

## BRAZORIA COUNTY INDUSTRIAL DEVELOPMENT CORPORATION

### APPLICATION FOR FINANCING

The undersigned, duly authorized representative of \_\_\_\_\_ (the "Applicant"), the owner of the Project described in the Project Financing Questionnaire, hereby applies to the **Brazoria County Industrial Development Corporation** (the "Corporation") for project financing pursuant to the *Development Corporation Act, Chapter 501, Texas Local Government Code*, and in accordance with the Issuer's Local Regulations for Receiving and Approving Applications for Financing Projects (the "Regulations"). In connection therewith, I hereby declare, represent and warrant as follows:

1. The Applicant intends to own or lease, construct and operate an industrial development project (the "Project") to be located at \_\_\_\_\_, Texas, and desires that the Corporation issue obligations to provide financing for such industrial development project in accordance with the Regulations.

2. The Applicant has received and reviewed the Regulations in effect on the date hereof and hereby agrees to comply with all terms and provisions of the Regulations. Without limitation, the Applicant hereby agrees to pay or cause to be paid all fees, costs, and expenses required by such Regulations.

3. The Applicant submits herewith three (3) completed copies of this Application and the Project Financing Questionnaire (the "Questionnaire"). The Questionnaire has been completed to the best of the Applicant's ability, and the information contained therein and on any attachments thereto is true and correct and represents a reasonably comprehensive outline of the Project for which this Application for Financing is made.

4. As required by the Regulations, the Applicant submits herewith a non-refundable fee of **\$2,500**. The Applicant acknowledges that the Corporation reserves the right to require one or more deposits to pay the Corporation's professional fees and other costs directly associated with the Applicant's financing, and the Applicant agrees to promptly make such deposits within thirty (30) days after the request is received.

5. The Applicant shall advise the Corporation in writing of any material changes in the information contained in the Application or submitted in connection therewith within five (5) days from the date Applicant or any officer or representative of Applicant first has knowledge of such changes.

The Applicant requests that the Board of Directors of the Corporation grant preliminary approval of this Application for Financing.

INDEMNITY. As an inducement to the Corporation and to **Brazoria County, Texas**, to accept, review and favorably consider and approve the Application and to issue the obligations therein contemplated, and whether or not all or any part thereof are ever actually approved or issued

by the Corporation, the Applicant hereby irrevocably agrees that it will (a) pay all Project costs which are not or cannot be paid or reimbursed from the proceeds of obligations issued by the Corporation, and (b) at all times indemnify, defend and hold harmless the Corporation and the members and officers of its Board of Directors and Brazoria County, Texas, and the members and officers of its governing body, against all losses, costs, demands, expenses and liabilities of whatsoever nature or kind (including but not limited to attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments) directly or indirectly resulting from, arising out of or related to (i) the acceptance, consideration and approval or delivery of any such obligations, (ii) the design, construction, installation, operation, use, occupancy, maintenance, ownership or condition of the Project and (iii) the issuance, offering, sale or delivery of any debt instruments including but not limited to bonds to finance the Project brought against any indemnified party or to which any indemnified party is a party, even if groundless, false or fraudulent that directly rendered or directly revolves from or rises out of or relates to the issuance, offering, sale or delivery of the debt instruments including but not limited to bonds. THE FOREGOING INDEMNITY SHALL APPLY REGARDLESS OF WHETHER ANY SUCH LOSS, COST, DEMAND, EXPENSE OR LIABILITY IS CAUSED, WHETHER DIRECTLY OR INDIRECTLY, BY THE CONCURRENT OR SOLE NEGLIGENCE OR FAULT OF THE CORPORATION, THE OFFICERS AND MEMBERS OF ITS BOARD OF DIRECTORS OR BRAZORIA COUNTY, TEXAS, AND THE MEMBERS AND OFFICERS OF ITS GOVERNING BODY, AND ALSO EVEN THOUGH THE CORPORATION, THE OFFICERS AND MEMBERS OF ITS BOARD OF DIRECTORS, OR BRAZORIA, TEXAS, AND THE MEMBERS AND OFFICERS OF ITS GOVERNING BODY, ARE STRICTLY LIABLE FOR ANY SUCH LOSS, COST, DEMAND, EXPENSE OR LIABILITY. UNDER THE PROVISIONS OF THIS INDEMNITY, THE APPLICANT IS AGREEING TO INDEMNIFY THE CORPORATION, THE OFFICERS AND MEMBERS OF ITS BOARD OF DIRECTORS, AND BRAZORIA COUNTY, TEXAS AND THE MEMBERS AND OFFICERS OF ITS GOVERNING BODY, FROM THEIR OWN NEGLIGENCE OR FAULT.

None of the indemnified parties shall be liable to the Applicant for, and the Applicant hereby releases each of them from all liability to the Applicant for all injuries, damages or destruction of all or any part or parts of any property owned or claimed by the Applicant that directly or indirectly result from, arise out of or relate to the design, construction, operation, use, occupancy, maintenance or ownership of the Project or any part thereof, even if such injuries, damage or destruction directly or indirectly result from, arise out of or relate to, in whole or in part, one or more negligent acts or omissions of the indemnified parties in connection with the issuance of the bonds or in connection with the Project.

It is understood and agreed that this indemnity agreement shall be continuing and shall survive and continue to be effective after any approval or disapproval of the Application and the issuance or failure to issue any such obligations for the Project. It is also understood that additional indemnity agreements may be required from the Applicant or others, such as guarantors, prior to the final approval of such Application.

The undersigned, both in his individual and representative capacities, does hereby upon his or her oath swear or affirm that all information contained in the Application and submitted in connection therewith is true, accurate and complete.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Name of Applicant/Owner)

Presently Estimated  
Amount of Project Financing  
Requested:

By: \_\_\_\_\_  
Its: \_\_\_\_\_

\$ \_\_\_\_\_

STATE OF \_\_\_\_\_

§  
§  
§

COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ of \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same in the capacity and for the purpose and consideration therein expressed and, who, upon his or her oath, did swear or affirm that all information contained in the Application referred to above and submitted in connection therewith is true, accurate and complete.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

# BRAZORIA COUNTY INDUSTRIAL DEVELOPMENT CORPORATION

## PROJECT FINANCING QUESTIONNAIRE

### Instructions

The purpose of this Questionnaire is to provide the Corporation a comprehensive outline of the industrial development project (the "Project") for which financing is being requested. Fill in all the blanks, using "None" or "Not Applicable" where necessary. If additional space is needed, attach separate sheets as exhibits.

### INFORMATION AS TO APPLICANT

1. Full legal name, address, telephone number and email address of the entity that will own the Project (the "Applicant").
  
2. Name, address, telephone number and email address of the representative of the Applicant with whom the Corporation should communicate.
  
3. Name, address, telephone number and email address of legal counsel to the Applicant in connection with the Project.
  
4. Name, address, telephone number and email address of any financial consultant, investment banker or mortgage banker advising the Applicant in connection with the Project.
  
5. Name, address, telephone and email address of bond counsel proposed by the Applicant.
  
6. Form of organization of the Applicant.

\_\_\_\_\_ Limited Liability Company/Partnership  
\_\_\_\_\_ Corporation  
\_\_\_\_\_ Limited Partnership  
\_\_\_\_\_ General Partnership  
\_\_\_\_\_ Sole Proprietorship

Date of Organization: \_\_\_\_\_  
State of Organization: \_\_\_\_\_  
Taxpayer Identification Number: \_\_\_\_\_

Attach copies of the certificate of formation, charter or other organizing document of the Applicant and proof of its taxpayer identification number.

Does Applicant presently exist or is it to be formed?

\_\_\_\_\_ Exists \_\_\_\_\_ to be formed

If Applicant is not organized in the State of Texas, has Applicant qualified to conduct business in the State of Texas as a foreign entity registered with the Texas Secretary of State? Attach proof of such registration and qualification.

7. If the Applicant is a corporation or a limited liability company, list the names, titles and addresses of its officers. If the Applicant is a partnership, list all of its general partners and limited partners.
8. List the names and addresses of all persons or entities owning a 5% or greater interest in the Applicant or any entity affected with Applicant relative to the Project.
9. Summarize the prior industrial development experience of the Applicant and its principals. Indicate date of the project, size, type and location of project, and method of financing. (Attach separate pages if necessary).
10. List the names and addresses of any guarantors.
11. List banks and other credit references. Attach a bank reference letter.
12. Has the Applicant or any person or entity owning a 5% or greater interest in the Applicant been through any bankruptcy proceeding or made an assignment for the benefit of creditors. If so, please detail the facts surrounding such event indicating at a minimum the names of the affected parties, the reason or reasons for the bankruptcy or assignment and the current status of any such proceeding. (Attach separate sheets if necessary.)

13. Has the Applicant or any person or entity owning a 5% or greater interest in the Applicant been a party to any lawsuit or are there any unsatisfied judgments against any of the foregoing? If so, please detail the facts surrounding such lawsuit or lawsuits, the names of the affected parties and the current status of the lawsuit or lawsuits. If an unsatisfied judgment is outstanding against the Applicant or any of the foregoing persons or entities, what plans or provisions, if any, are being made to satisfy such judgment. (Attach separate sheets if necessary.)
14. Has the Applicant or any person or entity owning a 5% or greater interest in the Applicant ever failed to pay, when due, applicable local, state or federal taxes? If so, please detail the facts surrounding such failure and the current status of any such failed payment. (Attach separate sheets if necessary.)
15. Has the Applicant or any person or entity owning a 5% or greater interest in the Applicant ever applied for financing through the Corporation prior to the application accompanying this Questionnaire? If so, please state when such application was made, who the interested parties were, the outcome of the application and the current status of the financing, if any.
16. Please describe whether there is any credit enhancement device (such as insurance, letter of credit, surety bonds or policies) to be used in connection with the proposed financing. Has the Applicant or any principal of the Applicant ever worked with the entity or entities providing such credit enhancement device prior to the proposed financing? If so, please state the details of such prior relationship including the method used to finance the project, the issuer of the debt instruments, if applicable, and the date of closing, if applicable.

#### INFORMATION AS TO PROJECT

If the application is for construction of a new commercial or industrial facility, complete paragraphs 17-23. If the project is the rehabilitation of an existing commercial or industrial facility, complete paragraphs 24 and 25, and then for all applications, complete paragraphs 26-29 in the Information as to Project.

17. Street address and description of exact location of the Project. Attach a legal description of Project site and a map of the area with the Project site highlighted.

18. If the Applicant now owns the Project site, indicate:
- (a) Purchase Date: \_\_\_\_\_
  - (b) Balance of Existing Mortgage: \_\_\_\_\_
  - (c) Holder of Existing Mortgage: \_\_\_\_\_
  - (d) Attach proof of ownership.
19. If the Applicant now holds an option to purchase the Project site, indicate:
- (a) Present Owner: \_\_\_\_\_
  - (b) Date of Option Agreement: \_\_\_\_\_
  - (c) Purchase Price: \_\_\_\_\_
  - (d) Expiration Date of Option Agreement: \_\_\_\_\_
  - (e) Attach copy of Option Agreement.
20. If the Applicant has executed a contract to purchase the Project site, indicate:
- (a) Present Owner: \_\_\_\_\_
  - (b) Date of Contract: \_\_\_\_\_
  - (c) Purchase Price: \_\_\_\_\_
  - (d) Settlement or Closing Date: \_\_\_\_\_
  - (e) Attach copy of Purchase Contract.
21. If the Applicant does not now own the Project site, describe any relationship which exists by virtue of common control of ownership between the Applicant and the present owner of the Project site. If none, write "none."
22. Describe any existing improvements or structures presently located on the Project site. If none, write "none."
23. Is the cost of the Project site to be included in the financing?
- \_\_\_\_\_ Yes \_\_\_\_\_ No
24. Street address and description of the existing location of the industrial development project. Attach a legal description of the Project site and a map of the area with the Project site highlighted.
25. As to the Project indicate:
- (a) Owner of the Project site: \_\_\_\_\_
  - (b) Balance of existing mortgage: \$ \_\_\_\_\_
  - (c) The holder of the existing mortgage: \_\_\_\_\_
  - (d) Attached proof of ownership.

26. Has the Applicant undertaken a Phase I and a Phase II environmental site assessment? If so, please attach a copy. If not, prior to the approval of any application for financing, Applicant must prepare and submit a Phase I and a Phase II environmental site assessment. Further, if the presence of any hazardous material or any environmental site assessment remediation projects are required as a result of the Phase I and the Phase II environmental site assessment, Applicant must confirm its intentions to perform any remediation or environmental site clean up that might be required as a result of a Phase I and a Phase II environmental site assessment. Applicant further acknowledges that the Corporation may request financial commitments, indemnities and guarantees sufficient to the Corporation to assure any environmental site assessment clean up or remediation requirements.
  
27. Describe in detail any improvements or structures to be constructed on the Project site. Attach separate pages together with any preliminary drawings and designs.
  
28. Describe in detail the nature of the business to be operated on the Project, attaching if available any feasibility or marketing studies and any projections of operating expenses and income resulting from the business.
  
29. Describe briefly the anticipated arrangements for Project management. If a professional management company is to be employed, identify the company and the anticipated fee to be paid the management company.
  
30. Describe briefly the utilities onsite or to the site and whether any of the Project site are for the Project or for offsite or onsite utility infrastructure.
 

Water: \_\_\_\_\_

Gas: \_\_\_\_\_

Electric: \_\_\_\_\_

Sanitary/Storm Sewer: \_\_\_\_\_
  
31. Identify the entity responsible for zoning at the Project site and the current zoning and whether any zoning classification change is necessary for the operation of the Project and whether any municipal ordinance or zoning variances are required for operation of the Project at the site.



32. Estimate how many new jobs will be created or attained as a result of the Project and advise whether any jobs in Brazoria County, Texas will be lost or replaced as a result of the Project:

Construction jobs

Existing jobs replaced: \_\_\_\_\_

New jobs created: \_\_\_\_\_

33. Describe briefly the annual payroll for each of the relevant periods shown.

Construction period first year after completion of the Project: \_\_\_\_\_

Second and subsequent years after completion of the Project: \_\_\_\_\_

### FINANCING INFORMATION

In lieu of answering paragraphs 30-48, the Applicant may provide to the Corporation, the County and their legal counsel a preliminary official statement if it contains all of the information specified in paragraphs 30-48 of the Financing Information. If a preliminary official statement is furnished, the Corporation reserves the right to request more detailed information in response to such questions as it may determine in its discretion.

34. Total cost of Project: \$ \_\_\_\_\_

35. Amount of financing applied for: \$ \_\_\_\_\_

36. Indicate the percentage of development costs for which the Applicant desires financing and the amount of equity investment which the Applicant intends to make in the Project. Indicate source of equity amount.

37. If the Applicant is a limited partnership, is it anticipated that there will be a syndicated offering of partnership shares?

38. Describe the plan of financing and whether financing has been secured for interim construction financing separately from permanent financing? Please describe all financing including interim construction and permanent financing that will be necessary for the Project.

(a) Permanent financing only

(b) Construction financing

39. Indicate source of both interim and construction financing and provide detailed contact information for all banks, investment banks or others providing any portion of the financing for the Project.
40. Indicate the amount and percentage of the requested financing to be applied to refinance any existing mortgage or loans. If none, write "none."
41. If the Applicant has applied to another source for financing with respect to the Project, please provide the details below.
42. Explain how the Project will be financed if a portion of the amount applied for is denied.
43. Indicate any supplement, loan guarantee, grant or mortgage insurance for which the Applicant has made, or intends to make, application with respect to the Project. If none, write "none."
44. List name, address, and name of representative of the financial institution (bank, investment banking firm, etc.), if determined, which may be interested in purchasing the bonds if and when such bonds are approved for sale. (It is the responsibility of the Applicant to arrange for the marketing of the bonds, if the financing is approved, with the concurrence of the Corporation.)
45. If approved, are the bonds to be offered at a public sale or will they be placed privately with a purchaser?
46. To the extent not specified in items 38 and 39 above, please provide a detailed description of the proposed bond offering and plan of financing.
47. If the proposed financing will be sold at a public sale, please identify whether the bonds will be offered primarily to institutional investors, and if not, the manner by which the proposed marketing of the bonds will be conducted to the public and in what public markets.

48. Please attach a letter or certificate from the underwriter stating that the proposed bond issuance is feasible under current market conditions.
49. Please attach a copy of any letter or certification that the underwriter plans to provide to proposed investors stating their familiarity with investments and bonds such as those to be issued to finance the Project. If the bonds are to be sold without a rating or without any credit enhancement, please identify whether the underwriter intends to secure a sophisticated investor letter and a copy of such letter to be provided by bond purchasers. If the Applicant has a credit rating, please state the rating and agency.
50. Please attach a suggested time schedule for issuance of the proposed bonds.
51. Please attach as an exhibit hereto the complete name, address, phone number and e-mail address for all persons from whom the Corporation may secure information necessary to meet its obligations for making continuing disclosures. Please describe the Applicant's continuing disclosure compliance history, if any.
52. Please indicate whether any approval by any agency of the State of Texas is required for the issuance of the proposed bonds other than approval of the bonds by the Texas Attorney General, and if so, what approvals must be secured?
53. Please complete the following cost benefit analysis:

| <b>Costs = Financial Assistance</b>      |  | <b>Benefits = Economic Development</b> |  |
|--|--|--|--|
| Estimated Property Tax Abatement         |  | Jobs Created                           |  |
| Estimated Interest Savings for IRB Issue |  | Jobs Retained                          |  |
|  |  | Private Funds Invested                 |  |
|  |  | Other Benefits                         |  |

**CONSTRUCTION INFORMATION**

If the project is for construction of a new Industrial development project or for capital improvements to an existing Industrial development project, complete paragraphs 49-57, or in lieu thereof, the applicant can submit a preliminary official statement if it contains the responses to paragraphs 49-57 of the Construction Information. If a preliminary official statement is furnished, the Corporation reserves the right to request more detailed information in response to such questions as it may determine in its discretion.

54. Has construction of the Project begun? \_\_\_\_ Yes \_\_\_\_ No

If yes, give date construction began: \_\_\_\_\_

If no, give estimated date for commencement of construction: \_\_\_\_\_

55. State estimated date of completion: \_\_\_\_\_

56. State estimated date Project will be placed in operation: \_\_\_\_\_

57. If construction on the Project has begun, complete the following:

|                |       |            |
|----------------|-------|------------|
| Site Clearance | _____ | % complete |
| Foundation     | _____ | % complete |
| Footings       | _____ | % complete |
| Steel          | _____ | % complete |
| Masonry        | _____ | % complete |
| Other _____    | _____ | % complete |

58. Indicate the estimated costs of developing, constructing and equipping the Project. Attach a separate sheet if necessary to provide a complete summary of Project costs.

|                              |          |
|------------------------------|----------|
| Land                         | \$ _____ |
| Construction                 | _____    |
| Design                       | _____    |
| Surveys and Soil Test        | _____    |
| Equipment                    | _____    |
| Construction Insurance       | _____    |
| Construction Period Interest | _____    |
| Engineering                  | _____    |
| Other _____                  | _____    |
| Refinancing of existing debt | _____    |
| <br>                         |          |
| TOTAL                        | \$ _____ |

Examples of costs are included, but Applicant may provide more detail to Project costs than that set forth below.

59. Indicate the type and amount of costs expended with respect to the Project prior to the current date. If none, write "none."

60. Have any costs (including orders for Project facilities) been incurred but not paid? If yes, identify and explain.

61. Are any operating expenses or working capital included in the amount of financing requested? If yes, state amount.

62. Provide a pro forma cash flow statement for the Project's first three years of operation. Include assumption and, specifically, administrative, operating and maintenance costs, taxes, and cash flow available for debt service for each of the three years.
63. Give a time estimate and schedule to complete the Project and a critical path for all phases of the Project.
64. Please complete environmental compliance review under Part B of this Application.

APPLICANT, GUARANTOR AND PARTICIPANT INFORMATION

In lieu of providing the responses to paragraphs 58-63, the applicant may submit a preliminary official statement if it provides responses to paragraphs 58-63 of the Applicant, Guarantor and Participant Information. If a preliminary official statement is furnished, the Corporation reserves the right to request more detailed information in response to such questions as it may determine in its discretion.

65. Attach audited financial statements and the other information for the preceding five years for the Applicant, and Guarantors, if any.

\_\_\_\_\_ Balance sheet  
 \_\_\_\_\_ Profit and loss statement  
 \_\_\_\_\_ Statement of change in financial position

or

\_\_\_\_\_ Annual Report to Stockholders  
 \_\_\_\_\_ Report on Form 10-K to the Securities and Exchange Commission

66. Attach unaudited financial statement, current within 90 days, if the audited financial information is not current within 90 days (Form 10-Q is available).
67. Detail any changes subsequent to the date of the most recent financial statements which may have a material effect on the Applicant's financial position.

68. State name, address and telephone number of contractor for development. Attach information concerning projects previously completed by the contractor. Include location, year of completion, and approximate construction cost of each project.
69. State name, address and telephone number of the architect for the Project. Attach information concerning projects designed by the architect.
70. State name, address and telephone number of the managing agent for the Project. Attach information concerning prior project management experience including projects managed and number of years of project management.

#### REPRESENTATIONS BY APPLICANT

By executing this application, and in consideration for the Corporation's consideration of this application, the Applicant agrees to the following terms and conditions:

1. First Consideration of Employment. Applicant agrees that if the Project receives financial assistance from the Corporation, except as otherwise may be provided by collective bargaining agreements, where applicable, Applicant will first consider persons eligible to participate in employment from Brazoria County, Texas.
2. Annual Employment Reports and Outstanding Bonds. Applicant understands and agrees that if the Project receives any financial assistance from the Corporation, Applicant agrees to file or cause to be filed with the Corporation on an annual basis reports regarding the number of persons employed at the Project site. Applicant also agrees to provide in a timely manner and on an annual basis any information regarding the bonds, if any, issued by the Corporation for the Project that may be required for continuing disclosure or by the Comptroller of Public Accounts for the State of Texas, the Texas Attorney General or any other local, state or federal regulatory authority.
3. Recapture of Tax Abatements/Exemptions. Applicant understands and agrees that any benefits received from tax abatements/exemptions shall be subject to recapture in accordance with the Brazoria County, Texas Tax Abatement Policy.

4. Local Labor, Local Content/Supplies Policy. Applicant agrees that to the extent practical, local labor contractors and suppliers will be used for the construction of the Project, and local contractors shall have the opportunity to bid on contracts relating to the Project including but not limited to professional and construction contracts.
  
5. Absence of Conflicts of Interest. Applicant has received a list from the Corporation of members, officers and employees of the Corporation and the members of the Commissioners' Court of Brazoria County, Texas. No member, officer or employee of the Corporation nor any officer, agent or employee of Brazoria County, Texas has an interest, whether direct or indirect, in any transaction contemplated by this Application except as hereinafter specifically described.
  
6. Conflict of Interest Questionnaire. Applicant will execute and provide the attached Conflict of Interest Questionnaire contemporaneous with the submission of its Application for Financing.

Submitted by the undersigned Applicant on the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Applicant