

MIDA BOND HOST APPROVAL FOR
BEYOND SHELTER, INC.

SUGGESTED MOTION:

Move to adopt resolution #2023-10, Resolution approving the issuance of Bonds by the City of Frontier, North Dakota, on behalf of Beyond Shelter, Inc. under the Municipal Industrial Development Act and authorize the execution of the Intergovernmental Agreement.



CONTRACT APPROVAL

REQUIRED BY DEPARTMENT:

DEPARTMENT: Administration DATE OF REQUEST: 10-06-2023

COMPANY REQUESTING CONTRACT: City of Frontier/Beyond Shelter, Inc.

BRIEF PROJECT DESCRIPTION: Intergovernmental Agreement for MIDA Bonds

NEW CONTRACT OR CONTRACT RENEWAL

REQUIRED BY STATE'S ATTORNEY OFFICE:

STATE'S ATTORNEY SIGNATURE: _____ DATE _____

STATE'S ATTORNEY COMMENTS:

From: Scott Wegner
To: [Kaushagen, Taylor](#)
Subject: Cass County Commission - Oct. 16 Mtg
Date: Wednesday, October 4, 2023 12:03:03 PM
Attachments: [Cass County Resolution \(MIDA\).pdf](#)

CAUTION: EXTERNAL EMAIL

Taylor,

Please find attached a resolution for the October 16 County Commission meeting, regarding the proposed MIDA Bonds. The notice of public hearing was published on September 27 and October 4.

Thank you.

Scott D. Wegner

Arntson Stewart Wegner PC

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**RESOLUTION APPROVING THE ISSUANCE OF BONDS
BY THE CITY OF FRONTIER, NORTH DAKOTA
ON BEHALF OF BSI HQ, LLC UNDER THE
MUNICIPAL INDUSTRIAL DEVELOPMENT ACT**

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. BSI HQ, LLC, a North Dakota nonprofit limited liability company (the “Company”), whose sole member is Beyond Shelter, Inc., a North Dakota nonprofit corporation, has requested the City of Frontier, North Dakota (“Frontier”) to issue revenue bonds, in one or more series (the “Bond”) for the benefit of the Company in the aggregate principal amount not to exceed \$3,000,000, under the provisions of Chapter 40-57, North Dakota Century Code (the “Act”), to (i) construct and equip an office building and site improvements to be located at 1393 25th Avenue South, Fargo, North Dakota (the “Project”), and (ii) pay the costs of issuing the Bond.

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

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 Frontier, 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 Bond by Frontier under the Act, in one or more series and the use the proceeds thereof to finance the Project located in the County. Such Bond may be issued on such terms and conditions as Frontier, the Company and the purchaser of the Bond may deem desirable and without further approval or consent of this Commission.

2.2. The 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 Bond, if and when issued, will not constitute a charge, lien, or encumbrance upon any property of the County and such obligation will not be a charge against the general credit or taxing powers of the County but will be payable from sums paid by the Company. The Bond shall not be deemed to constitute a debt or liability of the County, Frontier, the State of North Dakota, or of any other political subdivision thereof or a pledge of the faith and credit of the County, the State of North Dakota, and neither the County, the State of North Dakota, nor any political subdivision thereof will be liable on the Bond.

Dated October 16, 2023.

CASS COUNTY, NORTH DAKOTA

Attest:

Chairman, Board of County Commissioners

County Auditor

The governing body of the County acted on the foregoing resolution at a properly noticed meeting held in Fargo, North Dakota, on October 16, 2023, with the motion for adoption made by _____ and seconded by _____, and the roll call vote on the motion was as follows:

"Aye" _____

"Nay" _____

Absent _____

Abstain _____

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT, dated as of October 1, 2023, is entered into between **CASS COUNTY, NORTH DAKOTA** (“Cass County”) and the **CITY OF FRONTIER, NORTH DAKOTA** (“Frontier” 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 that the governing body determines to be necessary or desirable and in furtherance of the public health or welfare.

BSI HQ, LLC, a North Dakota nonprofit limited liability company (the “Company”), has requested the City of Frontier to issue Facilities Revenue Bonds (BSI HQ, LLC Project) Series 2023 (the “Bond”) in an aggregate amount not exceeding \$3,000,000 for the purposes of (i) constructing and equipping an office building to be located at 1393 25th Avenue South, Fargo, North Dakota (the “Project”), and (ii) paying the 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 the Bond to finance the Project and following the public hearings have given approval to the Project, the issuance of the Bond under the Act by Frontier 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 Company to finance the Project by the Bond to be issued by Frontier.

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 a Bond to be issued by Frontier.

SECTION 3. TERMS OF THE INTERGOVERNMENTAL AGREEMENT. Cass County hereby consents to the issuance of the Bond by Frontier to finance the Project located within the boundaries of Cass County. Frontier may authorize, execute, and deliver the Bond, loan agreements and any other

necessary documents on such terms and conditions as it may deem desirable without further approval or consent from Cass County. The Bond and all of the other documents, agreements and certifications may be entered into and executed solely by authorized officers of Frontier.

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 Bond shall be a special, limited obligation of Frontier payable solely from proceeds, revenues and other amounts specifically pledged thereto. The Bond 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 Company hereby agrees to jointly and severally 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 Bond, including any post-compliance obligations related thereto, and has agreed or will agree 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 Bond 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

Attest:

Chairman, Board of County Commissioners

County Auditor

CITY OF FRONTIER, NORTH DAKOTA

Attest:

Mayor

City Auditor

BSI HQ, LLC, agrees to be bound by the provisions of Section 5 of this Intergovernmental Agreement.

BSI HQ, LLC

President