

MIDA BOND HOST APPROVAL

ELIM HOMES, INC.

(Jim Stewart)

SUGGESTED MOTION:

Move to adopt Resolution #2021-5, Resolution Approving the Issuance of Bonds by the City of Harwood, North Dakota, on Elim Homes, Inc. under the Municipal Industrial Development Act and Authorizing the Execution of an Agreement.

**NOTICE OF PUBLIC HEARING ON THE ISSUANCE OF
NURSING FACILITIES REVENUE BONDS
UNDER THE MUNICIPAL INDUSTRIAL DEVELOPMENT ACT OF 1955
(ELIM HOMES, INC. PROJECT)**

NOTICE IS HEREBY GIVEN that the County Commission of Cass County, North Dakota (the “County”), will meet on April 19, 2021, beginning at 3:30 p.m. in the County Courthouse, 211 9th Street South, Fargo, North Dakota, for the purpose of conducting a public hearing on a proposal that the City of Harwood, North Dakota issue revenue bonds under the Municipal Industrial Development Act of 1955, Chapter 40-57, N.D.C.C.

Proceeds of the Bonds will be used for the construction and equipping of an 88-bed skilled nursing facility and functionally related facilities located at 3534 University Drive South, Fargo, North Dakota (the “Project”) and to pay the costs of issuing the Bonds. The Project will be owned and operated by Elim Homes, Inc., a Minnesota nonprofit corporation. The amount of the proposed bond issue is not to exceed \$9,500,000.

The bonds will be limited obligations of the City of Harwood payable solely from the revenue payable by Elim Homes, Inc. and pledged to the payment thereof. No holder of any such bonds shall ever have the right to compel any exercise of the taxing power of the County to pay the bonds, or the interest thereon, nor to enforce payment against any property of the County.

Elim Homes, Inc. is engaged in providing skilled nursing services, and competitors are hereby notified of that fact pursuant to Chapter 40-57, N.D.C.C.

Due to the COVID-19 public health emergency, this meeting will be conducted with social distancing modifications consistent with the recommendations of the CDC as allowed under Governor Doug Burgum’s executive order suspending N.D.C.C. 44-04-19. As a result, space will be limited in the County Commission Chambers. Members of the public are strongly encouraged to view the County Commission meeting streamed live through the County’s Facebook, YouTube, and Twitter pages at:

- <https://www.facebook.com/CassCounty/>
- https://www.youtube.com/channel/_____/featured
- <https://twitter.com/CassCountyND>

Any member of the public seeking to submit comments relating to the public hearing should submit their comments to albrecht@casscountynd.gov. All comments received prior to 10:00 a.m. on the meeting date will be considered part of the record of the meeting as if personally presented.

**RESOLUTION APPROVING THE ISSUANCE OF NOTES
BY THE CITY OF HARWOOD, NORTH DAKOTA
ON BEHALF OF ELIM HOMES, INC. UNDER
THE MUNICIPAL INDUSTRIAL DEVELOPMENT ACT AND
AUTHORIZING THE EXECUTION OF AN AGREEMENT**

BE IT RESOLVED by the County Commission (the “Commission”) of Cass County, North Dakota (the “County”), as follows:

SECTION 1. RECITALS AND FINDINGS.

1.1. Elim Homes, Inc., a North Dakota nonprofit corporation (the “Corporation”), has requested the City of Harwood, North Dakota (“Harwood”) to issue its Nursing Facilities Revenue Notes (Elim Homes, Inc. Project), Series 2021 (the “Notes”) for the benefit of the Corporation in the aggregate principal amount not to exceed \$9,500,000, under the provisions of Chapter 40-57, North Dakota Century Code (the “Act”), to (i) finance the construction and equipping of skilled nursing facilities and functionally related facilities located at 3534 University Drive South, Fargo, North Dakota (the “Project”), and (iii) pay certain costs of issuance.

1.2. The Corporation has proposed that the County and Harwood enter into an agreement under Section 40-57-03, Subsections 1 and 8 of the Act, which permit facilities located within the boundaries of the County to be financed by Harwood if an agreement is entered into between the County and Harwood.

1.3. At a public hearing held on the date hereof, all parties who appeared at the hearing were given an opportunity to express their views with respect to the proposal to finance the Project through the issuance of revenue bonds under the Act by Harwood, and interested persons were given the opportunity to submit written comments to the County Auditor before the time of the hearing.

SECTION 2. APPROVAL AND AUTHORIZATION.

2.1. The County hereby approves the issuance of the Notes by Harwood under the Act, in one or more series and the use the proceeds thereof to finance the Project located in the County. Such Notes may be issued on such terms and conditions as Harwood, the Corporation and the purchaser of the Notes may deem desirable and without further approval or consent of this Commission.

2.2. The Intergovernmental Agreement is hereby approved in substantially the form now on file in the office of the County Auditor, and the Chair and County Auditor of the County are authorized to execute the same in the name of and on behalf of the County. In the event of the disability or the resignation or other absence of the Chair or County Auditor of the County, such other officers of the County who may act in their behalf shall without further act or authorization of the County do all things and execute all instruments and documents required to be done or to be executed by such absent or disabled officials. The approval hereby given to the Agreement includes approval of such additional details therein as may be necessary and appropriate and such

modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the States Attorney and by the County officials authorized herein to execute the Agreement prior to their execution; and such County officials are hereby authorized to approve said changes on behalf of the County.

2.3. Neither this approval nor any actions, agreements, or legal matters related hereto or executed in pursuance hereof, shall in any manner or form create an indebtedness or liability of the County, but is solely an accommodation by the County to satisfy the requirements of the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended. The Notes, if and when issued, will not constitute a charge, lien or encumbrance upon any property of the County and such obligations will not be a charge against the general credit or taxing powers of the County but will be payable from payments made by the Corporation. The Notes shall not be deemed to constitute a debt or liability of the County, Harwood, the State of North Dakota, or of any other political subdivision thereof or a pledge of the faith and credit of the County, Harwood, the State of North Dakota, and neither the County, Harwood, the State of North Dakota, nor any political subdivision thereof will be liable on the Notes.

Adopted by the County Commission of Cass County on this 19th day of April, 2021.

Chair

ATTEST:

County Auditor

Commissioner _____ moved the adoption of the above resolution; Commissioner _____ seconded the motion and, upon a vote being taken thereon, the following voted in favor: Commissioners _____; the following voted against: _____; and the following were absent: _____; whereupon the Resolution was declared carried.

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT, dated as of May 1, 2021, is entered into between **CASS COUNTY, NORTH DAKOTA** (“Cass County”), and the **CITY OF HARWOOD, NORTH DAKOTA** (“Harwood” and together with Cass County, the “Political Subdivisions”).

RECITALS:

The Political Subdivisions are each authorized pursuant to Chapter 40-57 of the North Dakota Century Code (the “Act”) to issue revenue bonds and to loan the proceeds thereof to a contracting party to finance revenue producing facilities.

Elim Homes, Inc., a Minnesota nonprofit corporation (the “Corporation”), has requested Harwood to issue its Nursing Facilities Revenue Notes (Elim Homes, Inc. Project), Series 2021 (the “Notes”) in an aggregate principal amount not exceeding \$8,850,000 for the purposes of (i) financing the construction and equipping of skilled nursing facilities and functionally related facilities located at 3534 University Drive South, Fargo, North Dakota (the “Project”); and (ii) paying certain costs of issuance.

Section 40-57-03, subsections (1) and (8) of the Act authorize municipalities to enter into and perform agreements with other municipalities concerning the planning, construction, lease, or other acquisition and financing of a project, including an agreement whereby a municipality issues its revenue bonds on behalf of one or more other municipalities to finance a project located within the boundaries of another municipality.

The governing bodies of the Political Subdivisions have each held public hearings regarding the issuance of Notes to finance the Project and following the public hearings have given approval to the financing of the Project, the issuance of the Notes under the Act by Harwood and the execution and delivery of this Intergovernmental Agreement.

The Political Subdivisions have determined that an intergovernmental approach should be taken concerning the financing of the Project and that it is in the best interests of the Political Subdivisions and the Corporation to finance the Project by Notes to be issued by Harwood.

NOW, THEREFORE, THE POLITICAL SUBDIVISIONS AGREE AS FOLLOWS:

SECTION 1. AUTHORITY FOR INTERGOVERNMENTAL AGREEMENT. This Intergovernmental Agreement is authorized by Section 40-57-03, subsections (1) and (8) of the Act, which authorize a municipality to issue revenue bonds to finance projects on behalf of one or more other municipalities.

SECTION 2. PURPOSE OF THE INTERGOVERNMENTAL AGREEMENT. The purpose of this Intergovernmental Agreement is to permit the financing of the Project located in Cass County through Notes to be issued by Harwood.

SECTION 3. TERMS OF THE INTERGOVERNMENTAL AGREEMENT. Cass County hereby consents to the issuance of the Notes by Harwood to finance the Project located within the boundaries of Cass County. Harwood may authorize, execute and deliver the Notes, the Loan Agreement and any other necessary documents on such terms and conditions as it may deem desirable without further approval or consent from Cass County. The Notes and all of the other documents, agreements and certifications may be entered into and executed solely by authorized officers of Harwood.

SECTION 4. NO LIABILITY. Neither this Intergovernmental Agreement nor any actions, agreements, or legal matters related hereto or in pursuance hereof, shall in any manner or form create an indebtedness or liability of the Political Subdivisions. The Notes shall be special, limited obligations of Harwood payable solely from proceeds, revenues and other amounts specifically pledged to the payment thereof. The Notes and the interest thereon shall neither constitute nor give rise to a pecuniary liability, general or moral obligation or a pledge of the full faith or credit of the Political Subdivisions, the State of North Dakota or any political subdivision thereof.

SECTION 5. INDEMNIFICATION. The Corporation hereby agrees to indemnify and hold the Political Subdivisions harmless from any and all claims, demands, lawsuits, administrative or regulatory actions or investigations initiated toward or against the Political Subdivisions as a result of the issuance of the Notes, including any post-issuance compliance obligations related thereto, and agrees to fully reimburse the Political Subdivisions for any and all costs, including attorneys' fees or other professional fees, incurred by the Political Subdivisions in responding to such claims, demands, lawsuits, administrative or regulatory actions or investigations.

SECTION 6. TERMINATION. This Intergovernmental Agreement shall terminate upon the retirement or defeasance of the last outstanding Note and this Intergovernmental Agreement may not be terminated in advance of such retirement or defeasance.

IN WITNESS WHEREOF, duly authorized officers of the Political Subdivisions have executed this Intergovernmental Agreement as of the date set forth above.

CASS COUNTY, NORTH DAKOTA

Chair

ATTEST:

County Auditor

**CITY OF HARWOOD, NORTH
DAKOTA**

Mayor

ATTEST:

City Auditor

Elim Homes, Inc. agrees to be bound by the provisions of Section 5 of this Intergovernmental Agreement.

ELIM HOMES, INC.

Chief Financial Officer