
SUBJECT: MIDA BONDS

ADOPTED DATE: AUGUST 7, 1995

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INSTRUCTIONS FOR MIDA BOND APPLICANTS

1. Cass County has come up with certain procedures and forms that must be followed for persons seeking MIDA bond financing from Cass County. The purpose for the instructions is to help facilitate the County by having all applicants follow the same procedures. It is also the desire of Cass County that applicants would check out the legality and feasibility of their projects prior to applying for a MIDA bond issue in Cass County. As a part of that desire, the County is going to require a \$1,000.00 application fee that is non-refundable. Second, a completed application form, a copy of which is attached to this application form, must be completed at the time of the application. Questions 5 and 6 on that form, if answered negatively, mean that the issue will not be exempt from federal income taxation. These are two of the most common problems which would cause the loss of tax exemption and should be checked out thoroughly by the applicant before filing his application form.
2. The executed application form and attached check of \$1,000.00 must be returned to Cass County Auditor's Office (Attention: Mike Montplaisir). The County Auditor's Office will forward the application to the Cass County States Attorney for review. After that review the matter will be returned to the County Auditor's office to be placed on the agenda for the next County Commission meeting. In addition, the appropriate resolution and/or notice must also be delivered to the County Auditor's office which will forward it to the Cass County States attorney for review. After that review the documents will be returned to the County Auditor's office and, if appropriate, placed on the agenda for the next County Commission meeting.
3. The County Auditor's office has the approved form of resolutions and/or notices that are to be used for Cass County. At the time of picking up the application form, you should inform the County Auditor's office as to what set of forms that you need. There are two sets of forms which will be discussed below.

INSTRUCTIONS FOR MIDA BOND APPLICANTS (cont.)

4. The first set of forms deals with original issues and contains a preliminary resolution, a notice of hearing, a resolution authorizing issuance, and a resolution approving the terms of the bonds. The preliminary resolution form and notice of hearing form should be completed and returned with the application form. The purpose of the third resolution is that state law, 40-57-09 NDCC, requires that a resolution of the County shall prescribe certain specified terms of the bond issue. This is usually done by having a form of the bond or mortgage present at the hearing and incorporated by reference.

It is not unusual at the time of the public hearing for the company to not have worked out the details of the bond sale with the purchaser. Since the terms of the bonds are not even known at the time of the public hearing and resolution authorizing the issuance, obviously compliance with 40-57-09 NDCC is impossible at that time. Therefore, in those situations, it is necessary to have a further resolution passed by the County at the time the financing details have been determined. There are cases in which the financing terms are set at the time of the public hearing and in that case the third resolution would not be necessary.

5. The second set is for refunding bond issues and contains the preliminary resolution, notice of public hearing and the resolution authorizing the issuance. The preliminary resolution and notice of public hearing should be returned along with the application form to the County Auditor's office. In that in 99% of the cases the terms of the refunding will be worked out by the company and the bond purchaser prior to bringing the matter to the County, the need for the third resolution discussed above is normally not necessary in refunding issues.
6. The applicant should contact the County Auditor's office concerning the dates for any public hearings scheduled. The County Auditor's office will be responsible for the actual publication of the form of public notice provided by the applicant in The Forum two times. The cost of the advertising shall be paid out of the initial application fee.

INSTRUCTIONS FOR MIDA BOND APPLICANTS (cont.)

7. In addition to the forms of the resolutions and notices the applicant will be responsible for completing an application for allocation which must be sent to the Governor's office for approval for most MIDA bond issues. Forms of the application can be obtained from the County Auditor's office.
8. The applicant will also be responsible for preparing all closing documents and to provide to the County Auditor's office in advance all closing documents which a County official must execute. A copy of the documents to be executed should be filed with the County as soon as possible but in no event less than three days before the bond closing to give attorneys for the County an opportunity to review those documents prior to closing.
9. The County has set an issuance fee for new MIDA bond issues based on 1% of the size of the issue, with a maximum fee of \$10,000.