

2013 DEARNESS HOME ADMINISTRATOR AND MANAGEMENT CONSULTING AGREEMENT

BETWEEN:

The Corporation of the City of London (the "City");

-and-

EXTENDICARE (CANADA) INC. ("Extendicare")

WHEREAS:

- A. The City operates 243 long-term care beds under the *Long-Term Care Homes Act, 2007* at "The Dr. John Dearness Home for Elder Citizens" a.k.a. Dearness Home, located at 710 Southdale Road East, London, Ontario (the "Home") which is established and maintained by the City;
- B. The City operates an Adult Day Program under the *Home Care and Community Services Act* at the Home;
- C. Extendicare owns and/or manages numerous long-term care facilities in Canada, including facilities in Ontario, and employs personnel experienced in all aspects of long-term care home development and management, including the management of municipally owned homes and not for profit homes;
- D. The City and Extendicare have agreed to enter into this management consulting services agreement ("Agreement") providing for Extendicare's services in connection with providing an Administrator, administrative support and services to the Home for the term of this Agreement to assist the City in its continuing maintenance and operation of the Home.

WITNESSETH that in consideration of the premises and mutual covenants contained herein, the City and Extendicare hereby agree with each other as follows:

**ARTICLE I
INTERPRETATION**

1.1 Defined Terms. In this Agreement, unless the context otherwise requires, the following words and phrases will have the meanings set forth below:

"Administrator" means the Extendicare employee who will act as the Administrator as that term is defined in the LTCHA, and whose role it is to provide leadership and direction to the Home's management team during the term of this Agreement;

"Applicable Law" means all laws, by-laws, rules, regulations, orders, ordinances, or other instruments having the force of law of any:

- a) federal, provincial, regional, municipal, local or other government, governmental or public department, court, tribunal, arbitral body, commission, board, official, minister, bureau or agency;

- b) commission, board or authority of any of the foregoing; or
- c) quasi-governmental or private-body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing and all policies in relation to the operation of a long-term care home or adult day program promulgated by and required to be complied with by MOH or LHIN;

"City Representative" means the City's authorized representative, who shall have authority on behalf of the City to transmit instructions to and receive information from Extencicare and the Administrator;

"Fee" means the fee payable to Extencicare as referenced in Article VII of this Agreement;

"LHIN" means the South West Local Health Integration Network;

"Service Accountability Agreement" means a service accountability agreement between the City and the LHIN;

"LTCHA" means the *Long-Term Care Homes Act, 2007* and any regulations thereunder;

"Ministry Director" means the person appointed as the Director under the LTCHA;

"MOH" means the Ontario Ministry of Health and Long-Term Care or a successor Ministry with responsibility for long-term care.

ARTICLE II ENGAGEMENT OF EXTENCICARE

2.1 Extencicare's Services

2.1

(1) Administrator

During the term of this Agreement, Extencicare shall provide a qualified Administrator for the Home. Extencicare shall ensure the Administrator:

- (a) provides leadership at the Home,
- (b) provides direction to the Home's management team,
- (c) directs the daily operations of the Home,
- (d) is in charge of the Home and is responsible for its management,

in the name and for the account of the City, and as more specifically set out in Appendix A.

(2) Management Consulting Services

In addition to providing the services of the Administrator, Extencicare shall provide its management support to the City as set out in Appendix B. Extencicare shall make available Extencicare's Regional Director for meetings with the City at agreed upon meeting dates and times.

(3) In addition to the foregoing, Extencicare shall:

- (a) use its best efforts to ensure the comfort and safety of all of the Home's residents;
- (b) supervise and provide direction to the staff of the Home in a prudent manner consistent with the MOH programs and industry standards for long-term care homes and, in any event, in compliance with this Agreement, Applicable Law, the Long-Term Care Service Accountability Agreement, the LTCHA, City policies, collective agreements, and all other MOH or LHIN requirements;
- (c) conditional on the City offering an Adult Day Program service, supervise and provide direction to the staff of the Adult Day Program in a prudent manner consistent with the MOH programs and industry standards for Adult Day Programs and, in any event, in compliance with this Agreement, City policies, collective agreements, Applicable Law, the Multi-Sector Accountability Agreement, the *Home Care and Community Services Act, 1994*, and all other MOH or LHIN requirements;
- (d) discuss and seek approval from the City Representative on issues that will have a significant impact on the Home, its employees, residents, or community;
- (e) use all reasonable efforts to assist the City to achieve and maintain legislative compliance;
- (f) use all reasonable efforts to assist the City to reduce the City's net operating expenditures to operate the Home;

- (g) faithfully perform its duties and responsibilities in this Agreement in compliance, to the extent applicable, with Applicable Law, the Long-Term Care Service Accountability Agreement, the Multi-Sector Service Accountability Agreement, the LTCHA, City policies, collective agreements, and all other MOH or LHIN requirements; and
- (h) provide the services set out in this Agreement under the general direction and control of the City Manager or his or her designate.

- (4) Where this Agreement provides for the management of the long-term care portion of the Home by Extendicare, the Ministry Director must approve this Agreement before Extendicare manages the long-term care portion of the Home.

ARTICLE III TERM OF AGREEMENT

3.1 Term

The term of this Agreement shall commence on the 1st day of November, 2013 and end on the 31st day of October, 2016 unless renewed by the parties under section 3.2, or unless earlier terminated under this Agreement.

3.2 Renewal

Prior to expiry of the initial term, upon written approval of the City and an authorized representative of Extendicare, this Agreement may be renewed for a further term of up to two years ending no later than the 31st day of October, 2018.

ARTICLE IV RIGHTS AND DUTIES OF EXTENDICARE

4.1 Extendicare's Covenants

During the term of this Agreement and in the course of providing support to the Home on behalf of the City, Extendicare shall provide a qualified Administrator, who complies with the requirements of an Administrator under the LTCHA, to be on site weekdays during normal hours of work for a senior position of this nature at the Home to lead activities at the Home, including both long-term care and Adult Day Program. The Administrator shall remain an employee of Extendicare and will not be deemed to be an employee of the City for any purpose. Extendicare shall review processes and procedures and make recommendations for approval to the City Representative for any changes that could impact resident care, client care, or quality outcomes. Extendicare shall also make recommendations on actions to sustain progress.

ARTICLE V DUTIES OF THE CITY

5.1 The City's Covenants

Cooperation with Extendicare

During the term of this Agreement, the City will cooperate with Extendicare in the operation of the Home and the performance of all obligations by Extendicare assumed under and by virtue of this Agreement.

**ARTICLE VI
EXTENDICARE / CITY RELATIONSHIP**

6.1 Extendicare / City Relationship

6.1.1 Extendicare, in compliance with its obligations under this Agreement, with respect to its own employees, shall be solely responsible for all statutory obligations related to the payment of Employment Insurance, CPP benefits, WSIB, OHIP, HST and applicable taxes.

6.1.2 The parties are each independent of the other and this Agreement shall not operate to create a partnership, joint venture, employment arrangement, master servant relationship or any other similar relationship between the City and Extendicare or between the City and any employees, agent or contractor of Extendicare.

6.1.3 **Accessibility for Ontarians with Disabilities Act Training:** Extendicare shall ensure that all of its employees providing services at the Home receive training about the provision of services to persons with disabilities, in compliance with the *Accessibility for Ontarians with Disabilities Act, 2005* and its Regulations.

6.1.4 **City Policies:** Extendicare shall ensure that its employees conduct themselves in a professional manner while on the City's premises and/or workplaces including ensuring that their employees' conduct is in compliance with the City's *Workplace Harassment/Discrimination Prevention Policy and Complaint Procedure, Workplace Violence Prevention Policy, and Code of Conduct*, and any such further policies as the City may provide to Extendicare from time to time. Extendicare acknowledges that copies of these policies have been provided to and/or made available to it.

**ARTICLE VII
FEES**

7.1 Fees

7.1.1 The City shall pay Extendicare a block fee of \$28,500 per month plus applicable taxes for long-term care consulting services, plus an additional block fee of \$14,500 per month plus applicable taxes for the costs of providing a qualified on-site Administrator. Extendicare is expected to provide services for a period of time of at least 160 hours per month, with a minimum of 35 hours per week attributed to the Administrator.

Subject to and conditional on the City offering an Adult Day Program service, the City shall also pay Extendicare a block fee of \$2,000 per month plus applicable taxes for management oversight and support to the Adult Day Program at the Home. The City may, entirely at its own discretion and at any time, amend this fee amount (including increasing, reducing, or eliminating it) in the event there are changes in the provision of Adult Day Program services, including changes in provincial or Local Health Integration Network funding for the Adult Day Program.

In addition, the Provider may be reimbursed at cost for out of pocket expenses that it expends in carrying out this Agreement limited to reasonable travel, meals, telephone, and accommodation expenses up to a maximum of \$2,500 per month, exclusive of applicable taxes.

When required by the City, Extendicare shall provide for approval by the City Representative a Schedule showing services completed or to be completed each month.

Extendicare shall keep time dockets showing all time worked in each month, records, receipts, vouchers and documents as will verify to the satisfaction of the City Representative the time spent performing services in each month, the services performed under this Agreement, and the out of pocket expenses incurred, for which billings have been submitted. Upon the request of the City Representative, Extendicare shall furnish such documentation to the satisfaction of the City Representative to verify the time spent performing services, the services performed, and the out of pocket expenses incurred.

7.1.2 Extendicare shall submit to the City monthly an invoice for each instalment plus applicable taxes for all services completed in the immediately preceding month.

7.1.3 Where applicable, and pursuant to the Long-Term Care Home Service Accountability Agreement and the Multi-Sector Service Accountability Agreement, Extencicare shall permit the LHIN or its authorized representatives to audit Extencicare in respect of this Agreement if the LHIN or its authorized representatives determines that such an audit would be necessary to confirm that the City has complied with the terms of the Service Accountability Agreement.

ARTICLE VIII TERMINATION RIGHTS

8.1 Termination

8.1.1 The City may by one hundred twenty (120) days' written notice to Extencicare suspend or terminate the services or any portion thereof at any stage of the Agreement. On the date of such suspension or termination, Extencicare shall cease to perform the services or incur any disbursements other than those reasonably necessary to cease the services.

8.1.2 Despite section 8.1.1, the City may terminate this Agreement immediately, or suspend or terminate the services or any portion thereof immediately, in the event that:

- (a) the LHIN terminates or reduces funding under the Long-Term Care Service Accountability Agreement, or
- (b) the LHIN terminates or reduces funding under the Multi-Sector Service Accountability Agreement, or
- (c) if so directed by the MOH, or
- (d) at the direction of Municipal Council, or
- (e) Extencicare breaches this Agreement.

The City shall forthwith provide notice of such termination or suspension to Extencicare.

8.1.3 Subject to section 10.5, Extencicare may terminate this Agreement with one hundred twenty (120) days' written notice.

8.1.4 In the event of a termination or suspension notice given by either party in accordance with this Agreement, Extencicare shall be entitled to be paid to the date termination or suspension is effective, to the extent that costs have been reasonably and properly incurred for purposes of performing the services contemplated by this Agreement.

8.1.5 Extencicare shall have no claim for damages, compensation, loss of profit, allowance or otherwise by reason of, or directly or indirectly arising out of a suspension or termination of services or a portion thereof, or a termination notice given by the City, except to the extent that this Agreement expressly provides.

8.1.6 Any suspension or termination under this section shall be without compensation, penalty or liability on the part of the City to Extencicare otherwise than for services provided prior to the suspension or termination date, and shall be without prejudice to any legal or equitable right or remedy of the City.

ARTICLE IX INDEMNIFICATION AND INSURANCE

9.1 Indemnification and Insurance

9.1.1 Indemnification

Extencicare undertakes and agrees to defend and indemnify the City (including the City's officers, Council members, partners, agents and employees) and hold the City (including the City's officers, Council members, partners, agents and employees) harmless, at Extencicare's sole expense, from and against all claims, demands, suits, losses, costs, damages and expenses that the City (including the City's officers, Council members, partners, agents and employees) may sustain or incur by reason of:

- (a) any breach of this Agreement by any of Extencicare, Extencicare's employees, any subcontractor of Extencicare, or persons for whom Extencicare is at law responsible;
- (b) the acts or omissions of Extencicare, Extencicare's employees, subcontractor of Extencicare, or any person for whom Extencicare is at law responsible in performing the services or otherwise carrying on Extencicare's business, including any damage to any and all persons or property, whether deliberate, accidental or through negligence, and all tickets, fines or penalties;
- (c) any claim or finding that any of Extencicare, Extencicare's employees, subcontractor of Extencicare, or persons for whom Extencicare is at law responsible are employees of, or are in any employment relationship with, the City or are entitled to any Employment Benefits of any kind; or,
- (d) any liability on the part of the City, under the *Income Tax Act* (Canada) or any other statute (including, without limitation, any Employment Benefits statute), to make contributions, withhold or remit any monies or make any deductions from payments, or to pay any related interest or penalties, by virtue of any of the following being considered to be an employee of the City, from Extencicare, Extencicare's employees or others for whom Extencicare is at law responsible in connection with the performance of services or otherwise in connection with Extencicare's business.

9.1.2 Insurance

- (1) Extencicare shall obtain and maintain during the term of this Agreement insurance coverage as follows:
 - (a) in the amount of Five Million Dollars (\$5,000,000.00) for general liability and automobile insurance.
 - (b) Comprehensive Crime insurance, Disappearance and Dishonest Blanket Position Policy or equivalent Fidelity Bond in the amount of \$25,000.00 on which the City shall be included as a named Obligee with respect to incidents arising from work performed under this Agreement;
 - (c) Professional Liability Insurance, to an inclusive limit of not less than Five Million Dollars (\$5,000,000.00) per occurrence for each claim of negligence resulting in bodily injury, death or property damage, arising directly or indirectly from the professional services rendered by Extencicare, its officers, agents or employees;
 - (d) Administrators' Errors & Omission Liability Insurance, to an inclusive limit of not less than Five Million Dollars (\$5,000,000.00) per claim, responding to claims of wrongful acts of Extencicare's directors, board members, employees and volunteers in the discharge of their duties on behalf of the City.
- (2) The insurance will not be cancelled or permitted to lapse unless the City is provided with at least thirty (30) days' prior written notice.
- (3) Extencicare shall provide the City with evidence that the insurance is in force prior to commencement of any services.
- (4) The City reserves the right to request such higher limits of insurance or other types of policies appropriate to the Agreement as it may reasonably require.
- (5) Failure by Extencicare to satisfactorily meet these insurance requirements shall be deemed a breach of this Agreement.

ARTICLE X GENERAL

10.1 Notices

Any notice, demand or other communication required or permitted to be given or made hereunder shall be in writing.

In the case of a notice to the City, address it to:

The City of London
Office of the City Clerk
300 Dufferin Avenue
London, ON N6A 4L9

Attention: City Clerk
Fax No.: 519 661-4892

And in the case of a Notice to Extencicare, address it to:

Extencicare (Canada) Inc.
3000 Steeles Avenue East
Suite 700
Markham, ON L3R 9W2

Attention: Paul Tuttle, President
Fax No.: 905 470-5588

10.2 Confidentiality

Extencicare acknowledges that it will have access to personal information (as defined in the *Municipal Freedom of Information and Protection of Privacy Act*) and personal health information (as defined in the *Personal Health Information Protection Act*) concerning the Home's residents and their medical records, as well as employee records (collectively, the "Confidential Information"), and that the disclosure of any Confidential Information contrary to such legislation would be highly detrimental to the parties and in certain cases, illegal.

10.3 Counterparts

This Agreement may be signed in counterparts and each such counterpart shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution of this Agreement may be made by facsimile signature which, for all purposes, shall be deemed to be an original signature.

10.4 WSIB Coverage

Extencicare shall protect its employees who are present at the Home under the *Workplace Safety and Insurance Act*, and Extencicare must provide the City with a Certificate of Insurance with Extencicare's executed copy of this Agreement.

10.5 Transition Period

In the event of termination or expiry of the Agreement, or withdrawal or expiry of the Ministry Director's approval of the Agreement, the City may require Extencicare to continue to provide an Administrator or other management services for a transition period of up to ninety (90) days after the date of termination, as determined by the City, and Extencicare shall so provide an Administrator or other management services. In the event the City requires Extencicare to continue providing an Administrator or other management services for such transition period, the City shall continue to pay to Extencicare the fees at the average per diem rate charged for the previous month for the services of an Administrator or management services.

10.6 No Subcontracting or Assignment

This Agreement shall not be subcontracted or assigned.

10.7 Further Requirements Pursuant to LTCHA

To the extent that Extencicare manages the Home:

- (1) The management of the Home shall not be subcontracted or assigned;
- (2) Any change in who has a controlling interest in Extencicare shall be deemed to be a material amendment to the Agreement that requires the Ministry Director's approval under subsection 110 (6) of the LTCHA;
- (3) Extencicare shall operate the home in accordance with the requirements under the LTCHA;
- (4) Extencicare shall keep the City adequately informed about the operation of the Home, including promptly giving the City and the City Representative any document served on or notice given to the City by being delivered to the Home;
- (5) funding under the LTCHA will be paid to the City, not to Extencicare directly;

(6) the Ministry Director's approval of the Agreement can be withdrawn under the LTCHA at any time without liability;

(7) it is a condition of the City's licence under the LTCHA that the City notify the Ministry Director in writing, no later than 15 days after the occurrence of the event, of the following events:

1. An amendment to the Agreement.
2. The termination or expiry of the Agreement, or any other event that results in Extendicare ceasing to manage the Home.

10.8 Survival

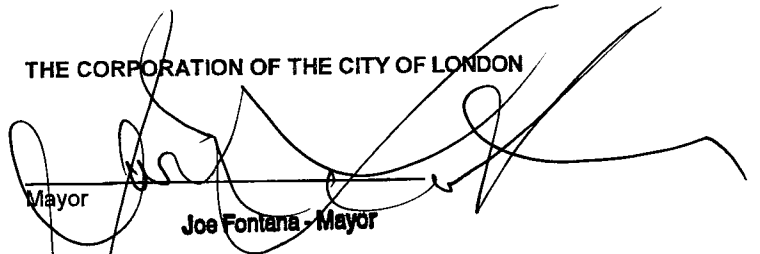
The provisions in this Agreement regarding confidentiality, indemnification, and transition shall survive termination of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed and delivered this Agreement as of the day and year first above written.

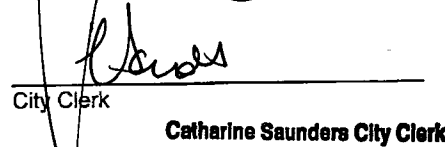
SIGNED, SEALED AND DELIVERED

CITY SOLICITOR'S OFFICE CITY OF LONDON	<i>XPM</i>
DATE: <i>Oct. 31/2013</i>	
APPROVED AS TO FORM ONLY	

THE CORPORATION OF THE CITY OF LONDON



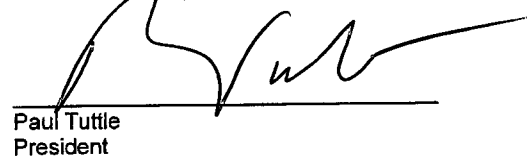
Mayor
Joe Fontana - Mayor



City Clerk
Catharine Saunders City Clerk

I/We have the authority to bind the Corporation.

EXTENDICARE (CANADA) INC.



Paul Tuttle
President

I/We have the authority to bind the Corporation.

Appendix A

Administrator

Extendicare shall provide to the City the services of a qualified Administrator to provide leadership, provide direction to the Home's management team, direct the daily operations of the Home, to be in charge of the Home and be responsible for its management, in the name and for the account of the City.

Extendicare covenants as follows:

- the Administrator shall comply with the requirements of an Administrator under the LTCHA (which as of the date of this Agreement include):
 - shall work regularly in the position of Administrator on site at the Home for at least 35 hours per week;
 - has a post-secondary degree from a program that is a minimum of three years in duration, or a post-secondary diploma in health or social services from a program that is a minimum of two years in duration;
 - has at least three years working experience,
 - in a managerial or supervisory capacity in the health or social services sector, or
 - in another managerial or supervisory capacity, if he or she has already successfully completed the course set out below;
 - has demonstrated leadership and communications skills;
 - has successfully completed or (subject to the LTCHA's regulation) is enrolled in, a program in long-term care home administration or management that is a minimum of 100 hours in duration of instruction time; and
 - is otherwise eligible to act as an Administrator pursuant to the LTCHA.
- the Administrator shall also:
 - perform the duties and responsibilities of the Administrator hereunder in compliance with the LTCHA, the Long-Term Care Service Accountability Agreement, the Multi-Sector Service Accountability Agreement, and all other requirements of the MOH and the LHIN;
 - supervise and provide direction to the management and staff of the Home in a prudent manner consistent with programs and industry standards for long term care homes, and in any event, in compliance with this Agreement, the LTCHA, City policies, collective agreements, and all requirements of the MOH and of the LHIN;
 - use all reasonable efforts to assist the City to move forward in achieving its goals and objectives for the Home, including the goals of legislative compliance, and to reduce the City's net operating expenditures to operate the Home;
 - discuss and seek approval of the City Representative on issues that will have a significant impact on the Home, its employees, residents, or community;
 - use its best efforts to ensure the comfort and safety of all of the residents of the Home;
 - meet at least quarterly as part of an interdisciplinary team, to evaluate the effectiveness of the medication management system in the Home and to recommend any changes necessary to improve the system;
 - meet at least annually to evaluate the effectiveness of the medication management system in the Home and to recommend any changes necessary to improve the system; and
 - act as the contact person under the *Personal Health Information Protection Act* if the Administrator has been so appointed by municipal Council by by-law.

The Administrator shall oversee the Adult Day Program including:

- Management of staff involved in the delivery of the program
- Monitoring the provision of services to participants

- Negotiating with provincial funding partners to ensure sufficient resources to ensure appropriate staffing and service requirements

Before the Administrator first works in the Home, Extencicare shall:

- screen the Administrator including a criminal reference check in accordance with section 215 of Regulation 79/10 and including a vulnerable sector screen to determine the person's suitability to be a staff member in a long-term care home and to protect residents from abuse and neglect; and
- provide the City with a signed declaration with respect to the criminal reference check in accordance with section 215(4) of Regulation 79/10.

Appendix B Management Consulting and Support Services

Summary of Extendicare's Responsibilities (for both the long-term care home and the Adult Day Program):

- Build relationships and focus on team building - be visible to staff, residents and families, build confidence and maintain stability in the day to day operations of the Home. Address issues in a timely manner and communicate desired outcomes and accomplishments.
- Extendicare representatives will meet with City designates a few times per year to monitor progress and discuss issues.
- Review Quality and Risk Management programs to determine consistency and compliance with legislative requirements.
- Review the education and training plan - identify and provide training to meet the needs of the Home and regulatory obligations.
- Attend the Home's committee and council meetings (Family Council and Resident Council) and review protocols to ensure regular meetings are held and communications are open and consistent.
- Attend the City's Committee of Management meetings regularly, as well as Standing Committee and municipal City Council meetings if requested.
- Review implementation requirements of new legislation - ensure in-services are compliant.
- Review staffing models by department and make suggestions on potential efficiencies based on vacancies and scheduling requirements.
- Review manager accountabilities - for consistency with expectations.
- Comment on policies and procedures in place and test for availability, consistency and amend practices as needed.
- Provide advice as requested by the City on Collective Agreement negotiations and labour relations matters.
- Review process for identifying and reporting risk issues - ensure compliance with MOHLTC standards.
- Observe Dietary, Laundry and Housekeeping services and attend meal service regularly, discuss services with staff, residents and families - make recommendations on efficiencies identified.
- Review reporting requirements to the City and assess need for improvements. Complete a quality assessment report on a semi-annual and annual basis for the indicators to be reported on.
- Investigate a plan towards achieving accreditation by an organizational accreditation which entitles a long-term care facility to receive a supplementary allowance from the MOH or LHIN.
- use all reasonable efforts to assist the City to move forward in achieving its goals and objectives for the Home, including the goals of legislative compliance, and to reduce the City's net operating expenditures to operate the Home;
- Advice to management and operation of the following services:
 - Nursing, Programs (Activities), Environmental Services (Laundry, Housekeeping and Maintenance), Dietary Services, including the consulting dietitian, Occupational Health and Safety

Support Services:

- advice to the payroll and finance department to ensure reports meet applicable standards
- advice with respect to procurement of third party goods and services including Pharmacy, Physiotherapy, Physician and Mobility Services consistent with City procurement policies, City standards and contractual requirements with the LHIN
- access to Extendicare's Point Click Care system and Extendicare's Resident Care Library
- advice with respect to management and preparation and retention of health records for the Home in accordance with all Applicable Laws and City policies
- advice with respect to environmental services (housekeeping, sanitation, grounds keeping, maintenance, laundry) to maintain a safe, clean, sanitary and attractive Home;

- advice with respect to occupational health and safety programs
- advice with respect to management of the day to day operations of the community services (e.g. Adult Day Program) operating within the Home
- advice with respect to developing an annual business plan, operating budget and capital plan for the Home, supporting Council-approved budget targets to reduce the City's net operating expenditures to operate the home (through ongoing service reviews). This will include, but will not be limited to identifying any efficiencies and or cost savings for service delivery, being mindful of ensuring effective and appropriate resident care, in compliance with legislative requirements.