

**THE CORPORATION OF THE CITY OF PETERBOROUGH**

**BY-LAW NUMBER 08-162**

**BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN  
AGREEMENT WITH NIGHTINGALE NURSING REGISTRY LTD.**

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL  
THEREOF HEREBY ENACTS AS FOLLOWS:

1. That the Mayor and Clerk be hereby authorized to execute an agreement between the Corporation of the City of Peterborough and Nightingale Nursing Registry Ltd. in the form attached hereby as Schedule "A", and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 6<sup>th</sup> day of October, 2008

(Sgd.) Henry Clarke, Deputy Mayor

(Sgd.) Leigh Doughty, Deputy Clerk

SCHEDULE "A"

**THIS AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_ 2008.

BETWEEN:

**THE CORPORATION OF THE CITY OF PETERBOROUGH**  
(the "City")

- and -

**NIGHTINGALE NURSING REGISTRY LTD.**  
(the "Contractor")

**WHEREAS** the City has retained the Contractor to provide Homemakers Services for clients of the City of Peterborough's Social Services Division in accordance with the responsibilities described in Proposal Document RFP-26-08 and in Addendum No. 1, which are attached hereto as Appendix A (hereinafter called the "Services") and forms part of this agreement;

**AND WHEREAS** the Contractor agrees to perform the Services in accordance with the provisions of this agreement and RFP-26-08;

**NOW THEREFORE** in consideration of the mutual covenants and agreements herein contained, and subject to the terms and conditions hereinafter set out, the parties agree as follows:

**1.00 SERVICES TO BE PROVIDED**

**1.01** The City retains the Contractor to perform, subject to the availability of funding, and subject to early termination of this agreement as hereinafter provided, to complete the Services. The term of this agreement is for a three (3) year period, from January 1, 2009 to December 31, 2011. The City reserves the right, at its sole discretion, to extend this agreement for up to two (2) additional one (1) year periods, subject to the availability of funding.

**1.02** It is agreed that the City may, at any time and upon sixty (60) days written notice to the Contractor, terminate or abandon this agreement without penalty, save and except payment to the Contractor for the Services actually performed to the date of termination. In Addition, the Contractor may, at any time and upon sixty (60) days written notice to the City, terminate or abandon this agreement without penalty or responsibility to complete the Services.

**1.03** The Services shall be delivered by persons who, as a minimum qualification, have obtained the designation of "Personal Support Worker".

**1.04** In each year of the Term, the Contractor shall conduct an annual client satisfaction survey (prepared to the satisfaction of the City, acting reasonably) and forthwith thereafter provide a summary of the results to the City in a form satisfactory to the City. The Contractor agrees to use its best efforts to rectify any reasonable client dissatisfaction in a timely and effective manner.

## **2.00 COMPENSATION AND FEES**

**2.01** The Contractor shall submit monthly invoices in a form and manner acceptable to the City and the City shall pay the Contractor within thirty (30) days of its receipt of such invoice. At a minimum, such invoices shall show the number of hours worked by the Contractor. Payment will be exclusive of GST.

**2.02** Monthly invoices shall include hours worked for the City and detailed description of particular services provided during that time period.

**2.03** Subject to Article 1.01, the City shall pay the Contractor the amount of TWENTY-TWO DOLLARS AND FIFTY-NINE CENTS (\$22.59) per hour.

## **3.00 ADDITIONAL SERVICES/CHANGES IN PROJECT**

**3.01** In the event that any additional work, services, disbursements or materials are required as a result of the Service to be provided which is not included in this agreement and which has been authorized in writing by the City contact, the Contractor shall be entitled to compensation in accordance with such written authorization.

## **4.0 COOPERATION BETWEEN PARTIES**

**4.01** The City shall give due consideration to all information, data, policies, plans, and documents, provided by the Contractor, and shall make decisions which it is required to make in connection therewith within a reasonable time.

**4.02** The Contractor shall not divulge any confidential information communicated to or acquired by him, or disclosed by the City, in the course of carrying out the Service. No such information shall be used by the Contractor on any other project or for any other purpose without the approval, in writing, of the City.

## **5.00 OWNERSHIP OF DOCUMENTS ARISING FROM THE PROJECT**

**5.01** All information, data, policies, plans, and documents prepared and collected by the Contractor pursuant to this agreement shall be the property of the City. The Contractor shall deliver all information, data,

policies, and documents to the City immediately upon completion or abandonment of the Service and/or upon the termination of this agreement.

## **6.00 CONFLICT OF INTEREST**

**6.01** The Contractor covenants that the Project will be undertaken without a conflict of interest and that during the course of the Service, the Contractor shall not undertake any project for any other client, which would result in a conflict of interest, without the prior written consent of the City.

## **7.0 INDEMNIFICATION**

**7.01** The Contractor shall always indemnify and keep indemnified the City, its elected officials, employees and agents, against all actions, suits, claims and demands whatsoever which may be brought against or made upon the City, its agents and employees against all loss, costs, damages, charges or expenses whatsoever which may be sustained, incurred or paid by the City, its agents or employees by reason of the errors or omissions of the Contractor in regard to this contract. The Contractor hereby grants to the City full power and authority to settle any action, suit, claim and demand on such terms as the City may deem advisable and hereby covenants and agrees with the City to pay the City on demand all monies paid by the City in pursuance of any such settlement, and also such sum as shall represent the reasonable costs of the City or its Solicitor in defending or settling any such action, suit, claim or demand, and this Agreement shall not be alleged as a defence by the Contractor in any action by any person for actual damage suffered for any reason arising from the errors or omissions of the Contractor.

## **8.00 INSURANCE**

**8.01** The Contractor shall obtain, and keep in force until this Agreement is completed **Professional Liability insurance** covering the project and services described in the Agreement for an amount not less than two million (\$2,000,000.00) dollars per occurrence.

**8.02** The City shall be added as an additional third party insured, with a cross-liability endorsement, on the abovementioned policies.

**8.03** The Contractor shall provide satisfactory proof of compliance with Articles 8.01 and 8.02, to the City's solicitor, prior to the City executing this agreement.

## **9.00 TERMINATION OF CONTRACT**

**9.01** The City may, without prejudice to any of its rights or remedies, terminate this Agreement forthwith upon notice in writing to the Contractor, and take possession of all materials required in connection with the Service and finish the Service Agreement by whatever method the City may deem expedient, but without delay or expense in the event any of the following occur:

- a. The Contractor makes an assignment for the benefit of creditors or becomes bankrupt or insolvent;
- b. The Contractor fails to perform the Service in the manner and to the standards required under this Agreement, or fails to observe and comply with any law, by-law or regulation now or hereinafter in force which pertains to or affects the Service, or
- c. The Contractor fails to institute appropriate corrective action forthwith after verbal notification by the City (which shall be confirmed subsequently in writing) of any failure on the part of the Contractor to comply with any of the terms and specifications of this Agreement, notwithstanding that such failure is the result of any cause beyond the control of the Contractor.

**9.02** Any such action taken by the City under Article 10.01 shall be without prejudice to the City's rights against the Contractor for breach of contract, set off or otherwise.

## **10.00 ARBITRATION/DISPUTES**

**10.01** Any matter in dispute between the parties hereto in relation to this Agreement may be referred to arbitration, or to a private court. The matter in dispute shall be submitted to arbitration unless the parties can agree on the terms of submission and hearing in a private court.

**10.02** No person shall be appointed to act as arbitrator or judge who is in any way interested, financially or otherwise, in the conduct of the Service, or in the business of other affairs of either the City or the Contractor.

**10.03** The award of the arbitrator or judge shall be final and binding upon the parties.

**10.04** The provisions of the ***Arbitrations Act*** shall apply to any arbitration arising from this Agreement.

## **11.00 NOTICES**

**11.01** Any notice required to be given pursuant to this Agreement may be Served



## SCHEDULE "A"

Complete copy of Proposal Document RFP-26-08 and Addendum No. 1 are attached to executed copy of Agreement.