

Bill No. 649
2017

By-law No. A.-_____

A by-law to approve the Ontario Transfer Payment Agreement between The Corporation of the City of London and Her Majesty the Queen in right of Ontario, as represented by the Minister of Education; and to authorize the Mayor and the City Clerk to execute the Agreement.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 10 of the *Municipal Act, 2001* provides that (1) a municipality may provide any service or thing that the municipality considers necessary or desirable for the public, and (2) that a municipality may pass by-laws respecting: 5. Economic, social and environmental well-being of the municipality, including respecting climate change; 6. Health, safety and well-being of persons; 7. Services and things the municipality is authorized to provide under subsection (1); 8. Protection of persons and property;

AND WHEREAS section 22 of the *Municipal Act, 2001* provides that a municipality may provide a system that it would otherwise not have power to provide within the municipality, if it does so in accordance with an agreement with the Province of Ontario under a program established and administered by the Province of Ontario;

AND WHEREAS sections 9 and 10 and 23.1 through 23.5 of the *Municipal Act, 2001* authorize a municipality to delegate its powers and duties under this or any other Act to a person or body;

AND WHEREAS under section 2 of Ontario Regulation 138/15 under the *Child Care and Early Years Act, 2014* ("CCEYA") The Corporation of the City of London is designated as the Service System Manager for the geographic service area of "City of London and County of Middlesex";

AND WHEREAS under subsection 54(1) of the CCEYA, the Minister of Education may: (a) establish, administer, operate and fund child care and early years programs and services;

AND WHEREAS under subsection 54(3) of the CCEYA, the Minister of Education may enter into agreements with service system managers for the purposes set out in subsection 54(1);

AND WHEREAS under section 56 of the CCEYA, a service system manager shall: (a) develop and administer local policies respecting the operation of child care and early years programs and services; ... (c) coordinate the planning and operating of child care and early years programs and services with the planning and provision of other human services delivered by the service system manager; (d) assess the economic viability of the child care and early years programs and services in the service area and, if necessary, make or facilitate changes to help make such programs and services economically viable; (e) perform such other duties as may be prescribed by the regulations;

AND WHEREAS under section 57 of the CCEYA, a service system manager may: (a) establish, administer, operate and fund child care and early years programs and services; ... (c) fund and provide financial assistance for other programs and services prescribed by the regulations that provide or support temporary care for or supervision of children; (d) provide assistance to persons who operate child care and early years programs and services to improve their capabilities in relation to matters such as governance, financial management and the planning and delivery of programs and services; (e) evaluate and assess the impact of public funding; and (f) exercise such other powers as may be prescribed by the regulations;

AND WHEREAS subsection 57(2) of the *Child Care and Early Years Act, 2014* provides that The Corporation of the City of London may use its powers under section 9 of the *Municipal Act, 2001* for the purposes of the *Child Care and Early Years Act, 2014*;

AND WHEREAS subsection 57(4) of the *Child Care and Early Years Act, 2014* provides that s. 19 of the *Municipal Act, 2001* does not limit a service system manager that is a municipality from exercising its powers under the Act or s. 9 of the *Municipal Act, 2001* throughout its service area;

AND WHEREAS subsection 57(6) of the *Child Care and Early Years Act, 2014* provides that section 106 of the *Municipal Act, 2001* does not apply with respect to assistance for child care and early years programs and services;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Ontario Transfer Payment Agreement to be entered into between The Corporation of the City of London and Her Majesty the Queen in Right of Ontario, as represented by the Minister of Education, for funding under the Ontario Early Years Child and Family Centres (OEYCFCs) program, substantially in the form attached as Schedule "A" to this by-law, is approved.
2. The Mayor and the City Clerk are authorized to execute the agreement approved under section 1 above.
3. The Managing Director, Neighbourhood, Children, and Fire Services, or their written designate, are jointly and severally delegated the authority to approve such further other documents (including project budgets, cash flows and other financial reporting) that:
 - (i) are consistent with the requirements contained in the Agreement approved in section 1 above;
 - (ii) do not require additional funding or are provided for in the City's current budget; and
 - (iii) do not increase the indebtedness or liabilities of The Corporation of the City of London.
4. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on November 14, 2017.

Matt Brown
Mayor

Catharine Saunders
City Clerk

SCHEDULE "A"

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the 1st day of January, 2018.

B E T W E E N :

**Her Majesty the Queen in right of Ontario as
represented by the Minister of Education**

(the "**Province**")

- and -

**The Corporation of the City of London (the
"Recipient")**

CONSIDERATION

In consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 The Agreement, together with:

Schedule "A" - General Terms and Conditions
Schedule "B" - Program Specific Information and Additional Provisions
Schedule "C" - Program Description
Schedule "D" - Budget
Schedule "E" - Payment Plan
Schedule "F" - Reports, and

any amending agreement entered into as provided for in section 4.1,

constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

1.2 This Agreement terminates any Transfer Payment Agreement between the Province and the Recipient effective January 1, 2017 respecting the provision of Child and Family Programs.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule "A", the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule "A"; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule "A", the Additional Provisions will prevail over the provisions in Schedule "A" to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 The Agreement may only be amended by a written agreement duly executed by the

Parties.

5.0 ACKNOWLEDGEMENT

5.1 The Recipient acknowledges that:

- (a) by receiving Funds it may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *Broader Public Sector Accountability Act, 2010* (Ontario), the *Public Sector Salary Disclosure Act, 1996* (Ontario), and the *Auditor General Act* (Ontario);
- (b) Her Majesty the Queen in right of Ontario has issued expenses, perquisites, and procurement directives and guidelines pursuant to the *Broader Public Sector Accountability Act, 2010* (Ontario);
- (c) the Funds are:
 - (i) to assist the Recipient to carry out the Program and not to provide goods or services to the Province;
 - (ii) funding for the purposes of the *Public Sector Salary Disclosure Act, 1996* (Ontario);
- (d) the Province is not responsible for carrying out the Program; and
- (e) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Program or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Education**

Date

Name: Julia Danos
Title: Director, Early Years and Child Care Programs and
Service Integration Branch

Authorizing Signing Officer

The Corporation of the City of London

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE “A” GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) “include”, “includes” and “including” denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

“**Additional Provisions**” means the terms and conditions set out in Schedule “B”.

“**Agreement**” means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

“**Budget**” means the budget attached to the Agreement as Schedule “D”.

“**Business Day**” means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year’s Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

“**Effective Date**” means the date set out at the top of the Agreement.

“**Event of Default**” has the meaning ascribed to it in section A13.1.

“**Funding Year**” means:

- (a) in the case of the first Funding Year, the period commencing on the Effective Date and ending on the following March 31; and
- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31.

“**Funds**” means the money the Province provides to the Recipient pursuant to the Agreement.

“**Indemnified Parties**” means Her Majesty the Queen in right of Ontario, Her ministers, agents, appointees, and employees.

“**Maximum Funds**” means the maximum Funds set out in Schedule “B”.

“**Notice**” means any communication given or required to be given pursuant to the Agreement.

“**Notice Period**” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A13.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A13.4.

“**Parties**” means the Province and the Recipient.

“**Party**” means either the Province or the Recipient.

“**Program**” means the undertaking described in Schedule “C”.

“**Reports**” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 **General.** The Recipient represents, warrants, and covenants that:

- (a) it is, and will continue to be, a validly existing legal entity with full power to fulfill its obligations under the Agreement;
- (b) it has, and will continue to have, the experience and expertise necessary to carry out the Program;
- (c) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Program, the Funds, or both; and
- (d) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) a code of conduct and ethical responsibilities for all persons at all levels of the Recipient’s organization;
- (b) procedures to enable the Recipient’s ongoing effective functioning;
- (c) decision-making mechanisms for the Recipient;
- (d) procedures to enable the Recipient to manage Funds prudently and effectively;
- (e) procedures to enable the Recipient to complete the Program successfully;
- (f) procedures to enable the Recipient to identify risks to the completion of the Program and strategies to address the identified risks, all in a timely manner;
- (g) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (h) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will continue unless terminated earlier pursuant to Article A11.0, Article A12.0, or Article A13.0 or until terminated by a new agreement between the Province and the Recipient.

A4.0 FUNDS AND CARRYING OUT THE PROGRAM

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Program;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account designated by the Recipient provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (b) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Program;
- (c) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.1; or
- (d) if, pursuant to the *Financial Administration Act* (Ontario), the Province does not receive the necessary appropriation from the Ontario Legislature for payment under the Agreement, the Province is not obligated to make any such payment, and, as a consequence, the Province may:
 - (i) reduce the amount of Funds and, in consultation with the Recipient, change the Program; or
 - (ii) terminate the Agreement pursuant to section A12.1.

A4.3 **Use of Funds and Carry Out the Program.** The Recipient will do all of the following:

- (a) carry out the Program in accordance with the Agreement;
- (b) use the Funds only for the purpose of carrying out the Program;
- (c) spend the Funds only in accordance with the Budget and the *Ontario Early Years Child and Family Centres (2018): Business Practices and Funding Guidelines for Service System Managers*;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient’s immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may:

- (a) deduct an amount equal to the interest from any further instalments of Funds; or
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Program, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A4.7 **Schedules.** In each Funding Year subsequent to the first Funding Year, new Schedules B, C, D, E, and F (the “**Schedules**”) to the Agreement shall be established according to the following process:

- (a) the Province shall provide the Recipient with draft Annual Schedules intended to replace Schedules B, C, D, E and F to the Agreement; and
- (b) upon receipt by the Province of approval of the draft Annual Schedules by the Recipient, the draft Annual Schedules shall be deemed to be Schedules B, C, D, E and F in relation to the Funding Year to which they apply.

A4.8 **When Annual Schedules Not Ready Prior to Beginning of Funding Years.** In the event the Annual Schedules are not finalized under A4.7(b) prior to the beginning of the new Funding Year:

- (a) the Province may continue to provide Funds to the Recipient in accordance with the Payment Plan set out in Schedule “E” for the previous Funding Year;
- (b) if the Province decides to continue to provide Funds under A4.8(a), Maximum Funds for the previous Funding Year shall be increased by the additional amount of Funds flowed pursuant to A4.8(a);
- (c) if the Province decides to provide Funds under A4.8(a) the Recipient shall continue to carry out the Program described in Schedule “C”, use the Funds in accordance with the Budget set out in Schedule “D” and provide Reports in accordance with Schedule “F” applicable to the previous Funding Year;

until such time as the Annual Schedules are finalized or this Agreement is terminated.

A5.0 RECIPIENT’S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will:

- (a) do so through a process that promotes the best value for money; and
- (b) comply with the *Broader Public Sector Accountability Act, 2010* (Ontario), including any procurement directive issued thereunder, to the extent applicable.

A5.2 **Disposal.** The Recipient will not, without the Province’s prior written consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule “B” at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **No Conflict of Interest.** The Recipient will carry out the Program and use the Funds without an actual, potential, or perceived conflict of interest.

A6.2 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient’s decisions, has outside commitments, relationships, or financial interests that could, or could be seen to, interfere with the Recipient’s objective, unbiased, and impartial judgment relating to the Program, the use of the Funds, or both.

A6.3 **Disclosure to Province.** The Recipient will:

- (a) disclose to the Province, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest; and
- (b) comply with any terms and conditions that the Province may prescribe as a result of the disclosure.

A7.0 **REPORTS, ACCOUNTING, AND REVIEW**

A7.1 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1, all Reports in accordance with the timelines and content requirements as provided for in Schedule "F", or in a form as specified by the Province from time to time;
- (b) submit to the Province at the address referred to in section A17.1, any other reports as may be requested by the Province in accordance with the timelines and content requirements specified by the Province;
- (c) ensure that all Reports and other reports are completed to the satisfaction of the Province; and
- (d) ensure that all Reports and other reports are signed on behalf of the Recipient by an authorized signing officer.

A7.2 **Record Maintenance.** The Recipient will keep and maintain:

- (a) all financial records (including invoices) relating to the Funds or otherwise to the Program in a manner consistent with generally accepted accounting principles; and
- (b) all non-financial documents and records relating to the Funds or otherwise to the Program.

A7.3 **Inspection.** The Province, any authorized representative, or any independent auditor identified by the Province may, at the Province's expense, upon twenty- four hours' Notice to the Recipient and during normal business hours, enter upon the Recipient's premises to review the progress of the Program and the Recipient's allocation and expenditure of the Funds and, for these purposes, the Province, any authorized representative, or any independent auditor identified by the Province may take one or more of the following actions:

- (a) inspect and copy the records and documents referred to in section A7.2;
- (b) remove any copies made pursuant to section A7.3(a) from the Recipient's premises; and
- (c) conduct an audit or investigation of the Recipient in respect of the expenditure of the Funds, the Program, or both.

A7.4 **Disclosure.** To assist in respect of the rights provided for in section A7.3, the Recipient will disclose any information requested by the Province, any authorized representatives, or any independent auditor identified by the Province, and will do so in the form requested by the Province, any authorized representative, or any independent auditor identified by the Province, as the case may be.

A7.5 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.6 **Auditor General.** The Province's rights under Article A7.0 are in addition to any rights provided to the Auditor General pursuant to section 9.1 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless otherwise directed by the Province and the Government of Canada, the Recipient will:

- (a) acknowledge the support of the Province for the Program; and
- (b) ensure that the acknowledgement referred to in section A8.1(a) is in a form and manner as directed by the Province.

A8.2 Publication. The Recipient will indicate, in any of its Program-related publications, whether written, oral, or visual, that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages, and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits, or other proceedings, by whomever made, sustained, incurred, brought, or prosecuted, in any way arising out of or in connection with the Program or otherwise in connection with the Agreement, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a Program similar to the program would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence. The insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) upon the request of the Province, provide to the Province a copy of any insurance policy.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving at least 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Program, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 TERMINATION WHERE NO APPROPRIATION

A12.1 Termination Where No Appropriation. If, as provided for in section A4.2(d), the Province does not receive the necessary appropriation from the Ontario Legislature for any payment the Province is to make pursuant to the Agreement, the Province may terminate the Agreement immediately without liability, penalty, or costs by giving Notice to the Recipient.

A12.2 Consequences of Termination Where No Appropriation. If the Province terminates the Agreement pursuant to section A12.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Program and permit the Recipient to offset such costs against the amount owing pursuant to section A12.2(b).

A12.3 No Additional Funds. If, pursuant to section A12.2(c), the Province determines that the costs to wind down the Program exceed the Funds remaining in the possession or under the control of the Recipient, the Province will not provide additional Funds to the Recipient.

A13.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A13.1 Events of Default. Each of the following events will constitute an Event of Default:

- (a) in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
 - (i) carry out the Program;
 - (ii) use or spend Funds; or
 - (iii) provide, in accordance with section A7.1, Reports or such other reports as may have been requested pursuant to section A7.1(b);
- (b) the Recipient's operations, its financial condition, or its organizational structure, changes such that it no longer meets one or more of the eligibility requirements of the program under which the Province provides the Funds;

- (c) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or a creditor makes an application for an order adjudging the Recipient bankrupt, or applies for the appointment of a receiver; or
- (d) the Recipient ceases to operate.

A13.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Program;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient; and
- (i) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A13.3 Opportunity to Remedy. If, in accordance with section A13.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and
- (b) the Notice Period.

A13.4 Recipient not Remediating. If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A13.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A13.2(a), (c), (d), (e), (f), (g), (h), and (i).

A13.5 When Termination Effective. Termination under Article will take effect as provided for in the Notice.

A14.0 FUNDS AT THE END OF A FUNDING YEAR

A14.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A13.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A15.0 FUNDS UPON TERMINATION BY NEW AGREEMENT

A15.1 In the event this Agreement is terminated by a new agreement between the Province and the Recipient, the Recipient will, return to the Province any Funds remaining in its possession or under its control if requested by the Province.

A16.0 DEBT DUE AND PAYMENT

A16.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay an amount equal to the excess Funds to the Province.

A16.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such Funds or other amount will be deemed to be a debt due and owing to the Province by the Recipient, and the Recipient will pay the amount to the Province immediately, unless the Province directs otherwise.

A16.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing by the Recipient at the then current interest rate charged by the Province of Ontario on accounts receivable.

A16.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A16.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A17.0 NOTICE

A17.1 **Notice in Writing and Addressed.** Notice will be in writing and will be delivered by email, postage-prepaid mail, personal delivery, or fax, and will be addressed to the Province and the Recipient respectively as provided for Schedule "B", or as either Party later designates to the other by Notice.

A17.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of email, personal delivery, or fax, one Business Day after the Notice is delivered.

A17.3 **Postal Disruption.** Despite section A17.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, or fax.

A18.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A18.1 **Consent.** When the Province provides its consent pursuant to the Agreement, it may impose any terms and conditions on such consent and the Recipient will comply with such terms and conditions.

A19.0 SEVERABILITY OF PROVISIONS

A19.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision will be deemed to be severed.

A20.0 WAIVER

A20.1 **Waiver Request.** Either Party may, in accordance with the Notice provision set out in Article A17.0, ask the other Party to waive an obligation under the Agreement.

A20.2 **Waiver Applies.** Any waiver a Party grants in response to a request made pursuant to section A20.1 will:

- (a) be valid only if the Party granting the waiver provides it in writing; and
- (b) apply only to the specific obligation referred to in the waiver.

A21.0 INDEPENDENT PARTIES

A21.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

A22.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A22.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A22.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on the Parties' respective heirs, executors, administrators, successors, and permitted assigns.

A23.0 GOVERNING LAW

A23.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A24.0 FURTHER ASSURANCES

A24.1 **Agreement into Effect.** The Recipient will provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains, and will otherwise do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A25.0 JOINT AND SEVERAL LIABILITY

A25.1 **Joint and Several Liability.** Where the Recipient is comprised of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A26.0 RIGHTS AND REMEDIES CUMULATIVE

A26.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A27.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A27.1 **Other Agreements.** If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A28.0 SURVIVAL

A28.1 **Survival.** The following Articles and sections, and all applicable cross- referenced sections and schedules, will continue in full force and effect for a period of seven years from the date of termination of the Agreement under Articles A11.0, A12.0, or A13.0: Article 1.0, Article 3.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.2(d), A4.5, section A5.2, section A7.1 (to the extent that the Recipient has not provided the Reports or other reports as may have been requested to the satisfaction of the Province), sections A7.2, A7.3, A7.4, A7.5, A7.6, Article A8.0, Article A9.0, section A11.2, sections A12.2, A12.3, sections A13.1, A13.2(d), (e), (f), (g) and (h), Article A15.0, Article A16.0, Article A17.0, Article A19.0, section A22.2, Article A23.0, Article A25.0, Article A26.0, Article A27.0 and Article A28.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE "B"
PROGRAM SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	2018	2019
	\$ 3,808,829	\$ 3,808,829
Amount for the purposes of section A5.2 (Disposal) of Schedule "A"	\$ 1,500,000	
Insurance	\$ 2,000,000	
Contact information for the purposes of Notice to the Province	Ministry of Education 24th Floor, Mowat Block, 900 Bay Street, Toronto, Ontario M7A 1L2	
	Attention:	Julia Danos
		Director, Early Years Child Care Programs and Service Integration Branch
	Fax:	416-314-7836
	Email:	Julia.Danos@ontario.ca
Contact information for the purposes of Notice to the Recipient	The Corporation of the City of London 355 Wellington Street, Ste 248, PO Box 5045 London, ON N6A 4L6	
	Attention:	Lynne Livingstone
	Fax:	519-661-5930
	Email:	llivings@london.ca

Additional Provisions:

The Recipient will provide services in accordance with the policies, guidelines and requirements of the Province, as communicated to it.

SCHEDULE “C” PROGRAM DESCRIPTION

Legislation

The Recipients expenses for the following services are funded under the *Child Care and Early Years Act, 2014*.

This schedule outlines the services that the Province is funding, with public funds, on behalf of the citizens of Ontario including specific expectations and conditions that apply. Each service description addresses “who” will receive the service, “what” services are to be provided and “how” the service objectives will be addressed.

Service Objectives

As set out in the *Ontario Early Years Child and Family Centres (2018): Business Practices and Funding Guidelines for Service System Managers*, the following services are delivered so that:

Ontario Early Years Child and Family Centres

- Parents and caregivers have access to high quality services that support them in their role as children’s first teachers, enhance their well-being, and enrich their knowledge about early learning and development.
- Children have access to play and inquiry-based learning opportunities and experience positive developmental health and well-being.
- Parents and caregivers have opportunities to strengthen their relationships with their children.
- Francophone children and families have access to French language programs and gain enhanced knowledge about language and identity acquisition.
- Indigenous children and families have access to culturally responsive programming.
- Parents and caregivers are provided with timely, relevant and up to date information about community and specialized services.
- Local service providers collaborate and integrate services to meet community needs in an efficient and accessible way.

Child Care and Early Years Service System Planning

- Service system managers develop and implement child care and early years programs and services that are:
 - responsive to the needs of children aged 0-12 and their families; and
 - reflective of relevant, current research and evidence
- Informed by children and families, service providers, school boards, and Indigenous and Francophone partners who are engaged in local planning.
- Increasingly coordinated and integrated with early years and broader community supports (e.g. schools and specialized community services).
- Increasing access to address unmet demand for child care and early years services.

Provincial Expectations

- The Recipient plans and manages the delivery of child and family centres and child care and early years service system planning within Provincial legislation, regulations, standards, policies and guidelines (e.g. The *Child Care and Early Years Act, 2014*; the *Ontario Early Years Child and Family Centres (2018): Business Practices and Funding Guidelines for Service System Managers*).
- The Recipient is required to develop and implement a local child care and early years service plan with community partners to ensure an integrated approach to community services for children.
- The Recipient will allocate available resources in a way that achieves the agreed to outcomes and, where the Recipient enters into agreements with service providers, respects fair treatment to all service providers.
- The Recipient shall provide to the Province, upon request, such information in addition of the service data elements as required for the Province to fulfill its policy and standard setting responsibilities.

French Language Services

The Recipient shall, in areas designated under the *French Language Services Act*, R.S.O. 1990, c. F.32, (“French Language Services Act”), have the capacity to provide child and family program services in French to Francophone children, parents and caregivers.

The Recipient shall take appropriate measures, including providing signs, notices and other information on services and initiating communication with the public, to make known to members of the public that the service is available in French at the choice any member of the public.

Additionally, the Recipient shall:

- Have capacity of providing services in French to Francophone organizations with agreements for child and family programs.
- Plan for a range of coordinated early years and care services that respond to the unique needs of Francophone children, their families, and the communities where they live.

Where the Recipient does not have full capacity to provide services in French, the Recipient shall annually submit to the Province a plan to build capacity with the above objectives

MANDATORY CORE SERVICES AND CUSTOMIZED COMMUNITY CONNECTIONS

Expense Name: Operating: Mandatory Core Services and Customized Community Connections

Legislation: *Child Care and Early Years Act, 2014*

People Served:

- Parents, legal guardians, and caregivers (i.e. adults that care for young children including family members, licensed and unlicensed child care providers, nannies) and children from ages 0 to 6.

Specific Service Provided:

Funding provided through the Recipient to Ontario Early Years Child and Family Centre providers to support the cost of providing mandatory core services related to:

- Engaging parents and caregivers;
- Supporting early learning and development; and
- Making connections for families.

Funding for the provision of Ontario Early Years Child and Family Centre programs and services must be in accordance with *the Ontario Early Years Child and Family Centres (2018): Business Practices and Funding Guidelines for Service System Managers*.

Mandatory core services must be available in physical program sites where children, parents and caregivers can participate in programs and services in-person. Centre- based cores services must be offered year round and at least five days per week, including either Saturday or Sunday. In addition to mandatory centres, programs and services may be offered through mobile services, virtual services and resources, and local phone lines.

If core service expectations are being met on a regular and consistent basis, child and family centres may develop specific strategies and or targeted approaches in response to a community need or interest.

Program Goals:

- Supporting the delivery of Ontario Early Years Child and Family Centre programs and services
- Stabilizing and transforming existing Ontario Early Years Child and Family Centre programs so that they are more responsive to local need;
- Increasing access to Ontario Early Years Child and Family Centre programs and services.

PROFESSIONAL LEARNING AND CAPACITY BUILDING

Expense Name: Professional Learning and Capacity Building

Legislation: *Child Care and Early Years Act, 2014*

People Served:

- Parents, legal guardians, and caregivers (i.e. adults that care for young children including family members, licensed and unlicensed child care providers, nannies) and children from ages 0 to 6 benefit indirectly from this funding.

Specific Service Provided:

In accordance with the *Ontario Early Years Child and Family Centres (2018): Business Practices and Funding Guidelines for Service System Managers*, this funding supports professional learning and development opportunities that builds the capacity of child and family centre staff and non-profit volunteer board members to provide high-quality, inclusive Ontario Early Years Child and Family Centre programs and services.

Program Goals:

To provide professional learning opportunities related to:

- Implementing and practising pedagogical approaches described in *How Does Learning Happen?*;
- Reflective practice and collaborative inquiry;
- Providing high quality child and family centre programs and services (e.g. healthy child development, pre and post natal care, adult and parent education, diversity and inclusion, community development and outreach, and cultural competency);
- Ensuring core services support inclusion of children with special needs and their families, for example, through the support of an SNR consultant; and
- Ontario Early Years Child and Family Centre business administration.

ADMINISTRATION

Expense Name: Administration

Legislation: *Child Care and Early Years Act, 2014*

People Served:

- N/A

Specific Service Provided:

In accordance with the *Ontario Early Years Child and Family Centres (2018): Business Practices and Funding Guidelines for Service System Managers*, this funding supports administrative costs for the management of child and family centre programs and services.

Program Goals:

Funding is provided to support the Recipient's cost of administering child and family centre programs and services.

CHILD CARE AND EARLY YEARS PLANNING AND DATA ANALYSIS SERVICES

Expense Name: Child Care and Early Years Planning and Data Analysis Services

Legislation: *Child Care and Early Years Act, 2014*

People Served:

- Parents, legal guardians, and caregivers (i.e. adults that care for young children including family members, licensed and unlicensed child care providers, nannies) and children from ages 0 to 6 benefit indirectly from this funding.

Specific Service Provided:

In accordance with the:

- *Child Care and Early Years Act, 2014* and its regulations
- *Ontario Child Care and Early Years Service System Plan Resource*
- *Ontario Early Years Child and Family Centres (2018): Business Practices and Funding Guidelines for Service System Managers*

Funding for child care and early years planning and data analysis services may support:

- Discussions to regularly collect insights from community partners, parents, caregivers and children to inform planning of programs and services.
- Planning groups to raise awareness, share information and research, and coordinate in planning.
- Collection and analysis of local historical data on early years and where appropriate, incorporate these data into early years planning.
- Development of local policies for child care and early years service system plans.
- Building local capacity, awareness and understanding of early years research.
- Actively support knowledge mobilization to support system enhancements.

Program Goals:

A minimum expenditure for service system planning and data analysis is required to:

- Ensure child care and early years services are responsive to the needs of children aged 0-12 and their families;
- Ensure that local early years programs and services are reflective of relevant, current research and evidence;
- Ensure children and families, service providers, school boards, and Indigenous and Francophone partners are engaged in local planning;
- Facilitate smooth transitions and seamless care for children and families;
- Enhance integration between early years services as well as with broader community supports (e.g. schools and specialized community services); and
- Increase access to address unmet demand for child care and early years services.

SCHEDULE "D" - BUDGET

The Corporation of the City of London

Allocation Summary	Funding Year	
	2018*	2019
<i>Ontario Early Years Child Care and Family Centres</i>	\$ 3,808,829	\$ 3,808,829

Expenditure Benchmarks	Funding Year	
	2018	2019
Administration – Maximum Allowable Expenditure <i>(10% of total allocation maximum allowable expenditure)</i>	\$ 380,883	\$ 380,883
Child Care and Early Years Planning and Data Analysis Services – Minimum Expenditure Requirement <i>(minimum based on 2017 allocations for early child development planning and data analysis services)</i>	\$ 195,129	\$ 195,129

**2018 allocation must be fully spent within this calendar year, and cannot be carried forward to 2019.*

SCHEDULE "E" PAYMENT PLAN

The Budget Schedule (Schedule "D") identifies the Province's allocation to the Recipient for 2018 and 2019. The allocation is divided into 12 payments for each year. Monthly cash flow percentages are based on the annual allocation:

Payment Month	Amount of Annual Allocation
January	8.3%
February	8.3%
March	8.4%
April	8.3%
May	8.3%
June	8.4%
July	8.3%
August	8.3%
September	8.4%
October	8.3%
November	8.3%
December	8.4%

The Province automatically adjusts entitlement and the resulting cash flow to reflect forecasted or actual under-spending that is reported in financial submissions.

SCHEDULE “F” REPORTS

The Recipient must provide the following submissions to the Province as per the following cycle:

Submission Type	Due Date
Service Agreement	October 31, 2017*
Interim Report (2018)	August 31, 2018
Financial Statements (2018)	May 31, 2019
Interim Report (2019)	August 30, 2019
Financial Statements (2019)	May 31, 2020

*With an automatic extension granted if the Council has not approved the budget by this date.

Policy for Late Filing

- Please note that late filing of service agreements may result in delays in - payments being issued.
- Where a Recipient files an **Interim Report**, or **Financial Statements** after the filing deadline, the Province will take the following action until the submission has been received:
 - If the submission is not received by the Province within 30 days after the filing deadline, the Province will inform the Recipient that the submission is overdue.
 - After 31 days, cash flow will be reduced by 50 per cent of their monthly payment. The Province will work with the CMSM or DSSAB to discuss any challenges with providing the information and to offer support.
- Upon submission in accordance provincial requirements, the Province will revert back to the normal monthly payment process and will include in the monthly payment the total amount withheld up to that point.
- The Province reserves the right to suspend funding (in year or in the subsequent year(s)). Should the Recipient have any outstanding submissions the Province may exercise its discretion by not providing funding in the subsequent calendar year.