

TO:	CHAIR AND MEMBERS COMMITTEE OF THE WHOLE MEETING MEETING ON TUESDAY JUNE 26, 2012
FROM:	TIM DOBBIE INTERIM CITY MANAGER
SUBJECT:	DEARNESS HOME – CONSULTING SERVICES SINGLE SOURCE

RECOMMENDATION

That, on the recommendation of the Interim City Manager, the following actions be taken with respect to the Dearness Home – Consulting Services – Single Source:

- a) the attached proposed by-law (Schedule “A”) **BE INTRODUCED** at the Municipal Council meeting of June 26, 2012 to:
 - i) to approve and confirm the attached Agreement dated June 25, 2012 entered into between The Corporation of the City of London and peopleCare Inc., 28 William Street North, Tavistock Ontario, N0B 2R0 to provide operational consulting services for the Dearness Home at a cost of \$25,000 per month plus HST and disbursements; and
 - ii) to delegate authority to the City Manager (including the Interim City Manager) to:
 - A) renew the Agreement in paragraph (a)(i), above, for a period of up to five months ending no later than December 25th, 2012; and
 - B) provide written notice of the termination of the Agreement in paragraph (a)(i), above, pursuant to the termination provisions of the Agreement;
- b) the Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with the Agreement outlined in (a) above; and
- c) the source of funding for the Agreement outlined in (a), above, estimated at a maximum cost of \$165,000, **BE APPROVED** as a drawdown from the Operating Budget Contingency Reserve.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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None.

BACKGROUND

The Corporation of the City of London is engaged in the operation, maintenance and management of the Dearness Home, a long-term care home under the *Long Term Care Homes Act, 2007*. The Dearness Home is a 243-bed facility.

The Corporation has engaged the services of peopleCare Inc. to provide operational consulting services for the Dearness Home at a cost of \$25,000 per month plus HST and disbursements (maximum of \$2,500 per month) (the “Agreement”).

peopleCare Inc. is one of Ontario's leading owners/managers of Long-Term Care Communities, with properties located in Cambridge, London, Stratford, Tavistock and Delhi. They have been recognized as one of Canada's 50 Most Engaged Companies receiving 'Exemplary Standing' with Accreditation Canada.

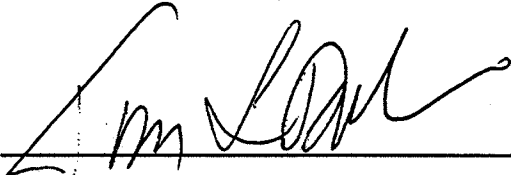

The Agreement provides for completion of an operational review and a report identifying and prioritizing any areas for improvement in policy, procedures or practice. From the report, an action plan will be developed with a time line to implement any changes in policy, procedure or practice. The Corporation will also be provided access to peopleCare's team of professionals with experience in multiple areas of long term care, including: nursing and personal care, policy and legislation, accreditation, information technology, restorative care, Resident Assessment Instrument – Minimum Data Set (RAI MDS), program and support services, and care planning.

Purchasing Process

The Agreement for professional consulting services provided by peopleCare Inc. is a single source contract that meets the requirements of the Procurement of Goods and Services Policy, section 14.4 and Section 15. Given the cost of the Agreement, section 15.1 (b) requires that "City Council has sole authority to approve and award contracts greater than \$100 000."

FINANCIAL IMPACT

As noted above, the estimated maximum cost of the consulting agreement with peopleCare is \$165,000 and can be accommodated through a drawdown from the Operating Budget Contingency Reserve.

SUBMITTED & RECOMMENDED BY:	SOURCE OF FINANCING CONCURRED BY:
	
TIM DOBBIE INTERIM CITY MANAGER	LARRY PALARCHIO DIRECTOR FINANCIAL PLANNING & POLICY

Attachments

Schedule "A"

Bill No.
2012

By-law No.

A by-law respecting an Agreement between The Corporation of the City of London and peopleCare Inc. for the provision of consulting services to the Dearness Home.

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

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

1. The attached Agreement (Appendix "A") dated June 25, 2012 entered into between The Corporation of the City of London and peopleCare Inc. for consulting services is hereby confirmed and approved.
2. The City Manager (including the Interim City Manager) is hereby delegated the authority to:
 - (a) renew the Agreement in paragraph 1 above for a period of up to five months for the period ending no later than December 25th, 2012; and
 - (b) provide written notice of termination of the Agreement pursuant to the termination provisions of the agreement.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on June 26, 2012.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

APPENDIX "A"

THIS CONSULTING SERVICES AGREEMENT MADE THIS 25TH DAY OF June , 2012

BETWEEN:

peopleCare Inc.
(hereinafter referred to as "the Consultant")

AND

The Corporation of the City of London
a registered municipality incorporated under the laws
of the Province of Ontario:
(hereinafter referred to as "the Client")

WHEREAS the Client is approved under the *Long-Term Care Homes Act, 2007* (the "Act") to operate and maintain 243 beds at the Dearness Home (the "Home") located at 710 Southdale Road East, London, Ontario (the "Site");

AND WHEREAS the Client will continue to manage the Home;

AND WHEREAS the Consultant and the Client have agreed that the Consultant will provide its expertise and services to the Client by providing operational consulting services, including providing access to its team of professionals with experience in multiple areas of long term care, including: nursing and personal care, policy and legislation, accreditation, information technology, restorative care, Resident Assessment Instrument – Minimum Data Set (RAI MDS), program and support services, and care planning;

NOW THEREFORE IN CONSIDERATION OF the mutual covenants contained herein the parties hereto agree as follows:

1. Supply of Services

- 1.1 The Client hereby retains the Consultant to provide those services itemized in paragraph 3 hereof and the Consultant agrees to provide the services herein under the general direction and control of the Interim City Manager or City Manager of the Client ("City Manager") commencing on the 26th day of June 2012.
- 1.2 The Consultant hereby agrees that during the term of this Agreement it will provide its services on a non-exclusive basis.
- 1.3 It is acknowledged by the Client that this is not an exclusive Agreement with the Consultant and that the Consultant provides similar services to other companies.
- 1.4 The Consultant agrees to supply at its sole cost and expense all staff, equipment, vehicles, accommodations and technical assistance necessary to perform the services to be furnished by the Consultant under this agreement and shall assume all overhead expenses in connection therewith, except as approved under Clause 2.2.

2. Consultant's Fees

- 2.1 The Client shall pay the Consultant a block fee of \$25,000 plus HST per month for the Services described in Article 3 for all hours worked in a month calculated from the 26th of one month to the 25th of the following month. The Consultant is expected to provide services for a period of time of at least 60 hours per month. When required

- 2.2 In addition to the fee the Consultant may be reimbursed at cost for out of pocket expenses that it expends in carrying out this Agreement limited to reasonable travel, meal, telephone and accommodation expenses up to a maximum of \$2500 per month, exclusive of HST.
- 2.3 The Consultant 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 Manager the time spent performing services in each month, the services performed and the out of pocket expenses incurred in accordance with this Agreement for which billings have been submitted. Upon the request of the City Manager, the Consultant shall furnish such documentation to the satisfaction of the City Manager to verify the time spent performing services, the services performed and the out of pocket expenses incurred.
- 2.4 The Consultant will submit to the Client monthly an invoice for each installment plus applicable taxes for all Services completed in the immediately preceding month.
- 2.5 Where applicable, and pursuant to section 3.2 of the Long-Term Care Home Service Accountability Agreement ("SAA") between the South West Local Health Integration network (the "LHIN") and the Client, the Consultant shall permit the LHIN or its authorized representatives to audit the Consultant in respect of this Agreement if the LHIN or its authorized representatives determines that such an audit would be necessary to confirm that the Client has complied with the terms of the SAA.

3. Services Provided

- 3.1 The Consultant shall deliver to the Client the Services as per the Terms of Reference outlined in Appendix A as changed, altered or added to in accordance with the provisions of this Agreement.

4. Term

- 4.1 This Agreement shall take effect June 26th, 2012 and will continue until July 25th, 2012 unless the Client or Consultant invokes its privilege to terminate this Agreement under clause 6.1.
- 4.2 Upon approval by Municipal Council, this Agreement may be renewed for a period of up to five months for the period ending no later than December 25, 2012, and subject to the Client or Consultant invoking its privilege to terminate this Agreement under clause 6.1.

5. The Consultant/Client Relationship

- 5.1 The Consultant, in compliance with its obligations under this Agreement, shall be solely responsible for all statutory obligations related to the payment of Employment Insurance, CPP benefits, WSIA, OHIP, HST and taxes.
- 5.2 The parties hereto 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 Client and the Consultant or between the Client and any employees, agent or contractor of the Consultant.
- 5.3 **Accessibility for Ontarians with Disabilities Act Training:** The Consultant shall ensure that all of its employees 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.
- 5.4 **Client Policies:** Consultant shall ensure that its employees conduct themselves in a professional manner while on the Client's premises and/or workplaces including ensuring that their employees' conduct is in compliance with the Client's *Workplace*

Harassment/Discrimination Prevention Policy and Complaint Procedure, Workplace Violence Prevention Policy, and Code of Conduct, and any such further policies as the Client may provide to the Consultant from time to time. The Consultant acknowledges that copies of these policies have been provided to and/or made available to it.

6. Termination

- 6.1 The Client or Consultant may at any time by thirty (30) days' written notice to the other suspend or terminate the Services or any portion thereof at any stage of the Agreement. Upon receipt of such written notice, the Consultant shall perform no further Services or incur any disbursements other than those reasonably necessary to close out its Services. Further, the Client may terminate this Agreement immediately in the event that the South West Local Health Integration Network terminates the SAA or if so directed by the Ministry of Health and Long Term Care or at the direction of Municipal Council.
- 6.2 In the event of termination in accordance with clause 6.1, the Client shall pay the Consultant only those installments due and payable prior to the date of termination.
- 6.3 Any termination under this section shall be without compensation, penalty or liability on the part of the Client to the Consultant otherwise than for Services provided prior to the termination date, and shall be without prejudice to any legal or equitable right or remedy of the Client.

7. Notice

- 7.1 Any notice, report, direction, request or other documentation required or permitted to be given to either party hereto shall be in writing and shall be given by personal service or by mailing by registered mail, with postage thereon fully prepaid, in a sealed envelope, and be addressed as follows:

If for the Consultant

To: Brent Gingerich, CEO
At: peopleCare Inc.
28 William Street North
Tavistock, ON
N0B 2R0

If for the Client

To: City Manager
At: 300 Dufferin Avenue
P.O. Box 5035
London, Ontario N6A 4L9
Telephone 661-2500 ext. 1804

Either party may by notice in writing advise of a new address for notice, which shall then be used by the party to whom it is addressed.

Any notice, report, direction, request or other document delivered personally in accordance herewith shall be deemed to have been received when given to the addressee on the day of delivery. Any notice, report, direction, request or other

document mailed as aforesaid shall be deemed to have been received by and given to the addressee on the second (2nd) business day following the date of mailing, provided that for such purposes no day during which there shall be a strike or other occurrence which shall interfere with normal mail service shall be considered a business day.

8. Changes and Additional Services

8.1 With the consent of the Consultant, the Client may in writing at any time after the execution of this Agreement or the commencement of the Services delete, extend, increase, vary or otherwise alter the Services forming the subject of this Agreement.

9. Indemnification

9.1 **Indemnification:** The Consultant undertakes and agrees to defend and indemnify the Client and hold the Client harmless, at the Consultant's sole expense, from and against all claims, demands, suits, losses, costs, damages and expenses that the Client may sustain or incur by reason of:

(a) any breach of this Agreement by any of the Consultant, the Consultant's employees, any subcontractor of the Consultant, or persons for whom the Consultant is at law responsible;

(b) the acts or omissions of the Consultant, the Consultant's employees, subcontractor of the Consultant, or any person for whom the Consultant is at law responsible in performing the Services or otherwise carrying on the Consultant'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 the Consultant, the Consultant's employees, subcontractor of the Consultant, or persons for whom the Consultant is at law responsible are employees of, or are in any employment relationship with, the Client or are entitled to any Employment Benefits of any kind; or,

(d) any liability on the part of the Client, 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 Client, from the Consultant; the Consultant's employees or others for whom the Consultant is at law responsible in connection with the performance of Services or otherwise in connection with the Consultant's business.

10. Insurance

10.1 The Consultant shall obtain insurance coverage in the amount of Two Million Dollars (\$2,000,000.00) for general liability and automobile insurance. The coverage provided by the policy will not be changed or altered in any way nor cancelled by the Consultant until after 30 days written notice of such change or cancellation has been personally delivered to the Client.

10.2 Professional Liability Insurance, to an inclusive limit of not less than two million dollars per occurrence for each claim of negligence arising directly or indirectly from the professional services rendered by the Consultant, its officers, agents or employees.

11. Assignment

11.1 Neither party may assign this Agreement without the prior consent in writing of the other.

12. Previous Agreements

12.1 This Agreement supersedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to this Agreement.

13. Publication and Confidentiality

13.1 The Consultant agrees to obtain the consent in writing of the Client before publishing or issuing any information regarding the Services. The Consultant shall treat all confidential information (including personal information and personal health information) and proprietary information communicated to or acquired by it, or disclosed by the Client in the course of carrying out the Services provided for herein in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*. No such information shall be used by the Consultant on any other project without the approval in writing of the Client.

14. Time

14.1 The Consultant shall perform the Services expeditiously to meet the requirements of the Client and shall complete any portion or portions of the Services in such order as the Client may require. If requested at any time by the Client, the Consultant shall provide to the Client a schedule showing the Services completed and remaining to be completed.

15. Waiver

15.1 The failure of either party at any time to require performance by the other party of any provisions shall in no way affect the full right to require such performance at any time thereafter, nor shall waiver by either party of any breach of the provisions be taken or held to be a waiver of any succeeding breach of such provisions or as a waiver of the provision itself.

16. Conflict of Interest

16.1 The Consultant shall disclose in writing to the City Manager any outside interests and commitments that may generate a conflict of interest before commencing work under this Agreement and thereafter upon any such outside interest or commitment coming to the Consultant's attention. "Conflict of Interest" means a situation in which the interests of the Consultant or its staff or any outside interest or commitment of the Consultant comes into conflict, or appears to come into conflict with the interests of the Client. The City Manager shall review the conflict promptly after disclosure by the Consultant and shall give the consultant notice under clause 7 of his determination in writing as to whether any outside interest or commitment raises a potential conflict of interest with respect to the projects identified in Appendix A and the decision of the City Manager shall be final. Disclosures of conflicts by the Consultant to the City Manager shall be kept confidential except to the extent necessary to review, consider and resolve any conflict and as permitted by the *Municipal Freedom of Information and Protection of Privacy Act*. A conflict of interest may be resolved by the Consultant ceasing to carry out a portion of the work identified in Appendix A upon the written direction of the City Manager or by the termination of the Agreement in accordance with section 6.1.

17. Applicable Law

17.1 This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and Canada and the parties hereto hereby agree to the jurisdiction of the Courts of Ontario.

17.2 This Agreement shall enure to the benefit of and be binding on the parties and their respective successors and assigns.

17.3 **Observance Of The Law:** The Parties agree that they and their respective directors, officers, employees, agents, volunteers and representatives, shall at all times comply with all Federal and Provincial statutes, rules, regulations and orders, (including but not limited to the Human Rights Code) and with all Municipal by-laws, policies, rules, and orders, governing the performance of this Agreement.

Signed Sealed and Delivered on the date first written above:

The Consultant:
peopleCare Inc.

The Client
The Corporation of the City of London:

PER: _____
Title

PER: _____
Tim Dobbie, Interim City Manager
I have the authority to bind the corporation.

PER: _____
Title

I/We have the authority to bind the corporation.

Appendix A
Terms of Reference

The Consultant will work as and when required under the direction of the City Manager;

- to provide operational consulting services regarding the Home, including providing access to its team of professionals with experience in multiple areas of long term care, including: nursing and personal care, policy and legislation, accreditation, information technology, restorative care, Resident Assessment Instrument - Minimum Data Set (RAI MDS), program and support services and care planning;
- to conduct an operational review and provide a report identifying and prioritizing any areas for improvement in policy, procedures or practice within sixty (60) days of the commencement of this Agreement;
- to develop an action plan and time line to implement any changes in policy, procedure or practice and to achieve accreditation for the Home if desired prior to the end of the term of this Agreement;
 - Where applicable under the Act, before the employees of the Consultant first work in the Home, the Consultant shall screen them 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.
 - Where applicable under the Act, the employees of the Consultant shall provide the Client with a signed declaration with respect to the criminal reference check in accordance with section 215(4) of Regulation 79/10