

THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW NO. 2279 (2001)


Being a by-law to authorize the Mayor & Clerk to enter into a
Service Agreement with Peninsula Video & Sound Inc. (PVS Inc.)
For the purposes of providing the forwarding of requests for locates
as a result of an agreement entered into with Ontario One Call Ltd.


WHEREAS the Council of the Corporation of the Town of Pelham deems it desirable
to enter into a service agreement between Peninsula Video & Sound Inc. and the Corporation of the
Town of Pelham for the purposes of providing the forwarding of requests for locates as a result of
an agreement entered into with Ontario One Call Ltd.;

NOW THEREFORE THE CORPORATION OF THE TOWN OF PELHAM ENACT
AS FOLLOWS:

- (1) THAT the Service Agreement attached hereto and made part of this by-law between
Peninsula Video & Sound Inc. and the Corporation of the Town of Pelham be and the same is hereby
approved.
- (2) THAT the Mayor & Clerk be and each of them is hereby authorized and instructed
on behalf of the Corporation of the Town of Pelham to execute the said Service Agreement and the
Clerk is hereby authorized to affix the Corporate Seal thereto.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
17th. DAY OF APRIL, 2001 A.D.


MAYOR


CLERK

SERVICE AGREEMENT

THIS AGREEMENT made this 17th. day of April, 2001, and authorized by By-law No. 2279 (2001) of The Corporation of the Town of Pelham.

BETWEEN:

THE CORPORATION OF THE TOWN OF PELHAM
hereinafter referred to as "the Town"

- and -

PENINSULA VIDEO & SOUND INC.
113 Cushman Road, Unit 5, P.O. Box 21119
St. Catharines, Ontario L2M 7X2

hereinafter referred to as "P.V.S. Inc."

WHEREAS The Corporation of the Town of Pelham desires to enter into an agreement with P.V.S. Inc. for the purposes of providing the forwarding of requests for locates received as a result of an agreement entered into with Ontario One Call Ltd. to an independent contractor for purposes of performing the locates requested.

NOW THEREFORE IN CONSIDERATION of the premises and mutual covenants and agreements set forth, P.V.S. Inc. and the Town agree as follows:

ARTICLE I - GENERAL

1. P.V.S. Inc. as an independent contractor has represented to the Town that it is an expert, trained and equipped in the field of providing locates and the Town has relied on this representation in permitting P.V.S. Inc. as an independent contractor to perform the contract work herein described.

2. P.V.S. Inc. shall perform locate services and services that are from time to time reasonably requested by the Town. This agreement shall apply to all works and services performed by P.V.S. Inc. for the Town and to all work and services which the Town requests P.V.S. Inc. to perform. The term "contract work" as used herein shall include any and all work and services from time to time performed by P.V.S. Inc. for the Town and any and all work and

services which the Town from time to time requests P.V.S. Inc. This contract will be interpreted in accordance with the laws of Ontario.

3. All contract work shall be performed by P.V.S. Inc. in accordance with its obligations in law, including the Occupational Health and Safety Act, other applicable statutes, municipal by-laws and guidelines and regulations thereunder.

4. P.V.S. Inc. agrees to comply with the Work Place Safety and Insurance Act and with all other prevailing labour laws and other laws and regulations applicable to P.V.S. Inc. or any contract work, and shall indemnify and save harmless the Town and the directors and officers and agents and employees thereof against any claim or liability from or based on the violation of any such laws and regulations, whether by P.V.S. Inc., its agents, officers, representatives and employees. P.V.S. Inc. shall from time to time, if requested by the Town, furnish the Town with a Certificate of Clearance or other evidence of such compliance, and in particular, evidence from the Work Place Safety and Insurance Board of the jurisdiction in which contract work is or may be performed, that P.V.S. Inc. has paid all assessments and other amounts owing pursuant to the Work Place Safety and Insurance Board legislation of such jurisdiction. P.V.S. Inc. agrees to indemnify the Town and save harmless and defend the Town from and against any and all liabilities, claims, demands, penalties, forfeitures, suits, and expenses, incidental thereto, including the cost of defense, settlement and reasonable legal fees caused by or in any way resulting from P.V.S. Inc.'s work or P.V.S. Inc.'s violation of the federal, provincial, municipal laws, regulations, orders and/or guidelines. P.V.S. Inc. agrees that it shall be responsible for any errors performed in identifying locates and for the cost of repairing such damages resulting therefrom.

5. P.V.S. Inc. shall not:

(a) Assign this agreement or any rights of P.V.S. Inc. under this agreement, or

- (b) Subcontract any part or parts of the contract work, and shall on request, provide proof of direct employment by P.V.S. Inc. of all its employees.

6. P.V.S. Inc. shall obtain and provide for the duration of this agreement a Five Thousand Dollar (\$5,000.00) security deposit in a form acceptable to the Town's Director of Financial Services, guaranteeing performance of the obligations of P.V.S. Inc. under this agreement, either in general or in respect of any particular contract. In the event P.V.S. Inc. should fail to give sufficient notice of termination and refuse to provide the service and fulfil obligations provided herein, the Town shall be entitled to use the said security for purposes of satisfying the obligations provided herein.

7. All warranties and indemnities provided for in this agreement shall survive the termination of this agreement irrespective of the time of, or party responsible for such termination and all such warranties and indemnities shall remain in full force and effect and be binding on P.V.S. Inc., notwithstanding such termination.

8. Time shall be of the essence of this agreement.

ARTICLE II - Insurance

1. P.V.S. Inc. shall maintain and keep in full force and effect, at its' expense:

- (a) Comprehensive General Liability Insurance having a minimum inclusive coverage limit, including personal injury and property damage of at least \$2,000,000.00. The Town is to be named as an additional insured in the insurance policy which should be extended to cover contractual liability, owners/contractors protective liability and should also maintain a cross liability clause;

- (b) Automobile Liability Insurance on all vehicles used in connection with the contract work and such insurance shall have a limit of at least \$2,000,000.00 in respect of bodily injury including passenger hazard and property damage inclusive in any one accident. Further, the Town is to be named as an additional insured in the said policy.

(c) Non-Owned Automobile Liability Insurance and such insurance shall have a limit of at least \$2,000,000.00 in respect of bodily injury (including passenger hazard) and property damage inclusive of any one accident. The contractual exclusion of the policy shall be deleted with respect to this agreement and the Town to be named as additional insured.

P.V.S. Inc. shall forthwith after entering into this agreement, and from time to time at the request of the Town, furnish to the Town a Certificate of Insurance or memorandum of insurance setting out the terms and conditions of each policy of insurance (all such policies of insurance being hereinafter called "the insurance policies") maintained by P.V.S. Inc. in order to satisfy the requirements of this paragraph. At any time, and from time to time, at the request of the Town, P.V.S. Inc. shall furnish the Town with one or more duly completed insurance certificates in the form requested by the Town to evidence the details of the insurance policies. P.V.S. Inc. shall not cancel, terminate or materially alter the terms of any of the insurance policies without giving prior written notice to the Town. P.V.S. Inc. shall cause or arrange for any of its insurers, under any one or more of the insurance policies, to contractually obligate itself in writing to give thirty (30) days prior written notice to the Town before cancelling, terminating, or materially altering the said insurance policies.

ARTICLE III - TIMING/GEOGRAPHICAL AREA

1. This contract is in force for a period of three years beginning on the first day of June, 2001, and continuing to its conclusion ending on the 31st. day of May, 2004. This contract is not for a minimum number of locates.

2. The Town may, in its absolute discretion, terminate this agreement by giving not less than thirty (30) days written notice of termination to P.V.S. Inc. The written notice of termination shall stipulate the specific date on which this agreement is to terminate. It shall be signed by the Director of Operations.

3. P.V.S. Inc. may, in its absolute discretion, terminate this agreement by giving not less than thirty (30) days written notice of termination to the Town. The written notice of termination shall stipulate the specific date on which this agreement is to terminate. It shall be signed by P.V.S. Inc.

ARTICLE IV - PRICING

The prices for the services to be provided are outlined more particularly in Schedule "A" attached hereto. For the purposes of understanding the said Schedule, the parties hereto agree that the Town agrees to pay P.V.S. Inc. those amounts outlined on Schedule "A" attached hereto for the specific services as described thereon. The parties agree that when a locate is requested on private property and where the service to be provided by P.V.S. Inc. is identified as curb box in Schedule "A", this service will only require P.V.S. Inc. to mark the water shut off valve at the property line and leaving at the address of the requester a letter of explanation provided by the Town. Further, for the purposes of understanding the Schedule, the parties agree that in locating utilities for the purposes of this agreement, one locate identified as one utility in the said Schedule shall count as one service connection or thirty meters of watermain located. The parties have agreed that for purposes of calculation, accounts may be rounded up to the nearest count. The parties agree that Schedule "A" attached hereto outlines the included discounts for the various number of utilities performed at one time. The parties agree and understand that the price for private property determination is not to be discounted. Further, the Town agrees to pay P.V.S. Inc. the price per emergency after hour locate as described in Schedule "A" attached hereto and forming part of this agreement. The rates attached and referred to on Schedule "A" shall be applicable for the years as indicated at the commencement of the years as indicated on the said Schedule.

ARTICLE V - ADMINISTRATION

1. Administrative responsibility of P.V.S. Inc. includes, but is not limited to the following: receiving requests, logging requests, reporting on requests and locates done by P.V.S. Inc. and returning completed forms as provided herein. All information requested in the stake-out report must be completed.

2. The following information is required prior to the commencement of the locate and will be provided to P.V.S. Inc. by the Town or its agent being Ontario One Call Ltd. via One Call Concepts Locating Services of Canada Inc.:

- Location of the Proposed Excavation (urban area or street),
Type of Work/Extent of Work/Dig Site Phone Number/Start Date/
Caller (also any other contact person)/Phone Number/
Name of Excavator/Address/Who the Work is being done for.

3. The Town will be billed for each completed locate count at the agreed upon rate. The invoices should be sent at intervals no greater than one month. Daily route sheets should be delivered to the Town on a weekly basis showing locates performed.

4. Bills pertaining to onerous locates covered by the agreed hourly rate should be submitted separately. Work for onerous locates must be authorized by the Director of Operations, or his designate, prior to the start of such work. "Onerous" locates are defined as a locate that exceeds in duration the practicality of charging unit pricing. This locate will convert to an hourly rate with the Town's authorization.

ARTICLE VI - PERFORMANCE SPECIFICATIONS

1. P.V.S. Inc. agrees to furnish all labour, material (wooden stakes), flags, and water-based blue spray paint, (and equipment, approved locating instruments, microfiche readers).

2. Only CAS approved locating instruments are to be used.

3. All locating instruments shall be maintained by P.V.S. Inc. in first class operating condition. The Town shall have the right on request to be furnished with evidence satisfactory to the Town to confirm that this is so, which evidence may include access to and inspection of the equipment.

4. Records of the Town's watermain plant will be provided by the Town. All updates will be provided to the P.V.S. Inc. district manager and he/she will have the responsibility to distribute these promptly within his/her company. P.V.S. Inc. shall maintain the confidentiality of all such records. The records remain the property of the Town and shall be returned immediately upon termination of the agreement.

5. The following records can be used to assist in the field locate of watermain: Watermain atlas, other applicable records if available. If further information or clarification is required the Technical Services Coordinator for the Town should be contacted.

6. If a satisfactory locate cannot be made with the locating instrument in the field, the Technical Services Coordinator for the Town must be contacted. If P.V.S. Inc. determines, based on the field location of the Town's plant, that the existing records are inaccurate, the Town's Technical Services Coordinator shall be notified immediately by the P.V.S. Inc. District Manager.

7. The locates should be indicated using wooden stakes dipped in blue paint, labelled, flagged and/or highly visible blue paint marks (water-based paint) to mark the centre line of the services in the vicinity of the proposed excavation.

8. When requested, a diagram describing the locate information will be provided to the caller's site representative. The diagram should indicate in clear legible terms the locate information and dimensions, and should be qualified by words regarding the scale and orientation. The diagram must state that "the drawing is not to scale", and specify any other caution or standard of the industry.

9. The depth of plant will not be given to third parties under any circumstances.

10. Where no services are in the vicinity of the proposed excavation, a written confirmation will be provided to the caller as noted on the stakeout report.

11. A stakeout report will be filled out after locating all services and signed by the caller's site representative.
12. It is the responsibility of P.V.S. Inc. to ensure that the person receiving the stakeout report understands its content and conditions.
13. P.V.S. Inc. will provide copies of caller's stakeout reports and route lists for all work to the Town.
14. The parties agree that locates shall be performed as follows:
 - A. All locates shall be performed to industry standards;
 - B. P.V.S. Inc. will retain and perform all requests for water utility locates forwarded by Ontario One Call Ltd. or designated operator;
 - C. P.V.S. Inc. will retain and perform all Emergency Locate Requests received;
 - D. P.V.S. Inc. will retain and perform all those Regular and Priority water locate requests that originate from the designated groups which include the Town of Pelham, Enbridge Gas, Peninsula West Utilities Inc., Hydro One Inc., Cogeco, Bell Canada and other utilities that may be designated by written notice and from contractors that are doing work for these designated groups, as indicated on the locate request form;
 - E. P.V.S. Inc. will provide locate services for all water locate requests, as previously defined, to be performed according to the following schedule:
 - i) All Emergency Locate Requests shall be performed within two hours of receipt;
 - ii) All Priority Locate Requests shall be performed within 24 hours of receipt (exclusive of Saturdays, Sundays and Statutory Holidays);
 - iii) All Regular Locate Requests shall be performed within 48 hours of receipt (exclusive of Saturdays, Sundays, and Statutory Holidays).

ARTICLE VII - IDENTIFICATION CARDS

1. P.V.S. Inc. shall use company identification cards and all employees or representatives of P.V.S. Inc. shall wear or carry identification cards provided by the Town at all times while

carrying out the contract work. Lost or stolen cards will be reported immediately to the Town.

P.V.S. Inc. agrees to return all cards to the Town within ten days of termination or expiry of the services of P.V.S. Inc., or upon the termination of employment of any P.V.S. Inc. employee. It is acknowledged that the identification cards are the exclusive property of the Town. Further, it is agreed that upon expiry or termination of this agreement, final payment of monies owing to P.V.S. Inc. may be withheld pending receipt of all identification cards by the Town.

ARTICLE VIII - PERFORMANCE OBJECTIVES

All locate requests are to be completed within a time period indicated by the Town.

ARTICLE IX - CO-OPERATION

P.V.S. Inc. shall promptly respond to all requests for information from the Town or those acting on damage location and statements from caller's personnel regarding a damage or incident.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective corporate seals under the hands of their proper signing officers duly authorized in that behalf.

DATED at the Town of Pelham this 17th. day of April, 2001.

SIGNED, SEALED AND DELIVERED

PENINSULA VIDEO & SOUND INC.

Per:

THE CORPORATION OF THE TOWN OF
PELHAM

R. Beamer
Ralph Beamer - Mayor

Cheryl Miclette
Cheryl Miclette - Town Clerk

SCHEDULE "A"

Locate Unit Charges
Period of January 1, 2001 to December 31, 2003

STANDARD LOCATE			
	January 2001	January 2002	January 2003
1 utility	\$13.00	\$13.33	\$13.66
2 utilities	\$11.70	\$11.99	\$12.29
3 utilities	\$11.12	\$11.39	\$11.68
4 utilities	\$10.84	\$11.11	\$11.39
5 utilities	\$10.57	\$10.83	\$11.10

Curb Box	\$4.40	\$4.51	\$4.62
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EMERGENCY LOCATES (AFTER HOURS)			
1 utility	\$210.00	\$215.25	\$220.63
2 utilities	\$135.00	\$138.38	\$141.83
3 utilities	\$90.00	\$92.25	\$94.56
4 utilities	\$65.00	\$66.63	\$68.29
5 utilities	\$47.50	\$48.69	\$49.90