

THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE CITY OF SCOTTSDALE, ARIZONA

PROCEDURES FOR APPLICATION AND UTILIZATION

OF

TAX EXEMPT AND TAXABLE INDUSTRIAL DEVELOPMENT
REVENUE BOND FINANCING

Adopted October 22, 1984

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Revised November 11, 1987

THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE CITY OF SCOTTSDALE, ARIZONA

PROCEDURAL PAMPHLET

I. PURPOSE

The Industrial Development Authority of the City of Scottsdale, Arizona (the “Authority”), was established to promote industry, and develop trade, to stimulate and encourage the production, development and use of agricultural 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 prosperity and health, all in the Scottsdale area. As a matter of policy, the Authority places a particular emphasis on projects designed to enhance the social, cultural, economic and physical resources of Scottsdale, Arizona. The Authority places additional emphasis on projects which create new permanent jobs and have the potential of generating additional sales tax revenue for the City of Scottsdale, Arizona. Projects to be considered should also be capital intensive and in keeping with the overall “Master Plan” of the City of Scottsdale, Arizona. The Authority will be sensitive to whether or not a particular project would have been accomplished anyway, without Industrial Development bonds. In the opinion of the Authority, Industrial Development bonds should be a major incentive in causing a project to happen and not just an opportunity for lower cost financing.

II. TYPES OF PROJECTS AVAILABLE FOR FINANCING

The Authority is empowered by Title 35, Chapter 5, Section 35-701 et seq., Arizona Revised Statutes, as amended, (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 municipality or county approving the formation of an authority, 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. An office building or buildings for use as corporate or company headquarters or regional offices or the adaptive use for offices of any building within the state that is in the national register of historic places or rehabilitation of residential buildings located in registered historic neighborhoods.

D. A health care institution as defined in § 36-401, Arizona Revised Statutes.

E. Residential real property for dwelling units (subject to certain limitations contained in the Act).

F. Convention or trade show facilities.

G. Airports, docks, wharfs, 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 operated by a nonprofit organization not otherwise funded by state monies which is accredited by a nationally recognized educational accrediting association.

L. Research and development facilities.

M. Commercial enterprises, including facilities for office, recreational, hotel, motel and service uses if the facilities authorized by this subdivision are to be located in a designated area.

While the above "Projects" may be considered for approval by the Authority pursuant to the Act, the Tax Reform Act of 1986 severely curtailed the types of Projects that would qualify for tax free financing under the Internal Revenue Code. Projects now qualifying as exempt facilities include: (1) airports, (2) docks and wharves, (3) mass commuting facilities, (4) facilities for the furnishing of water, (5) sewage facilities, (6) solid waste disposal facilities, (7) qualified residential rental projects, (8) facilities for the local furnishing of electric energy or gas, (9) local district heating or cooling facilities, or (10) qualified hazardous waste facilities. In addition, the Internal Revenue Code provides for tax exempt financing in connection with redevelopment of designated blighted areas, and acquisition of property to be owned by § 501(c)(3) organizations or government units (including health care institutions). Also surviving the Tax Reform Act of 1986 is the qualified small issue bond (not to exceed One Million Dollars) the proceeds of which can be used to finance various non-residential facilities.

Reference is made to the Act and the Internal Revenue Code 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. Bond counsel should be consulted at an early stage to determine whether a Project complies with existing legal requirements.

III. LEGISLATIVE INTENT

Re: Industrial Development Authorities

“It is the intent of the legislature ... to authorize the incorporation of [industrial development authorities] to acquire, own, construct, lease and dispose of properties and to the end that such [industrial development authorities] may be able to promote industry and develop trade by inducing manufacturing, industrial and commercial enterprises to locate in this state, and to further the use of this state’s agricultural products and natural resources; and to vest such [industrial development authorities] with all powers that may be necessary to enable them to accomplish such purposes; and to further assure adequate job opportunities and an improved standard of living for the growing population of this state and for the increase of prosperity; and it is declared that such actions, efforts and [industrial development authorities] be for a public purpose and are an essential governmental function ...” Laws 1968, Chapter 201, Section 1.

IV. POLICY STATEMENT

Authority Board Members have agreed to serve because it is their belief that their service can aid the general welfare and economic growth and development of the City of Scottsdale, Arizona. Through the Board’s efforts it is hoped that qualifying concerns may locate or improve industrial or economical development projects in Scottsdale, Arizona. The Board believes that, through the vehicle of industrial development bonds, projects can be financed for Applicants at the lowest possible costs. The Board will review each application on its own merit. Applicants acknowledge that the Board reserves the right, in its sole discretion, to refuse or disapprove any or all applications and applicants further agree to hold The Industrial Development Authority, of Scottsdale, Arizona and its members, directors, employees, agents and the Scottsdale City Council harmless from any liability resulting from the refusal of any application.

The members of the Board are mindful, however, that civil and criminal liabilities may accrue to them if fraudulent statements or material omissions are contained in any official statement or proceeding relative to the issuance and distribution of the Authority’s bonds. The members of the Board therefore must take every possible precaution to protect themselves against such liability. Therefore, the Applicant and its legal counsel, underwriters, and their legal counsel, accountants and bond counsel are advised of the following general rule:

The Authority and its Board members will neither take risks, adopt proceedings nor approve official statements unless experts will opine as to the fairness of the facts presented and the reasonableness of assumptions made with respect to future events. Such opinion shall be in such form as may be requested by the Authority in its sole discretion. Experts in this instance shall mean: 1) Accountants, 2) Bond Counsel and counsel for the Applicant, 3) Underwriters and their counsel, 4) Financial Consultants and 5) Municipal Securities Dealers.

The Authority will expect that any municipal securities broker, municipal securities dealer, clearing agency or transfer agent engaged by the Applicant, or Authority or otherwise participating in the issuance and distribution, of securities involved in a Project will have complied with all applicable state and federal securities laws, and may require such parties to establish and certify to their compliance with such laws.

V. GUIDELINES FOR APPLICANTS

Although the Authority is legally empowered to finance the Projects enumerated in Section II hereof, as a matter of policy the Authority will carefully analyze each proposed financing and will render a decision on whether to provide tax-exempt or taxable financing pursuant to its jurisdiction after making a determination that:

A. The Project will provide additional employment opportunities or preserve existing jobs in the Scottsdale, Arizona area and will otherwise stimulate economic growth in Scottsdale, Arizona.

B. The Project is consistent with the long-term economic development plans, the General Plan, the Downtown Plan or similar Plan of the City of Scottsdale, Arizona.

C. Zoning of the Project is in place and consistent with the Applicant's contemplated development of the Project.

D. If the Project is located in the downtown area designated (as from time to time by the Scottsdale City Council) it will contribute to the redevelopment and rehabilitation of the downtown area in conformity with the plans of the City of Scottsdale, Arizona for such redevelopment and rehabilitation.

E. There is sufficient reason to believe that the Applicant has the financial ability to honor the obligations assumed by the Applicant.

F. The Project does not constitute a speculative investment of capital in real or personal property.

G. The financing of the Project by the Authority will not provide an unfair local competitive advantage to the Applicant.

H. The Applicant has arranged for placement of the bonds to be issued by the Authority with an underwriter or through private placement, subject only to Authority approval, approval by the governing body of the City of Scottsdale, Arizona and fulfillment of the conditions of purchase set forth in the bond purchase contract.

The Authority will reserve the right to deviate from the above standards on a project by project basis if compelling reasons therefor can be shown. From time to time, if the Scottsdale City Council or the Authority determines that specific types of projects or areas in Scottsdale are not in keeping within the desires of the Scottsdale City Council or the Authority, it is the intent of the Authority to endeavor to notify Applicants accordingly.

(End of Section V)

VI. DEFINITIONS

As used herein:

- A. “Accountant” means an independent Certified Public Accountant as the term is defined in the 1933 Act.
- B. “Applicant” - See “User” below.
- C. “1933 Act” means the Federal Securities Exchange Act of 1933, as amended.
- D. “1934 Act” means the Federal Securities Exchange Act of 1934, as amended, and regulations of the SEC pertaining to the marketing, or transfer of municipal securities and the Rules and Regulations of the Municipal Securities Rulemaking Board.
- E. “1939 Act” means the Federal Trust Indenture Act of 1939, as amended.
- F. “Arizona Blue Sky Laws” means Section 44-1871, et seq., Arizona Revised Statutes.
- G. “Authority” means The Industrial Development Authority of the City of Scottsdale, Arizona.
- H. “Board” means the Board of Directors of the Authority.
- I. “Bond Counsel” means an acceptable nationally recognized firm of attorneys with a proven reputation in the field of municipal finance specializing in municipal bonds who is employed by either the Applicant, the Authority or an Underwriter to render an unqualified opinion on the legality of the bonds and such other matters as are herein set forth and also to draft or be responsible for the drafting of the legal proceedings leading to the issuance of the bonds.
- J. “Concern” means any person, group of persons, limited partnership, partnership, association, corporation, syndicate, joint venture, joint stock company or similar form of legal entity.
- K. “Financial Consultant” means a concern employed to draft and circulate Notice of Public Sale and an Official Statement in order to generate interest in specific issues of the Authority’s bonds which are to be sold by competitive bidding as opposed to private negotiations.
- L. “Guaranty” means either guaranty of payment or guaranty of collection.
- M. “Net Proceeds” means the amount of bond proceeds (including premium if any) which are intended to be used in the purchase, construction or acquisition of the Project but shall not include bond discounts, accrued interest, costs of issuance, capitalized interest or reserve funds, or amounts used to pay trustee’s or paying agent’s fees.

N. “Official Statement” also means a prospectus offering statement, or similar document, and where a public sale is concerned it shall also include therein a notice of the sale of the bonds.

O. “Project” has that definition specified in Section 9-1151., Arizona Revised Statutes, as amended. This definition also appears in Section II hereof.

P. “Property” has that definition specified in Section 9-1151., Arizona Revised Statutes, as amended. This definition currently means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to a Project, and any other personal properties deemed necessary in connection with a Project.

Q. “Section 103” means Section 103 of the Internal Revenue Code of 1986, as amended.

R. “Third Party Guarantor” or “Guarantor” means any Concerns other than the User (including a parent, affiliate or subsidiary of the User) who guarantees either the bonds or other underlying security for the bonds.

S. “Underwriter” means any person who has purchased from an issuer with a view to, or sells for the Authority in connection with, the distribution of the Authority’s bonds, or participates or has a participation in the direct or indirect underwriting of such a distribution.

T. “User” or “Applicant” means the Concern which seeks to have bonds issued on its behalf to purchase or acquire one or more Projects.

VII. APPLICATION PROCEDURE

Prior to submission of an Application to the Authority, it is required that the prospective Applicant meet with the Authority’s legal counsel, administrator, and financial consultant to discuss the Application. The Authority requires all prospective Applicants to make a full and complete Application in accordance with the requirements of this Procedural Pamphlet prior to a decision by the Board whether to give preliminary approval to go forward with the financing arrangements for a Project. Twelve (12) copies of the Application shall be filed with the Board’s legal counsel at least ten (10) working days prior to the date of the meeting at which it is to be considered. The legal counsel shall distribute a copy to each Board member.

The complete fee for filing the Application is Four Thousand and 00/100 Dollars (\$4,000.00). This fee shall be paid at the time of filing the Application. In the event that preliminary approval of the Project is not granted, \$2,000.00 of the Application fee shall be returned to the Applicant.

If for any reason preliminary or final approval for the Applicant’s Project is granted and the Applicant fails to close the bond issue and the approval time period of 180 days expires, and subsequently the Applicant reapplies to the Authority, an additional filing fee of up to \$4,000.00, as determined by the Authority, shall accompany the Application. For an extension of preliminary approval of 180 days prior to expiration of the original preliminary approval see Article IX below.

In the application the User shall agree to pay all costs and expenses incurred by the Authority in connection with the issuance of the bonds, including but not limited to costs and expenses incurred by the Authority's Bond Counsel, its Board or staff advisors, and its accountants and attorneys. Fees of the Authority's legal counsel and financial consultant from the time of application will be paid either by the Applicant directly or from bond proceeds or retainer by Applicant if the Issue fails to close, and will not be deducted from the application fee.

In addition to the foregoing application fee, the Applicant at the time of filing an Application shall pay \$10,000.00 which amount shall be deposited into the trust account of the Authority's counsel. In the event the issue fails to receive final approval by the Authority or City Council, such funds shall be utilized for the payment of the Authority's legal counsel, financial consultant and administrators' fees for services incurred to date. In the event fees remain to be paid over and above said \$10,000, Applicant agrees to immediately make payment of same to the financial consultant, legal counsel and administrator. Should the fees charged by such professionals be less than the \$10,000.00, the remaining amount shall be returned to the Applicant. In the event the issue closes, the fees incurred shall be paid by the Applicant, or from bond proceeds less said \$10,000.00.

The Authority is a public corporation, and all meetings of the Authority are required to be conducted in accordance with A.R.S. § 38-431 et seq. The files and records of the Applicant (and any Guarantor) filed with the Authority will be available for inspection by the public. Thus, the Applicant, by filing the Application, agrees that any information delivered to the Authority by or on behalf of such Applicant is not privileged and may be disclosed to the public. By making this Application, the Applicant is expected to have disclosed any and all matters which could in any way be material to the proposed financing at the date of the Application.

Further, by making this Application, the Applicant will be deemed to know, understand and accept the procedures outlined herein.

The Application shall contain:

A. The name, address, local telephone number, and telecopier number, if any, of the Applicant and, if applicable, local address (which may be the address of the Applicant's local counsel) for service of notice and the name, address, telephone number and telecopier number of the principal contact. The Authority highly recommends the use of local counsel if Applicant's bond or regular counsel is not located within the State of Arizona.

B. A short statement of the type of business or business engaged in by the Applicant and a brief description of the corporate structure of the Applicant's parent if the Applicant is a subsidiary corporation including a short concise description of the business of affiliated companies, history of Applicant, products or services, major customers, major suppliers, major competition and ownership.

C. A short statement of the public purpose served by the proposed Project.

D. A complete, description of the Project including:

1. Intended use;

2. Present and projected number of employees of Applicant at the Project and in Scottsdale, including title and salary ranges of the employees.

3. Present ownership of the Project site and the Applicant's interest therein -- if the Applicant is purchasing the property, a statement of the terms of the purchase.

4. A statement of the environmental impact of the Project, including but not limited to its effect upon transportation facilities and municipal services; and if the statement shows the Project will adversely affect the surrounding environment, that fact shall be fully explained and justified; and

5. Whether any other reviews of the Project or its financing are being conducted by any public agency or authority, and whether the Applicant has applied to any other entity (public or private) for financing for the Project and whether financing has been approved or denied and the dates thereof.

E. The name, address and telephone numbers of each of the following:

1. The Architect, Engineer, Accountant, Commercial Banker, Underwriter (and Underwriter's Counsel), Bond Purchaser's Counsel (Bond Counsel must be a firm of national reputation) or Financial Consultant the Applicant wishes employed on the Project.

2. The suggested choice of Bond Counsel.

3. The Applicant's legal counsel.

F. The approximate dates of:

1. When the Applicant will make its presentation before the Board seeking preliminary approval;

2. Mailing of any preliminary Official Statement;

3. Issuance and sale of the bonds;

4. Start of construction of the Project;

5. Completion of the Project.

G. The estimated cost and amount of financing required of the Project.

H. The Application shall also include the following attachments:

1. Applicant's financial statement (audited) for the previous three (3) years or for the full life of the Applicant if the Applicant has not been in business for three (3) full years;

2. Applicant's most recent quarterly statement;

3. Applicant's annual reports for the past three (3) years;
4. A statement of financial forecast of the Project for the first five (5) years, compiled by an independent Certified Public Accountant.
5. Any other financial information that may be required by the Authority.
6. A statement describing any pending litigation either by or against the Applicant or its subsidiaries (other than ordinary litigation concerning matters which would generally have little bearing on the earnings of the Applicant). If any litigation of any nature is pending or threatened against either the Project site, the Project, or the bonds sought to be issued, such litigation must be noted;
7. If the Applicant or an Underwriter for the Applicant has filed or recorded a request to issue or register securities under any state "Blue Sky Law" during the preceding twelve (12) month period, a copy of such filing, recording or registration shall be included.
8. If the Applicant is required to file periodic reports or disclosure statements under the 1934 Act or any similar Act in any state or under any other similar law of the United States, a copy of the most recent report shall be attached.
9. A list of all executive managing officers and directors of the Applicant. If any such officer or director of a five percent (5%) interest (legal or beneficial) shall have been convicted, or is currently under indictment or complaint alleging commission of a felony or of a misdemeanor involving moral turpitude in any court of any state or of the courts of the United States or Canada or is now or has ever been charged or convicted of any civil administrative or criminal offense regarding or growing out of the conduct of the business of the Applicant or any similar Concern or out of the issuance, sale or solicitation for sale of any type of security, the Application shall so state.
10. If within nine (9) months prior to making the Application the Applicant has filed a registration statement under the 1933 Act or if the Applicant is not required to register with the Securities and Exchange Commission ("SEC") and has filed a similar statement with another federal agency relative to the issuance of a security, or the Applicant has filed a disclosure statement or periodic report pursuant to the 1934 Act and the last available form 10K if such is filed with the SEC, the Applicant may, in lieu of subparagraphs 1 through 9 of this Section H, attach a copy of such statement or report together with an affidavit of an officer of the Applicant in position to know the facts, stating that no material change has occurred since the statement or report was filed or registered, or if material changes have occurred, listing such changes and supplying the current data. The changes shall be cross-referenced by number or page-to-the-page, paragraph or section of the statement or report and also underlined or otherwise noted in red ink on the copy of such statement or report submitted to the Authority.
11. An affidavit, in form substantially similar to Exhibit A attached hereto, executed by one (1) officer or director listed in subsection 9 above, stating that all facts and statements contained in the Application and the attachments are true and correct to the best

of such officer's or director's knowledge and belief and that he knows of no other material adverse fact relating to the corporation not mentioned in the Application or the attachment.

12. If the Applicant is rated or listed on any published rating agency, such fact shall be noted and a copy of any current rating sheet or sheets shall be attached. If the Applicant has previously been rated and such rating has been lowered or suspended, the Applicant must so state. If the Applicant is a corporation with stock which is actively traded by the public the Application shall state the most recent market price, and the high and low market price of such stock for the preceding calendar year, if such prices can be reasonably determined.

13. If the Applicant expects to have a Third Party Guarantor guarantee the bonds or the security underlying the bonds the Application shall be executed by the Guarantor and the Guarantor shall also file an attachment setting forth all data required herein, particularly information required in item numbers 1 through 5, and 7 through 10, as it relates to such Guarantor, and, as if such Guarantor was in fact the Applicant.

14. If the Applicant expects to have a "letter of credit" structure, the Application should describe the nature of the letter of credit (e.g., "direct pay", "standby"), the identity of the provider bank, the rating of the provider bank, and the identity of secondary provider banks, if any.

15. An appraisal made by a person who is a member of the Appraisal Institute ("MAI"), which appraisal states the value of the Project site at the date of the appraisal and also appraises the value of the Project after any contemplated construction is completed.

16. Any feasibility or similar document prepared for the Project, the date thereof and the name of the person or entity preparing such study.

17. An affidavit, in the form attached hereto as Exhibit "A" acknowledging that no owner, employee, agent, officer or director of Applicant, or of the Authority or the City of Scottsdale contravenes the State of Arizona's conflict of interest statutes A.R.S. § 38-501 et seq. with the Project.

18. A full and complete listing of all other projects applied for previously by Applicant to any Industrial Development Authority. Such listing should state all terms and conditions of the Applications and Approvals thereof.

All Applications shall also contain a statement, executed by an officer of the Applicant having authority to make such statement, that the Application is made in accordance with this procedural pamphlet and that the Applicant consents to all investigations deemed reasonably necessary by the Authority as set forth herein.

Upon receipt of the Application the Board shall refer it to its counsel, its financial consultant and such others as it deems necessary for their review. Counsel shall report on his review at the time the Board received the Applicant's oral presentation on request for preliminary approval.

The Applicant may make an oral presentation to the Board at any regular meeting by request contained in the Application or made to the President of the Authority or the

Authority's counsel not later than five (5) days prior to the date of such meeting. The oral presentation may cover any aspects of the Project or its financing the prospective Applicant may desire, but such oral presentation shall never be made in lieu of the written Application herein required. No action will be taken by the Board on any application until ten (10) business days after the Application has been filed and the initial filing fee of Four Thousand Dollars (\$4,000.00) paid. The Applicant must have representatives able to respond to questions concerning the Project and financing present at the meeting at which the Application is considered by the Board.

The Applicant agrees once an Application for a Project has been submitted, it shall not directly, or indirectly, contact any Board member or City Council member individually concerning the Project. All presentations, discussions and communications shall take place at a formally convened meeting of the Authority or City Council.

VIII. RESERVATION OF RIGHTS

Until bonds are issued, the Board reserves the right to:

- A. Reject the Application in whole;
- B. Reject the Application as being incomplete;
- C. Reject the Applicant's choice of Accountant, Underwriter or Financial Consultant;
- D. Reject the Project in whole or in part;
- E. Require "no action" letters from the Securities Exchange Commission or state securities regulatory bodies or Internal Revenue Service rulings before closing. If such letters or rulings are required, the Applicant shall be responsible to submit the needed requests. Power of attorney for this purpose shall be freely given by the Board;
- F. Require corrections, deletions, changes, additions or amendments to any legal proceedings or Official Statement;
- G. Determine that the proposed issue is one which is speculative in nature and require that appropriate language to this effect be inserted in the Official Statement;
- H. Impose any other reasonable requirements as conditions precedent to the issuance of its bonds.

IX. PRELIMINARY APPROVAL, NOTICE TO PROCEED, PROCEEDINGS

The Board shall make a ruling pro or con on each Application.

If the Board authorizes preliminary approval of the Project the Applicant will be so notified in writing. The Board's preliminary approval shall expire one hundred eighty (180) days after the date of the approval unless within this time period the Applicant has obtained final approval from the Board, or has obtained an extension of time from the Board. An extension of

time may be obtained by submitting an affidavit (plus a fee of \$1,000.00) to the Board in a form acceptable to the Board, requesting an extension of time and demonstrating good cause why such an extension should be granted.

Ten (10) complete copies of the “legal proceedings” shall be submitted to the Board at least one (1) week prior to the date set for final approval. The term “legal proceedings” includes inter alia:

- A. Any lease, loan agreement, purchase contract, note (with or without a mortgage), deed of trust or other security which is to be executed by the Applicant. (Prior to any bond closing the Applicant shall also be required to submit executed or certified copies of all of its official actions taken to authorize whatever form of security to be granted the Authority;)
- B. The resolution of the Board authorizing the issuance of the bonds;
- C. Any trust indenture or similar instrument;
- D. Any proposed Official Statement;
- E. A notice of sale if the bonds are to be sold through competitive public bidding;
- F. The bond purchase agreement, together with such ancillary letters as the Underwriter and Bond Counsel may require;
- G. Any Guaranty;
- H. The form of Bond Counsel’s opinion;
- I. The form of the Accountant’s report letter, if appropriate;
- J. Non-litigation Certificate;
- K. Arbitrage Certificate;
- L. Treasurer’s or Trustee’s Receipt;
- M. The proposed resolution of the Scottsdale City council approving the Authority’s proceeding;
- N. Minutes of all meetings of the Board where official action is to be taken;
- O. Such other proceedings as the Underwriter, Bond Counsel or the Authority’s counsel shall require;
- P. Drafts of any instruments which the Board must adopt or approve, or any member must sign or any questionnaire which must be completed relative to contemplated submissions to any federal or state regulatory body or to any rating agency;
- Q. A copy of the Indemnity Agreement or agreements [see Section XIV(D)];

R. Any contracts of insurance for the Project (whether as partial guarantee).

S. A statement determining the respective duties of (a) the Applicant's Counsel, (b) Bond Counsel, and (c) the Underwriters and other appropriate persons with respect to drafting and verifying the Official Statement. No further action will be taken by the Board until this statement of duties, in form satisfactory to the Authority's counsel, is delivered. The respective parties who are to be responsible for all or part of the drafting and verifying of the Official Statement shall be deemed to have read and approved the statement by continuing to be associated with the Project after the statement has been delivered to the Board.

T. Any other financial documentation relating to the Project.

U. Receipt of any regulatory, governmental or quasi-governmental approvals.

V. Receipt of an opinion of counsel in form satisfactory to the Authority to the effect that provisions of the Arizona Securities Act have been complied with or are inapplicable.

W. Any other requirements of the Authority.

When the proceedings are filed with the Authority, the Authority's counsel shall notify the Attorney General of the Authority's intention to issue bonds, and such notice shall describe the Project and provide, when necessary, a complete copy of the proceedings to the Attorney General.

The proceedings shall be referred to the Authority's counsel (and if the Authority deems it necessary, to an accountant of its choice) for review. The Authority's counsel shall work with the Applicant, Bond Counsel, Underwriter's Counsel and the Accountant (if one is chosen), and shall report to the Authority any changes he deems appropriate prior to the date set for adoption of the proceedings.

If the bonds are to be privately placed, the amount of bonds, the purchase price and interest rates to be borne on the bonds shall be determined on or before the date set to adopt the resolution authorizing the bonds. If there is a public offering (i.e., by Official Statement), the Authority prefers to have all aspects of the financing determined at the time of sale; however, in most cases the Authority will entertain the giving of final approval and adoption of all legal proceedings containing "not to exceed" limits on the following items: interest rate, amount of issue, discount, and maximum life of the bonds.

X. CONSTRUCTION ESCROW

In all projects where construction is contemplated or is ongoing when the bonds are issued, provisions acceptable to the Authority will be inserted in the legal proceedings providing for the retention of the construction fund by a trustee selected for that purpose (who may be the indenture trustee) and payment on a draw or "as completed" basis with a small (5% - 10%) reserve against final completion of the project. Such escrows will be worked out on a case-by-case basis.

XI. SPECIAL CONDITIONS REGARDING HEALTH CARE INSTITUTIONS

Whenever a health care institution is to be financed, the Authority unless specifically waived may require that the Applicant, prior to the adoption of the Official Statement or in the instance of a private placement, procure and deliver to the Authority:

A. A demand study (where new construction is concerned) and a final feasibility study (where either new construction or refinancing of existing permanent financing is concerned) rendered by a nationally recognized firm of hospital consultants, engineers, architects or accountants, having a proven reputation for such reports. The Board may also require the person or firm giving the financial feasibility study to agree to one of the following:

1. If requested, to execute a letter with respect to the study dated not less than fifteen (15) days prior to the date of delivery of the bonds stating that as of the date of the letter no material change has occurred in either the assumptions on which the study is based or in the projections themselves, or if changes have occurred and whether or not the changes effect materially the conclusion reached in the text of the study; or

2. Agree to keep the study current to, and including, a date not less than thirty (30) days before delivery of the bonds. The financial feasibility study shall cover at a minimum, the three (3) year period commencing from the date of the issuance of the bonds or the date of completion of construction (if feasibility is predicated upon the completed construction of the facility). The demand study must be addressed to the Authority (other addresses are permissible, however).

B. Unless a private placement is contemplated, a “no action letter” may be required from the Arizona Corporation Commission, Securities Division, where any nonprofit hospital corporation will be the Guarantor (either third party or Guarantor of its own obligation). See A.R.S. § 44-1843(6), as amended.

XII. PRIVATE PLACEMENTS

If a private placement is desired and the Applicant wishes to dispense with the Official Statement, the following will apply and will be provided for in the legal proceedings.

A. No Official Statement will be authorized or executed by the Board or its members.

B. The Applicant must hold the Board members, the Authority, its staff, its agents, the members of the City Council of Scottsdale, Arizona, and the City of Scottsdale, Arizona, harmless for any fraud or misrepresentations or omissions contained in the proceedings or pertaining to the financial condition of the Applicant which if known to the bond purchaser would have been considered a material factor in its decision whether or not to buy the bonds. In this connection, the Applicant will execute and deliver to the Authority an indemnity and hold harmless agreement in a form acceptable to the Authority’s counsel.

C. The bond purchaser must waive due diligence on the part of the Authority’s Board of Directors and will rely solely on statements and representations of the Applicant and the bond purchaser’s own investigations of the Applicant and the bond relating to

the purchase of the Authority's bonds and will waive any claims the bond purchaser may have against the Authority, its staff, Board members, the City of Scottsdale, Arizona and its City Council and staff growing out of any action the Board of Directors or the Scottsdale City Council took or should have taken in the authorization, issuance or sale of the bonds or in any statement or representation which induced the bond purchaser to purchase the bonds.

D. Except as herein provided, the bond purchaser will stipulate that the bonds will not be resold without approval of the Authority's Board and without the approval and execution of an Official Statement acceptable to the Board at the time the sale is requested if deemed appropriate by the Authority. Approval of the Official Statement and sale shall include the right to change Bond Counsel at that time if the Board so desires. Approval of Bond Counsel for the private placement will not be deemed approval of Bond Counsel for later public sale of the same bonds. The foregoing requirement shall not pertain in the instance of sale to a subsidiary of the bond purchaser with the same or substantially the same parent corporation as the purchaser or to the parent of the initial purchaser; to transfers caused by merger or consolidation or by operation of law including sale at execution or foreclosure or divestiture caused by governmental action such as may be required by divestiture judgment order or consent decree growing out of any antitrust action; or, to a transfer to a receiver or a trustee in bankruptcy when the holder of the bonds shall be the debtor placed in a receivership or bankruptcy. In addition thereof, the bond purchaser may sell the bonds to another institutional investor so long as the bond purchaser files a written stipulation with the Board agreeing to be bound by the same conditions, as the original purchaser.

XIII. ACCURACY OF DATA

A. Underwriter's Responsibility. The Underwriter and the purchaser of the bonds shall have the responsibility of assuring itself that the statements attributed to the Applicant in any Official Statement or private placement sale agreement are substantially true and correct and that there are no material misrepresentations of facts contained therein, or omissions of material facts therefrom, the Official Statement. If requested by the Authority in addition thereto, the Underwriter or Underwriter's counsel shall submit a memorandum to the Authority's counsel not less than fifteen (15) days prior to closing delineating the steps taken or to be taken by the Underwriter to assure the correctness of the Official Statement. The Underwriter shall hold the Authority and its members individually harmless from any error or omission in any part of the Official Statement prepared by such Underwriter, and if the Underwriter expects to receive (or conditions closing upon the receipt of) an opinion of Underwriter's counsel or Applicant's counsel relating to the statements contained in the Official Statement the Underwriter shall advise the Board whether or not such counsel shall address the opinion to the Authority or the Authority's members or by separate letter allow the Authority or its members to rely upon such opinion. If the Underwriter is unable to state that such opinion also may be addressed to the Board or its members or that consent to rely will not be given, no further action will be taken by the Board unless an acceptable explanation for such refusal is given to the Board. If either the Underwriter or the Underwriter's counsel cannot for any reason agree to the requirements of this Section, the Authority must be so advised before it acts on any matter other than preliminary approval. If no such objection is made, submission of definitive proceedings and action thereon shall be deemed acceptance of all conditions of this Section and this Pamphlet and such acceptance shall be deemed to be inserted in and be a part of any Bond Purchase Agreement executed by the Authority whether or not such Bond Purchase Agreement

actually contains such provisions. By agreeing to act as Underwriter or Underwriter's counsel, the said Underwriter or counsel shall be deemed to know of and have read this Procedural Pamphlet and have agreed to its terms.

B. Accountant's Report Letter. If the Official Statement shall include a balance sheet or annual financial statement of the Applicant (and also for any Concern which may guarantee payment or collection of either the bonds themselves or the lease, note, purchase agreement or any other form of obligation entered into by and between the Applicant and the Authority relative to the bonds to be issued) the Applicant or Guarantor shall acquire a manually executed statement from the Accountant or Accountants who audited such instruments allowing the Authority to rely on such statements and to incorporate the statements in the Official Statement. The report letter herein required shall be a condition precedent to closing. The report letter shall allow the Authority to rely on the information as of the date of the Official Statement not as of the date of such statement or balance sheet.

C. Comfort Letters. In addition, if requested by the Authority, and also as a condition precedent to closing, the Accountant shall execute a letter addressed to the Authority relative to an accounting survey of the Applicant made by such Accountant prior to the closing which shall set forth in reasonable detail the extent of survey and shall also state that the Accountant has read the Official Statement and nothing came to the attention of such Accountant which discloses any material variance between the Official Statement and the conditions of the Applicant as determined by such Accountant in his survey.

The form of the comfort letter shall be delivered to the Board not less than ten (10) days prior to Closing.

If the Accountant is to render a similar comfort letter to the Underwriter or purchaser of the bonds, a separate comfort letter need not be addressed to the Authority if (1) the Authority evidences its acceptance of the scope of the survey made by the Accountant, and (2) the Accountant executes and delivers a "side letter" to the Authority allowing the Authority to rely upon the comfort letter addressed to the Underwriter or purchaser of the bonds.

If the Accountant engaged to issue the comfort letter is not the Accountant responsible for the preparation of the Applicant's latest annual statement, the application shall be deemed to be a waiver by the Applicant of any confidence or privilege existing between the Applicant and either its former or present Accountant and the Authority shall be deemed entitled to make any inquiries of either Accountant and to receive any answers to such inquiries as to the financial condition of the Applicant from either of such Accountants.

Past experience indicates that Accountants should know of and agree to the requirements of parts B and C of this Section before an application is made, not when the bonds are ready for delivery.

D. Interrogation of the Applicant. The Applicant shall see to it that one of its officers appears at the Board meeting scheduled for adoption of the resolution authorizing the issuance of the bonds unless such requirement is waived by the Board. Such officer shall be prepared to answer any and all questions propounded by the members of the Board or its staff concerning matters relating to the issuance of the bonds, the information contained in the

financial statement, the Project, the Official Statement or any other documents deemed pertinent. If the answers appear inadequate the Board may table the resolution authorizing the issuance of the bonds until it is satisfied with the answers notwithstanding that any agreements or approvals or understandings may have indicated to the Applicant or the Underwriter that the resolution would be adopted at any certain date. If there is a third party Guarantor, such Guarantor shall likewise present himself or an officer of the Guarantor for similar interrogation at the same meeting. The Board at its discretion may cause and arrange for recordation of questions propounded by Board members and the responding answers thereto.

E. Official Statements. Accuracy of the Official Statement shall be the joint responsibility of the Applicant and the Underwriter. Responsibility for the drafting of any Official Statement shall be that of Bond Counsel, Applicant's counsel and Underwriter's counsel. The Authority's counsel will not assume such responsibility.

F. Arizona Corporation Commission Filing Requirement. If a "notice of proposed offering" is required to be filed with the Arizona Corporation Commission, Securities Division, in connection with issues of the Authority offered for public sale by means of an official statement and not specifically exempt pursuant to Section 44-1843.01, Arizona Revised Statutes. The filing of the "notice of proposed offering" shall be the joint responsibility of the Applicant and the Underwriter.

XIV. CLOSING

A. Closing. The Closing Memorandum shall be circulated by Bond Counsel to all persons who have assumed responsibility for any information in the Official Statement or whose presence will be required at the closing or preclosing. If any person so assuming the responsibility has knowledge of any material misrepresentation or omission in the Official Statement or any other document, such person shall so notify the Authority or Bond Counsel prior to closing. The circulation will be shown by a statement of delivery executed by Bond Counsel and attached or made a part of the memorandum. All costs of closing for the Authority, its Board members, the Authority's counsel, financial consultant, employees or other agents of the Authority (including travel, room and board for out-of-town closings) shall be borne by the Applicant or paid from bond proceeds at time of closing. Documents executed by Board members or the Authority's officers will not be escrowed with parties other than representatives of the Authority prior to Closing without Board approval.

Bond Counsel shall be responsible for all recordings to be made with the County Recorder, the Secretary of State, or otherwise.

When liens on or revenues from operations of real property secure the bonds, closings will be conditioned upon proof of issuance of a title insurance policy insuring ownership of the Project in the concern who is required to hold legal title to the Project throughout the term of the issuance of the bonds. Title insurance policies shall only be issued by title insurance companies doing business in Arizona which are acceptable to the Authority. It shall be the responsibility of the Applicant to acquire and pay for such policies.

The Applicant, Underwriter or other purchaser shall decide among themselves who shall have responsibility for ordering and printing the definitive bonds.

B. Bond Opinions. In addition to the usual contents, the final opinion of the Bond Counsel shall state that no registration or filing of the bonds, the underlying security (including any Guaranty) or the trust indenture is required by the 1933 Act, the 1934 Act, the 1939 Act or the Arizona Blue Sky Law (or if such filing or registration is required it has been done in full accordance with the referenced act or acts). The final opinion of Bond Counsel (the “Bond Counsel’s opinion”), Underwriter’s Counsel and any supplemental opinion of Bond Counsel and Underwriter’s counsel must be addressed to the Authority. Further, should Applicant have local counsel other than Local Bond or Underwriter’s counsel, such counsel should submit an opinion addressed to the Authority.

Bond Counsel’s opinion will also state that no registration or filing of any document, which is not required to be filed or recorded as part of the proceedings, is required to make the bonds legal and binding obligations of the Authority.

Additionally, Bond Counsel’s opinion must conclude as to whether or not the bonds are tax exempt for federal and Arizona income tax purposes.

If a guaranty agreement is an integral part of the bond security, Bond Counsel’s opinion must state that the Guaranty is in all respects binding upon the Guarantor (i.e. that good and sufficient consideration exists for the Guaranty itself) and that no “SEC” or “Blue Sky” registration of the Guaranty is required. In making the statement as to the legal effect of the Guaranty, Bond Counsel may rely on the opinion of counsel for the Guarantor.

C. Choice of Bond Counsel. The choice of Bond Counsel will be approved by the Board at the earliest time and the Applicant’s suggested choice will be used unless rejected by the Board.

D. Indemnity Agreement. As a further condition to closing, the Applicant and any Third Party Guarantor of the Applicant, shall execute and deliver an indemnity agreement to the Authority, in form substantially similar to Exhibit B attached hereto. The indemnity agreement shall indemnify and hold harmless, the Authority, its members, agents and staff, the City of Scottsdale, its Council and its staff, from all errors or omissions of every nature whatsoever contained in any legal proceedings or any Official Statement or other official representation or inducement made by the Authority or the Board of Supervisors pertaining to the issue of bonds to be sold; together with an opinion of the Applicant’s counsel in form and substance acceptable to the Authority’s counsel stating that the Applicant has adopted all necessary proceedings and has taken all necessary steps to make the indemnity agreement legally binding in all respects upon the Applicant. The indemnity agreement must be submitted to and approved by the Board prior to closing.

XV. MISCELLANEOUS

A. This pamphlet shall be considered to set forth minimum requirements and the Authority reserves the right to add additional requirements on a case-by-case basis. Likewise the requirements herein stated pertain only to the Authority and are not exclusive. Bond Counsel, Accountants or the Underwriter and its counsel may make additional requirements as they see fit.

B. The Applicant shall be responsible for the retention and charges of any trustee or paying agent; however, the trustee or paying agents may agree to be paid from bond proceeds or revenues payable to the Authority by the Applicant.

C. Because the Authority is presently unsure of its obligations to pay rental taxes where the Authority acts as lessor, such taxes may be collected by the trustee who shall be ultimately responsible for the payment of such taxes, pending the determination of the issue. To get around this question the Authority requests that the proceedings be drafted in such a way as not to raise the question of a landlord-tenant relationship between the Authority and the Applicant.

D. The Applicant will be billed annually on the anniversary of the bond closing, an amount equal to one-tenth (.1) of one percent (1%) as of the date of billing by the Authority of the outstanding principal amount of the bond issue. The initial billing of the above amount shall be paid from either bond proceeds or from other sources of Applicant's funds.

E. Notwithstanding the foregoing, in the event of an advance refunding the Authority shall charge the amount allowable under then existing law as its fee, up to the full one-tenth (.1) of one percent (1%).

F. The Authority believes itself to be in good standing as an Arizona corporation, and will furnish a Certificate of Compliance from the Arizona Corporation Commission at closing; however, the Applicant or its counsel, Bond Counsel or Underwriter's Counsel should make such independent verification of this fact as they see fit.

G. With the exception of any withholding taxes the Authority may incur and ad valorem taxes (pursuant to Section 9-1181, Arizona Revised Statutes), the Authority deems itself exempt from federal and state income tax as a political subdivision of the state and does not intend to file either federal or state income tax returns.

H. All Applications with appropriate Application fees should be delivered to Gary A. Drummond, Esq., Sallquist & Drummond, P.L.L.C., 2525 E. Arizona Biltmore Circle, Suite 117, Phoenix, Arizona 85016-2129.

I. At present all meetings of the Board are held at the 3rd Floor Conference Room, 7447 E. Indian School Road, Scottsdale, Arizona 85251. Regular meetings are scheduled for the second Wednesday of each month at 4:00 o'clock P.M., Mountain Standard Time (Arizona is exempt from Daylight Savings Time). Special meetings can be held where circumstances require but it is advisable to give at least two (2) weeks' notice to the Authority's counsel so that the members can be polled to insure a quorum.

J. The list of the present members of the Board is attached hereto as Exhibit C.

K. The Applicant's attention is called to the conflict of interest provisions of the Act. The Act has recently been amended to incorporate therein Section 38-501, et seq., Arizona Revised Statutes. The Applicant should take every precaution available to it to learn of any possible conflict between itself and Board members or officers or employees of the Authority (or any relative by blood or marriage in the first degree, according to civil law, or any

of the foregoing) which might prohibit the Authority from completing the financing especially where escrows are opened or construction contracts may be signed before the bonds are authorized or issued.

L. The Authority is required to deliver a description of each Project to be financed by bonds to the State's Attorney General, who is given ten (10) days to determine whether it comes within the purview of the Authority's enabling legislation. If ten (10) days pass without objections by the Attorney General, the bonds may be issued. The Attorney General's policy is to make no comment (except to acknowledge receipt of the transmittal) unless he objects.

M. The Authority is required by law to submit its proceedings to the City Council of the City of Scottsdale, Arizona for final approval of the Project financing before the bonds may be issued. Approval of any Application or adoption of any Application or adoption of any or all proceedings by the Authority shall not be deemed a "recommendation" that the Council approve the proceedings. The Authority's counsel may appear at the City Council meeting during the City Council's review of the Authority's proceedings. The Applicant or its authorized representative must be present at any City Council meeting where the Project is to be considered by the Council. It is fully understood by all Applicants that the approval of any Project by the Authority does not assure or guarantee approval by any other governmental department, agency, board, commission of the Scottsdale City Council or the City of Scottsdale.

N. Recent amendments to Section 44-1841, et seq., Arizona Revised Statutes, may inhibit the sale or distribution of any bonds issued by the Authority. The Act requires that "filing" be made by either the Applicant, the Underwriter or a dealer. There is no authority or responsibility placed on the Authority or its Board to so file. Since it is unlawful to distribute securities unless the requirements of the Act have been met, the Authority will require an opinion of the counsel for the entity who made the Arizona filing that all actions regarding the filing have been completed and that no further action need be taken to distribute the securities within the State of Arizona or that the issue is exempt from the filing requirements of the Blue Sky Act.

O. If the Authority is unable to grant approval to two or more Projects applying for funding due to a shortage of allocated funds to the Authority by the State of Arizona, the Authority, in its sole discretion, shall determine which Project(s) shall be approved.

P. The Authority's support staff is:

Legal Counsel:

Sallquist & Drummond, P.L.L.C.
Gary A. Drummond, Esq.
2525 E. Arizona Biltmore Circle, Suite 117
Phoenix, Arizona 85016-2129
(602) 224-9222
(602) 224-9366

Financial Consultant:

Jerry L. Tuttle, C.P.A.
Hammond, Travers & Tuttle
6263 N. Scottsdale Road, Suite 250
Scottsdale, Arizona 85250
(480) 998-2735

Administrator:

David Roderique, CEcD
General Manager
Economic Vitality Department
City of Scottsdale
7447 E. Indian School Road
Scottsdale, Arizona 85251
(480) 312-7601

EXHIBIT "A"

State of)
) ss.
County of)

AFFIDAVIT

I, _____, having full power and authority of Applicant to execute this Affidavit, hereby on oath, state, affirm and agree as follows:

1. All facts and statements contained in the attached Application and all Exhibits thereto are true and correct to the best of my knowledge and belief.

2. I know of no material adverse fact relating to the Applicant not mentioned in the Application or the Exhibits thereto.

3. The Application and all Exhibits thereto are in accordance with the Procedures for Application and Utilization of Tax Exempt Industrial Development Revenue Bond Financing, of The Industrial Development Authority of the City of Scottsdale, Arizona, and the Applicant consents to all investigations deemed reasonably necessary by the Authority as set forth therein.

4. The Applicant authorizes the release by the Authority or its Board of information concerning the Applicant as may be determined as reasonable or necessary by the Authority. The Applicant is aware of the State of Arizona's conflict of interest statutes, A.R.S. § 38-501, et seq., as amended, and certifies that no member of the Authority or the Scottsdale City Council, or any employee or associated staff thereof has a conflict of interest with the Applicant or the Project, under such statutes or similar body of law.

5. The Applicant agrees to pay all costs and expenses incurred by the Authority, including but not limited to expenses incurred in the payment of fees to the Authority's legal counsel and financial consultant, related to the issuance of the bonds. The Applicant further agrees to pay one-tenth (.1) of one percent (1%) of the outstanding principal amount of the Bonds to the Authority as an annual fee during the period in which the bonds of the Applicant are outstanding.

SUBSCRIBED AND SWORN TO before me this ____ day of _____,
199__.

Notary Public

My commission expires:

EXHIBIT "B"

**The Industrial Development Authority
of the City of Scottsdale, Arizona**

c/o Gary A. Drummond, Esq.
Sallquist & Drummond, P.L.L.C.
2525 E. Arizona Biltmore Circle, Suite 117
Phoenix, Arizona 85016-2129

INDEMNITY AGREEMENT

Date: _____, 198__

Re: The Industrial Development Authority of the City of Scottsdale, Arizona Industrial
Development Revenue Bonds (_____) Series ____ (the "Project")

Gentlemen:

In order to induce The Industrial Development Authority of the City of
Scottsdale, Arizona (the "Authority") to issue the bonds for the above Project and to enter into a
Bond Purchase Agreement to be dated _____, 19__ (the "Bond Purchase Agreement")
with _____ (the "Underwriter")
relating to the purchase by the Underwriter and the sale by the Authority of
_____ and 00/100 Dollars (\$_____) aggregate
principal amount of the Authority's industrial development revenue (_____)
Series 19__ bonds (the "Bonds"), the proceeds of which will be used for the purpose of:
_____ by _____,
(an Arizona _____) (the "Applicant" or "Owner"); pay issuance expenses;
and to induce the Authority to enter into a Loan Agreement, dated _____, 198__
(the "Loan Agreement") between _____ (the
"_____) and the Authority, whereby the Authority will loan the proceeds of the
Bonds to Owner _____ to be used for the foregoing
purposes, in order to finance a loan to Owner, to _____

_____ the (Owner) _____ and the Underwriter represent, warrant and
covenant to, and with, the Authority as follows:

1. Representations and Warranties of the Applicant. The Owner represents
and warrants that:

(a) The information relating to the Applicant set forth in the Official
Statement, dated _____, 19__ issued in connection with this transaction has been
prepared by the Owner. The Official Statement does not, as of the date of the final Official
Statement, include any untrue statement of a material fact or omit to state any material fact
necessary to make the statements therein not misleading; provided, however, that the Owner
makes no representation or warranty as to any statement contained in, or any matter omitted

from, the Official Statement in reliance upon, and in conformity with, written information furnished by the Underwriter with reference to the Underwriter expressly for use in the final Official Statement.

(b) The Owner has been duly organized and is a validly existing (Entity) _____ in good standing under the laws of the State of _____ and has all requisite power and authority to carry on the respective business conducted or to be conducted by it, as stated in the Official Statement.

(c) Between the time of execution of this Agreement and the Closing Date, as defined in the Bond Purchase Agreement, except as contemplated by the Official Statement, there shall have occurred no material and unfavorable change in the business, properties, financial condition or results of operations of the Owner nor there shall not have occurred any material change in the funded debt of the Owner and the Owner will, at the Closing Date, deliver to the Authority a certificate of one of its principal officers to the foregoing effect.

(d) This Indemnity Agreement has been duly authorized, executed and delivered by the Owner and constitutes the legal, valid and binding obligation of the Owner.

(e) Except as set forth in the Official Statement, there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any public board or body pending or, to the best knowledge of the Owner, threatened against or affecting the Owner, or to the best knowledge of the Owner, any basis therefor, wherein an unfavorable decision, ruling or finding would have a material adverse effect on the transactions contemplated by the Bond Purchase Agreement and the Official Statement or have a material adverse effect on the validity or enforceability of the Bonds, the Indenture, the Loan Agreement or this Indemnity Agreement.

(f) The Loan Agreement, when executed and delivered by the Owner, will be the legal, valid and binding obligation of the Owner enforceable in accordance with its terms, except as limited by the laws of the State of Arizona affecting remedies and except as enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights.

(g) The execution and delivery of the Loan Agreement and this Indemnity Agreement and the performance by the Owner of its obligations under the aforementioned do not, and will not, violate any court order by which the Owner is bound, and such actions do not, and will not, constitute a default under any material agreement, indenture, mortgage, lease, note or other obligation, or instrument to which the Owner is a party, and no approval or other action by any governmental authority or agency is required in connection therewith except to the extent already obtained.

(h) The Owner will deliver or cause to be delivered all opinions, certificates and other documents as provided for in the Bond Purchase Agreement, including but not limited to an opinion of its counsel dated as of the Closing Date, covering among other things the due authorization, execution and delivery of this Indemnity Agreement.

(i) Subject to the terms and conditions of the Bond Purchase Agreement and the Procedural Guidelines of the Authority, the Owner agrees to pay the expenses contemplated to be paid by it pursuant to Section ____ of the Bond Purchase Agreement, Paragraph 5 of Exhibit “A” (Affidavit of Applicant) and Article XV Section D and E of the Procedural Guidelines.

The Owner will also pay, upon written request, accountant’s fees for the preparation of any annual or other audits, reports or summary thereof required by the Indenture to the extent the Owner is required to do so under the Indenture or the Loan Agreement; and any fees and expenses of the Authority (whether from its legal counsel, financial consultant or other source), or any agency of the State of Arizona as selected by the Authority to act on its behalf in connection with the Project or the Bonds including any and all expenses incurred by the Attorney General of the State of Arizona in connection with any litigation which may at any time be instituted involving the Project or the Bonds.

(j) The Owner will not take or omit to take any action which will in any way cause or result in the proceeds from the sale of the Bonds to be applied in a manner other than as provided in the Indenture and the Loan Agreement.

2. Indemnifications by the Owner.

(a) The Owner agrees to indemnify and hold harmless the Authority, the City of Scottsdale (“City”) and any member, officer, director, employee, agent or financial or legal consultant of the Authority or City from and against any and all losses, claims, damages, liabilities or expenses whether based on negligence or otherwise (including the reasonable costs of investigation) to which, jointly or severally the Authority, the City, its members, officers, directors, employees, agents, and financial or legal consultants may become subject as any such loss, claim, damage, liability or expense (or actions with respect thereto) arises out of, or is based on, any untrue statement or alleged untrue statement of a material fact relating to the Owner contained in any preliminary or final Official Statement, or any supplement thereto, or the omission or the alleged omission to state therein a material fact necessary to make the statements therein relating to the Owner not misleading, so made or omitted negligently, intentionally or in any other manner, except insofar as such losses, claims, damages, liabilities or expenses arising under this clause are caused by an untrue statement or omission or alleged untrue statement or omission made in reliance upon information concerning the Underwriter or the terms of the underwriting furnished in the final Official Statement by the Underwriter expressly for use therein.

(b) The Owner agrees to indemnify and hold harmless the Authority and the City of Scottsdale (“City”), any member, officer, director, employee, agent, or financial or legal consultant, of the Authority and the City (acting in their capacity as such) from and against any and all losses, claims, damages, liabilities or expenses whether based on negligence or otherwise (including the reasonable costs of investigation) to which any such member, officer, director, employee, agent, or financial or legal consultant, may become subject resulting from the transactions contemplated by the Official Statement or any supplement thereto, including, without limitation, any such loss, claim, damage, liability or expense (or actions with respect thereto) arising out of or based on any untrue statement or alleged untrue statement of a material fact contained in any Official Statement or any supplement thereto or the omission or the alleged

omission to state therein a material fact necessary to make the statements therein not misleading, or arising out of or based on the offer and sale of the Bonds or the publication or distribution of any preliminary or final Official Statement or any supplement thereto or any other advertisement, descriptive literature or publication, written or verbal, concerning the Bonds in any jurisdiction in violation of the laws of such jurisdiction; so made or omitted negligently, intentionally or in any other manner, provided that the indemnity set forth in this subsection (b) shall not apply to: (1) any untrue statement or omission or alleged untrue statement or omission made in reliance upon information concerning the Underwriter or the terms of the underwriting furnished in the final Official Statement by the Underwriter expressly for use therein; or (ii) any loss, claim, damage, liability or expense (including costs of investigation) to the extent it is the subject of the indemnification provided in subsection 3 (a) hereof.

3. Indemnifications by the Underwriter.

(a) The Underwriter agrees to indemnify and hold harmless the Authority, the City and each of the members, officers, directors, agents, employees and financial and legal consultants of the Authority and the City, from and against any and all losses, claims, damages, liabilities or expenses whether based on negligence or otherwise (including the reasonable costs of investigation) to which, jointly or severally, the Authority, the City or any member, officer, director, agent, employee or financial or legal consultant of the Authority or the City may become subject insofar as any such loss, claim, damage, liability or expense (or actions with respect thereto) arises out of or is based on any untrue statement or alleged untrue statement of a material fact contained in any preliminary or final Official Statement, or any supplement thereto, or arises out of or is based on the omission or the alleged omission to state therein a material fact necessary to make the statements therein not misleading, so made or omitted negligently, intentionally or in any other manner, which untrue statement or omission or alleged untrue statement or omission was made in reliance upon information furnished therein by the Underwriter expressly for use therein.

(b) The Underwriter agrees to indemnify and hold harmless the Authority, the City and each of the officers, members, directors, employees, agents, financial and legal consultants, of the Authority or City (acting in their capacity as such) from and against any and all losses, claims, damages, liabilities or expenses whether based on negligence or otherwise (including the reasonable costs of investigation) to which, jointly or severally, the Authority, the City or any such officer, member, director, agent, employee or financial or legal consultant may become subject arising out of such Underwriter's violation in the initial sale of the Bonds of the laws of the jurisdiction in which any such sale is made.

4. Miscellaneous Covenants.

(a) The Owner agrees that upon the commencement of any action against it, any of its members, officers, directors, agents or employees and the Authority agrees that upon commencement of any action against it, any of its members, officers, directors, agents, employees, financial and legal consultants, and the Underwriter agrees that upon the commencement of any action against it in respect of which indemnity may be sought on account of this Indemnity Agreement, it will promptly give written notice of the commencement thereof to the party or parties against whom indemnity shall be sought. In case such notice of any such action shall be so given, such indemnifying party or parties shall be entitled to participate at its or

their own expense in the defense of, or if it or they so elect, to assume the defense of such action, in which event such defense shall be conducted by counsel chosen by such indemnifying party or parties and satisfactory to the indemnified party or parties who shall be defendant or defendants in such action, and such defendant or defendants shall bear the fees and expenses of any additional counsel retained by them; but if the indemnifying party or parties shall elect not to assume the defense of such action, such indemnifying party or parties will reimburse such indemnified party or parties for the reasonable fees and expenses of any counsel retained by them. Neither the Owner nor the Underwriter shall be obligated to indemnify any person for any settlement made without the written consent of the indemnifying party.

(b) The representations, warranties, covenants and indemnities contained in this Indemnity Agreement shall survive the Closing Date under the Bond Purchase Agreement, the sale by the Authority to the Underwriter and resale by the Underwriter of the Bonds, any investigation by the Authority or the Underwriter of any matters described in or related to the transactions covered by this Indemnity Agreement, the Indenture, the Agreement or the Official Statement.

(c) Except as otherwise provided herein, all communications hereunder shall be in writing, and, if sent to the Authority, shall be mailed, delivered or telegraphed and confirmed to it care of Gary A. Drummond, Esq., if sent to the Underwriter, shall be mailed, delivered or telegraphed and confirmed to the Underwriter, _____; if sent to the Owner shall be mailed, delivered or telegraphed and confirmed to it at _____.

This Indemnity Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same agreement.

Very truly yours,

(Applicant/Owner)

By _____

Title _____

(Underwriter)

By _____

Title _____

Accepted as of the
date first written:

THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE CITY OF SCOTTSDALE, ARIZONA, a
non-profit corporation organized and existing under
the laws of the State of Arizona and designated by
law a political subdivision of the State of Arizona

By _____

Title _____