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**Subject:** Affordable Housing Municipal Capital Facility

**Report to:** Corporate Services Committee

**Report date:** Wednesday, October 18, 2017

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## **Recommendations**

That the by-law in Appendix 1 of Report CSD 69-2017 regarding the Penn Terra Group Limited and Bethlehem Housing and Support Services for the development at 111 Church Street in St. Catharines to be deemed a Municipal Capital Facility **BE CONSIDERED** for Council approval on October 26, 2017.

## **Key Facts**

- The purpose of this report is to present the attached by-law for Council's approval as per the motion carried at Regional Council on July 20, 2017 from report CSD 51-2017.
- Penn Terra Group Limited submitted an unsolicited proposal, which was presented to Corporate Services Committee on May 10, 2017 requesting that the development known as 111 Church Street in St. Catharines, Ontario be deemed as a Capital Facility.
- Council authorized the Acting Commissioner of Enterprise Resource Management Services to negotiate an agreement with Penn Terra Group Limited and Bethlehem Housing and Support Services for the development known as 111 Church Street in St. Catharines, Ontario at Regional Council on July 20, 2017.
- Staff was directed to "amend any by-laws as required and bring to Corporate Services Committee for approval in the Fall".

## **Financial Considerations**

On July 20, 2017 Council authorized staff to execute the single source agreement with Penn Terra Group Limited and Bethlehem Housing and Support Services for a public private partnership in the form of a municipal capital facility. The designation will provide for the exemption of an estimated \$1M in development charges as well as property taxes for 127 units within the development (Regional portion estimated at \$0.14M/yr. in 2019). The discounted cash flow of this proposal provided total net present value (NPV) savings of \$.060M per unit of supportive housing versus Regional construction options and was therefore recommended.

Previously in 2016 Niagara Regional Housing Board approved NRH 9-2016, dated November 18, 2016, respecting a new Development Housing Allowance Program and Funding Request **and the following was approved**

1. *That the creation of a new Niagara Regional Housing (NRH)—New Development Housing Allowance (NDHA) Program, as described in detail in Appendix I of Report NRH 9-2016, **BE APPROVED**;*
2. *That the Niagara Regional Housing (NRH) commitment to funding 20 Units of the new Bethlehem Housing and Support Services (BHSS) project at 111 Church street as a part of the new NRH - NDHA Program at monthly rates of \$250 per unit for singles and \$300 per unit for families for 20 years (2018-2038) **BE APPROVED**; and*
3. *That the Niagara Regional Housing (NRH) Chief Executive Officer and NRH staff, subject to Regional Council approving the forgoing recommendations, **IMPLEMENT** the new NRH NDHA Program and enter into an agreement, in a form acceptable to NRH's legal advisors, with Bethlehem Housing and Support Services (BHSS) to implement the forgoing recommendations.*

As a follow up to CSD 51-2017 Councillor D'Angela made the following inquiry:

*Prepare a report for the consideration of the Corporate Services Committee on how Regional Council can support Niagara Regional Housing funding to maximize the ability to have 20 rent geared to income units.*

The Board approved recommendations above have no budget or levy impact. To increase the subsidy for 20 units to rent geared to income units the subsidy increase is estimated at an annual cost of \$65,000. This would require an increase of 0.2% to the NRH budget which amounts to 0.02% increase in the Region's tax levy.

## **Analysis**

- PTGL submitted an unsolicited proposal, which was presented to Corporate Services on May 10, 2017, requesting that the development known as 111 Church Street in St. Catharines Ontario ("development") be deemed a Municipal Capital Facility. The *Municipal Act, 2001*, section 110 and Ontario Regulation 603/06, as amended, specifically provides for a municipality to enter into an agreement with the owner of the property for the provision of municipal housing project facilities. The attraction of a Municipal Capital Facility is that such facility can be determined to be tax exempt and also to be exempt from development charges. Correspondence from the developer highlights that the exemption of property taxes and development charges will make the project financially viable.

- At the May 10, 2017 Corporate Services Meeting staff were directed to:
  - move forward with the unsolicited proposal and undertake further due diligence on the submission, as well as undertake a competitive procurement process to solicit competing proposals
  - undertake additional analysis or review and report back
- At the July 20, 2017, Council meeting staff were authorized to negotiate an agreement to deem the development a Municipal Capital Facility that would provide for the following:
  - Total of 127 units to be constructed
  - 26-31 units will be at 80% of modified average market rent (80% CMHC market level rents) without further subsidy by Niagara Regional Housing 20 additional units will be at 96% of modified average market rent (the difference between the 80% CMHC market level rents and 96% is subsidized by Niagara Regional Housing (Report NRH 9-2016)
  - The remaining units would be at CMHC average market rent, resulting in the entire building on average being under CMHC average market rent
  - This project will assist in moving individuals off the Niagara Regional Housing's waiting list.
  - The agreement will be 25 years at which time the Niagara Region will hold an option to renew the agreement for a further 5 years.
  - Niagara Region will defer its development charges on the building as a whole for a 25 year period, if the building has maintained its obligations to provide affordable housing under the agreement, the development charges will be waived at that time.
  - Niagara Region will waive its property taxes annually up to 30 years if the building is compliant with its commitment to provide affordable housing.
  - If at any time the development is not compliant with the agreement or if the building is converted to another use then the Municipal Capital Facility classification would be removed and the development would become taxable.

## **Alternatives Reviewed**

None

## **Relationship to Council Strategic Priorities**

Improving the social housing portfolio has been identified as a Council priority.

## **Other Pertinent Reports**

- CSD 37-2017 Unsolicited Proposal for Affordable Housing
- NRH 9-2016 New Housing Allowance Program & Funding Request

- CSD 51-2017 Unsolicited Proposal for Housing from Penn Terra Group Limited

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**Prepared and Recommended by:**

Jason Burgess  
Acting Commissioner  
Enterprise Resource Management  
Services

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**Submitted by:**

Carmelo D'Angelo, BSc, MPA  
Chief Administrative Officer

*This report was prepared by Helen Chamberlain, Director, Financial Management and Planning/Deputy Treasurer in consultation with Adrienne Jugley, Commissioner of Community Services, and Dan Troke, Chief Executive Officer of Niagara Regional Housing and reviewed by Sterling Wood, Acting Director of Legal Services.*

**Appendices**

Appendix 1	By-Law – Final Draft	Page 5
Appendix 2	By-Law Comparison Version	Page 16

Bill

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO \*\*-2017

MUNICIPAL HOUSING FACILITY BY-LAW

**WHEREAS** The Regional Municipality of Niagara is a service manager for Niagara region appointed in accordance with the *Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1*;

**AND WHEREAS** as service manager, The Regional Municipality of Niagara has the obligation to carry out measures to meet its objectives and targets relating to affordable housing needs within the service manager's service area;

**AND WHEREAS** The Regional Municipality of Niagara has delegated certain of its powers and duties under the *Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1* to Niagara Regional Housing;

**AND WHEREAS** section 110 of the *Municipal Act, 2001*, as amended, allows a municipality to enter into agreements for the provision of municipal capital facilities;

**AND WHEREAS** Ontario Regulation 603/06, as amended, made under the *Municipal Act, 2001*, sets out the classes of municipal capital facilities for which municipal councils may enter into agreements, one such class being Municipal Housing Project Facilities;

**AND WHEREAS** such Regulation No. 603/06, as amended, requires that a municipal council enact a municipal housing facility by-law prior to enacting a bylaw authorizing entering into an agreement;

**AND WHEREAS** The Regional Municipality of Niagara previously passed Bylaw 34-2004 which dealt with the same matters but included references to statutes and regulations for the Province of Ontario that have subsequently been replaced by the statutes and regulations referenced herein;

**AND WHEREAS** Council wishes to increase the supply of affordable housing by providing financial or other assistance at less than fair market value to private sector and community-led non-profit housing providers.

**NOW THEREFORE** the Council of The Regional Municipality of Niagara enacts as follows:

1. In this by-law,

a) "Act" means the *Municipal Act, 2001, S.O. 2001, c 25*, as amended;

- b) "Affordable Housing" means, for the purpose of a Municipal Housing Capital Facility Agreement, Housing Units in which the average monthly rent by each unit size and structure type, exclusive of utilities, parking, telephone, cable and other related fees, is less than or equal to the Affordable Rent level for the respective lower-tier municipalities within the Niagara region containing the Housing Project for that unit size and structure type;
- c) "Affordable Rent" for a Municipal Housing Capital Facility Agreement at any time means:
  - a. for apartments, the average monthly market rent by bedroom type for privately-initiated apartment structures for each of the respective lower-tier municipalities within the Niagara region, as determined and amended by CMHC;
  - b. for townhouses, the average monthly market rent by bedroom type for privately-initiated townhouse structures for each of the respective lower-tier municipalities in the Niagara region, as determined and amended by CMHC; or
  - c. if CMHC does not publish an annual rent for the unit size by structure type for Niagara Region's service area, then the rent as determined by NRH;
- d) "Board" means the Board of Directors of NRH;
- e) "CMHC" means Canada Mortgage and Housing Corporation;
- f) "CEO" means NRH's Chief Executive Officer or his or her designate;
- g) "Council" means the Council of Niagara Region;
- h) "Housing Project" means a project or part of a project designed to provide or facilitate the provision of rental residential accommodation, with or without any public space, recreational facilities and commercial space or buildings appropriate thereto;
- i) "Housing Provider" means person or persons legally entitled to own or have an interest in real property in Ontario upon which a Housing Project is constructed and which interest may be as legal owner of the real property or as a tenant which has entered into a lease of the Housing Project (or a part thereof) for the purpose of renting the Housing Units as Affordable Housing.
- j) "Housing Unit" means a unit intended for use as residential accommodation in a Housing Project and shall be categorized by structure type as either an apartment unit or townhouse unit;

- k) "Municipal Housing Capital Facility Agreement" means an agreement permitted by section 110 of the Act Municipal Housing Project Facilities Agreement as contemplated set out in section 2 of this by-law;
  - l) "Municipal Housing Project Facilities" means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation 603/06, as amended;
  - m) "Municipal Housing Project Approval By-law" means a by-law enacted by Council pursuant to section 110 of the Act and Ontario Regulation 603/06, as amended, to approve a Municipal Housing Capital Facility Agreement and to grant such assistance and exemptions as Council deems appropriate and compliant with the Act;
  - n) "Niagara Region" means the municipal corporation known as The Regional Municipality of Niagara;
  - o) "Niagara region" means the geographic area that incorporates all of the lower-tier municipalities; and
  - p) "NRH" means Niagara Regional Housing, a not-for-profit corporation to which Niagara Region has delegated certain duties and powers pursuant to the *Housing Services Act, 2011*, as amended.
2. Council may pass Municipal Housing Project Approval By-laws in accordance with section 110 of the Act, permitting Niagara Region and/or NRH to enter into Municipal Housing Capital Facility Agreements with Housing Providers for the provision of Housing Projects, and to provide assistance and exemption as Council deems appropriate and compliant with the Act.
  3. Upon the passing of a Municipal Housing Project Approval By-law, Niagara Region's Regional Clerk shall give written notice of the by-law to all persons requiring notice pursuant to the Act and applicable regulations.
  4. Niagara Region and/or NRH shall not enter into a Municipal Housing Capital Facility Agreement unless it has been determined to the satisfaction of the CEO that the Housing Units to be provided as part of the Housing Project fall within the definition of Affordable Housing.
  5. Under no circumstances shall a Housing Unit be made available at any time during the period a Municipal Housing Capital Facility Agreement is in force:
    - a) at a monthly rent that is not within the definition of Affordable Rent as outlined in this by-law for each applicable year during said period; or,
    - b) to individuals or families who, at the time the Housing Unit was

initially rented to them, already owned residential property, as determined by the Housing Provider after making reasonable inquiries.

6. Every Municipal Housing Capital Facility Agreement shall contain the following provisions or shall satisfy the following requirements, as the case may be:
- a) the term of the agreement, which shall be not less than twenty (20) years;
  - b) the Housing Project shall provide no fewer than 3 Housing Units;
  - c) each Housing Unit within the Housing Project shall meet the definition of Affordable Housing throughout the term of the agreement;
  - d) the Housing Project shall make available a minimum of 25% of the Housing Units for rent supplement or housing allowance programs provided through NRH and using programs funded by Niagara Region and Federal and Provincial governments through an agreement with and compliant with the rules of NRH for such supplement or allowance. Provided the agreement may provide for graduated availability based on the availability of funding from NRH.
  - e) the Affordable Rent for each Housing Unit within the Housing Project funded under this program shall be subject to rent increase restrictions as per the *Residential Tenancies Act, 2006* for the duration of the term provided no authorized increases permitted by the *Residential Tenancies Act, 2006* shall be permitted to result in rents that are not compliant with section 5a) of this By-law;
  - f) the Housing Provider and any successor in title shall comply with section 5 of this by-law so long as the agreement remains in effect;
  - g) Housing Units subject to the agreement shall not be rented to the Housing Provider or shareholders or directors of the Housing Provider, or any individual not at arm's length from the Housing Provider. Despite the foregoing, Housing Units subject to a Municipal Housing Capital Facility Agreement may be rented to directors of the Housing Provider or to an individual not at arm's length from directors of the housing provider if the Housing Provider is a non-profit housing co-operative as defined in the *Co-operative Corporations Act*, as amended;
  - h) the agreement shall be registered against the title to the property to which it relates to the extent that such registration is permitted;
  - i) the agreement shall be binding on the heirs, successors and assigns of the Housing Provider;
  - j) during the time period in which the agreement is in force, the Housing Provider shall, as a condition precedent to a sale of the Housing Project to



- a subsequent purchaser, require the subsequent purchaser to enter into an agreement with Niagara Region and/or NRH, and that agreement shall impose the remaining term of the Municipal Housing Capital Facility Agreement on that subsequent purchaser;
- k) a list of the benefits being conveyed to the Housing Provider under this by-law, including their estimated present day monetary value;
  - l) where a Housing Provider fails or refuses to carry out its obligations under the agreement or this by-law, the Housing Provider shall pay Niagara Region and/or NRH the full amount of any financial assistance received or otherwise provided under the agreement together with interest thereon at a rate that is 2% higher than the current rate, determined at the date of default in carrying out the Housing Providers' obligation, payable by Niagara Region for 20 year debentures. Interest shall be calculated and payable from the date of that default up to and including the date on which payment is received;
  - m) the Housing Provider shall indemnify Niagara Region and NRH against any costs, expenses, losses or damages arising out of the Housing Provider's failure to perform any of its obligations pursuant to the agreement; and
  - n) such other contractual provisions and/or any other penalties or consequences as any of the CEO or Niagara Region's Director of Legal and Court Services may consider necessary or advisable and recommend in order to fulfil the policies/objectives set forth in section 9 of this By-law (as supplemented by Council from time to time) or protect the interests of Niagara Region, NRH and/or the residents of the Housing Facility to which the agreement relates.
7. A Municipal Housing Capital Facility Agreement may allow for the lease, operation or maintenance of the Municipal Housing Project Facilities by any person.
8. A Municipal Housing Capital Facility Agreement may, with respect to the provision, lease, operation, or maintenance of the Housing Project that is subject to the agreement provide for financial or other assistance at less than fair market value or at no cost to the Housing Provider, which assistance may, subject to approval, include:
- a) giving or lending money and charging interest;
  - b) giving, lending, leasing or selling property;
  - c) guaranteeing borrowing;
  - d) full or partial exemption from taxation;
  - e) full or partial exemption from the payment of development charges and,
  - f) providing the services of employees of Niagara Region and/or NRH.
9. The applicable policies regarding public eligibility for the Housing Units to be provided as part of every Municipal Housing Project Facility approved

pursuant to this by-law, shall include but are not limited to:

- a) The maximum household income levels for the placement of tenants shall be based on the tenant's ability to pay rent amounts not exceeding 30% of the total gross household income;
- b) The Housing Units dedicated for rent supplement or housing allowance funding shall be filled through the normal procedures, and be subject to the eligibility criteria, of NRH's centralized waiting list system;
- c) Eligibility for all Housing Units shall be limited to persons who do not currently own residential property;
- d) No Housing Units shall be rented to persons considered not to be at arm's length from the Housing Provider, except where the Housing Provider is a non-profit housing co-operative, as defined in the *Co-operative Corporations Act*, as amended; and
- e) Shall promote the availability of support services for the residents of a Municipal Housing Project Facility.

10. This By-law shall come into effect on the date it is passed.

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Alan Caslin, Regional Chair

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, Regional Clerk

Passed:

DUPLICATE ORIGINAL

Bill 34

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 34-2004 \*\*2017

MUNICIPAL HOUSING FACILITY BY-LAW

**WHEREAS** ~~The Regional Municipality of Niagara is a delivery agent under the Ontario Works Act, 1997 authorized to operate and manage housing projects under the Social Housing Reform Act, 2000, service manager for Niagara region appointed in accordance with the Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1;~~

**AND WHEREAS** ~~as service manager, The Regional Municipality of Niagara has the obligation to carry out measures to meet its objectives and targets relating to affordable housing needs within the service manager's service area;~~

**AND WHEREAS** ~~The Regional Municipality of Niagara has delegated certain of its authority powers and duties under the Social Housing Reform Services Act, 2000~~ 2011, S.O. 2011, c. 6, Sched. 1, to Niagara Regional Housing;

**AND WHEREAS** section 110 of the *Municipal Act, 2001*, as amended, allows a municipality to enter into agreements for the provision of municipal capital facilities;

**AND WHEREAS** Ontario Regulation 46/94603/06, as amended, made under the *Municipal Act, 2001*, ~~sets out the classes of municipal capital facilities for which municipal councils may enter into agreements, one such class being municipal housing project facilities;~~ Municipal Housing Project Facilities;

**AND WHEREAS** such Regulation No. 46/94603/06, as amended, requires that a municipal council enact a municipal housing facility by-law ~~primarily~~ prior to enacting a by-law ~~by-law~~ authorizing entering into an agreement;

**AND WHEREAS** The Regional Municipality of Niagara previously passed Bylaw 34-2004 which dealt with the same matters but included references to statutes and regulations for the Province of Ontario that have subsequently been replaced by the statutes and regulations referenced herein;

**AND WHEREAS** Council wishes to increase the supply of affordable housing by providing financial or other assistance at less than fair market value to private sector and community-led non-profit housing providers;

**NOW THEREFORE** the Council of ~~the~~ The Regional Municipality of Niagara enacts as follows:

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1. ~~1~~ In this by-law,

a) ~~(a)~~ "Act" means the *Municipal Act, 2001*, S.O. 2001, c 25, as amended;

b) ~~(b)~~ "Affordable Housing" means, for the purpose of a Municipal Housing ~~Project Facilities~~Capital Facility Agreement, ~~Municipal Housing Project Facilities~~Units in which the average monthly rent by ~~each unit size and structure type and each unit size~~, exclusive of utilities, parking, telephone, cable and other related fees, is less than or equal to the Affordable Rent level for the respective lower-tier municipalities within the ~~Region~~Niagara region containing the Housing Project for that respective unit size and structure type;

~~(c)~~ "Agreement" means a Municipal Housing Project Facilities Agreement as set out in section 2 of this by-law;

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- c) ~~(d)~~ "Affordable -Rent" -for ~~municipal housing project facilities~~  
a Municipal Housing Capital Facility Agreement at any time  
means:
- a. ~~(i)~~ —for apartments, the average monthly market rent by  
bedroom type for privately-initiated apartment structures for  
each of the respective lower-tier municipalities within the  
RegionNiagara region, as determined and amended by  
CMHC;
- b. ~~(ii)~~ —for townhouses, the average monthly market rent by  
bedroom type for ~~privately-initiated~~ townhouse  
structures ~~for each of the~~ respective lower-tier  
municipalities in the Region, Niagara region, as  
determined and amended by CMHC; or
- c. ~~(iii)~~ —if CMHC does not publish an annual rent for the  
unit size by structure type for theNiagara Region's service  
area, then the rent as determined by NRH;
- d) "Board" means the Board of Directors of NRH; ~~(e)~~ —
- e) "CMHC" means Canada Mortgage and Housing Corporation; ~~(f)~~  
"Board" means the Board of Directors of NRH;
- ~~(g)~~ "NRH"  
"CEO" means Niagara Regional Housing, the service manager for the  
Region pursuant to the Social Housing Reform Act, 2000;
- ~~(h)~~ "Region" means the municipal corporation known as The Regional  
Municipality of Niagara-NRH's Chief Executive Officer or the geographic  
area that incorporates all of the lower tier municipalities within the Region,  
as the context requires his or her designate;
- ~~(i)~~ (j) "Council" means the Council of theNiagara Region;
- ~~(j)~~ "General Manager" means NRH's General Manager or his or her  
designate;
- ~~(k)~~ (l) "Housing Project" means a project or part of a project  
designed to provide or facilitate the provision of rental residential  
accommodation, with or without any public space, recreational  
facilities and commercial space or buildings appropriate thereto;
- ~~(m)~~ "Housing Provider" means person, or persons legally entitled to own or  
have an interest in real property in  
i) Ontario; upon which a Housing Project is constructed and which  
interest may be as legal owner of the real property or as a tenant  
which has entered into a lease of the Housing Project (or a part  
thereof) for the purpose of renting the Housing Units as Affordable  
Housing.

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j) (m) "Housing Unit" means a housing unit as defined in the Social Housing Reform Act, 2000 and includes a unit intended for use as residential accommodation in a Housing Project rented and shall be categorized by an occupant structure type as either an apartment unit or townhouse unit;

k) (n) "Municipal Housing Capital Facility Agreement" means an agreement permitted by section 110 of the Act Municipal Housing Project Facilities Agreement as contemplated set out in section 2 of this by-law;

l) "Municipal Housing Project Facilities" means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation 603/06, as amended;  
46/04, as amended;

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(e)

"Municipal Housing Project Facilities Approval By-law" means a by-law enacted by  
m) Council pursuant to ~~paragraph 18 of section 2-110 of the Act and Ontario Regulation 603/06, as amended, to approve a Municipal Housing Capital Facility Agreement and to grant such assistance and exemptions as Council deems appropriate and compliant with the Act;~~  
46/94, as amended;

(p) "Structure Type" means the type of residential dwellings to be constructed, e.g., apartments or townhouses;

(q) "Unit Size" means the size of a unit measured by the number of bedrooms; and,

(r) "Rent Supplement Agreement" means a rent supplement agreement as defined in the ~~Social Housing Reform Act, 2000, as amended, and any policies adopted by the Region and/or NRH in accordance with that Act~~

2.

n) "Niagara Region" means the municipal corporation known as The Regional Municipality of Niagara;

o) "Niagara region" means the geographic area that incorporates all of the lower-tier municipalities; and

p) "NRH" means Niagara Regional Housing, a not-for-profit corporation to which Niagara Region has delegated certain duties and powers pursuant to the Housing Services Act, 2011, as amended.

2. Council may pass Municipal Housing Project Facilities Approval By-laws in accordance with section 110 of the Act, permitting the Niagara Region and/or NRH to enter into Municipal Housing Project Facilities Capital Facility Agreements with Housing Providers for the provision of Municipal Housing Project Facilities Housing Projects, and to provide assistance and exemption as Council deems appropriate and compliant with the Act.

3. ~~3.~~ Upon the passing of a Municipal Housing Project Facilities Approval By-law referred to in ~~section 2 of this by-law, the Niagara Region's Regional Clerk shall give written notice of the by-law to the Provincial Minister of Education or successor, as set out in the Actlaw to all persons requiring notice pursuant to the Act and applicable regulations.~~

4. ~~4.~~ The Niagara Region and/or NRH shall not enter into a Municipal Housing Project Facilities Capital Facility Agreement unless it has been determined to the satisfaction of the General Manager/CEO that the Housing Units to be provided as part of the Municipal Housing Project Facilities fall within the definition of Affordable Housing.

5. ~~5.~~ Under no circumstances shall a Housing Unit be made available at any time during the period ~~the~~ Municipal Housing Project Facilities Capital Facility

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Agreement is in force:

a) ~~(a)~~ at a monthly rent that is not within the definition of Affordable Rent as outlined in this by-law for each applicable year during said period; or,

b) ~~(b)~~ to individuals or families who, at the time the Housing Unit was initially rented to them, already owned residential property, as determined by the Housing Provider after making reasonable inquiries.

6. ~~6.~~ Every ~~Municipal~~ ~~Housing~~ ~~Project Capital~~ Facility ~~Agreement~~ shall contain the following provisions or shall satisfy the following requirements, as the case may be:

a) ~~(a)~~ the term of the Agreement ~~agreement~~, which shall be not less than 26 ~~twenty (20)~~ years, ~~including a 20-year affordability period with an additional 5-year phase-out period~~;

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- (b) -  
b) the Housing Project shall provide no fewer than 3 Housing Units;
- (e) each Housing Unit within the Housing Project shall meet the definition of  
c) Affordable Housing throughout the term of the Agreement;
- d) (d) the Housing Project shall dedicate make available a minimum of 25% of the Housing Units for rent supplement under the or housing allowance programs provided through NRH and using programs funded by Niagara Region and Federal and Provincial Affordable Housing Program Community Rental Housing Component through a Rent Supplement Agreement governments through an agreement with and compliant with NRH the rules of NRH for such supplement or allowance. Provided the agreement may provide for graduated availability based on the availability of funding from NRH.
- e) (e) the Affordable Rent for each Housing Unit within the Housing Project funded under this program shall be subject to rent increase restrictions as per the Tenant Protection Residential Tenancies Act, 1997/2006 for the duration of the term provided no authorized increases permitted by the Residential Tenancies Act, 2006 shall be permitted to result in rents that are not compliant with section 5a) of this By-law;
- f) (f) the Housing Provider and any successor in title shall comply with section 5 of this by-law so long as the Agreement remains in effect;
- g) (g) Housing Units subject to the Agreement shall not be rented to the Housing Provider or shareholders or directors of the Housing Provider, or any individual not at arm's length from the Housing Provider. Despite the foregoing, Housing Units subject to a Municipal Housing Project Facilities Capital Facility Agreement may be rented to directors of the Housing Provider or to an individual not at arm's length from directors of the housing provider if the Housing Provider is a non-profit housing co-operative as defined in the Co-operative Corporations Act, as amended;
- h) (h) the Agreement shall be registered against the title to the property to which it relates to the extent that such registration is permitted;
- i) (i) the Municipal Housing Project Facilities Agreement shall be binding on the heirs, successors and assigns of the Housing Provider;
- j) (j) during the time period in which the Municipal Housing Project Facilities Agreement is in force, the Housing Provider shall, as a condition precedent to a sale of the Housing Project to a subsequent purchaser, require the subsequent purchaser to

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enter into an agreement with theNiagara Region and/or NRH, and that agreement shall impose the remaining term of the Municipal Housing Project FacilitiesCapital Facility Agreement on that subsequent purchaser;

~~(k)~~ a list of the benefits being conveyed to the Housing Provider under this by-law, including their estimated present day monetary value;

~~l)~~ ~~(l)~~ where a Housing Provider fails or refuses to carry out its obligations under the Agreementagreement or this by-law, the Housing Provider shall pay theNiagara Region and/or NRH the full amount of any financial assistance received or otherwise provided under the Agreementagreement together with interest thereon at thea rate ofthat is 2% higher than the current premium-rate, determined at the date of default in carrying out the Housing Providers' obligation, payable by Niagara Region for 20 year debentures. Interest shall be calculated and payable from the date of that default up to and including the date on which payment is received;

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m) ~~(m)~~ the Housing Provider shall indemnify ~~the~~Niagara Region and NRH against any costs, expenses, losses or damages arising out of the Housing Provider's failure to perform any of its obligations pursuant to the ~~Agreement~~agreement; and

n) ~~(n)~~ such other contractual provisions and/or any other penalties or consequences as ~~the General Manager~~any of the CEO or Niagara Region's Director of Legal and Court Services may consider necessary or advisable, ~~in his or her discretion and recommend~~, in order to fulfil the policies/objectives set forth in section 9 of this By-law (as supplemented by Council from time to time) or protect the interests of ~~the~~Niagara Region ~~and/or~~, NRH ~~and/or~~ the residents of the Housing Facility to which the agreement relates.

7. ~~7A~~ Municipal Housing ~~Project Facilities~~Capital Facility Agreement may allow for the lease, operation or maintenance of the Municipal Housing Project Facilities by any person.

8. ~~8.~~ A Municipal Housing ~~Project Facilities~~Capital Facility Agreement may, with respect to the provision, lease, operation, or maintenance of the ~~Municipal~~ Housing Project ~~Facilities~~ that is subject to the ~~Agreement~~agreement provide for financial or other assistance at less than fair market value or at no cost to the Housing Provider, which assistance may, subject to approval, include:

- a) ~~(a)~~ giving or lending money and charging interest; ~~(b)~~
- b) giving, lending, leasing or selling property;
- c) ~~(c)~~ guaranteeing borrowing;
- d) ~~(d)~~ full or partial exemption from taxation;
- e) ~~(e)~~ full or partial exemption from the payment of development charges and,
- f) ~~(f)~~ providing the services of employees of ~~the~~Niagara Region and/or NRH.

9. ~~9.~~ The ~~applicable~~ policies regarding public eligibility for the Housing Units to be provided as part of ~~the facilities~~every Municipal Housing Project Facility approved pursuant to this by-law, shall include but are not limited to:

- a) ~~(a)~~ The maximum household income levels for the placement of tenants shall be based on ~~the CMHC average rents resulting in tenant's ability to pay~~ rent amounts of ~~approximately not exceeding~~ 30% of the total gross household income;
- b) ~~(b)~~ The Housing Units dedicated for rent supplement ~~or housing allowance~~ funding shall be filled through the normal procedures, and be subject to the eligibility criteria, of NRH's centralized waiting list system;
- c) ~~(c)~~ Eligibility for all Housing Units shall be limited to persons who do not currently own residential property; ~~and~~
- d) ~~(d)~~ No Housing Units shall be rented to persons considered not to be at arm's length from the ~~housing provider~~Housing Provider, except where the ~~housing provider~~Housing Provider is a non-profit housing co-operative, as defined in

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10. —

- e) Shall promote the availability of support services for the residents of a Municipal Housing Project Facility.

10. This By-law shall come into effect on the date it is passed.

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Peter Partington

Alan Caslin, Regional Chair



Pam Gilroy, Acting Regional

Regional Clerk

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Passed: March 18, 2004

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THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2017-89

MUNICIPAL HOUSING FACILITY BY-LAW

WHEREAS The Regional Municipality of Niagara is a service manager for Niagara region appointed in accordance with the *Housing Service Act, 2011, S.O. 2011, c. 6, Sched. 1*;

AND WHEREAS as service manager, The Regional Municipality of Niagara has the obligation to carry out measures to meet its objectives and targets relating to affordable housing needs within the service manager's service area;

AND WHEREAS The Regional Municipality of Niagara has delegated certain of its powers and duties under the *Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1* to Niagara Regional Housing;

AND WHEREAS section 110 of the *Municipal Act, 2001*, as amended, allows a municipality to enter into agreements for the provision of municipal capital facilities;

AND WHEREAS Ontario Regulation 603/06, as amended, made under the *Municipal Act, 2001*, sets out the classes of municipal capital facilities for which municipal councils may enter inter agreements, one such class being Municipal Housing Project Facilities;

AND WHEREAS such Regulation No. 603/06, as amended, requires that a municipal council enact a municipal housing facility by-law prior to enacting a by-law authorizing entering into an agreement;

AND WHEREAS The Regional Municipality of Niagara previously passed By-law 34-2004 which dealt with the same matters but included references to statutes and regulations for the Province of Ontario that have subsequently been replaced by the statutes and regulations referenced herein;

AND WHEREAS Council wishes to increase the supply of affordable housing by providing financial or other assistance at less than fair market value to private sector and community-led non-profit housing providers.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. In this by-law,

a) "Act" means the *Municipal Act, 2001, S. O. 2001, c. 25*, as amended;

- b) "Affordable Housing" means, for the purpose of a Municipal Housing Capital Facility Agreement, Housing Units in which the average monthly rent by each unit size and structure type, exclusive of utilities, parking, telephone, cable and other related fees, is less than or equal to the Affordable Rent level for the respective lower-tier municipalities within the Niagara region containing the Housing Project for that unit size and structure type;
- c) "Affordable Rent" for a Municipal Housing Capital Facility Agreement at any time means:
  - a. for apartments, the average monthly market rent by bedroom type for privately-initiated apartment structures for each of the respective lower-tier municipalities within the Niagara region, as determined and amended by CMHC;
  - b. for townhouses, the average monthly market rent by bedroom type for privately-initiated townhouse structures for each of the respective lower-tier municipalities in the Niagara region, as determined and amended by CMHC; or
  - c. if CMHC does not publish an annual rent for the unit size by structure type for Niagara Region's service area, then the rent as determined by NRH;
- d) "Board" means the Board of Directors of NRH;
- e) "CMCH" means Canada Mortgage and Housing Corporation;
- f) "CEO" means NRH's Chief Executive Officer or his or her designate;
- g) "Council" means the Council of Niagara Region;
- h) "Housing Project" means a project or part of a project designed to provide or facilitate the provision of rental residential accommodation, with or without any public space, recreational facilities and commercial space or buildings appropriate thereto;
- i) "Housing Provider" means person or persons legally entitled to own or have an interest in real property in Ontario upon which a Housing Project



is constructed and which interest may be as legal owner of the real property or as a tenant which has entered into a lease of the Housing Project (or a part thereof) for the purpose of renting the Housing Units as Affordable Housing;

- j) "Housing Unit" means a unit intended for use as residential accommodation in a Housing Project and shall be categorized by structure type as either an apartment unit or a townhouse unit;
- k) "Municipal Housing Capital Facility Agreement" means an agreement permitted by section 110 of the Act as contemplated set out in section 2 of this by-law;
- l) "Municipal Housing Project Facilities" means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation 603/06, as amended;
- m) "Municipal Housing Project Approval By-law" means a by-law enacted by Council pursuant to section 110 of the Act and Ontario Regulation 603/06, as amended, to approve a Municipal Housing Capital Facility Agreement and to grant such assistance and exemptions as Council deems appropriate and compliant with the Act;
- n) "Niagara Region" means the municipal corporation known as The Regional Municipality of Niagara;
- o) "Niagara region" means the geographic area that incorporates all the lower-tier municipalities; and
- p) "NRH" means Niagara Regional Housing, a not-for-profit corporation to which Niagara Region has delegated certain duties and powers pursuant to the *Housing Services Act, 2011*, as amended.

2. Council may pass Municipal Housing Project Approval By-laws in accordance with section 110 of the Act, permitting Niagara Region and/or NRH to enter into Municipal Housing Capital Facility Agreements with Housing Providers for the provision of Housing Projects, and to provide assistance and exemption as Council deems appropriate and compliant with the Act.



3. Upon the passing of a Municipal Housing Project Approval By-law, Niagara Region's Regional Clerk shall give written notice of the by-law to all persons requiring notice pursuant to the Act and applicable regulations.
4. Niagara Region and/or NRH shall not enter into a Municipal Housing Capital Facility Agreement unless it has been determined to the satisfaction of the CEO that the Housing Units to be provided as part of the Housing Project fall within the definition of Affordable Housing.
5. Under no circumstances shall a Housing Unit be made available at any time during the period a Municipal Housing Capital Facility Agreement is in force:
  - a) at a monthly rent that is not within the definition of Affordable Rent as outlined in this by-law for each applicable year during said period; or,
  - b) to individuals or families who, at the time the Housing Unit was initially rented to them, already owned residential property, as determined by the Housing Provider after making reasonable inquiries.
6. Every Municipal Housing Capital Facility Agreement shall contain the following provisions or shall satisfy the following requirements, as the case may be:
  - a) the term of the agreement, which shall be not less than twenty (20) years;
  - b) the Housing Project shall provide to fewer than 3 Housing Units;
  - c) each Housing Unit within the Housing Project shall meet the definition of Affordable Housing throughout the term of the agreement;
  - d) the Housing Project shall make available a minimum of 25% of the Housing Units for rent supplement or housing allowance programs provided through NRH and using programs funded by Niagara Region and Federal and Provincial governments through an agreement with and compliant with the rules of NRH for such supplement or allowance. Provided the agreement may provide for graduated availability based on the availability of funding from NRH;
  - e) the Affordable Rent for each Housing Unit within the Housing Project funded under this program shall be subject to rent increase restrictions as per the *Residential Tenancies Act, 2006* for the duration of the term

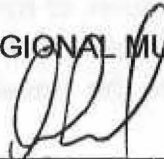
provided no authorized increases permitted by the *Residential Tenancies Act, 2006* shall be permitted to result in rents that are not compliant with section 5a) of this By-law;

- f) the Housing Provider and any successor in title shall comply with section 5 of this by-law so long as the agreement remains in effect;
- g) Housing Units subject to the agreement shall not be rented to the Housing Provider or shareholders or directors of the Housing Provider, or any individual not at arm's length from the Housing Provider. Despite the foregoing, Housing Units subject to a Municipal Housing Capital Facility Agreement may be rented to directors of the Housing Provider or to an individual not at arm's length from directors of the housing provider if the Housing Provider is a non-profit housing co-operative as defined in the *Co-operative Corporations Act*, as amended;
- h) the agreement shall be registered against the title to the property to which it relates to the extent that such registration is permitted;
- i) the agreement shall be binding on the heirs, successors and assigns of the Housing Provider;
- j) during the time period in which the agreement is in force, the Housing Provider shall, as a condition precedent to a sale of the Housing Project to a subsequent purchaser, require the subsequent purchaser to enter into an agreement with Niagara Region and/or NRH and that agreement shall impose the remaining term of the Municipal Housing Capital Facility Agreement on that subsequent purchaser;
- k) a list of the benefits being conveyed to the Housing Provider under this by-law, including their estimated present day monetary value;
- l) where a Housing Provider fails or refuses to carry out its obligations under the agreement or this by-law, the Housing Provider shall pay Niagara Region and/or NRH the full amount of any financial assistance received or otherwise provided under the agreement together with interest thereon at a rate that is 2% higher than the current rate, determined at the date of default in carrying out the Housing Providers' obligation, payable by Niagara Region for 20 year debentures. Interest shall be calculated and payable from the date of that default up to and including the date on which payment is received.

- m) the Housing Provider shall indemnify Niagara Region and NRH against any costs, expenses, losses or damages arising out of the Housing Provider's failure to perform any of its obligations pursuant to the agreement, and;
  - n) such other contractual provision and/or any other penalties or consequences as any of the CEO or Niagara Region's Director of Legal and Court Services may consider necessary or advisable and recommend in order to fulfil the policies/objectives set forth in section 9 of this By-law (as supplemented by Council from time to time) or protect the interests of Niagara Region, NRH and/or the residents of the Housing Facility to which the agreement relates.
- 7. A Municipal Housing Capital Facility Agreement may allow for the lease, operation or maintenance of the Municipal Housing Project Facilities by any person.
- 8. A Municipal Housing Capital Facility Agreement may, with respect to the provision, lease, operation, or maintenance of the Housing Project that is subject to the agreement provide for financial or other assistance at less than fair market value or at no cost to the Housing Provider, which assistance may, subject to approval, include:
  - a) giving or lending money and charging interest;
  - b) giving, lending, leasing or selling property;
  - c) guaranteeing borrowing;
  - d) full or partial exemption from taxation;
  - e) full or partial exemption from the payment of development charges, and;
  - f) providing the services of employees of Niagara Region and/or NRH.
- 9. The applicable policies regarding public eligibility for the Housing Units to be provided as part of every Municipal Housing Project Facility approved pursuant to this by-law, shall include but are not limited to:
  - a) The maximum household income levels for the placement of tenants shall be based on the tenant's ability to pay rent amounts not exceeding 30% of the total gross household income;

- b) The Housing Units dedicated for rent supplement or housing allowance funding shall be filled through the normal procedures, and be subject to the eligibility criteria, or NRH's centralized waiting list system;
  - c) Eligibility for all Housing Units shall be limited to persons who do not currently own residential property;
  - d) No Housing Units shall be rented to persons considered not to be at arm's length from the Housing Provider, except where the Housing Provider is a non-profit housing co-operative, as defined in the *Co-operative Corporations Act*, as amended, and;
  - e) Shall promote the availability of support services for the residents of a Municipal Housing Project Facility.
10. That By-law 34-2004 is hereby repealed.
11. This By-law shall come into effect on the date it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA



Alan Caslin, Regional Chair



Frank Fabiano, Acting Regional Clerk

Passed: October 26, 2017

January 19, 2018

**CL 11-2017, July 20, 2017**

**Minute Item 10.2.4**

**Report CSD 51-2017**

Bonnie Nistico-Dunk, City Clerk  
The Corporation of the City of St. Catharines  
PO Box 3012  
50 Church Street  
St. Catharines ON L2R 7C2

***SENT ELECTRONICALLY***


**Unsolicited Proposal for Housing from Penn Terra Group Limited**  
**CSD 51-2017**

Regional Council, at its meeting of July 20, 2017, approved the following recommendations:

1. That Council **AUTHORIZE** the Acting Commissioner of Enterprise Resource Management Services to negotiate an agreement with Penn Terra Group Limited and Bethlehem Housing and Support Services that would result in the development known as 111 Church Street in St. Catharines, Ontario being deemed a Municipal Capital Facility, subject to the satisfaction of the Director of Legal Services, the City of St. Catharines and the Niagara Region Housing Board of Directors;
2. That the Regional Chair and Regional Clerk **BE AUTHORIZED** to execute the single source agreement with Penn Terra Group Limited and Bethlehem Housing and Support Services, on behalf of the Corporation subject to the satisfaction of the Director of Legal Services and the Niagara Region Housing Board of Directors and Council prior to execution;
3. That staff **BE DIRECTED** to amend any by-laws as required and bring to the Corporate Services Committee for approval in the fall; and,
4. That staff **BE DIRECTED** to develop a public process to solicit other competitive bids for similar developments and to bring this process to Council for approval in the fall.

A copy of Report CSD 51-2017 is enclosed for your information.

Yours truly,



Frank Fabiano  
Acting Regional Clerk

:cjp

CLK-C 2018-08

cc: J. Burgess, Acting Commissioner, Enterprise Resource Management Services/Treasurer  
M. Montague, Executive Assistant to the Acting Commissioner, Enterprise Resource Management Services

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**Subject:** Unsolicited Proposal for Housing from Penn Terra Group Limited

**Report to:** Regional Council

**Report date:** Thursday, July 20, 2017

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## **Recommendations**

1. That Council **AUTHORIZE** the acting Commissioner of Enterprise Resource Management Services to negotiate an agreement with Penn Terra Group Limited and Bethlehem Housing and Support Services that would result in the development known as 111 Church Street in St. Catharines Ontario being deemed a Municipal Capital Facility, subject to the satisfaction of director of legal services, the City of St. Catharines and the Niagara Region Housing Board of Directors;
2. That the Regional Chair and Regional Clerk **BE AUTHORIZED** to execute the single source agreement with Penn Terra Group Limited and Bethlehem Housing and Support Services, on behalf of the Corporation subject to the satisfaction of director of legal services and the Niagara Region Housing Board of Directors and Council prior to execution;
3. That staff **BE DIRECTED** to amend any by-laws as required and bring to Council for approval in the fall; and,
4. That staff **BE DIRECTED** to develop a public process to solicit other competitive bids for similar developments and to bring this process to Council for approval in the fall.

## **Key Facts**

- Penn Terra Group Limited ("PTGL") submitted an unsolicited proposal, which was presented to Corporate Services Committee on May 10, 2017 requesting that the development known as 111 Church Street in St. Catharines Ontario (the "development") be deemed a Municipal Capital Facility
- As a Municipal Capital Facility the development will be exempt from property taxes (regional, municipal and education) and development charges during the period of compliance with the proposed agreement governing minimum requirements for the facility
- PTGL intends to enter into a long-term arrangement with Bethlehem Housing and Support Services ("BHSS") to manage the building over a twenty-year period with automatic 20-year potential renewal periods for a total commitment of 100 years
- Staff is recommending that the Region proceed with entering into an agreement, on a one time basis, with PTGL and BHSS to deem the development a Municipal

Capital Facility and put in place appropriate safeguards to ensure the facility continues to be used as intended

- A key benefit to the proposed development is the introduction of 127 new rental units into the rental market
- The proposed development will include 20 supportive affordable units (subsidized by NRH from 96% modified average market rents to 80% average market rents) and 26-31 units at 80% of modified average market rents being put into the rental market
- The introduction of these units into the rental market will not necessarily result in individuals being taken off the wait list, as these individuals could be eligible for deeper subsidy if they received housing directly through Niagara Regional Housing
- These rental units however do provide a benefit to these individuals as they will have access to reduced rents and would move them closer to the affordable threshold
- Staff will undertake a public proposal process for similar proposals in the fall
- The award of a single source contract and the timing of the award are contrary to the Unsolicited Proposal policy and require approval from Council (specifically 1.8 and 4.0).

## Financial Considerations

The proposal from PTGL for the development known as 111 Church Street in St. Catharines Ontario was evaluated against our most recent capital cost estimates for supportive housing units (527 Carlton Street) and using the assumptions as outlined in Appendix 2.

A cash flow analysis was conducted for each development as follows (see Appendix 1 for more detail):

- **Option 1 Niagara Region Build and Own**
  - **Option 1A:** the Region would be responsible for all the incremental costs of funding related to construction, financing and capital replacement. The rent would recover operating and maintenance only.
  - **Option 1B:** the Region would be responsible for the incremental cost of funding construction and financing costs. The capital replacement costs are assumed to be recovered from rent along with operating and maintenance costs.
- **Option 2 Municipal Capital Facility Designation** is based on the public private partnership from the unsolicited proposal and includes the requested financial incentives reflected under the request for the housing development being deemed a Municipal Capital Facility. The unsolicited proposal requested an exemption of an estimated \$1M in development charges as well as forgiven real estate tax for all 127 units within the development (Regional portion estimated at \$0.14M/yr in 2019). The lost revenue associated with the real estate tax incentive is an additional \$3.4M over the first 20 years (\$5.6M over 30 years).



Options under Regional build and ownership with Provincial and Federal funding were not considered for comparison since these options would be favourable over any public-private partnership.

Based on the Region being responsible for all incremental costs associated with capital construction and financing as well as the capital lifecycle costs, the financial analysis between Options 1 and 2 are relatively cost neutral. While the undiscounted cash flow favours both Option 1A and 1B over the proposal, however the discounted cash flow favours the proposal over Option 1A with a total net present value (NPV) savings of \$.060M per unit of supportive housing and is therefore recommended.

Option 1B, which assumes rents would recover all lifecycle costs would be preferred under a discounted cash flow analysis although this assumption is not known to occur in our current housing facilities and therefore assumes a high risk to the Region.

In addition to the NPV financial analysis, there are additional risks which should also be considered. Under Option 2, the following cost risks are transferred from Niagara Region to the private sector:

- Construction Risk (risk the cost to build exceeds estimates).
- Financing Risk (risk that borrowing costs increases).
- Operational Risk (risk that operational costs exceed estimates).

A sensitivity analysis was conducted around the DC incentive, reducing the incentive from all 127 units to only those deemed supportive housing units, would favour the proposal with a NPV savings of \$0.102M per unit over Option 1A and \$0.26M per unit over Option 1B.

## **Analysis**

PTGL submitted an unsolicited proposal, which was presented to Corporate Services on May 10, 2017, requesting that the development known as 111 Church Street in St. Catharines Ontario ("development") be deemed a Municipal Capital Facility.

The *Municipal Act, 2001*, section 110 and Ontario Regulation 603/06, as amended, specifically provides for a municipality to enter into an agreement with the owner of the property for the provision of municipal housing project facilities. The attraction of a Municipal Capital Facility is that such facility can be determined to be tax exempt and also to be exempt from development charges. Correspondence from the developer highlights that the exemption of property taxes and development charges will make the project financially viable.

At the May 10, 2017 Corporate Services Meeting staff were directed to:

- move forward with the unsolicited proposal and undertake further due diligence on the submission, as well as undertake a competitive procurement process to solicit competing proposals
- undertake additional analysis or review and report back

Staff have reviewed the most recent proposal and are recommending that the Region proceed with entering into an agreement, on a one time basis, with PTGL and BHSS to deem the development a Municipal Capital Facility.

Should the Region receive additional funding for affordable housing, staff are recommending that the agreement allow for additional rent supplement units to be considered (over and above the 20 units committed to as part of NRH 9-2016).

The most recent development proposal would contain the following:

- Total of 127 units to be constructed
- 26-31 units will be at 80% of modified average market rent (80% CMHC market level rents) without further subsidy by Niagara Regional Housing
- 20 additional units will be at 96% of modified average market rent (the difference between the 80% CMHC market level rents and 96% is subsidized by Niagara Regional Housing (Report NRH 9-2016))
- The remaining units would be at CMHC average market rent, resulting in the entire building on average being under CMHC average market rent
- This project will assist in moving individuals off the Niagara Regional Housing's waiting list.
- The agreement will be 25 years at which time the Niagara Region will hold an option to renew the agreement for a further 5 years.
- Niagara Region will defer its development charges on the building as a whole for a 25 year period, if the building has maintained its obligations to provide affordable housing under the agreement, the development charges will be waived at that time.
- Niagara Region will waive its property taxes annually up to 30 years if the building is compliant with its commitment to provide affordable housing.
- If at any time the development is not compliant with the agreement or if the building is converted to another use then the Municipal Capital Facility classification would be removed and the development would become taxable.

#### Future Public Procurement

Staff will develop a public procurement process and present it for approval to Council in the fall. Key elements for this public procurement will be:

- Any development must have support of the Local Area Municipality.
- The proponent must enter into an agreement with Niagara Regional Housing.

- Any development must be a new purpose built rental building.

#### Compliance Issues

In order to ensure that the number of agreed upon affordable units are maintained in the market over the term of the agreement, PTGL and BHSS will be required to submit an audited report on an annual basis to the Region to support that they are in compliance with the agreement. If there is an issue with noncompliance the Municipal Capital Facility designation would be removed resulting in the property being fully taxable. Development charges will only be deferred if they are in compliance with the agreement. Noncompliance (in years 1-25) would result in the development charges being paid back.

By entering into this agreement PTGL and BHSS will be able to move forward with their financing agreements. Staff note that changes to the Niagara Region Municipal Housing Facility By-Law No 34-2004 will have to be made prior to being able to deem the development a Municipal Capital Facility.

#### Bylaw Changes

The *Municipal Act, 2001* and related regulations (the “Act”) collectively require, within the sphere of social housing, both a general municipal housing facility by-law that complies with the minimum requirements of the Act and an additional subsequent specific by-law to authorize each different facility and agreement being considered. Niagara Region has an existing municipal housing facility by-law (By-law 34-2004) (hereinafter “34-2004”). The proposal as currently presented would not comply with all the existing requirements of the 34-2004 and the 34-2004 will need to be amended or replaced to both to update it to reflect current applicable legislation and to remove certain existing restrictions that the proponents may be unable or unwilling to meet or which staff and the NRH board may consider not appropriate in an updated by-law. The most significant provisions of the 34-2004 which the proponents may not fully comply with relate to:

- the dedication of a minimum of twenty-five (25%) of the Housing Units in the facility to supplement under the Federal/Provincial Housing Program-Community Rental Housing Component. The development, as proposed, includes only 20 units (or 16%) of the total with this funding and is limited by the available NRH funds for supplement payment. In addition, a separate subsequent by-law will be required to authorize the form of Agreement negotiated by staff;
- the limitation requiring that all tenants placed in the facility have income levels that result in the monthly rents amounting to approximately thirty (30%) of gross household income.

Other current restrictions in the 34-2004 including a requirement that all tenants be at arm-length to the housing provider and limited to persons not currently owning any real estate are details that will be subject to discussion with staff. Each of the proposed by-laws will be returned to Council for its consideration before a binding Municipal Capital

Facility agreement is created. The resulting general municipal housing facility by-law will have relevance to projects in addition to the proposal currently before Council and staff will seek to include amendments that are flexible enough to allow for changing circumstances and varied proposals in the future.

### **Overall**

Staff have reviewed this proposal and have concluded the following:

- The development of new purpose built affordable rental units is an acute demand in Niagara and specifically in St. Catharines
- The discounted cash-flow analysis demonstrates taxpayer value under the proposed model, compared to our current alternative option funded fully by the Region. There is also a significant transference of risk under this model that is additive to the positive taxpayer value.
- This project should be treated as a pilot project and factored into the alternative service delivery review for social housing.

### **Alternatives Reviewed**

- 1) Council can direct staff not to award single source agreement to PTGL and recommend issuing public procurement in the fall.
- 2) Council can choose not to grant the award of the municipal capital asset designation.
- 3) Council can direct staff to reduce the DC incentive to only units which are guaranteed supportive housing units however this is not being offered by the proponent.

### **Relationship to Council Strategic Priorities**

Improving the social housing portfolio has been identified as a Council priority.

### **Other Pertinent Reports**

- CSD 37-2017 Unsolicited Proposal for Affordable Housing
- NRH 9-2016 New Housing Allowance Program & Funding Request

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### **Prepared and Recommended by:**

Jason Burgess  
Acting Commissioner  
Enterprise Resource Management Services

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**Submitted by:**

Carmelo D'Angelo, BSc, MPA  
Chief Administrative Officer

*This report was prepared in consultation with Beth Brens, Manager of Program Financial Support, Heather Talbot, Financial and Special Projects Consultant, Victoria Duru, Program Financial Specialist, Sterling Wood, Acting Director of Legal Services, Dan Troke, CEO Niagara Regional Housing, Adrienne Jugley, Commissioner of Community Services.*

**Appendices**

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## Appendix 1: Cash Flow Analysis

### OPTION 1A CASH FLOW COMPARISON

New Supportive Affordable Housing Units	OPTION 1A: Regional Ownership Construction, Financing & Lifecycle Replacement	OPTION 2: Public-Private Partnership (Proposal 127 Unit Construction; 20 Supportive Units)	COST/ (BENEFIT)
<b>25 YEAR ASSESSMENT</b>			
DC incentive applied to all 127 Housing Units			
Cost per Unit	\$280,504	\$353,865	\$73,361
Net Present Value Cost per Unit* @ 4.0% discount rate	<b>\$294,469</b>	<b>\$234,685</b>	<b>(\$59,784)</b>
DC incentive applied to 20 Supportive Housing Units			
Cost per Unit	\$280,504	\$311,161	\$30,657
Net Present Value Cost per Unit* @ 4.0% discount rate	<b>\$294,469</b>	<b>\$191,980</b>	<b>(\$102,488)</b>

\*terminal asset value after 20 years reduces annual average per unit costs; impact reduced with discounting

### OPTION 1B CASH FLOW COMPARISON

New Supportive Affordable Housing Units	OPTION 1B: Regional Ownership Construction, Financing (Rent covers Lifecycle Replacement)	OPTION 2: Public-Private Partnership (Proposal 127 Unit Construction; 20 Supportive Units)	COST/ (BENEFIT)
<b>25 YEAR ASSESSMENT</b>			
DC incentive applied to all 127 Housing Units			
Cost per Unit	\$153,325	\$353,865	\$200,541
Net Present Value Cost per Unit* @ 4.0% discount rate	<b>\$218,118</b>	<b>\$234,685</b>	<b>\$16,567</b>
DC incentive applied to 20 Supportive Housing Units			
Cost per Unit	\$153,325	\$311,161	\$157,836
Net Present Value Cost per Unit* @ 4.0% discount rate	<b>\$218,118</b>	<b>\$191,980</b>	<b>(\$26,138)</b>

\*terminal asset value after 20 years reduces annual average per unit costs; impact reduced with discounting

## Appendix 2: Financial Assumptions

Financial Assumptions/ Inputs	
Analysis Year	2018
Construction Start Date	1-Apr-18
Construction End Date	31-Mar-19
Depreciation (yrs)	40
% of Supportive Housing Units	15.7%
Maximum Number of Affordable units in build	51
Number of Supportive units	20
Per Unit Subsidy	\$ 270.00
Discount Rate (low)	4.0%
Alternative Discount Rate (high)	8.0%
Inflation Rate (CPI)	2.0%
Building Manufacturing Index (BMI)	2.5%
Contract Length	25
Estimated Average Unit Construction Cost (Excluding Land)	\$ 158,824
Estimated Average Unit Construction Cost (Including Land)	\$ 185,529
Average DC/Unit - based on 2017 by-law	\$ 7,982
Regional Build Supportive Housing Units	85
Debt Repayment Length	20
DC incentive Units	127
Provincial Subsidy Rate	
Property Tax Rate	0.00577237
Interest Rate	3.000%