respective successors, administrators and assigns.

IN WITNESS WHEREOF the parties have attested to by the hands of their duly authorized signing officers and the individual parties have hereunto set their hands and seals:

SIGNED, SEALED AND DELIVERED at)
the City of London, in the County of)
Middlesex)
this 27th day of August. 2013)

)
) THE CORPORATION OF THE COUNTY OF MIDDLESEX

) Per: _____
) Warden

) Per: _____
) Clerk

In the presence of:)

) PARTY OF THE SECOND PART

Witness: _____)

) Per: _____

Witness: _____)

) Per: _____

SCHEDULE "A"

The Service Provider operates appropriate licensed child care services under the following names and locations:

1. Dorchester Co-op Nursery School
2066 Dorchester Road,
Dorchester, ON N0L 1G0

SCHEDULE "B"

FEE SUBSIDY SCHEDULE

Effective October 1, 2006

For each child in respect to which it approves of the provision of day nursery services by the Service Provider, the Municipality agrees to pay the Service Provider the monthly cost of the child care space as determined in accordance with the child care Fee Subsidy Guidelines.

In calculating the cost of child care services the cost per day shall be deemed to be up to a maximum, reduced by the applicable daily parent fee:

Preschool	(Participating parents)	\$7.00 per diem
Preschool	(Non-participating parents)	\$9.38 per diem

Fees for partial days are calculated at 50% for half days without lunch and 70% for half days with lunch.