

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU), hereinafter referred to as the Memorandum, entered into on October 12, 2022, by and between the City of Port Colborne hereinafter referred to as the "First Party," and Niagara Regional Housing hereinafter referred to as the "Second Party," and collectively known as the "Parties" for the purpose of establishing and achieving various goals and objectives relating to the transfer of the ownership of the City owned Haney Street Road Allowance, legally described as Haney St PL 765 Humberstone Lying E of King Street Except VH2791 Port Colborne, to Niagara Regional Housing for the sole intended purpose of an affordable housing development as the property's future use.

**WHEREAS**, the aforementioned Parties desire to enter into the herein described agreement in which they shall work together to accomplish the goals and objectives set forth;

**AND WHEREAS**, the Parties are desirous to enter an understanding, thus setting out all necessary working arrangements that both Parties agree shall be necessary to complete the repurposing of the Haney Street property to an affordable housing development.

### **OVERVIEW**

Port Colborne is committed to having supportive policies and incentives, adopting innovative approaches, and pursuing strategic partnerships to create more affordable and attainable housing.

Niagara Regional Housing own and manage an inventory of properties throughout Niagara and Niagara Region maintain the wait lists for affordable housing units. They are also focused on identifying development opportunities in Niagara where new affordable housing units could be constructed.

Niagara Regional Housing is a public use corporation, providing public housing services, and they are defined as a "local board" under the Municipal Act, exercising power under any Act with respect to the affairs or purposes of one of more municipalities. Their mandate is to provide public housing services and their objective is to create affordable housing units in Port Colborne.

At their September 13<sup>th</sup> 2022 meeting, Port Colborne City Council passed a motion to partner with Niagara Regional Housing on an affordable housing project on a surplus City property on Haney Street.

At their September 29<sup>th</sup>, 2022 meeting, Niagara Regional Housing's Board of Directors approved a recommendation from their CEO to work with the City of Port Colborne

regarding the acquisition of the Haney Street parcel and to begin working on a feasibility study and concept plan for a multi-unit residential building.

### **MISSION**

The purpose of this Memorandum of Understanding is to outline the commitments and intentions of the Parties and to enable the completion of pre-development work, feasibility studies and the formal transfer of ownership of the Haney Street property from the City of Port Colborne to Niagara Regional Housing for the sole purpose of creating a multi-unit apartment complex compliant with current affordable housing policies and practices.

### **PURPOSE AND SCOPE**

The Parties intend for this Memorandum of Understanding to provide the cornerstone and structure for any and all possibly impending binding contracts related to the transfer of property ownership from the City of Port Colborne to Niagara Regional Housing for the stated mission.

### **RESPONSIBILITIES AND OBLIGATIONS OF THE PARTIES**

It is the desire and the wish of the aforementioned Parties to this MOU Agreement that this document should not and thus shall not establish nor create any form or manner of a formal agreement or indenture, but rather an agreement between the Parties to work together in such a manner that would promote a genuine atmosphere of collaboration and alliance in the support of an effective and efficient partnership and leadership meant to maintain, safeguard and sustain sound and optimal managerial, financial and administrative commitment with regards to all matters related to the transfer of the Haney Street property from the City of Port Colborne to Niagara Regional Housing for the sole purpose of developing an affordable housing multi-unit rental development.

### **TIMELINE**

At their September 13<sup>th</sup> 2022 meeting, Council approved staff report 2022-168 recommending that an MOU between the City and Niagara Regional Housing be drafted. Council added an amendment that a 3 year term be included in the MOU. It is further understood by the Parties that Niagara Regional Housing will demonstrate significant progress within this 3 year time frame by attending pre-consultation meetings with the City and other agencies; working on site development; preparing concepts plans and building designs; confirming financing strategy, completing required permits/ planning approvals and studies; and initiating building construction.

It is also understood that if building construction does not start within 3 years after assuming ownership, Niagara Regional Housing will be required to return the property to

the City. However, City Council may chose to extend the term of the MOU if it can be demonstrated that a viable project is under development and requires more time.

Niagara Regional Housing have expressed their interest in working with the City to acquire the property in Q4/2022 as having and showing ownership will be very helpful in discussions with the NRH Board, Niagara Region Council and staff, as well as capitalizing on funding opportunities with CMHC, and the federal and provincial governments.

### **LAND**

Port Colborne City Council, at their meeting of August 23<sup>rd</sup> 2022 supported a staff recommendation to formally close the Haney Street Road Allowance and declare it surplus. At their September 13<sup>th</sup> 2022 meeting, Council approved a motion to convey the property to Niagara Regional Housing for them to construct an affordable housing structure.

A separate purchase agreement will need to be entered into when the land is conveyed to Niagara Regional Housing. It is understood by the parties that the land will be conveyed to Niagara Regional Housing for \$2.00

The property to be conveyed is legally described as: Haney Street PL 765 Humberstone Lying E of King Street Except VH2791 Port Colborne.

Niagara Regional Housing have also request that the Haney Street and 709 King Street be merged on title once the ownership of the Haney Street parcel is conveyed.

### **ZONING AND OFFICIAL PLAN**

The property is currently zoned R4 and is designated Urban Residential in the City's Official Plan. The R4 zoning designation would support a low-rise apartment building. The final number of units would be determined by Niagara Regional Housing based on funding availability, site layout, and discussions with City Planning staff.

### **SURVEY**

It has been determined by an Ontario Land Surveyor and the City Solicitor that a survey/reference plan is not required as it is the City's intention to convey the entire parcel known as Haney Street PL 765 Humberstone Lying E of King Street Except VH2791 Port Colborne to Niagara Regional Housing.

### **APPRAISAL**

An independent appraisal has been completed at the City's expense to establish a value of the property to assist Niagara Regional Housing with their financing strategy and funding applications to federal-provincial governments and other agencies. The

appraised value of the vacant parcel is \$227,000. A copy of this appraisal has been provided to Niagara Regional Housing.

### **ENVIRONMENTAL**

A Phase One Environmental Site Assessment has been initiated with an environmental consultant and this will be at the City's expense.

### **SERVICING AND SITE PLAN**

Municipal water and sewer services are available for this property and are located nearby. These services will need to be brought to the property line and connected to the building once constructed. The costs of bringing the services to the property line and to the building will be at Niagara Regional Housing's expense.

This project will be subject to site plan control as per the City's Site Plan Bylaw and that the requirements to submit a complete site plan application will be discussed at a pre-consultation meeting between the City and applicable agencies. All plans and studies required for site plan approval are at the expense of NRH.

### **FEES AND CHARGES**

Niagara Regional Housing will be responsible for all planning and building permit fees for this project. The project is exempt from Regional Development Charges as the focus of the development is creating affordable housing units.

### **LEVEL OF SERVICE**

The City of Port Colborne will commit to working collaboratively and cooperatively with Niagara Regional Housing on this project as well as ensuring a streamlined development approvals process and responding to NRH in a timely manner.

### **DUE DILIGENCE**

It is understood that Niagara Regional Housing have initiated their due diligence including a feasibility study and developing potential concept plans and building designs.

### **CITY FUNDING**

It is understood that the City's funding commitment to Niagara Regional Housing's affordable housing project on Haney Street is the donation of land as well as covering the cost of the survey and appraisal.

## **TERMS OF UNDERSTANDING**

The term of this Memorandum of Understanding shall be for a period of 36 months from the aforementioned effective date and may be extended upon written mutual agreement of both Parties and approval of Port Colborne Council and the Niagara Regional Housing Board of Directors.

## **AMENDMENT OR CANCELLATION OF THIS MEMORANDUM**

This Memorandum of Understanding may be amended or modified at any time in writing by mutual consent of both parties.

In addition, the Memorandum of Understanding may be cancelled by either party with 90 days advance written notice, with the exception where cause for cancellation may include, but is not limited to, a material and significant breach of any of the provisions contained herein, when it may be cancelled upon delivery of written notice to the other party.

## **GENERAL PROVISIONS**

The Parties acknowledge and understand that they must be able to fulfill their responsibilities under this Memorandum of Understanding in accordance with the provisions of the law and regulations that govern their activities. Nothing in the Memorandum is intended to negate or otherwise render ineffective any such provisions or operating procedures. The parties assume full responsibility for their performance under the terms of this Memorandum.

If at any time either party is unable to perform their duties or responsibilities under this Memorandum of Understanding consistent with such party's statutory and regulatory mandates, the affected party shall immediately provide written notice to the other party to establish a date for resolution of the matter.

## **LIMITATION OF LIABILITY**

No rights or limitation of rights shall arise or be assumed between the Parties as a result of the terms of this Memorandum of Understanding.

## **NOTICE**

Any notice or communication required or permitted under this Memorandum shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such address as one may have furnished to the other in writing.

## **GOVERNING LAW**

This Memorandum of Understanding shall be governed by and construed in accordance with the laws of the Province of Ontario

### **SEVERABILITY CLAUSE**

In the event that any provision of this Memorandum of Understanding shall be deemed to be severable or invalid, and if any term, condition, phrase or portion of this Memorandum shall be determined to be unlawful or otherwise unenforceable, the remainder of the Memorandum shall remain in full force and effect, so long as the clause severed does not affect the intent of the parties. If a court should find that any provision of this Memorandum to be invalid or unenforceable, but that by limiting said provision it would become valid and enforceable, then said provision shall be deemed to be written, construed and enforced as so limited.

### **ASSIGNMENT**

Neither party to this Memorandum of Understanding may assign or transfer the responsibilities or agreement made herein without the prior written consent of the non-assigning party, which approval shall not be unreasonably withheld.

### **ENTIRE UNDERSTANDING**

The herein contained Memorandum of Understanding constitutes the entire understanding of the Parties pertaining to all matters contemplated hereunder at this time. The Parties signing this MOU desire or intend that any implementing contract, license, or other agreement entered into between the Parties subsequent hereto shall supersede and preempt any conflicting provision of this Memorandum of Understanding whether written or oral.

### **MOU SUMMARIZATION**

***FURTHERMORE***, the Parties to this MOU have mutually acknowledged and agreed to the following:

- The Parties to this MOU shall work together in a cooperative and coordinated effort, and in such a manner and fashion to bring about the achievement and fulfillment of the goals and objectives of the transfer of property and the realization of multi-unit affordable housing development.
- It is not the intent of this MOU to restrict the Parties to this Agreement from their involvement or participation with any other public or private individuals, agencies or organizations.
- The Parties to this MOU shall mutually contribute and take part in any and all phases of the planning and development of this affordable housing development, to the fullest extent possible.

- It is not the intent or purpose of this MOU to create any rights, benefits and/or trust responsibilities by or between the parties.
- The MOU shall in no way hold or obligate either Party to supply or transfer funds to maintain and/or sustain the agreement for the land transfer for its sole purpose.
- In the event that contributed funds should become necessary, any such endeavor shall be outlined in a separate and mutually agreed upon written agreement by the Parties or representatives of the Parties in accordance with current governing laws and regulations, and in no way does this MOU provide such right or authority.
- The Parties to this MOU have the right to individually or jointly terminate their participation in this Agreement provided that advanced written notice is delivered to the other party.
- Upon the signing of this MOU by both Parties, this Agreement shall be in full force and effect.

#### **AUTHORIZATION AND EXECUTION**

The signing of this Memorandum of Understanding does not constitute a formal undertaking, and as such it simply intends that the signatories shall strive to reach, to the best of their abilities, the goals and objectives stated in this MOU.

Signed:

#### **Corporation of the City of Port Colborne**

Name:

Title:

Date:

Signature:

Name:

Title:

Date:

Signature:

#### **Niagara Regional Housing**

Name:

Title:

Date:

Signature:

Name:

Title:

Date:

Signature: