AIRD BERLIS

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July 18, 2022

BY EMAIL

Office of the Regional Clerk
Niagara Region
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON L2V 4T7

Re: Niagara Region Council Meeting on July 21, 2022
Agenda Item No. 9.1.2 – CL-C 107-2022
2022 Development Charges By-law Update

Aird & Berlis LLP is counsel to the Niagara Falls Canada Hotel Association ("NFCHA") in respect of Niagara Region's upcoming 2022 Development Charge ("DC") By-law update.

Niagara Regional Council is already in receipt of written comments from NFCHA filed in advance of the June 30, 2022 public meeting (a copy of which is attached for ease of reference). NFCHA also previously provided a PowerPoint presentation as part of the public meeting to offer Regional Council information on who NFCHA represents as well as the impact the proposed update to the Region's DC rates will have on the hotel/motel industry within the Region.

As noted in NFCHA's submissions to date, Niagara Region is presently moving towards a **350%** increase in the amount of DCs imposed upon the hotel/motel industry since 2019. As was also noted in NFCHA's submissions, Regional Council had previously requested (in 2017) that its Planning and Development Services staff review Niagara Region's incentive plans in effort to keep DC rates at or near **$3.65 per square foot**. No such report was ever prepared for Regional Council's consideration and the DC rates for hotels/motels is now proposed to jump from $3.65 per square foot to **$16.35 per square foot**.

The significant increase in DCs for hotel/motel development will have a serious chilling effect on the development of new, expanded and/or redeveloped hotel/motel space within Niagara. Our client's industry continues to recover from the historic downturn in tourism and hospitality brought about through the COVID pandemic. Without appropriate regard for the impacts of increased DCs on hotel/motel development, this downturn will artificially continue within Niagara.

Our clients have retained an external consultant (Parcel Economics) to review the Region's 2022 DC Background Study. Attached to this letter is a memorandum prepared by Parcel (dated July 15, 2022) wherein some 23 different issues are identified. These issues include the continued inclusion of hotel/motel uses within the general commercial use category, the forecasts and assumptions used for employment and floor-space-per-worker densities, reserve adjustments, benefits-to-existing and levels-of-service assumptions and various charges related to highways. As noted by Parcel, some of these issues result in rates that would violate the requirements of the *Development Charges Act* if approved by Regional Council.

We note that the Region's current DC rates are not set to expire until August 31, 2022. We submit there remains time for the Region to instruct its staff to meet directly with representatives of NFCHA (including Parcel) in effort to resolve some or all of the issues identified to date – including the list of issues provided in the attached memorandum.

Accordingly, we ask that Regional Council give serious consideration to **deferring approval of the 2022 DC By-law** (which, as of the date of this letter, is not available for viewing on the Region's Agenda website) to allow appropriate time to meet.

Our client looks forward to Regional Council's directions in this regard.

Yours very truly,

AIRD & BERLIS LLP

Patrick Harrington

Patrick J. Harrington

PJH/

NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

June 23, 2022

By electronic submission

Niagara Region Council
Niagara Region
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, Ontario L2V 4T7

Chair Bradley and Members of Council:

Re: Proposed Niagara Region 2022 Development Charges By-law
Comments for the June 30, 2022 Public Meeting
Niagara Falls Canada Hotel Association

I'm writing as the Chair of the Niagara Falls Canada Hotel Association. Our Association includes over 50 hotels and motels, representing about 10,000 total rooms. Our membership is diverse, and includes small motels, family-oriented hotels, and international hotels in the tourist core.

As you undoubtedly know, tourism (accommodations and food services) is Niagara's largest industry. Until the pandemic and with reasonable development charges, we had strong growth. Our industry added 4,313 new jobs to Niagara's economy between 2014 and 2019.

Our Association has reviewed the proposed 2022 Development Charge By-law. We are disappointed to see the extraordinary charge proposed for Hotels/Motels.

In the draft 2022 DC By-law, the proposed development charge for hotels/motels (within the "commercial" category) is $16.35 per sq. ft. **This is an increase of 350% from the 2019 pre-pandemic rate of $3.65 per sq. ft.**

To understand the impact of this proposed increase, a simple example is helpful. A modest 20,000 sq. ft. motel expansion serving summer tourists, providing off-season attainable rental housing, and contributing stable employment to the Region, would have had a Regional DC cost $73,000 a few years ago. Under the draft 2022 DC By-law, such a modest expansion would have a cost of $327,000. The local DC amount would be in addition to this Regional amount.

This is an extraordinary difference and should be reconsidered before approval.

6546 Fallsview Blvd, Niagara Falls, ON, L2G 3W2 PHONE: (905) 322-1361

NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

Our Association asks that the Region consider reintroducing its "Hotel/Motel" category, rather than lumping hotels/motels in with the "Commercial" category. Hotels and motels are not the same as other commercial uses. They have a much higher square foot per employee, which was reflected in previous development charge studies. Further, they are almost always developed as infill, rather than on greenfield sites like other uses, and therefore require less new infrastructure than those uses.

Before 2017, the Region had a "Hotel/Motel" category at a rate of $3.27 per sq. ft. This was removed on the specific premise that it would be further studied as part of the incentive review and reported to Planning and Economic Development Committee. Specifically, Council directed:

> *That a hotel and/or significant tourist asset incentive program BE CONSIDERED as part of the Planning and Development Services review of Niagara Region incentive programs* ***to keep the rate at or near the current hotel rate for development charges and provide a report to this Committee by December 31, 2018.***
>
> (Emphasis added. Open Session Minutes PEDC 9-2017 November 8, 2017)

That review didn't happen. The Association wasn't afforded an opportunity in a public session before Council to speak to a Report on this issue. The incentive review did not address or report on the question of whether the hotel/motel charge should be kept at the same rate.

This was a problem in 2017 that has gotten much worse since the pandemic started in early 2020. Thousands of jobs have been lost and many hotel/motel construction projects were put on hold. Hotel/Motel jobs are down 44% from 2018 (-3,900 jobs) and the industry will take years to recover.

Hotel and motel growth is tied-in with many aspects of the Region's economic and social function. For example, hotels and motels sometimes provide short-term attainable housing to persons transitioning through the housing spectrum. Another example is the support of non-traditional hospitality such eco-tourism, wellness-tourism and agri-tourism, set out in the Region's recently-released 10-year Economic Development Strategy. Development charges will impact business attraction and innovation in these areas.

NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

It does not make sense for the Region to be dramatically increasing development charges within the hotel/motel industry at this time. Given our industry's unique contributions to Niagara, as well as the unique nature of our business, we suggest that a "Hotel/Motel" category, studied and implemented separately from the Region's commercial/industrial charge, is not only warranted but necessary in the current economic climate.

The Association will have a representative speak further to this matter at the June 30, 2022 public meeting. We also have a land economist further reviewing the development charge. In the meantime, our Association would welcome the opportunity to speak directly with Councillors and Staff about our industry and the potential impacts of the 2022 proposed DC rates. The undersigned will be the point of contact for any such discussions.

Kind regards,

Chris Mason
Chair, Niagara Falls Canada Hotel Association

6546 Fallsview Blvd, Niagara Falls, ON, L2G 3W2 PHONE: (905) 322-1361

Niagara Falls Canada Hotel Association:

Comments on Niagara Region Proposed DC By-law

June 30, 2022

NFCHA

NIAGARA FALLS CANADA HOTEL ASSOCIATION

About Us

- Represent over 50 hotels/motels, about 10,000 total rooms
- Includes all types: small motels, family-oriented hotels, international hotels in the tourist core, and others.
- Goal to make industry stronger and growth the local community.
- Concern about dramatic increase to Hotel/Motel (Commercial) Development Charge

NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

We are Niagara’s Largest Industry

- Accommodations and Food Services is Niagara’s largest job sector.
- Strong pre-pandemic job growth (2014-2019): **4,313 new jobs**.
- Supporting hospitality is key part of the Region’s 2022-2032 Economic Development Strategy.
- Severe impact from Covid-19: Jobs still down 44% from 2018 (-3,900 jobs).

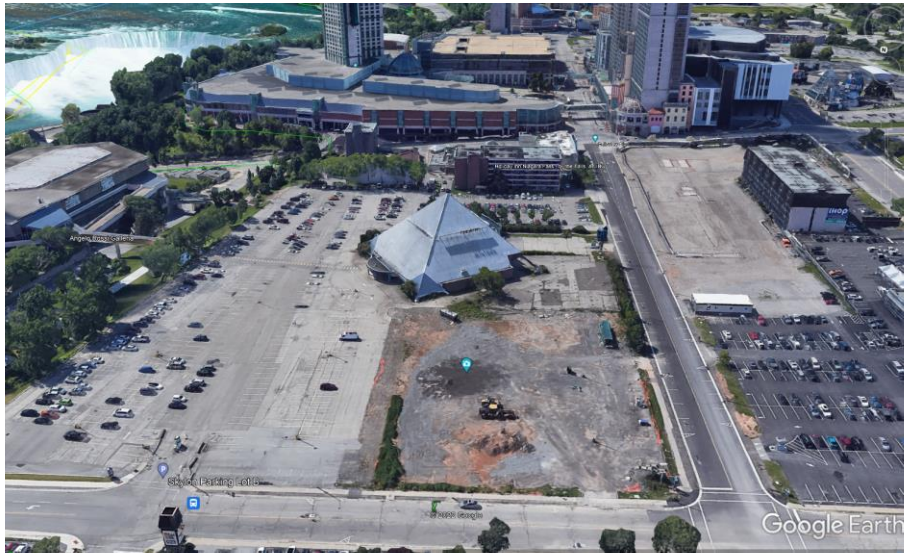
NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

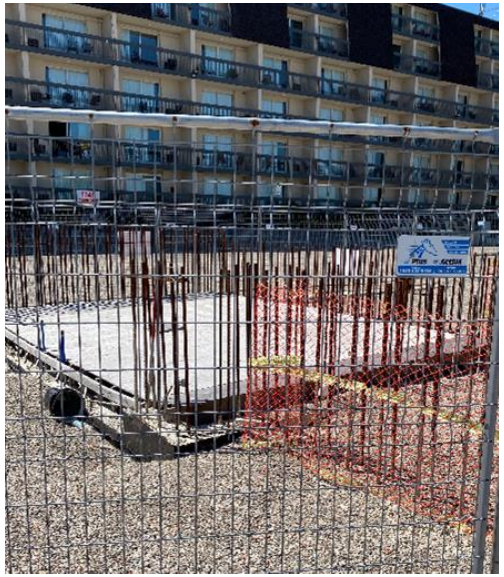
Covid's Impact on Hotel Construction

Credit: Eric MacMillan

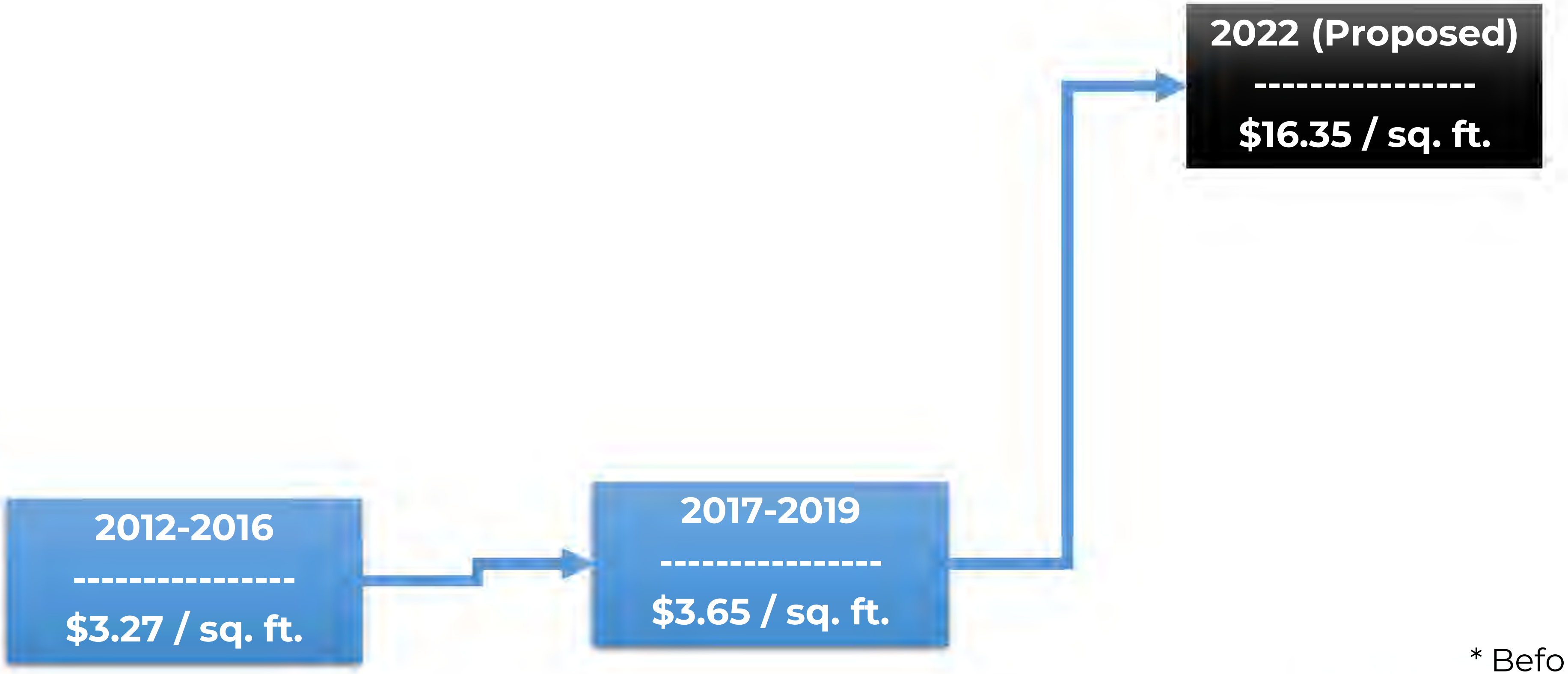
NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

Covid’s Impact on Hotel Construction





Hotel/Motel DC Changes In Last 10 Years



* Before indexing

NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

DC Impact: 350% increase since 2019

Example 1: 20,000 sq ft. motel addition, used by summer tourists and in off-season as attainable housing

2012, $3.27 sq. ft.	**$65,400** DC
2017-2019, $3.65 sq. ft.	**$73,000** DC
2022 $16.35 sq. ft. (proposed)	**$327,000** DC

Example 2: 150,000 sq. ft. new hotel in tourist area (around 150 new jobs created)

2012, $3.27 sq. ft.	**$490,500** DC
2017-2019, $3.65 sq. ft.	**$547,500** DC
2022, $16.35 sq. ft. (proposed)	**$2,452,500** DC

NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

DC Impact: 350% increase since 2019

In 2017, when the Hotel/Motel category was removed, Council requested:

> *That a hotel and/or significant tourist asset incentive program BE CONSIDERED as part of the Planning and Development Services review of Niagara Region incentive programs* ***to keep the rate at or near the current hotel rate*** *for development charges and provide a report to this Committee by December 31, 2018.*
>
> Open Session Minutes PEDC 9-2017 November 8, 2017

Although Council asked to consider keeping rate at or near $3.65 sq. ft., no report was prepared and no Committee meeting was held where the Association could comment on the report and speak to this issue.

NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

But, it’s not too late to fix it

- The Hotel/Motel category should be reintroduced.
- Hotels/Motels do not have the same square footage per employee or new infrastructure demands as “commercial”.
- Hotels/Motels are usually intensification jobs, not “Greenfield”
- Region has until end of August to introduce the New DC By-law.

NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

The Region should support its largest Industry
(...and an industry significantly impacted by the Pandemic)

- Accommodation is Niagara's largest industry, with strong growth to 2019.
- Dramatic job losses since the pandemic. Hotel/Motel construction stopped. A significant DC increase will have a chilling effect.
- Supporting accommodations aligns with Economic Development and Planning Goals.
- Directly or indirectly supports housing supply, other tourism uses, job creation in other sectors.

NFCHA
NIAGARA FALLS CANADA HOTEL ASSOCIATION

Parcel

info@parceleconomics.com

416-869-8264

250 University Avenue, #235, Toronto, Ontario, M5H 3E5

Regional Clerk

July 15, 2022

cc: Blair Hutchings, Senior Tax and Revenue Analyst

Niagara Region
1815 Sir Isaac Brock Way, Thorold, ON, L2V 4T7

RE: Niagara Regional Development Charges Background Study – Review and Comments

Parcel Economics Inc. ("Parcel") has been retained by the Niagara Falls Canada Hotel Association ("NFCHA") to monitor the ongoing review of the development charges by-law. As part of our retainer, we have reviewed the recently released *Development Charges Background Study, Regional Municipality of Niagara*, May 30, 2022, (the "2022 DC Study") prepared by Watson & Associates Economists Ltd. ("Watson") and supporting materials. The following letter summarizes our comments and questions stemming from our review of these documents.

Growth Forecasts

1) **Separate Development Charge Category for Hotel/Motel** – Consistent with our letter from June 23, 2022 and the approach adopted by the Region in 2012, hotel/motel should be a separate development charge category, rather than grouped with other commercial uses. The separate development charge category for hotel/motel correctly reflects the lower employment densities in these establishments and the reduced impact on the need for municipal services.

2) **Commercial / Population-Related Floor Space Per Worker Assumption** – If the Region continues to include hotels/motels within the Commercial category, which in our opinion is incorrect, the 2022 DCBS needs to re-evaluate the assumption regarding employment density. The 2022 DCBS assumes a job density of 500 square feet per employee for Commercial uses. This assumed floor space per worker assumption should be increased to account for growth in the hotel/motel sector, which has much lower employment densities. The 2012 DCBS had previously assumed that hotels/motels had an employment density of 1,400 square feet per job. Significant growth in the hotel/motel industry would result in a commercial job density greater than 500 square feet per worker.

3) **Employment Forecasts** – The employment growth forecasts in the 2022 DCBS appear to be lower than forecasts contained in the Niagara Official Plan 2051 Land Needs Assessment – June 2022[1], (the "June LNA"). Table 15 in the June LNA forecasts employment growth of 84,830 jobs over the 2021-2051 period. By comparison, the 2022 DCBS forecast employment growth of 70,768 jobs over a similar period (2022-2051). Can you please provide an explanation for the difference in the employment forecasts?

4) **Wind Turbine Growth Forecast** – The 2022 DCBS includes a development charge for Wind Turbines. However, there are no assumptions regarding growth in wind turbines in Appendix A of the 2022 DCBS. This violates Section 5(1)1 of the Act, which requires that the amount, type and location of development be estimated.

DC Reserves

5) **Reserve Fund Adjustments** – Table 4-2 in the 2022 DCBS identifies the development charge reserve fund balances as of December 31, 2021, including an adjustment of $147.3 million. Can you please provide the details regarding these adjustments?

Long-term Care Services

6) **Allocation of Long-term Care to the Non-Residential Sector** – In the 2022 DCBS, 0% of capital costs for Housing Services are allocated to the non-residential sector. As it relates to Housing Services, the 2022 DCBS states "social housing is a residential-based services and, therefore, the growth-related capital costs have been allocated 100% residential and 0% non-residential". The same approach should apply to Long-Term Care Services, which is also a residential-based sector. Therefore, 0% of capital costs should be allocated to the non-residential sector, in comparison to the 10% of capital costs currently allocated to the non-residential sector in the 2022 DCBS.

Ambulance Services

7) **Level of Service** – As shown below, the 2031 level of service for Ambulance Services ($152 per capita) exceeds the average level of service provided in the municipality over the 10-year period immediately preceding the preparation of the 2022 DCBS ($129 per capita), violating Section 5(1)4 of the Act. Therefore, the growth-related capital program for Ambulance Services needs to be reduced to ensure the average level of service is not exceeded.

[1] Niagara Official Plan 2051 Land Needs Assessment – June 2022, PDS 17-2022.

2021 Population	478,957
2031 Population	538,998
Population Growth (2022 - 2031)	60,041

Replacement Value of 2021 Inventory	$74,316,981

10-Year Average Level of Service (Per Capita)	$129
Proposed DC Eligible Capital Costs	$7,764,014
Total Value of 2031 Service Level	$82,080,995
2031 Service Level	$152

8) **BTE on EMS Central Hub and Training Facility** – We have two concerns with the BTE allocation for the EMS Central Hub:

    a. Why is the BTE share financing costs (36% of gross capital costs) lower than the BTE share for the facility (39% of gross capital costs)?

    b. Can you please provide justification for the BTE allocation fort the EMS Central Hub and Training Facility? It is our understanding that one of the purposes of this facility is to deploy or house about 65% of EMS operations from this one facility, based on a December 2021 article in the St. Catharines Standard. If the intent of the facility is to consolidate operations, a higher BTE share is warranted.

Services Related to a Highway

9) **Project 25 – Bartlett Avenue Extension** – This project is currently assigned a 0% BTE as it is identified as a New Road in the 2022 DCBS. However, Town of Lincoln Report Number PW-14-21 from April 2021 identifies that there are existing concerns related to truck traffic in this area of the Region. Therefore, this project will improve existing road safety in the community, which would benefit existing residents. Therefore, a BTE share should be assigned to this project.

10) **Project 28 – New Interchange** – The new Highway 406 interchange at Third Street Louth in St. Catharines has been assigned a 0% BTE. However, a Public Information Centre presentation on the Class Environmental Assessment Study from February 2011 states:

    The 2006 West St. Catharines Transportation Study (WSCTS), following a comprehensive assessment of the West St. Catharines Planning Area, has identified review of the need for roadway capacity improvement, including a new interchange. There are traffic issues at the *existing interchange at Highway 406 and Fourth Avenue. The interchange is basically at capacity and cannot be easily or significantly improved.*

As the need for a new interchange was identified in a 2006 study based on existing traffic issues, a BTE share should be assigned to this project.

11) **BTE on Grade Separations** - Please provide justification to support the 10% BTE allocated to new grade separations in the Region, including Project 29, which is a new grade separation at Louth/Vansickle/First/Third.

12) **Project 47 - Queenston Road Realignment** – Can you please provide additional details on the Queenston Road Realignment in the 2022 DCBS. This project is identified as a "new road" with 0% BTE. However, the description suggests that is a realignment. Therefore, if this project is a realignment, a BTE share is warranted.

13) **Project 63 - Intersection Improvement Program** – The Intersection Improvement Program is anticipated to occur over the 2027-2041 period. Therefore, a weighted average post period benefit should be applied to this project, which includes a 25% PPB share for capital costs during the 2032-2036 period and a 50% PPB share for capital costs during the 2036-2041 period. This is consistent with the approach for other capital projects in the 2022 DCBS.

14) **Project 140 - Oswego Creek Bridge Replacement** – Please provide additional details on this project. Would the bridge replacement add capacity? If not, a 100% BTE share is warranted. Further, it is our understanding that this bridge has recently been closed due to safety concerns.

15) **Post Period Benefit on Region Wide Program** – Projects 180 to 186 identifies various Region Wide programs with a timing of 2022-2041. A weighted average post period benefit should be applied to these projects, which includes a 25% PPB share for capital costs during the 2032-2036 period and a 50% PPB share for capital costs during the 2036-2041 period. This is consistent with the approach for other capital projects in the 2022 DCBS.

16) **Project 114 - Region Wide Road Reconstruction Project** – Would this project be adding capacity to any of the roadways? If not, a 100% BTE share is warranted, consistent with other projects in the capital program that do not add capacity and the methodology in Table 4-1 of the *Transportation Background Report, Niagara Region 2022 Development Charge Update*.

17) **Federal Gas Tax Funding** - Project 146 (Reconstruction of Prince Charles Drive Bridge) & Project 148 (Reconstruction of Beaver Creek Bridge) were allocated $3.0 million and $1.2 million, respectively, in Federal Gas Tax Funding based on the Niagara Region 2022 Capital Budget. However, this funding is not included for these projects in the capital program in the 2022 DCBS.

18) **BTE Share for Active Transportation Projects** - Table 4-1 of the *Transportation Background Report, Niagara Region 2022 Development Charge Update* identifies a 75% BTE share for Active Transportation projects, which "reflects the proportion of existing and new development growth in Niagara". However, based on the forecasts included in Appendix A of the 2022 DCBS, this share should actually be 79%, as shown in the table below.

	Population (Excluding Undercount)	Employment (excl. WAH and NFPOW)	Population + Employment (excl. WAH and NFPOW)
2022	486,314	161,015	647,329
2041	608,201	215,354	823,555
BTE Share	80%	75%	79%

Public Works

19) **BTE on New Facilities** – Why is there no BTE allocation for the Niagara West Service Centre and the Provision for Additional Facility Space?

Wastewater Services

20) **2021 Wastewater Master Servicing Plan Update** – When does the Region anticipate the 2021 Water and Wastewater Master Servicing Plan Update will be available? We note that there are many projects included in the Wastewater Capital Program, where the capital costs have increased significantly since the last wastewater master plan was completed in 2016.

21) **Region-Wide Wet Weather Reduction** – The Wet Weather Reduction program in the Wastewater service area is a significant project, with a cost of $225 million. The 2022 DCBS does not provide any justification for the 50% BTE allocated to this project. As this project would benefit existing and growth equally, a BTE share of 80% is reasonable. The same would apply to the project called "Studies: Wet Weather Management – CSO Program".

22) **Inflated Capital Costs for Previously Completed Wastewater Services Projects** – Table 5-10 in the 2022 DCBS includes the Recovery of PPC component of projects that have been completed and were included in previous development charges background studies in the Region. This amounts to $45.7 million in estimated 2022 dollars. Can you please explain why the gross capital costs have been inflated to 2022 dollars? Some of these projects have been complete for 18 years based on the timing included in Table 5-10. While Section 5(3)7 permits municipalities to collect interest on money borrowed to pay for capital

costs, if the projects included in Table 5-10 were not funded through the issuance of debt, it is inappropriate to inflate the capital costs for projects that are now complete.

Water

23) **2021 Water Master Servicing Plan Update** – When does the Region anticipate the 2021 Water Master Servicing Plan Update will be available? We note that there are many projects included in the Water Capital Program, where the capital costs have increased significantly since the last wastewater master plan was completed in 2016.

24) **Inflated Capital Costs for Previously Completed Water Services Projects** – Table 5-12 in the 2022 DCBS includes the Recovery of PPC component of projects that have been completed and were included in previous development charges background studies in the Region. This amounts for $20.7 million in estimated 2022 dollars. Can you please explain why the gross capital costs have been inflated to 2022 dollars? Some of these projects have been complete for 18 years based on the timing included in Table 5-12. While Section 5(3)7 permits municipalities to collect interest on money borrowed to pay for capital costs, if the projects included in Table 5-12 were not funded through the issuance of debt, it is inappropriate to inflate the capital costs for projects that are now complete.

As the Region anticipates passing the proposed DC By-law, we would appreciate an opportunity to meet with staff from the Region and Watson & Associates Economists Ltd. over the coming weeks to discuss our questions and findings, as well as our previous letter submitted on June 23, 2022.

We trust that you will find all in order, however, if you have any questions or require additional information, please contact the undersigned at your earliest convenience.

Sincerely,

Parcel

Parcel Economics Inc.

Craig Ferguson
Principal