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THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE CITY OF TEMPE, ARIZONA

Application Procedures for Utilization of
Private Activity Bond Financing

THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE CITY OF TEMPE, ARIZONA

PURPOSE

The Industrial Development Authority of the City of Tempe, Arizona (the "Authority"), was established in 1980 to promote industry and develop trade, to stimulate and encourage the production, development and use of agricultural and manufactured products and natural resources, to assist in the rehabilitation, expansion and development of all kinds of businesses and industries which will promote and assure economic development and job opportunities, to promote the construction, improvement and equipping of residential real property for dwelling units and to promote and assure an improved standard of living and an increase in diversity, prosperity and health, all in the greater Tempe area.

TYPES OF PROJECTS AVAILABLE FOR FINANCING

The Authority is empowered by Title 35, Chapter 5, Section 35-701 et seq., of the Arizona Revised Statutes (the "Act") to provide financing for "projects", defined to include any land, any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment whether or not now in existence or under construction, whether located within or without the City of Tempe, Arizona (the "City"), which shall be suitable for any of the following:

- (a) Any enterprise for the manufacturing, processing or assembling of any agricultural or manufactured products.
- (b) Any commercial enterprise for the storing, warehousing, distributing or selling of products of agriculture, mining or industry, or of processes related thereto, and including research and development therefor.
- (c) A health care institution as defined in S 36-401, Arizona Revised Statutes.
- (d) Residential real property for dwelling units (subject to certain limitations contained in the Act).
- (e) Repairing or rehabilitating single family dwelling units or constructing or repairing residential fences and walls.
- (f) Convention or trade show facilities.
- (g) Airports, docks, wharves, mass commuting facilities, parking facilities, or storage or training facilities directly related thereto.

(h) Sewage or solid waste disposal facilities or facilities for the furnishing of electric energy, gas or water.

(i) Industrial park facilities.

(j) Air or water pollution control facilities.

(k) Any educational institution that is operated by a nonprofit educational organization that is exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code and that is not otherwise funded by state monies, any educational institution or organization that is established under Title 15, Chapter 1, Article 8, Arizona Revised Statutes, and that is owned by a nonprofit organization, any private nonsectarian school or any private nonsectarian organization established for the purpose of funding a joint technical education school district.

(l) Research and development facilities.

(m) Commercial enterprises, including facilities for office, recreational, hotel, motel and service uses.

(n) A child welfare agency; as defined in Section 8501, Arizona Revised Statutes, owned and operated by a nonprofit organization.

(o) A transportation facility constructed or operated pursuant to Title 28, Chapter 22, Arizona Revised Statutes.

(p) A museum operated by a nonprofit organization.

(q) Facilities owned or operated by a nonprofit organization described in Section 501(c) of the United States Internal Revenue Code.

(r) New or existing correctional facilities within this state.

Reference is made to the Act for a complete statement of the powers of the Authority and the types of projects available for industrial development financing.

The provisions of federal law, as well as the Act, must be reviewed to determine the limitations and requirements pertaining to the financing of a particular project. For example, while many commercial facilities can be financed under the Act, federal law places limitations on the amount of proceeds which can be used for certain commercial purposes. Bond counsel should be consulted at an early stage to determine whether a project complies with existing legal requirements.

GUIDELINES FOR APPLICANTS

Although the Authority is legally empowered to finance the projects enumerated in the foregoing section, as a matter of policy the Authority will analyze each proposed financing and will render a decision on whether to provide financing (which may either be tax-exempt or taxable as related to interest income) after making a determination that:

(a) The project will benefit the greater Tempe, Arizona area directly or indirectly.

(b) The project is not inconsistent with the long-term development plans of the City.

(c) If the project is located in the downtown area of the City, it will contribute to the redevelopment and rehabilitation of the downtown area in conformity with the plans of the City for such redevelopment and rehabilitation.

(d) There is sufficient reason to believe that the applicant has the financial ability to honor the obligations assumed by the applicant.

(e) The project does not constitute a speculative investment of capital in real or personal property.

(f) The applicant has arranged for underwriting or placement of the bonds to be issued by the Authority with an underwriter or through private placement, as applicable, subject only to Authority approval, approval by the governing body of the City and fulfillment of the conditions of purchase set forth in a bond purchase or placement agent contract.

APPLICATION PROCEDURE

An applicant for Authority financing must prepare an application containing, where applicable, the information set forth below:

(1) Name of applicant;

(2) Principal business office and principal Arizona office, if any;

(3) Names and brief biographical sketches of principal executive officers;

(4) Principal contact;

(5) Telephone number and email address of principal contact;

(6) Detailed project description including actual street address or legal description of the project site and current ownership thereof;

(7) If known, the identity of the underwriter or the placement agent who will underwrite or place the bonds, as applicable;

(8) Certified public accountants for applicant, if any;

(9) Commercial bankers for applicant, if any;

(10) Three credit references;

(11) Applicant's counsel;

(12) Bond Counsel, which must be a firm of national reputation in municipal bond law acceptable to the Authority; provided that Applicant's counsel may serve as Bond Counsel with the express approval of the Authority;

(13) Underwriter's or placement agent's counsel, which must be a firm of national reputation in municipal bond law or securities law;

(14) Description of business:

(a) history of applicant,

(b) products or services,

(c) ownership (if not public) (include real parties in interest),

(d) material litigation pending or threatened,

(e) any indictment or conviction of an officer, director, partner or owner of a five percent interest (legal or beneficial) of the applicant of a felony Or of a misdemeanor involving moral turpitude,

(f) five years of audited financials, if available, and unaudited financials for a period ending within 90 days of the date of the application provided that if audited financials are not available (or are available for fewer than five years), unaudited financials for any year during last five years in which audited financials are unavailable should be provided,

(g) any appraisals, and

(h) any known direct or indirect proprietary interest in the project to be retained by the applicant, investor,

architect, engineer, contractor, consultants,, suppliers, lenders, agents, promoters, project managers, etc. Please describe any parent-subsidiary relationship among the above.

(15) Amount of financing required included as part of a "sources and uses" of funds breakdown for entire estimated cost of the project;

(16) Application of proceeds of sale of bonds by specific category;

(17) If available, plot plan and building elevation;

(18) Approximate dates of commencement and completion of construction;

(19) For multifamily rental housing projects, a detailed market feasibility study for the project which should include a breakdown of the number and types of units and the applicable rents along with cash flow projections based upon such breakdown using industry standard vacancy factors;

(20) A description of the environmental impact of the project;

(21) If available, artist's sketch or photograph of buildings;

(22) Estimate of number of jobs to be created or preserved by project;

(23) Status of zoning and building permits;

(24) Last available Form 10K if such is filed with the Securities and Exchange Commission and any disclosure statements filed under federal or state law within the last nine months; and

(25) Any other reviews of the project being undertaken by any public agency or authority and any other entity (public or private) to which the applicant has applied for financing.

Each application must be executed by an authorized officer of the applicant and must be accompanied by an affidavit of such officer that to his or her knowledge the information contained in the application is true and correct in all material respects and does not omit to state a material fact necessary to make the information therein not misleading.

Any third party guarantor must submit a similar application setting forth the information required in Items Numbers 1 through 5, 7 through 11, 14 and 25 as it relates to such guarantor.

Once completed, the application should be emailed to cafisom@gtlaw.com and galesp@gtlaw.com or delivered in hard copy to Greenberg Traurig, 2375 E. Camelback Rd., Suite 700, Phoenix, AZ 85016, Attn. Michael Cafiso and Paul Gales, Bond Counsel for the Tempe Industrial Development Authority. Please also notify the President of the Authority of the submission of the application.

The application fee hereinafter set forth must be delivered or mailed at least 15 days prior to the date of the Authority's meeting at which the application is to be considered for preliminary approval.

The application will be emailed to the members of the board of directors of the Authority (the "Board"), and the applicant will be notified of the date upon which its application is to be considered by the Authority. The meeting will be open to the public and duly noticed. The contents of the applicant's proposal will be available for public inspection and may be referred by the Board to accountants, attorneys and consultants for evaluation.

It is the policy of the Authority that applicants not contact individual members of the Board for the purpose of soliciting support for their applications. Applicants may, however, discuss applications with individual members of the Board who are seeking information, which information will be reported to all members of the Board of the Authority at the time the application is considered.

At the initial meeting, the Board may grant preliminary approval of the application, reserve judgment to a later meeting or reject the application.

If the Board grants preliminary approval of the application, the preliminary approval will expire 180 days after the date the Board granted preliminary approval unless prior to that time the applicant has (i) obtained final approval of the issuance of the bonds, or (ii) obtained an extension of the preliminary approval. An extension of the preliminary approval of the application may be obtained by paying to the Authority an additional fee of \$500 and by submitting an affidavit to the Authority in a form acceptable to the Authority, requesting an extension of the preliminary approval of the application and demonstrating good cause why such extension should be granted.

Once preliminary approval of the Authority has been obtained, the applicant is required to submit to the Authority for its review a copy of the proposed financing documents, including, if any, the proposed form of authorizing resolution of the Authority, the proposed form of offering memorandum or official statement, the proposed forms of indenture, loan agreement or lease, guaranty agreement, promissory note, bond purchase contract, security documents and such other documents relative to the financing, as the Authority may reasonably request. The Authority will expect that financing documents be made available to it at least 30 days prior to the requested date of final approval. A shorter period will be accepted for good cause shown.

The final approval by the Board of the issuance of bonds will be conditioned upon:

(a) its satisfaction with the financing documents, including the terms and conditions of financing;

(b) approval of the issuance of bonds by the governing body of the City;

(c) receipt of any required regulatory or governmental approvals;

(d) agreement by the applicant and any third party guarantor to comply, prior to closing, with all conditions which may be imposed by the Authority, including without limitation, receipt of "no action" letters or Internal Revenue Service rulings requested by the Authority, receipt of such comfort letters, non-litigation, arbitrage and other certificates, feasibility reports, opinions of counsel, disclosure items, appraisals and such other documents as may be requested by the Authority;

(e) execution by the applicant and any third party guarantor of an indemnity agreement acceptable to the Authority, indemnifying the Authority and the City and their offices, members and staff, accountants, attorneys and other consultants from all loss or liability arising out of the transaction;

(f) with respect to a private placement, the receipt by the Authority of appropriate investment letters, waivers, indemnities and such other items as the Authority may request; and

(g) such other terms and conditions as the Authority may deem appropriate.

CERTAIN TRANSACTIONS

General. The Authority recognizes that the application procedure must, of necessity, be sufficiently flexible to accommodate the different types of projects which may be financed under the Act. This procedural pamphlet does not attempt to delineate all of the information which the Authority will require with respect to each type of project or financing. For that reason the Authority will, on occasion, modify or add to the requirements set forth herein.

It is the responsibility of the applicant to ensure to the satisfaction of Bond Counsel that all legal requirements in connection with the financing have been satisfied and all regulatory approvals obtained.

The terms of this procedural pamphlet are intended to be advisory only. The Authority reserves the right to add or modify requirements with respect to particular transactions as it deems appropriate.

Health Care Projects. In most cases, the Authority will require that an applicant for financing of a health care facility furnish, prior to final approval of the transaction, a feasibility study prepared by a recognized firm of health care consultants. (An exception to this requirement may occur when the underlying debt obligation of the proposed user of the facility is insured or guaranteed by the United States or an agency or instrumentality thereof.)

FHA-Insured Projects. Where the underlying debt obligation of the applicant is to be insured by the Federal Housing Administration, the Authority will normally require neither a feasibility study nor a real property appraisal, but will rely on FHA's endorsement of the underlying debt obligation as evidence of feasibility of the project. The Authority will, however, require evidence of ability to repay that portion, if any, of the bond issue which is in excess of the amount payable from the aggregate of mortgage insurance, reserve funds and letters of credit or other security pledged by the applicant.

Multifamily Rental Housing Projects. In evaluating proposals for multifamily rental housing projects, the Authority will apply the following policy. The quality of design, open space and amenities (which should be described in detail in the application) will all be considered. A detailed market feasibility study should be prepared as should cash flow estimates which indicate, for purposes of comparing the effect on projected revenues of an occupancy rate no greater than the average experienced in the area of the project site over the previous four quarters. As to rehabilitation projects, the Authority requires that at least 15 percent of the project costs be applied to the rehabilitation.

Private Placements. It has been the experience of some authorities throughout the State of Arizona that purchasers in private placement transactions occasionally request to impose less stringent requirements on applicants than the Authority would normally impose. The Authority may accede to such requests, provided that the purchaser execute a letter in form acceptable to the Authority to the effect that it is familiar with the applicant, has conducted such investigation as it deems appropriate concerning the applicant and the financing and waives due diligence on the part of all other parties to the transaction.

Bonds privately placed may not be resold in a public offering without satisfaction of such conditions as the Authority may impose.

FEES OF THE AUTHORITY

Each application submitted to the Authority must be accompanied by a certified, cashier's or official check, drawn on a bank or savings and loan association doing business in the State of Arizona, in the amount of \$3,000 payable to the order of "The The Industrial Development Authority of the City of Tempe, Arizona." If the Authority does not adopt a resolution of preliminary approval, \$1,500.00 of the application fee will be refunded to the applicant.

If the applicant requests an extension of its resolution of preliminary approval an additional fee of \$500 shall be paid to the Authority at the time the request is made to the Authority. If the applicant requests a modification of its preliminary approval an additional fee of \$500 may be charged by the Authority for any such modification. In addition, the applicant will be responsible for the payment of any fees or costs incurred by the Authority in connection with the bond issue including, but not limited to, the fees and expenses of the Authority's accountants and attorneys and any "out-of-pocket" expenses incurred by the Authority or any member, agent or employee of the Authority acting on its behalf.

As a condition to the issuance of the bonds, the applicant shall pay to the Authority an annual administrative fee in the amount of up to **6.75 basis points of the outstanding principal balance of the bonds** (the "Annual Administrative Fee"). The Annual Administrative Fee shall be payable on the anniversary date of the issuance of the bonds. The initial Annual Administrative Fee shall be payable on the closing date of the bonds. The applicable loan, lease or other agreement between the applicant and the Authority shall provide that throughout the term of the bonds, failure to pay the Annual Administrative Fee within 30 days of the due date therefor shall constitute an event of default under such agreement.

ADDITIONAL BONDS AND MULTIPLE BOND ISSUES

Any applicant desiring the Authority to issue additional bonds pursuant to proceedings previously adopted by the Authority must file a new application and pay the application fee of \$3,000 provided under the section entitled "Fees of the Authority." If an applicant requests the Authority to issue more than one series of bonds, then a separate application and a separate application fee is required for each series of bonds, except in those situations where the applicant and the project remain the same, for example, the applicant requests that an equipment bond and a real property bond be issued.

CHANGES OF ADDRESSES AND PAYMENT OF BONDS

After the issuance of the bonds to finance the project and so long as any of the bonds remain outstanding, the applicant shall annually provide to the Authority the applicant's current mailing address, the current name and mailing address of its attorney and the current name and mailing address of its bond counsel. The applicant, further agrees to promptly notify the Authority when the bonds have been paid in full and are no longer outstanding.