



**CITY OF WATERTOWN, NEW YORK**

**AGENDA**

**Monday, August 13, 2018**

**6:00 p.m.**

This shall serve as notice that an Adjourned City Council Meeting from August 6, 2018, is scheduled to be held on Monday, August 13, 2018, at 6:00 p.m. in the City Council Chambers, 245 Washington Street, Watertown, New York.

**AGENDA**

**RESOLUTIONS**

- Resolution No. 7 - A Resolution Approving a Payment in Lieu of Taxes Agreement with BFS Housing Development Fund Corporation and Huntington Heights NY, LLC for a 3-year period for the years 2019, 2020, and 2021

**STAFF REPORT**

1. Justice Assistance Grant (JAG) Program, Interlocal Agreement Between the City of Watertown and County of Jefferson – Public Hearing

**ADJOURNMENT**

**NEXT REGULARLY SCHEDULED CITY COUNCIL WORK SESSION WILL FOLLOW.**

Res No. 7

August 8, 2018

To: The Honorable Mayor and Council

From: Richard M. Finn, City Manager

A handwritten signature in black ink, appearing to read 'R. Finn', is written over the 'From:' line and extends slightly into the 'Subject:' line.

Subject: Approving PILOT Agreement with BFS Housing Development Fund Corporation (HDFC) and Huntington Heights NY, LLC

At the last few meetings, City Council reviewed and discussed a request for a Payment in Lieu of Taxes (PILOT) Agreement with BFS Housing Development Fund Corporation and Huntington Heights NY, LLC for a three-year period for the years 2019, 2020, and 2021.

The attached Resolution officially terminates the existing PILOT. Through the attached Agreement, the City authorizes a new PILOT with HDFC that will last for the remaining three years of the original PILOT Agreement. The new PILOT with HDFC will last for three years, and it will terminate on December 31, 2021.

The attached Resolution for Council consideration includes the proposed Agreement.

A Resolution Approving a Payment in Lieu of Taxes Agreement with BFS Housing Development Fund Corporation and Huntington Heights NY, LLC for a 3-year period for the years 2019, 2020, and 2021

- Council Member HENRY-WILKINSON, Ryan J.
- Council Member HORBACZ, Cody J.
- Council Member RUGGIERO, Lisa A.
- Council Member WALCZYK, Mark C.
- Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

**Introduced by**

WHEREAS, the City of Watertown (the “City”) desires to encourage a sufficient supply of adequate, safe and sanitary dwelling accommodations properly planned for citizens with low income; and

WHEREAS, BFS Housing Development Fund Corporation, a to-be-formed Article XI New York private housing finance law corporation and a New York not-for-profit corporation (the “HDFC”), as the nominal fee title owner, and Huntington Heights NY, LLC, a New York limited liability company (the “Company”), as the beneficial and equitable owner (collectively, the HDFC and the Company shall be referred to as the “New Owner”) of certain real property located at 1620 Huntington Street, Watertown, New York 13601 (Parcel Nos. 5-26-110.000 and 5-26-203.001) (the “Land”), for the purpose of owning, operating and maintaining a housing project for citizens of low income, said project to consist of: (i) the reconstruction and renovation of 151 units of housing for citizens of low income, known as Huntington Heights Apartments (the “Improvements”); and (ii) the acquisition and installation therein and thereon of certain machinery, equipment, furniture, fixtures and other tangible personal property (the “Equipment”, and collectively with the Land and the Improvements, the “Project”); and

WHEREAS, the HDFC will be formed for the purpose of providing residential rental accommodations for citizens of low-income; and

WHEREAS, the HDFC will acquire fee title to the Land, as nominee for the Company, and will convey its equitable and beneficial interests in the Land to the Company in furtherance of the development of the Project; and

WHEREAS, the HDFC’s and the Company’s plan for the use of the Land constitutes a “housing project” as that term is defined in the Private Housing Finance Law of the State of New York (“PHFL”); and

WHEREAS, the HDFC will be a “housing development fund company” as the term is defined in Section 572 of the PHFL and Section 577 of the PHFL authorizes the Council as the legislative body of the City of Watertown to exempt the Project from real property taxes; and

A Resolution Approving a Payment in Lieu of Taxes Agreement with BFS Housing Development Fund Corporation and Huntington Heights NY, LLC for a 3-year period for the years 2019, 2020, and 2021

Council Member HENRY-WILKINSON, Ryan J.  
Council Member HORBACZ, Cody J.  
Council Member RUGGIERO, Lisa A.  
Council Member WALCZYK, Mark C.  
Mayor BUTLER, Jr., Joseph M.  
Total .....

YEA	NAY

WHEREAS, the Company and the HDFC will be willing to enter into a PILOT Agreement whereby they will make annual payments in lieu of taxes to the City as set forth in the PILOT Agreement presented to the Council for approval;

WHEREAS, the City desires to terminate the prior tax exemption agreement (the "Prior Exemption") with Watertown Associates (the "Prior Owner") pursuant to Section 125 of the PHFL; and

WHEREAS, the City wishes to consent to (i) the Prior Owner's sale of the Project to the New Owner and (ii) the voluntary dissolution of the Prior Owner pursuant to Section 123(4) of the PHFL.

NOW THEREFORE, BE IT RESOLVED that the Council hereby exempts the Project from real property taxes to the extent authorized by Section 577 of the PHFL and approves the proposed PILOT Agreement by and among the City, the Company and the HDFC, in substantially the form presented at this meeting, providing for annual payments as set forth in such agreement; and

BE IT FURTHER RESOLVED, that the City Manager of the City is hereby authorized to execute and deliver the foregoing PILOT Agreement on behalf of the City; and

BE IT FURTHER RESOLVED, that the Council hereby approves, pursuant to Section 125 of the PHFL, the termination of the Prior Exemption, which termination shall become effective one day preceding the conveyance of the Land from the Prior Owner to the New Owner; and

BE IT FURTHER RESOLVED, that the Council hereby consents, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Prior Owner; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

***Seconded by***

**AGREEMENT FOR PAYMENT IN LIEU OF TAXES (PILOT) BY AND AMONG THE  
CITY OF WATERTOWN, BFS HOUSING DEVELOPMENT FUND CORPORATION  
AND HUNTINGTON HEIGHTS NY, LLC**

**THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES** (the “Agreement”), dated this \_\_ day of August, 2018, by and among the **CITY OF WATERTOWN, NEW YORK**, a New York municipal corporation, having its principal office located at City Hall, 245 Washington Street, Room 302A, Watertown, New York 13601 (the “City”), **HUNTINGTON HEIGHTS NY, LLC**, a New York limited liability company, having an address at 4000 Key Tower, 127 Public Square, Cleveland, Ohio 44114-1309 (the “Company”), and **BFS HOUSING DEVELOPMENT FUND CORPORATION**, an Article XI New York Private Housing Finance Law housing development fund company and a New York not-for-profit corporation, having an address at 4000 Key Tower, 127 Public Square, Cleveland, Ohio 44114-1309 (the “HDFC”), which HDFC will hold title to the Property (as hereinafter defined) for the benefit of the Company.

**WHEREAS**, the HDFC is or will be the bare legal or record owner, and the Company is or will be the beneficial and equitable owner of certain improved real property known as Huntington Heights Apartments located 1620 Huntington Street, City of Watertown, Jefferson County, New York 13601, and referred to as Section 5, Block 26, Lots 110.000000 and 5-26-203.001 on the Tax Map of City (the “Property”); and

**WHEREAS**, the HDFC is a corporation established pursuant to section 402 of the New York State Not-For-Profit Corporation Law and Article XI of the New York State Private Housing Finance Law (“PHFL”); and

**WHEREAS**, the HDFC and the Company have each been formed for the purpose of providing residential rental accommodations for families having household incomes at or below sixty percent (60%) of area median income for Jefferson County, adjusted for family size (“AMI”); and

**WHEREAS**, the Company will own, make certain repairs, maintain and operate the existing housing project on the Property consisting of approximately 151 dwelling units (the “Project”); and

**WHEREAS**, the HDFC’s and the Company’s plan for the use of the Property constitutes a “housing project” as that term is defined in the PHFL; and

**WHEREAS**, the HDFC is a “housing development fund company” as the term is defined in Section 572 of the PHFL; and

**WHEREAS**, pursuant to Section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

**WHEREAS**, the City Council, by Resolution adopted on August 13, 2018, approved and authorized the execution of this Agreement.

**NOW, THEREFORE**, it is agreed as follows:

1. Pursuant to Section 577 of the PHFL, the City hereby exempts from local and municipal taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Property, including both land and improvements. "Local and Municipal Taxes" shall mean any and all real estate taxes levied by Jefferson County ("County"), the City and the School District ("School District") or other taxing jurisdiction (collectively the "Taxing Jurisdictions").

2. The exemption provided for in Section 1 above shall commence on the date that the HDFC acquires fee title to the Property and shall continue until December 31, 2021.

3. Commencing with the 2019 Tax Year, which commences January 1, 2019, and is the 2019 City and County tax year and the 2019/2020 School District tax year (the "PILOT Commencement Date"), the Company shall make annual payments in lieu of taxes ("PILOT") for each year as follows:

2019	-	\$57,805
2020	-	\$59,539
2021	-	\$61,325

4. The Company shall furnish to the City on or before the 1st day of May of each year a certified statement of rent received during the immediately preceding calendar year.

5. The amounts to be paid by the Company pursuant to Section 3 above in lieu of taxes shall be fixed and inviolate throughout the effective term of this Agreement for the periods set forth herein. Said amounts include, and are not in addition to, all payments due as Local and Municipal Taxes on the assessed value of the property constituting the Project at the time of its acquisition by the Company.

6. The amounts to be paid by the Company pursuant to Section 3 above shall be payable on May 1 of each year covered by Section 3.

7. This Agreement shall not limit or restrict the HDFC's or Company's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

8. The tax exemption provided by this Agreement will continue for the term described above provided that the Property continues to be used as housing facilities for low-income families as described herein, and any of the following occur (i) the HDFC and/or the Company operate the Property in conformance with Article XI of the PHFL; or (ii) in the event an action is brought to foreclose a mortgage upon the Property, and the legal and beneficial

interest in the Property shall be acquired at the foreclosure sale or from the mortgagee, or by a conveyance in lieu of such sale, by a housing development fund corporation organized pursuant to Article XI of the PHFL, or by the Federal government or an instrumentality thereof, or by a corporation which is, or by agreement has become subject to the supervision of the superintendent of banks or the superintendent of insurance, such successor in interest shall operate the Property in conformance with Article XI of the PHFL, upon the prior written consent of the City of Watertown and such consent shall not be unreasonably withheld.

9. The failure to make any of the required payments will be treated as failure to make payment of taxes and will be governed by the same provisions of law as apply to the failure to make payment of taxes, including but not limited to enforcement and collection of taxes and assessment of interest and penalties to the extent permitted by law. In the event the City commences a proceeding to enforce the provisions of this Agreement, then, in addition to the remedies to which the City shall be entitled, it shall have the right to an award of reasonable attorneys' fees. Notwithstanding the above, the City may terminate this Agreement, and the tax exemption shall thereupon terminate, pursuant to Section 6 hereof. Payments made after the due date(s) as set forth in this Agreement shall accrue interest (and penalties) at the rates applicable to late payments of taxes for the respective Affected Tax Jurisdictions.

10. This Agreement and the exemption granted hereunder shall terminate pursuant to Section 9 above or in an event of default as follows:

(a) Failure of the Company to pay in full any payment due under this Agreement within thirty (30) days of mailing of written notice by the City stating that said payment is past due.

(b) Failure of the Company to comply with or perform any provision of this Agreement if such failure continues in whole or in part for more than thirty (30) days after mailing of written notice by the City of such failure to comply or perform.

In the event of a default hereunder, in addition to the termination of this Agreement and the tax exemption, the City may exercise any and all rights or remedies permitted by law.

Notwithstanding any provision hereof to the contrary, any mortgagee of record with respect to the Property (the "Lender") shall have an additional period thirty (30) days after the cure periods of the Company set forth in this Section 11 to cure any monetary defaults and an additional period of up to one hundred twenty (120) days to cure non-monetary defaults provided that the Lender shall diligently pursue such cure.

11. All notices and other communications hereunder shall be in writing and shall be sufficiently given when delivered to the applicable address stated above (or such other address as the party to whom notice is given shall have specified to the party giving notice) by registered or certified mail, return receipt requested or by such other means as shall provide the sender with documentary evidence of such delivery.

12. This Agreement shall inure to the benefit of and shall be binding upon the City, the Company and the HDFC and their respective successors and assigns, including the

successors in interest of the Company and the HDFC, and any Lender. There shall be no assignment of this Agreement except with written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

13. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other persons or circumstances shall be enforced to the fullest extent permitted by law.

14. This Agreement may be executed in any number of counterparts with the same effect as if all the signing parties had signed the same document. All counterparts shall be construed together and shall constitute the same instrument.

15. This Agreement constitutes the entire agreement of the parties relating to payments in lieu of taxes with respect to the Property and supersedes all prior contracts, or agreements, whether oral or written, with respect thereto.

16. Each of the parties individually represents and warrants that the execution, delivery and performance of this Agreement, (i) has been duly authorized and does not require any other consent or approval, (ii) does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and (iii) will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each party represents that this Agreement shall constitute the legal, valid and binding agreement of the parties enforceable in accordance with its terms.

*Remainder of page intentionally left blank.*

**IN WITNESS WHEREOF**, the City, the HDFC and the Company have caused this Agreement to be executed in their respective names by their duly authorized representatives all as of the date above-written.

**CITY:**

CITY OF WATERTOWN, NEW YORK

By: \_\_\_\_\_  
[ \_\_\_\_\_ Mayor/City Manager]

**HDFC:**

BFS HOUSING DEVELOPMENT FUND  
CORPORATION

By: \_\_\_\_\_  
Name: Frank T. Sinito  
Title: President

**COMPANY:**

HUNTINGTON HEIGHTS NY, LLC

By: Huntington Heights NY MM, LLC,  
Managing Member

By: \_\_\_\_\_  
Name: Frank T. Sinito  
Title: Member

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF JEFFERSON )

On the \_\_\_\_ day of August in the year 2018, before me personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC  
[SEAL]

STATE OF OHIO )  
 ) SS.:  
COUNTY OF CUYAHOGA )

On the \_\_\_\_ day of August in the year 2018, before me personally appeared FRANK T. SINITO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC  
[SEAL]

August 9, 2018

To: The Honorable Mayor and City Council  
From: Richard M. Finn, City Manager   
Subject: Justice Assistance Grant (JAG) Program, Interlocal Agreement  
Between the City of Watertown and County of Jefferson – Public Hearing

The Police Department is requesting to apply for a Justice Assistance Grant (JAG) to receive \$11,466 in funding for the City/County from this program. The City's share of the grant funding would be 60%, or \$6,879.60. The Jefferson County share is the remaining 40%, or \$4,586.40.

The JAG Program is the primary provider of federal criminal justice funding to state and local jurisdictions. The funds help support gang task forces, crime prevention, domestic violence programs and other law enforcement initiatives.

If awarded, the City will use its funds to purchase patrol vehicle equipment and officer equipment.

The grant requires the City to sign the attached Interlocal Agreement Between the City of Watertown and County of Jefferson. As part of the grant requirement, we must notify the governing body and the public and provide the opportunity to comment and be heard regarding said grant.

It is requested that City Council schedule a public hearing on this subject for the August 20, 2018 City Council Meeting at 7:30 p.m. A Resolution will also be prepared for City Council at the August 20, 2018 meeting.

THE STATE OF NY  
COUNTY OF Jefferson

CITY SECRETARY  
CONTRACT NO. \_\_\_\_\_

2017-DJ-BX-0425

INTERLOCAL AGREEMENT

BETWEEN THE CITY OF Watertown, NY AND COUNTY OF Jefferson, NY

RECOVERY ACT: JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the COUNTY of Jefferson acting by and through its governing body, the Commissioners Court, hereinafter referred to as COUNTY, and the CITY of Watertown acting by and through its governing body, the City Council, hereinafter referred to as CITY, both of Jefferson County, State of NY witnesseth:

**WHEREAS**, this Agreement is made under the authority of Sections \_\_\_\_\_, \_\_\_\_\_ Government Code: and

**WHEREAS**, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and

**WHEREAS**, each governing body find that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and

**WHEREAS**, the CITY agrees to provide the COUNTY \$ 4394 - from the JAG award for the JAG Program: and

**WHEREAS**, the CITY and COUNTY believe it is to be in their best interest to reallocate the JAG funds.

**NOW THEREFORE**, the County and CITY agree as follows:

Section 1

CITY agrees to pay COUNTY a total sum of \$ 4394 - of JAG funds.

Section 2

COUNTY agrees to use \$ 4394 - for the JAG Program until 09/30/20. (date)

**Section 3**

Nothing in the performance of this Agreement shall impose any liability for claims against COUNTY other than claims for which liability may be imposed by the \_\_\_\_\_ Tort Claims Act.

**Section 4**

Nothing in the performance of this Agreement shall impose any liability for claims against CITY other than claims for which liability may be imposed by the \_\_\_\_\_ Tort Claims Act.

**Section 5**

Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

**Section 6**

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

**Section 7**

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

CITY OF Watertown, NY

COUNTY OF Jefferson, NY

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Chairman, Board of Legislators

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
County Attorney

\_\_\_\_\_  
Contract Authorization

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

\* By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our view of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval and should seek review and approval by their own respective attorney(s).

## **GOVERNING BODY REVIEW**

The JAG application was made available for review by the governing body on \_\_\_\_\_ 2018.

## **PUBLIC HEARING**

The City of Watertown, NY will be holding a public hearing on \_\_\_\_\_ 2018 at \_\_\_\_\_ PM at the City of Watertown Municipal Building located at 245 Washington St. The purpose of this hearing is for public comments concerning the 2017 Edward Byrne Memorial Justice Assistance Grant Program.