

THIS SUPPLEMENTAL AGREEMENT made the 18 day of March, 2019, and authorized by By-law No. 2019-~~7084~~⁴⁴ of the City of St. Catharines, and by By-Law No. 4084 (2019) of the Town of Pelham.

THE CORPORATION OF THE CITY OF ST. CATHARINES
hereinafter called the "St. Catharines"

of the FIRST PART;

- and -

THE CORPORATION OF THE TOWN OF PELHAM
hereinafter called the "Pelham"

of the SECOND PART;

WHEREAS this agreement is supplemental to an agreement dated the 13th day of April, 2018, (hereinafter called the "Fire Dispatch Agreement") between the same parties whereby St. Catharines agreed to continue to provide to Pelham computer aided dispatch services for a period of five (5) years, commencing on the 1st day of January, 2018 and ending on the 31st day of December, 2022, upon the terms set forth therein;

AND WHEREAS St. Catharines has entered into a memorandum of understanding dated the 26th day of July, 2018, with The Regional Municipality of Niagara Police Services Board (hereinafter called the "P25 MOU") for the use of an interoperable public safety grade voice radio communication system known as "P25VRS" (hereinafter called the "P25 System") to enhance provision of emergency services in the Region of Niagara for a period of fourteen (14) years upon the terms set forth therein;

AND WHEREAS the P25 MOU specifically contemplates utilization of the P25 System by St. Catharines to provide fire dispatch services to one or more municipalities in or near the Region of Niagara under an agreement;

AND WHEREAS Pelham wishes to convert to use of the P25 System in relation to the provision of fire dispatch services under the Fire Dispatch Agreement for the remaining term of that agreement and to discontinue use of the prior or legacy radio dispatch system operated by St. Catharines;

AND WHEREAS Pelham has or is in the process of directly purchasing portable and mobile radios, including any essential components for operation of the radio equipment, compatible with the P25 System (hereinafter called "P25 Radios" or "P25 Radio") for receiving fire dispatch transmittals from St. Catharines under the Fire Dispatch Agreement;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Pelham agrees to pay a subscriber fee in the amount of FIFTY DOLLARS (\$50.00) plus applicable sale taxes per P25 Radio for every month of connection to the P25 System (hereinafter called the "Subscriber Fee"). The Subscriber Fee shall be in addition to the annual sum payable by Pelham to St. Catharines for provision of dispatch services under the Fire Dispatch Agreement in accordance with Schedule "A" of that agreement. The Subscriber Fee may be prorated for any partial month of connection to the P25 System at St. Catharines' sole discretion.
2. Pelham shall convert to and commence use of the P25 System as of March 4, 2019 (the "Commencement Date"). Pelham shall connect a total of 66 P25 Radios to the P25 System as of the Commencement Date.
3. Pelham acknowledges that this supplemental agreement is ancillary to the Fire Dispatch Agreement and in the event the Fire Dispatch Agreement is terminated or expires and is not extended or renewed then this supplement agreement shall also be immediately terminated and at an end.
4. St. Catharines shall commence charging the Subscriber Fee based on the total number of P25 Radios identified by Pelham to connect to P25 System as of the Commencement Date and shall be entitled to charge the Subscriber Fee for the identified number of P25 Radios continuously until such time as Pelham submits a change notice to St. Catharines that it intends to increase or decrease the total number of P25 Radios connected to the P25 System.
5. A change notice with respect to altering the total number of P25 Radios connected to P25 System is deemed to be effective as of the 1st day of the month immediately subsequent to the date of

receipt of the notice by St. Catharines for the purpose of calculating the subscriber fees payable by Pelham under this agreement. To be effective, a change notice must be sent by mail or courier to:

- a. The Corporation of the City of St. Catharines, 50 Church Street, P.O. Box 3012, St. Catharines, Ontario L2R 7C2, Attention City Clerk. or
- b. sent by electronic mail to: clerks@stcatharines.ca

A change notice is deemed to be received by St. Catharines on the second business day following mailing or delivery by courier, and, in the case of delivery by electronic mail, on the same day as being sent.

6. Pelham agrees to pay the Subscriber Fee payable for each calendar year of the remaining term of the Fire Dispatch Agreement in quarterly instalments, in advance and upon receipt of an invoice from St. Catharines with adjustments for any change notice from time to time as necessary. St. Catharines anticipates billing for the Subscriber Fee at the same time as billing for the Fire Dispatch Agreement but this is not guaranteed.
7. In the event St. Catharines determines that it has not been notified of any change in the total number of P25 Radios connected to the P25 System for payment purposes, it may adjust invoicing for the subscriber fee payable by Pelham under this agreement at its initiative and discretion without notice to Pelham.
8. Upon execution of this supplemental agreement and for the remaining term of the Fire Dispatch Agreement, Pelham shall not have the option of discontinuing use of the P25 System and returning to use of the prior or legacy radio dispatch system operated by St. Catharines.
9. Pelham acknowledges that the Subscriber Fee is a system access fee charged by The Regional Municipality of Niagara Police Services Board under the P25 MOU for connection to the P25 System. As such, Pelham acknowledges and agrees that St. Catharines is not responsible for and the Subscriber Fee does not represent payment for provision or maintenance or repair of any equipment or hardware, including the P25 Radios, under this supplemental agreement and the Fire Dispatch Agreement and, without limiting the generality of the foregoing, Pelham acknowledges and agrees that it is shall be solely responsible for, including the cost of, if any:
 - a. maintenance, repair and replacement of its inventory of P25 Radios as required to ensure optimal performance and continued operation of such equipment; and
 - b. maintaining or improving compatibility of or adding functionality to its inventory of P25 Radios with the P25 System, including any software upgrades to its P25 Radios.

Notwithstanding the foregoing, St. Catharines shall install firmware updates available for free from the provider of the P25 System for Pelham's inventory of P25 Radios on an as-needed basis to correct operating issues at no additional charge to Pelham and, for clarity, such installation of free firmware updates is the only service provided by St. Catharines to Pelham at no additional charge under this supplemental agreement and the Fire Dispatch Agreement.

10. St. Catharines shall not be responsible for any service disruptions or discontinuation resulting from neglect or failure by Pelham to properly maintain and repair its P25 Radios including maintaining compatibility with the P25 System.
11. Pelham shall be solely responsible for obtaining authorization of its P25 Radios for connection to and operation on the P25 System, and shall provide written confirmation to St. Catharines of such authorization a minimum of seven (7) calendar days prior to connection of any P25 Radio to receive fire dispatch transmittals.
12. In the event of costs savings in operation of the P25 System resulting in a decrease of costs and fees payable by St. Catharines under the P25 MOU, St. Catharines shall decrease the Subscriber Fee on an equitable and reasonable basis to reflect such cost savings.
13. Pelham agrees to indemnify and hold harmless St. Catharines, its volunteers, agents, employees and elected officials from and against losses, claims, demands, payments, suits, judgments, orders or expenses of every nature and description arising out of or in consequence of any breach or nonperformance of any terms or conditions of this agreement to be fulfilled, observed or performed by Pelham or its contractors or agents.

- 14. This supplemental agreement shall be read together with the Fire Dispatch Agreement and the parties confirm that, except as modified herein, all terms and conditions in the Fire Dispatch Agreement remain unchanged, unmodified and in full force and effect and shall apply with respect to the matters contained within this supplemental agreement.
- 15. Any capitalized word or term not otherwise defined herein shall have the meaning given thereto in the Fire Dispatch Agreement.
- 16. The parties agree, from time to time, to do or cause to be done all such things, and shall execute and deliver all such documents, agreements and instruments reasonably requested by the other party, as may be necessary or desirable to complete this agreement and to carry out its provisions and intention.
- 17. This supplemental agreement shall enure to the benefit of and be binding upon the parties and their legal representatives, heirs, executors, administrators, successors and permitted assigns as the case may be.
- 18. This 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. This agreement will be considered fully executed when all parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart. This agreement may be executed and delivered by facsimile signatures or other electronic delivery and will be binding on all parties as if executed by original signature and delivered personally.

IN WITNESS WHEREOF the parties hereto have executed this agreement.

SIGNED, SEALED AND DELIVERED:

[Signature]
Clerk

THE CORPORATION OF THE CITY
OF ST. CATHARINES
[Signature]
Mayor
[Signature]
Clerk

THE CORPORATION OF THE TOWN
OF PELHAM

[Signature]
Mayor
[Signature]
Clerk

