

Acceptance of Chap. 772, Act of 1967

# City of Cambridge

MASSACHUSETTS

In City Council Sept 16, 1967

*Agenda #10*

	YEA	NAY	ABSENT	PRESENT
Mrs. Ackermann	✓			
Mr. Clinton	✓			
Mr. Danehy	✓			
Mr. Duehay	✓			
Mrs. Graham	✓			
Mr. Russell	✓			
Mr. Vellucci	✓			
Mr. Wylie	✓			
Mayor Sullivan	✓			
	9	0	0	



# City of Cambridge

IN CITY COUNCIL

September 16, 1974

A RESOLUTION APPROVING THE ESTABLISHMENT OF A BOARD TO  
BE KNOWN AS THE INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY

---

- WHEREAS: The City of Cambridge is an area of persistent and substantial unemployment, having a sustained rate of unemployment in excess of 8%; and
- WHEREAS: The burden of such unemployment has been particularly severe for blue collar workers, of the kind commonly employed by manufacturing establishments; and
- WHEREAS: The City of Cambridge has experienced no significant capital investment among its manufacturing establishments since, at least, 1970; and further that it is improbable that such investment will result from the ordinary operations of private enterprise; and
- WHEREAS: The General Court, under authority of Chapter 772 of the Acts of 1967, now referred to and known as Chapter 40D of the General Laws, has created a board in each municipality to be known as the Industrial Development Financing Authority to assist such manufacturers, subject to the approval of the City Council and the City Manager; and
- WHEREAS: The City Manager concurs with the various declarations and resolutions contained herein; now therefore be it
- RESOLVED: by the City Council of the City of Cambridge that it finds:
1. That an Industrial Development Financing Authority is needed in the City of Cambridge;
  2. That substantial unemployment exists in the City of Cambridge;
  3. That such unemployment can be alleviated by attracting new industry or by substantially expanding industry existing in the municipality through an industrial development project or projects financed under Chapter 772 of the Acts of 1967;
  4. That existing municipal facilities and services can meet any increase in demand for such facilities and services as a result of the increase in employment and business activity from such industrial development; and be it further

RESOLVED: by the City Council, as follows:

5. That the City Council approves the establishment of an Industrial Development Financing Authority as provided in Chapter 40D of the General Laws; and
6. That the City Clerk shall submit this resolution to the City Manager for his approval.

in City Council Sept 16 1954  
Adopted by yeas and nays Vote  
Yeas 9 Nays 0 Absent 0  
Paul E. Leahy  
City Clerk



# City of Cambridge

IN CITY COUNCIL

September 16, 1974

A RESOLUTION APPROVING THE ESTABLISHMENT OF A BOARD TO  
BE KNOWN AS THE INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY

---

- WHEREAS: The City of Cambridge is an area of persistent and substantial unemployment, having a sustained rate of unemployment in excess of 8%; and
- WHEREAS: The burden of such unemployment has been particularly severe for blue collar workers, of the kind commonly employed by manufacturing establishments; and
- WHEREAS: The City of Cambridge has experienced no significant capital investment among its manufacturing establishments since, at least, 1970; and further that it is improbable that such investment will result from the ordinary operations of private enterprise; and
- WHEREAS: The General Court, under authority of Chapter 772 of the Acts of 1967, now referred to and known as Chapter 40D of the General Laws, has created a board in each municipality to be known as the Industrial Development Financing Authority to assist such manufacturers, subject to the approval of the City Council and the City Manager; and
- WHEREAS: The City Manager concurs with the various declarations and resolutions contained herein; now therefore be it
- RESOLVED: by the City Council of the City of Cambridge that it finds:
1. That an Industrial Development Financing Authority is needed in the City of Cambridge;
  2. That substantial unemployment exists in the City of Cambridge;
  3. That such unemployment can be alleviated by attracting new industry or by substantially expanding industry existing in the municipality through an industrial development project or projects financed under Chapter 772 of the Acts of 1967;
  4. That existing municipal facilities and services can meet any increase in demand for such facilities and services as a result of the increase in employment and business activity from such industrial development; and be it further

RESOLVED: by the City Council, as follows:

5. That the City Council approves the establishment of an Industrial Development Financing Authority as provided in Chapter 40D of the General Laws; and
6. That the City Clerk shall submit this resolution to the City Manager for his approval.

in City Council

Sept. 16, 1974

Adopted by yeas and nays Vote

Yeas

9 Nays

Absent

0

Paul E. Leahy

City Clerk



# City of Cambridge

IN CITY COUNCIL

September 16, 1974

A RESOLUTION APPROVING THE ESTABLISHMENT OF A BOARD TO  
BE KNOWN AS THE INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY

- 
- WHEREAS: The City of Cambridge is an area of persistent and substantial unemployment, having a sustained rate of unemployment in excess of 8%; and
- WHEREAS: The burden of such unemployment has been particularly severe for blue collar workers, of the kind commonly employed by manufacturing establishments; and
- WHEREAS: The City of Cambridge has experienced no significant capital investment among its manufacturing establishments since, at least, 1970; and further that it is improbable that such investment will result from the ordinary operations of private enterprise; and
- WHEREAS: The General Court, under authority of Chapter 772 of the Acts of 1967, now referred to and known as Chapter 40D of the General Laws, has created a board in each municipality to be known as the Industrial Development Financing Authority to assist such manufacturers, subject to the approval of the City Council and the City Manager; and
- WHEREAS: The City Manager concurs with the various declarations and resolutions contained herein; now therefore be it
- RESOLVED: by the City Council of the City of Cambridge that it finds:
1. That an Industrial Development Financing Authority is needed in the City of Cambridge;
  2. That substantial unemployment exists in the City of Cambridge;
  3. That such unemployment can be alleviated by attracting new industry or by substantially expanding industry existing in the municipality through an industrial development project or projects financed under Chapter 772 of the Acts of 1967;
  4. That existing municipal facilities and services can meet any increase in demand for such facilities and services as a result of the increase in employment and business activity from such industrial development; and be it further

RESOLVED: by the City Council, as follows:

5. That the City Council approves the establishment of an Industrial Development Financing Authority as provided in Chapter 40D of the General Laws; and
6. That the City Clerk shall submit this resolution to the City Manager for his approval.

In City Council

Sept. 16, 1974

Adopted by yeas and nays Vote

Yeas 9 Nays 0 Absent 0

Paul J. ...

City Clerk



# City of Cambridge

IN CITY COUNCIL

September 16, 1974

## A RESOLUTION APPROVING THE ESTABLISHMENT OF A BOARD TO BE KNOWN AS THE INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY

---

WHEREAS: The City of Cambridge is an area of persistent and substantial unemployment, having a sustained rate of unemployment in excess of 8%; and

WHEREAS: The burden of such unemployment has been particularly severe for blue collar workers, of the kind commonly employed by manufacturing establishments; and

WHEREAS: The City of Cambridge has experienced no significant capital investment among its manufacturing establishments since, at least, 1970; and further that it is improbable that such investment will result from the ordinary operations of private enterprise; and

WHEREAS: The General Court, under authority of Chapter 772 of the Acts of 1967, now referred to and known as Chapter 40D of the General Laws, has created a board in each municipality to be known as the Industrial Development Financing Authority to assist such manufacturers, subject to the approval of the City Council and the City Manager; and

WHEREAS: The City Manager concurs with the various declarations and resolutions contained herein; now therefore be it

RESOLVED: by the City Council of the City of Cambridge that it finds:

1. That an Industrial Development Financing Authority is needed in the City of Cambridge;
2. That substantial unemployment exists in the City of Cambridge;
3. That such unemployment can be alleviated by attracting new industry or by substantially expanding industry existing in the municipality through an industrial development project or projects financed under Chapter 772 of the Acts of 1967;
4. That existing municipal facilities and services can meet any increase in demand for such facilities and services as a result of the increase in employment and business activity from such industrial development; and be it further

RESOLVED: by the City Council, as follows:

5. That the City Council approves the establishment of an Industrial Development Financing Authority as provided in Chapter 40D of the General Laws; and
6. That the City Clerk shall submit this resolution to the City Manager for his approval.

In City Council Sept. 16, 1974  
Adopted by 9 yeas and 0 nays  
Voted 9 yeas 0 nays  
Paul E. Leahy  
City Clerk



## City of Cambridge

IN CITY COUNCIL

September 16, 1974

A RESOLUTION APPROVING THE ESTABLISHMENT OF A BOARD TO  
BE KNOWN AS THE INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY

WHEREAS: The City of Cambridge is an area of persistent and substantial unemployment, having a sustained rate of unemployment in excess of 8%; and

WHEREAS: The burden of such unemployment has been particularly severe for blue collar workers, of the kind commonly employed by manufacturing establishments; and

WHEREAS: The City of Cambridge has experienced no significant capital investment among its manufacturing establishments since, at least, 1970; and further that it is improbable that such investment will result from the ordinary operations of private enterprise; and

WHEREAS: The General Court, under authority of Chapter 772 of the Acts of 1967, now referred to and known as Chapter 40D of the General Laws, has created a board in each municipality to be known as the Industrial Development Financing Authority to assist such manufacturers, subject to the approval of the City Council and the City Manager; and

WHEREAS: The City Manager concurs with the various declarations and resolutions contained herein; now therefore be it

RESOLVED: by the City Council of the City of Cambridge that it finds:

1. That an Industrial Development Financing Authority is needed in the City of Cambridge;
2. That substantial unemployment exists in the City of Cambridge;
3. That such unemployment can be alleviated by attracting new industry or by substantially expanding industry existing in the municipality through an industrial development project or projects financed under Chapter 772 of the Acts of 1967;
4. That existing municipal facilities and services can meet any increase in demand for such facilities and services as a result of the increase in employment and business activity from such industrial development; and be it further

RESOLVED: by the City Council, as follows:

5. That the City Council approves the establishment of an Industrial Development Financing Authority as provided in Chapter 40D of the General Laws; and
6. That the City Clerk shall submit this resolution to the City Manager for his approval.

in City Council Sept. 16, 1924  
Adopted by yeas and nays Vote  
Yeas 9 Nays 0  
Paul E. Leahy  
City Clerk



## City of Cambridge

IN CITY COUNCIL

September 16, 1974

A RESOLUTION APPROVING THE ESTABLISHMENT OF A BOARD TO  
BE KNOWN AS THE INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY

---

WHEREAS: The City of Cambridge is an area of persistent and substantial unemployment, having a sustained rate of unemployment in excess of 8%; and

WHEREAS: The burden of such unemployment has been particularly severe for blue collar workers, of the kind commonly employed by manufacturing establishments; and

WHEREAS: The City of Cambridge has experienced no significant capital investment among its manufacturing establishments since, at least, 1970; and further that it is improbable that such investment will result from the ordinary operations of private enterprise; and

WHEREAS: The General Court, under authority of Chapter 772 of the Acts of 1967, now referred to and known as Chapter 40D of the General Laws, has created a board in each municipality to be known as the Industrial Development Financing Authority to assist such manufacturers, subject to the approval of the City Council and the City Manager; and

WHEREAS: The City Manager concurs with the various declarations and resolutions contained herein; now therefore be it

RESOLVED: by the City Council of the City of Cambridge that it finds:

1. That an Industrial Development Financing Authority is needed in the City of Cambridge;
2. That substantial unemployment exists in the City of Cambridge;
3. That such unemployment can be alleviated by attracting new industry or by substantially expanding industry existing in the municipality through an industrial development project or projects financed under Chapter 772 of the Acts of 1967;
4. That existing municipal facilities and services can meet any increase in demand for such facilities and services as a result of the increase in employment and business activity from such industrial development; and be it further

RESOLVED: by the City Council, as follows:

5. That the City Council approves the establishment of an Industrial Development Financing Authority as provided in Chapter 40D of the General Laws; and
6. That the City Clerk shall submit this resolution to the City Manager for his approval.

in City Council Sept 16, 1974

Adopted by yeas and nays Vote

Yeas 9 Nays 9 Absent 0

Paul E. Leahy.

City Clerk



## City of Cambridge

IN CITY COUNCIL

September 16, 1974

A RESOLUTION APPROVING THE ESTABLISHMENT OF A BOARD TO  
BE KNOWN AS THE INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY

---

WHEREAS: The City of Cambridge is an area of persistent and substantial unemployment, having a sustained rate of unemployment in excess of 8%; and

WHEREAS: The burden of such unemployment has been particularly severe for blue collar workers, of the kind commonly employed by manufacturing establishments; and

WHEREAS: The City of Cambridge has experienced no significant capital investment among its manufacturing establishments since, at least, 1970; and further that it is improbable that such investment will result from the ordinary operations of private enterprise; and

WHEREAS: The General Court, under authority of Chapter 772 of the Acts of 1967, now referred to and known as Chapter 40D of the General Laws, has created a board in each municipality to be known as the Industrial Development Financing Authority to assist such manufacturers, subject to the approval of the City Council and the City Manager; and

WHEREAS: The City Manager concurs with the various declarations and resolutions contained herein; now therefore be it

RESOLVED: by the City Council of the City of Cambridge that it finds:

1. That an Industrial Development Financing Authority is needed in the City of Cambridge;
2. That substantial unemployment exists in the City of Cambridge;
3. That such unemployment can be alleviated by attracting new industry or by substantially expanding industry existing in the municipality through an industrial development project or projects financed under Chapter 772 of the Acts of 1967;
4. That existing municipal facilities and services can meet any increase in demand for such facilities and services as a result of the increase in employment and business activity from such industrial development; and be it further

RESOLVED: by the City Council, as follows:

5. That the City Council approves the establishment of an Industrial Development Financing Authority as provided in Chapter 40D of the General Laws; and
6. That the City Clerk shall submit this resolution to the City Manager for his approval.

*in City Council* Sept 16, 1974  
Adopted by you and my Vote  
Year 9 Have 9 Ayes 0  
Paul E. Leahy.  
City Clerk



# City of Cambridge

IN CITY COUNCIL

September 16, 1974

A RESOLUTION APPROVING THE ESTABLISHMENT OF A BOARD TO  
BE KNOWN AS THE INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY

- 
- WHEREAS: The City of Cambridge is an area of persistent and substantial unemployment, having a sustained rate of unemployment in excess of 8%; and
- WHEREAS: The burden of such unemployment has been particularly severe for blue collar workers, of the kind commonly employed by manufacturing establishments; and
- WHEREAS: The City of Cambridge has experienced no significant capital investment among its manufacturing establishments since, at least, 1970; and further that it is improbable that such investment will result from the ordinary operations of private enterprise; and
- WHEREAS: The General Court, under authority of Chapter 772 of the Acts of 1967, now referred to and known as Chapter 40D of the General Laws, has created a board in each municipality to be known as the Industrial Development Financing Authority to assist such manufacturers, subject to the approval of the City Council and the City Manager; and
- WHEREAS: The City Manager concurs with the various declarations and resolutions contained herein; now therefore be it
- RESOLVED: by the City Council of the City of Cambridge that it finds:
1. That an Industrial Development Financing Authority is needed in the City of Cambridge;
  2. That substantial unemployment exists in the City of Cambridge;
  3. That such unemployment can be alleviated by attracting new industry or by substantially expanding industry existing in the municipality through an industrial development project or projects financed under Chapter 772 of the Acts of 1967;
  4. That existing municipal facilities and services can meet any increase in demand for such facilities and services as a result of the increase in employment and business activity from such industrial development, and be it further

RESOLVED: by the City Council, as follows:

5. That the City Council approves the establishment of an Industrial Development Financing Authority as provided in Chapter 40D of the General Laws; and
6. That the City Clerk shall submit this resolution to the City Manager for his approval.

PROCEDURES FOR THE IMPLEMENTATION OF THE  
INDUSTRIAL REVENUE BOND STATUTE  
(CHAPTER 772 OF THE ACTS OF 1970)

The industrial revenue bond statute (Chapter 772 of the Acts of 1967) became effective December 6, 1967. It represents the efforts by the Commonwealth to meet the keen competition of other states for new industries through revenue bond financing programs.

The general purpose of the act is to provide financing of industrial development projects that would alleviate unemployment or the threat thereof, secure against future unemployment and lack of business opportunity, attract new industry to municipalities or substantially expand existing industry.

Under this program, any municipality or a combination of two or more municipalities, acting jointly, may create an Industrial Development Financing Authority. Such an authority may issue revenue bonds. The proceeds are to be used to finance the acquisition or construction of new industrial development projects or enlargements of existing concerns.

Authorities created under this law will basically function as follows:

1. Industrial Finance Authorities are established in each city and town by Chapter 772, Acts of 1967.
2. The Industrial Development Financing Authority shall be activated by vote of the city council with approval of the mayor or city manager, or by the town meeting.
3. Five directors shall be appointed to the authority by the mayor or the city manager subject to confirmation of the governing body and initially they shall be appointed to serve the terms of one, two, three, four and five years respectively and thereafter for five years. At least one director shall be experienced in financial matters, one in the real estate matters, and one in town or city government. Town selectmen appoint directors of town Authorities.
4. Membership to the directorate shall be confined to residents of the city or town involved.
5. The city or town clerk shall submit a certified copy of the vote to activate the authority and the names of the appointees to the board of directors of the authority to the State Industrial Finance Board, a new board created by the instant statute within the Department of Commerce and Development; to the Department of Commerce and Development; and, to the Secretary of State.
6. The Secretary of State shall then issue a certificate of organization which legalizes the Industrial Development Financing Authority.

The Department of Commerce and Development feels a special obligation and responsibility to insure that all industrial projects are responsive to the public interest and welfare and to prevent abuses of the financing privilege. For that purpose, a State Industrial Finance Board has been established within the Department of Commerce and Development consisting of the Commissioner or his designee and eight persons all of whom are residents of the Commonwealth, to be appointed by the Governor, one of whom shall be a representative of industry, one of labor, one of business, one of real estate, one a certified public accountant, one a professional engineer, one trained in industrial development and one experienced in the administration of municipal affairs. Initially, two of said members shall be appointed for one year, two for two years, two for three years, two for four years and, thereafter, each member shall be appointed for four years. This state board will analyze the program presented by the Industrial Development Financing Authority, suggest proper procedures for the municipalities to follow, review applications for a certificate of convenience and necessity on industrial development projects as submitted by the authorities and make its recommendations to the Department of Commerce and Development. The State Industrial Finance Board will base its recommendations on (a) unemployment or the threat thereof in the community, (b) need for security for future unem-

ployment, (c) the proposed adjustment of the municipality to the expected increase in the demand for municipal facilities and services resulting from the increase in employment and business activity and will also make determinations on the following:

1. The lessee of the project is a responsive industrial occupant;
2. The provisions of the lease are reasonable and proper;
3. The provisions of the lease for disposition of the project after full payment of the bonds are in the public interest;
4. The trust agreement between the trustee for the bondholders and the Industrial Development Financing Authority is in the public interest;
5. The project will provide employment in reasonable relationship to the amount of bonds issued;
6. The size and the scope of the project is such as to definitely benefit the economy of the Commonwealth.
7. The rentals or other payments under the lease are adequate to pay the current expenses of the authority and the interest and principal of the bond;
8. The project has some relationship to an existing local or regional comprehensive plan, if any exists.

In addition, that the lease between the local board and the industrial occupant adequately provides for the payment of taxes on realty and personality as if the industrial occupant (lessee) were the actual owner with some exceptions where the occupant is incorporated as a limited profit organization under the provisions of Chapter 121A.

**A GUIDE TO THE OPERATION OF AN  
INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY  
(UNDER CHAPTER 40D OF THE GENERAL LAWS OF THE  
COMMONWEALTH OF MASSACHUSETTS)**

It is recommended that all members of the Board of Directors of a municipal Industrial Development Financing Authority read the law (Chapter 40D) carefully.

The fourth paragraph of Page three of Section 2 of the law reads in part as follows: "As soon as possible after the appointment and the qualification of the original directors -- the city or town clerk shall file a copy of the vote for the establishment of such authority and a certificate of such appointment and qualification with the board and with the Department of Commerce and Development and a duplicate thereof in the office of the state secretary. If the state secretary finds that the Industrial Development Financing Authority has been established and the directors thereof have been appointed according to law, he shall issue to it a certificate of organization which certificate shall be conclusive evidence of the lawful establishment of the authority and of the appointment of the directors thereof."

The first meeting of the Industrial Development Financing Authority should be an organization meeting at which time a chairman and a vice-chairman, etc., may be elected in accordance with Section 5 of Chapter 40D. Note that "The board shall have full authority -- to prescribe, amend and repeal by-laws, rules, regulations," etc.

Now the authority is ready to operate.

In anticipation of a request from a manufacturer for financial assistance it is suggested that the board review the regulations for filing applications for a Certificate of Convenience and Necessity for Industrial Development Projects.

When a manufacturer approaches the municipality through any of its officers seeking financial assistance for the expansion of an existing manufacturing facility or the construction of a new facility, including the purchase of land, machinery, and equipment, or the purchase of an existing building, it should be referred to the Industrial Development Financing Authority.

It is suggested that the chairman of the Industrial Development Financing Authority and municipal legal counsel have a preliminary meeting with officers of the corporation, including their legal counsel, to outline the desires of the manufacturer and discuss plans for the preparation of an Application for a Certificate of Convenience and Necessity. The Secretary of the State Industrial Finance Board or a representative of the State Department of Commerce and Development might be invited to meet with this group to guide them through the necessary steps.

At the preliminary meeting, ask the manufacturer to provide a description of the project as outlined in the Regulations. This will indicate the amount of money to be raised by the sale of municipal revenue bonds and the desired length of term of the bond issue in number of years. Section 9 of Chapter 40D reads in part "Any bonds issued under the provisions of this Chapter shall be secured by a trust agreement by and between the issuing municipality acting by and through an authority and a corporate trustee, which shall be located within the Commonwealth and shall be a trust company or bank having the powers of a trust company." Such a choice of trustee shall be by mutual agreement between the authority and the corporation. It would be well to agree upon a bond counsel to be used in connection therewith in order to assure the legality of the bond issue to be sold by the municipality. Such bond counsel may be the same legal firm used by the municipality to prepare issues of regular municipal bonds sold by the municipality. It is recommended that they be brought into the team to work on the preparation of the Application for a Certificate of Convenience and Necessity and supporting exhibits.

The bond counsellor is used in the preparation of the trust and lease agreements, just as a municipality turns to such counsel in preparing a regular municipal bond issue. His fees may be a part of the underwriting expenses and absorbed in the amount of funds to be raised by the sale of bonds. The trust and lease

agreements are prepared by bond counsel by agreement between the municipality and the manufacturer. The application is supported by exhibits which include financial statements of the manufacturer who seeks the loan and the trust and lease agreements.

To these three exhibits are added a copy of the formal motion made by the Industrial Development Financing Authority recommending the project to the municipal government, and a copy of the final favorable action taken thereon by its city council with the approval of the Mayor or in a town by the board of selectmen. (See Section 12-1)

Twenty copies of the applications and supporting documents are to be delivered to the State Department of Commerce and Development to be submitted to the State Industrial Finance Board. "The Finance Board shall review the complete application. Upon receipt of a favorable recommendation from the Finance Board, the Department of Commerce and Development shall promptly issue a Certificate of Convenience and Necessity. The issuance shall be conclusive evidence that the Finance Board has made such determinations of facts or circumstances, has given such approvals and has reached such opinions as are prerequisite to the issuance of such certificate." This is the authority for the issuance and sale of the bonds.

The Industrial Development Finance Authority shall have full authority to manage the properties and business of the authority. The authority is required to make an annual report to the Department of Commerce and Development. It is the duty of the Industrial Development Financing Authority to see that the trust and lease agreements are carried out although the trustee does the necessary work in accordance with the terms of the trust agreement.

REGULATIONS FOR FILING APPLICATIONS  
FOR  
CERTIFICATE OF CONVENIENCE AND NECESSITY  
FOR  
INDUSTRIAL DEVELOPMENT PROJECTS

In order to provide directions for the submission of applications for Certificates of Convenience and Necessity provision for which is made in Section 12 of G.L. Chapter 40D and to insure that the State Finance Board is furnished with information to enable it to make recommendations to the Department of Commerce and Development and the findings required with respect to such recommendation, the State Industrial Finance Board promulgates the following:

FORM OF APPLICATION

1. Applications for a Certificate of Convenience and Necessity shall be prepared by the Applicant on 8½ x 11" plain paper, shall be typewritten (double-spaced) or printed, and shall contain the following heading on the first page:

THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF COMMERCE AND DEVELOPMENT  
APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY

APPLICANT – (City) (Town) of

PROPOSED INDUSTRIAL TENANT –

AMOUNT OF PROPOSED FINANCING –

The (City) (Town) of \_\_\_\_\_, Massachusetts, acting by and through its Industrial Development Financing Authority, submits this Application under Massachusetts General Laws, Chapter 40D for a Certificate of Convenience and Necessity for the Project hereinafter described to be financed by the issuance and sale of Industrial Revenue Bonds of said City or Town under said Chapter 40D.

2. Applications shall be dated and signed on the last page by at least a majority of the directors of the local Industrial Development Financing Authority.
3. Exhibits to the Application shall be numbered and an index of exhibits shall be furnished.
4. There shall be a separate application for each industrial development project.

CONTENTS OF APPLICATION

The Application shall contain main and subheadings substantially as follows under each of which shall appear the information called for below and/or a reference to appropriately-numbered exhibits (to be attached to the Application) where such information can be found. If a heading or subheading is not applicable to a particular project, it should nevertheless be set forth, followed by the words "Not Applicable."

1. Description of the Project:

- (a) Site. Give a general description of land, and a statement of approximate area.
- (b) Buildings or additions to buildings to be constructed or acquired. Provide a general description of such buildings or additions so as to show the type, structure, size and general character of the project and/or attach such plans or other documents as will show such information.

- (c) Improvements to buildings. Provide a general description of improvements to existing buildings to show type and general character of changes and size and general character of the resulting building and/or attach such plans or other documents as will show such information.
- (d) Machinery. Give a summary description of machinery or type of machinery, if any, to be installed on the site or in the building or improvement to existing buildings, if to be paid for with proceeds of the bonds, so as to show the function and general purpose of such machinery.
- (e) Products to be manufactured. Give summary description of products or type of products to be manufactured.
- (f) Estimated cost. Indicate the total estimated cost of the project itemized as to
  - (I) site, including expenses of acquisition
  - (II) buildings or additions to buildings and/or improvements to buildings.
  - (III) machinery
  - (IV) advances, if any, during construction and thereafter to be capitalized
  - (V) interest, if any, during construction and thereafter to be capitalized
  - (VI) underwriting fiscal and legal expenses.

2. Approval by local government body. Attach certified copy of vote showing approval required by General Laws, Chapter 40D, Section 12(1).

### 3. Industrial Tenant.

(I) State the name of the proposed industrial tenant. If a corporation, set forth the state of its incorporation, location of its principal business office and date of incorporation;

(II) Give a general description of the business conducted by the industrial tenant in places other than the proposed site where such business is carried on;

(III) Append as an exhibit a certified statement of assets and liabilities and operating statement of the industrial tenant for the latest fiscal year for which such reports are available, if a corporation, or a certified statement of assets and liabilities, if an individual or partnership. If the industrial tenant is a corporation whose stock is held publicly, append as an exhibit the last annual report to stockholders and the prospectus, if any, used in connection with its most recent issue of securities within three years preceding the date of the Application.

(IV) Lease. Append as an exhibit a copy of the proposed lease between the Authority and the industrial tenant.

(V) Bond Indenture. Append as an exhibit a copy of the proposed Indenture between the Authority and the Bank or Trust Company located in Massachusetts, the name of which Bank or Trust Company need not be set forth and which need not set forth the interest rate or rates to be paid on the bond.

(VI) Authorizing Resolutions or Vote. Append as an exhibit the proposed resolution or vote of the Authority authorizing the issuance of the bonds in substantially the form to be adopted, which proposed resolution or vote need not designate the particular Bank or Trust Company in Massachusetts to act as

trustee, the rate or rates of interest to be paid on the bonds or the award of the bonds to a designated purchaser but which in the event such items are not designated shall authorize their determination by resolutions of the Authority subsequently to be adopted.

(VII) Relation between Employment and the Amount of Bonds to be Issued. Include a statement of the number of new employees expected to be employed at the project and compute the relationship between the amount of bonds to be issued and the number of new jobs to be created by the industrial project.

(VIII) Provision for Public Utilities and Demands on Public Facilities. Describe the needs for public facilities created by the project, with particular reference to access to water and sewer utilities, accessibility to public ways, police and fire protection and need for additional school plant, the ability of the city or town to meet these needs and the extent to which action has been taken or will be taken to meet such demands.

(IX) Low-Income Area. State whether the project is located in a low-income area of the city or town and, if not, give the reasons for the failure so to locate it.

(X) Planning Agencies. Give the names and business addresses of the local and regional planning agencies, if any, and set forth the extent and the manner in which the Authority has notified such agencies of the intention to make an Application or Certificate of Convenience and Necessity.

#### NUMBER OF COPIES

Ten (10) signed and ten (10) duplicate copies of an Application for a Certificate of Convenience and Necessity must be filed with the Secretary of the State Finance Board at the office of the Department of Commerce and Development, 100 Cambridge Street, Boston, Massachusetts

#### STATE FINANCE BOARD

Issued this 13th day  
of March, 1968

By \_\_\_\_\_  
Secretary

In accordance with the provisions of G.L. Chapter 30A, Section 3 (3) there is incorporated in these Regulations filed with the State Secretary the following resolution adopted by the State Finance Board on March 13, 1968 which sets forth the findings of said Board and the reasons therefore under said Section 3 (3):

WHEREAS the U.S. Treasury Department has announced that it is reconsidering its position on the tax exempt status of interest paid on industrial development bonds, and may refuse to rule in favor of such tax exemption unless such bonds are sold pursuant to a binding contract between the issuer and an underwriter entered into before March 16, 1968; and

WHEREAS under Chapter 40D of the General Laws, a Certificate of Convenience and Necessity from the Department of Commerce and Development is required but may not be issued until the application therefore has been presented to the State Finance Board for its recommendations with respect thereto; and

WHEREAS the State Board should issue its regulations pursuant to which such application may be filed at the earliest possible moment.

NOW THEREFORE be it

RESOLVED: That the State Finance Board hereby determines and finds that the requirements of notice and opportunity to present views on the proposed regulations to be promulgated under and pursuant to Section 12 of G.L. Chapter 40D, is unnecessary, impracticable and contrary to the public interest, and that accordingly it is hereby determined under and pursuant to the authority of G.L. Chapter 30A Section 3 (3) to dispense with such requirements.

A true copy

Attest:

---

Secretary of the State Finance Board

A SUMMARY OF CHAPTER 40D OF THE GENERAL LAWS OF  
THE COMMONWEALTH OF MASSACHUSETTS

- Section 1 Contains the definitions.
- Section 2 Describes the method of establishing or activating an Industrial Development Financing Authority within a municipality. It also establishes the procedure for the issuance of a Certificate of Organization by the Secretary of State.
- Section 3 Describes the method of selection of the board of directors of the Industrial Development Authority and their term of office.
- Section 4 Covers the removal of directors from office.
- Section 5 & 6 Covers the organization and operating procedures of the Board of Directors of the Industrial Development Financing Authority.
- Section 7 Through Section 12
- (1) Describes the powers of the Industrial Development Financing Authority.
  - (2) Describes the duties of the State Industrial Finance Board.
- Section 13 Through Section 20 – Refers to the trust and lease agreements and the handling of the monies and other operating responsibilities of the Industrial Development Financing Authority.
- Section 2 Of Chapter 23A on Page 13 and the balance of the law refers to the operations of the State Industrial Finance Board.

Chapter 772

AN ACT PROVIDING FOR FURTHER INDUSTRIAL DEVELOPMENT OF CITIES AND TOWNS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 40C the following chapter: --

CHAPTER 40D

INDUSTRIAL DEVELOPMENT OF CITIES AND TOWNS

Section 1. The following words as used in this chapter shall, unless the context requires otherwise, have the following meanings: --

- (a) "Authority", an industrial development financing board established by section two.
- (b) "Board", the board of directors of an authority.
- (c) "Bond", a revenue bond issued for the purpose of financing an industrial development project, and shall include interim receipts, temporary bonds or other obligations issued hereunder.
- (d) "Construction", means and includes both construction and acquisition and the term "to construct" means and includes both to construct and to acquire.
- (e) "Cost of the project" and "cost", the cost of construction, the cost of acquisition of all lands, structures, rights of way, franchises, easements and other property rights and interests and related riparian or water rights, the cost of demolishing, removing or relocating any buildings, structures or utilities on lands acquired or to be acquired, including the cost of acquiring any lands to which such buildings, structures or utilities may be moved, or relocated, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to and during construction and for a period of not exceeding one year after completion thereof, the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, other expenses necessary or incidental to determining the feasibility or practicability of constructing industrial development projects, administrative expenses, reimbursement to the municipality of advances to the authority under section nineteen, and for planning costs and other preliminary expenses made for the benefit of but prior to the formation of the authority, and such other expenses as may be necessary or incidental to the construction of industrial development projects, the financing thereof, placing of the same in operation and the issuance of bonds under this chapter.
- (f) "Current expenses", the amount of reasonable and necessary current expenses in connection with any project as the same may be more fully defined in the trust agreement relating to a project, and shall in any event include the fees and expenses of the trustee under the trust agreement securing bonds issued to finance such project.
- (g) "Federal agency", the United States of America, the President of the United States of America, and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America.
- (h) "Finance board", the state industrial finance board established under section eleven of chapter twenty-three A.
- (i) "Governing body", in a city having a Plan D or Plan E charter the city manager and the city council and in any other city the mayor and city council, and in towns the board of selectmen.
- (j) "Improvement", reconstruction, remodeling, rehabilitation, extension, enlargement and improvement, and "to improve" means and includes to reconstruct, to remodel, to rehabilitate, to extend, to enlarge and to improve.
- (k) "Industrial enterprise", an enterprise engaged in the giving of new shapes, new qualities or new combinations to matter as material products by the application of skill and labor thereto.
- (l) "Industrial development facilities" or "facilities", any industrial manufacturing, or research and development enterprise, or any part thereof, located within or partially within the municipality creating an authority, and acquired or constructed by municipalities acting by and through said authority or an industrial occupant pursuant to the terms of this chapter, including any or all buildings, docks, wharves, im-

provements, additions, extensions, replacements, appurtenances, lands, rights in land, riparian rights, water rights, franchises, machinery, equipment, furnishings, landscaping, utilities, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, such as, but not limited to, office, warehouse, terminal, transportation and back-up power generating facilities.

(m) "Industrial occupant", any person engaged in an industrial development project financed or to be financed under this chapter and there operating an industrial enterprise.

(n) "Lease", installment sales, "lessee" includes installment purchases, and "rental" includes all payments by lessees and such purchasers.

(o) "Municipality", a city or town or, where the context requires, two or more cities or towns joining together to form an authority to carry out industrial development.

(p) "Project", a specified industrial development facility, leased or to be leased to an industrial occupant.

(q) "Trust agreement", an agreement or indenture securing one or more series of bonds of an authority and complying with the provisions hereof.

Section 2. There is hereby created in each municipality a board to be known as the Industrial Development Financing Authority, hereinafter referred to as the authority; provided, that no such authority shall organize or be organized, transact any business, employ any personnel or exercise any powers until the city council, with the approval of the city manager, in a city having a Plan D or Plan E form of charter, the city council, with the approval of the mayor, in any other city, or a town at an annual meeting or a special meeting called for the purpose, shall by vote declare that an industrial development financing authority is needed therein and that (1) unemployment or the threat thereof exists in the municipality, or (2) security against future unemployment and lack of business opportunity is required in the municipality, and that unemployment or the threat thereof can be alleviated or the security against future unemployment and lack of business opportunity can be provided, by attracting new industry to the municipality or substantially expanding industry existing in the municipality through an industrial development project or projects financed under this chapter. In determining the need for such an authority the city council or the town shall take into consideration its ability to adjust to any expected increase in the demand for municipal facilities and services as a result of the expected increase in employment and business activity from such industrial development. If a municipality votes for the establishment of an authority, the original directors of such an authority from that municipality shall be appointed forthwith as provided in section three.

Two or more contiguous municipalities may agree to consolidate their respective industrial development financing authorities into a single authority for both or all of said municipalities as hereinafter provided. Every such authority shall be managed, controlled and governed by its directors, appointed or elected as provided in this section or in section three.

In the event two or more municipalities wish to consolidate their industrial development financing authorities, or to establish a consolidated authority, each such municipality shall so indicate by vote of its city council or at an annual or special town meeting, as the case may be, which shall state the desire to consolidate authorities with a designated municipality or municipalities or to establish a consolidated authority with the designated municipality or municipalities. Such a vote may be adopted at the same time as a vote to organize an authority or after an authority has been organized in one or more of such municipalities.

As soon as possible after the appointment and qualification of the original directors of an authority under section three the city or town clerk shall file a certified copy of the vote for the establishment of such authority and a certificate of such appointment and qualification with the board and with the Department of Commerce and Development, and a duplicate thereof in the office of the state secretary. If the state secretary finds that the industrial development financing authority has been established and the directors thereof have been appointed according to law, he shall issue to it a certificate of organization, which certificate shall be conclusive evidence of the lawful establishment of the authority and of the appointment of the directors thereof. If two or more municipalities vote to consolidate their respective authorities, the clerk of each such municipality shall forthwith file a certified copy of such vote and, if an authority has not previously been established in one or more such municipalities, said clerk shall also file certificates of appointment and qualification, as the case may be, of the directors of such authority from that municipality with the board and agency and a duplicate thereof in the office of the state secretary. If the state secretary

finds that the industrial development financing authority has been established and the directors thereof have been appointed according to law, he shall issue to it a certificate of organization, which certificate shall be conclusive evidence of the lawful establishment of the authority and of the appointment of the directors thereof. If two or more municipalities vote to consolidate their respective authorities, the clerk of each such municipality shall forthwith file a certified copy of such vote and, if an authority has not previously been established in one or more such municipalities, said clerk shall also file certificates of appointment and qualification, as the case may be, of the directors of such authority from that municipality with the board and agency and a duplicate thereof in the office of the state secretary. If the state secretary finds that each of the municipalities have voted that their respective authorities should be consolidated, and he finds that the directors have been appointed according to law, he shall issue to it a certificate of consolidation and such certificate shall be conclusive evidence of the lawful consolidation and establishment of such authority and the appointment of the directors thereof.

Whenever an industrial development financing authority determines that there is no further need for its existence, that it has no property to administer, other than funds or property, if any, to be paid or transferred to the municipality by which it was established, and that all its outstanding obligations have been satisfied, it may by a majority vote of its directors submit the question of its dissolution, in a town, to the voters at an annual town meeting or, in a city having a Plan D or Plan E charter, to the city manager and the city council, and in any other city, to the mayor and city council. If a municipality, or in the case of a consolidated authority each constituent municipality, votes for such dissolution and the Department of Commerce and Development is satisfied of the existence of the facts required herein, it shall so certify to the state secretary and said authority shall be dissolved forthwith subject to the applicable provisions of section fifty-one of chapter one hundred and fifty-five.

Section 3. Except as provided herein relative to consolidated authorities, each industrial development financing authority shall be governed by a board of five directors. Said directors shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject, in either case, to confirmation by the city council, and in a town by the board of selectmen; provided, that the directors originally appointed shall be appointed to serve for terms of one, two, three, four and five years, respectively, measured in each case from the April first next following their original appointment. At least one director shall be experienced in financial matters, one in real estate matters and one in town or city government. In the case of a consolidated industrial development financing authority, there shall be five directors for each constituent municipality appointed as herein before provided.

Membership on the board of directors of an industrial development financing authority shall be restricted to residents of the municipality or in case of a consolidated authority to residents of the constituent municipality from which they are appointed. No officer, director, agent, partner, stockholder, creditor or employee of an industrial occupant may be a director of such authority. No person shall be disqualified from serving as a director by reason of holding any other appointive or elective office in the municipality.

Upon the expiration of the term of any director of an authority, his successor shall be appointed in like manner for a term of five years. Vacancies shall be filled for the remainder of the unexpired term.

Whenever the membership of the board of directors of an authority is changed, by appointment, resignation or removal, a certificate and duplicate certificate to that effect shall promptly be filed as provided in section two upon the appointment and qualification of the original director. A duplicate certificate so filed with the state secretary shall be conclusive evidence of the change in membership of the authority referred to therein.

Section 4. The governing body of a municipality may make, or may receive, written charges against, and may after hearing remove, because of inefficiency, neglect of duty and misconduct in office, or any of such causes, a director of an industrial development financing authority, appointed from such municipality; provided, that such director shall have been given, not less than fourteen days before the date set for such hearing, a copy in writing of the charges against him and written notice of the time, date and place of the hearing to be held thereon, and at the hearing shall have been given the opportunity to be represented by

(i) to acquire, purchase, hold, lease as lessee and use any franchise, facilities, or property, real, personal or mixed, tangible or intangible, wherever located, within the municipality or contiguous thereto or any interest therein necessary or desirable for carrying out the purposes of the authority, and to sell, mortgage, lease as lessor, transfer and dispose of any property or interest therein at any time acquired by it;

(ii) to construct and to improve, maintain and repair facilities;

(iii) to issue bonds as herein provided;

(iv) to make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business;

(v) without limitation of the foregoing, to borrow money and accept grants from and to enter into contracts, leases or other transactions with the Commonwealth or its agencies or instrumentalities, any federal agency, any municipality, bank or other financial institution, corporation or other authority organized under this chapter;

(vi) to pledge, hypothecate or otherwise encumber all or any of the revenues or receipts of the authority as security for bonds of the authority;

(vii) in the event of default by an industrial occupant under any lease or contract with the authority, to do all things deemed by it necessary or desirable to preserve, protect or operate a project subject to such lease or contract and the rights of the holders of any bonds secured by the revenues therefrom.

(b) An authority shall have no power at any time or in any manner on behalf of a municipality or otherwise to exercise the power of eminent domain and nothing in this chapter shall be deemed to confer upon any municipality any power to take any property or interest therein by eminent domain. An authority shall have no power to pledge the faith and credit or taxing power of the Commonwealth or any political subdivision thereof. No such authority shall engage in the usual promotion of industrial development activities.

(c) Nothing in this chapter shall be deemed to permit the financing by a city or town or an industrial development financing authority of a plant for the manufacture or distribution of gas or electricity.

Section 8. Any lease of a project by a municipality acting by and through an authority to an industrial occupant shall:

(i) be for a term not in excess of fifty years;

(ii) provide for a rental sufficient to amortize the principal and interest of all bonds and other obligations of the municipality issued or incurred to pay the cost of the leased project and current expenses of the municipality incurred in connection therewith; and

(iii) provide that the lessee shall pay to the municipality acting by and through an authority or otherwise assume and pay all other costs of maintaining and operating the project including taxes and assessments on the lessee's interest in the project or excises as hereinafter in this chapter provided.

Any such lease may contain any other provision deemed necessary or desirable by the authority, including, without limitation, renewal or purchase options but any purchase option shall provide at a minimum for payment sufficient to reimburse the authority for all its current expenses incurred in connection with the project and to pay in full all bonds and other obligations of the authority together with interest thereon issued or incurred in connection with the project and unpaid at the time such option is exercised together with premium, if any, payable in the event such bonds are called for redemption at the earliest practicable date. Any such purchase option may provide for payment of no additional consideration if all such expenses, bonds or other obligations and interest have been paid in full when such option is exercised.

Any amounts paid by a lessee under any renewal or purchase option in excess of that necessary to pay such expenses, bonds or other obligations and interest shall be paid over on receipt by the authority, or directly, if the existence of the authority has terminated, to the municipality which established the authority. If the authority is a consolidated authority, such payments shall be divided among the municipalities establishing such consolidated authority in such proportions as they may from time to time agree or, in the absence of agreement, in proportion to the average assessed value of the leased property for the three years next preceding the acquisition thereof by the constituent municipalities acting by and through the consolidated authority.

counsel and to be heard in his own defense. Pending final action upon any such charges, the governing body may temporarily suspend such director, provided that if it finds that such charges have not been substantiated, it shall immediately reinstate him in his office. In case of any such removal, such governing body shall forthwith deliver to the clerk of the municipality for filing with the certificate, and with the duplicate certificate, attested copies of such charges and of its findings thereon.

A director who ceases to be a resident of the city or town shall be removed upon the date of his change of residence by operation of law. A director who becomes a director, officer, agent, partner, stockholder, creditor or employee of an industrial occupant shall thereupon be removed by operation of law.

Section 5. The board of directors of an industrial development financing authority shall elect from among its directors a chairman and a vice-chairman, and may employ counsel, an executive director who shall not be subject to section nine A of chapter thirty or to chapter thirty-one who shall be ex officio secretary of the authority, a treasurer who may be a member of the authority and such other officers, agents and employees as it deems necessary or proper, and shall determine their qualifications, duties and compensation, and may delegate to one or more of its directors, agents or employees such powers and duties as it deems necessary or proper for the carrying out of any action determined upon by it. So far as practicable an authority shall make use of the services of the agencies, officers and employees of the city or town in which it is organized, and such city or town shall, if so requested, make available such services.

Each member of the board before entering upon his duties shall take an oath before the city or town clerk to administer the duties of his office faithfully and impartially, and a record of such oaths shall be filed in the office of said clerk.

The secretary shall keep a record of the proceedings of the board and shall be custodian of all books, documents and papers filed with the board and of the minute book or journal of the board and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the board and to give certificates under the official seal of the board to the effect that such copies are true copies, and all persons dealing with an authority may rely upon such certificates.

Three members of the board shall constitute a quorum and the affirmative vote of a quorum of the board shall be necessary for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

The board shall have full authority to manage the properties and business of the authority and to prescribe, amend and repeal by-laws, rules and regulations governing the manner in which the business of the authority may be conducted, and the powers granted to it may be exercised.

Section 6. The directors of an industrial development financing authority shall serve without compensation as such but each director shall be reimbursed for all necessary travel and other expenses incurred by him in the discharge of his official duties. The compensation of the executive director shall be subject to review and approval by the Department of Commerce and Development. Such compensation, if any, and expenses shall be allocated by the authority among its various projects, in such manner and amounts as it deems proper and shall constitute current expenses thereof.

No director, officer, agent or employee of an industrial development financing authority shall, directly or indirectly, have any financial interest in any property to be included in, or any contract for property or materials to be furnished or used in connection with, any project of such authority or any industrial occupant. Whoever violates any provision of the preceding sentence shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or both.

Section 7. (a) For the purpose of carrying out an industrial development project as authorized by this chapter, a municipality acting by or through an industrial development financing authority shall have the following powers to the extent that the same are not elsewhere in this chapter expressly limited:

Section 9. Any municipality acting by and through an industrial development financing authority is hereby authorized and empowered to borrow money in furtherance of the purposes of this chapter and to evidence the same by the issuance of bonds. The bonds may be of one or more series. Any bonds issued under the provisions of this chapter shall be secured by a trust agreement by and between the issuing municipality acting by and through an authority and a corporate trustee, which shall be located within the Commonwealth and shall be a trust company or bank having the powers of a trust company. Such trust agreement may pledge or assign the leasehold interest in and the rentals and other revenues of the project or projects on account of which the bonds secured by such trust agreement shall be issued, and may convey or mortgage any project or any part thereof. Such trust agreement shall contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the issuing municipality in relation to the construction or improvement of any project and the duties to be imposed by the issuing municipality on an industrial occupant with respect to a leased project, including the improvement, maintenance, operation, repair and insurance thereof and the custody, safeguarding and application of all monies and may contain provisions for the employment of consulting engineers and other experts and specialists in connection with any such construction and the operation of such projects. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of the bonds or of revenues, to furnish such indemnifying bonds or to pledge such securities as may be required by the issuing municipality. Such trust agreement shall set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, such trust agreement may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as an item of current expenses.

Section 10. All bonds shall be authorized by resolution of the board of the issuing authority. The principal amount of each issue of bonds shall be sufficient after due allowance for bond discount and expense to pay the estimated cost of the project or projects on account of which such bonds shall be issued. The principal of and the interest on all bonds issued under the provisions of this chapter shall be payable solely from the rentals and other revenues derived from such project or projects. All bonds shall mature at such time or times not exceeding fifty years from their date, as may be determined by the authority and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this chapter or any recitals in any bonds issued under the provisions of this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of coupon and registered bonds. The authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be for the best interests of the municipality.

Bonds issued under this chapter shall not constitute a debt or a pledge of the faith and credit of the issuing municipality but such bonds shall be payable solely from the sale or lease of a project or projects and the income therefrom or by funds derived from the issuing of refunding bonds authorized by section seventeen. All such bonds shall contain on the face thereof a statement to the effect that the bonds are not an obligation of the issuing municipality but are payable solely from the revenues pledged for their payment.

Prior to the preparation of definitive bonds, the issuing municipality may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when

the same are available for delivery and which shall be deemed to be of the same series as said definitive bonds. The municipality may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth or the governing body, and without any other proceedings or the happenings of any other conditions or things other than those proceedings, conditions or things which are specifically required by this chapter, including a receipt of a certificate of convenience and necessity from the Department of Commerce and Development.

Such bonds shall not be included in computing the debt limit of a municipality under chapter forty-four and shall not be subject to the provisions of any other law or charter provision relating to the issuance or sale of bonds.

Not more than fifty per cent of any series of bonds shall be sold by an authority acting for and in behalf of a municipality or by underwriters acting as first purchasers thereof to an industrial occupant of a project financed by the proceeds of such series of bonds.

Section 11. If the proceeds of the bonds initially issued, by reason of increased construction costs or error in estimates or otherwise, shall be less than the amount required for the purpose for which such bonds are authorized, additional bonds may in like manner, and without any requirement of obtaining a certificate of convenience and necessity therefor, be issued by a municipality to provide the amount of such deficiency and shall be deemed to be of the same series and shall be entitled to payment from the same fund or funds as the bonds first issued without preference or priority of the bonds first issued. If the proceeds of the bonds initially issued shall exceed the amount so required, such excess shall be deposited to the credit of the sinking fund for such bonds.

Section 12. No bonds of any series shall be issued by a municipality under this chapter except bonds issued under section eleven unless the following conditions have been complied with:

(1) The governing body of the municipality or in case of a consolidated authority the governing bodies of the constituent municipalities shall by vote approve the project (which shall be described in general terms), the estimated cost thereof and the financing thereof by bonds to be issued pursuant to this chapter. In any city a vote required under this section shall be deemed an emergency matter and may be passed in such manner as is provided for emergency orders or ordinances in its charter, and shall be in full force and effect immediately upon final favorable action thereon by its city council or the mayor, as the case may be, or upon the expiration of any period specified by such charter for the approval or disapproval of such orders if no action is taken to approve or disapprove such an order within such period, notwithstanding any provision of general or special law or ordinance to the contrary.

(2) The Department of Commerce and Development shall have issued a certificate of convenience and necessity therefor. To obtain such certificate of convenience and necessity, an authority shall first submit to the state industrial finance board, hereinafter called the finance board, an application therefor in such form and containing such information, data and exhibits as may from time to time be prescribed by the finance board, to which application shall be appended as part thereof, in substantially the form proposed to be executed, copies of the trust indenture or agreement, including the form of bonds, securing the bonds which are the subject of the petition, the resolution of the authority authorizing the issuance of the bonds in question and the lease of the project or projects to be constructed from the proceeds of the bonds in question. None of the documents constituting the application need set forth the price at which the bonds are to be sold or matters dependent on such price, such as, but not limited to, redemption provisions.

The finance board shall review the complete application and shall refer it to the Department of Commerce and Development with a favorable recommendation, if it finds that:

- (a) the lessee of the project or projects is a responsible industrial occupant;
- (b) the provisions of the lease are reasonable and proper, and in making such determination the finance board may take into account such factors as it deems relevant including, without limitation, the

provisions for maintaining, insuring and repairing the project by the lessee, and the remedies of the municipality upon default of the lessee;

(c) the provisions of the lease relative to the rights of the municipality and the lessee respecting the disposition of the project upon payment in full with interest of all the bonds are in the public interest;

(d) the trust agreement protects the public interest affected by its provisions;

(e) the project will provide employment having a reasonable relationship to the principal amount of bonds to be issued therefor, taking into account, among other things, the investment per employee of comparable industrial facilities;

(f) adequate provision is being or will be made to meet any increased demand upon community public facilities that might result from the project;

(g) the size and scope of the project is such that a definite benefit to the economy of the Commonwealth may reasonably be expected to result from the construction or improvement thereof;

(h) the bonds, the trust agreement and the lease comply with the provisions of this chapter;

(i) in cases where substantially all the project is not represented by the construction and equipping of entirely new facilities, the improvement of existing facilities is so substantial in relation to the existing facilities as to be reasonably comparable to the construction and equipping of entirely new facilities;

(j) the rentals and other payments under the lease are adequate to pay the current expenses of the authority in connection with the project and the principal of the bonds as they come due and interest thereon;

(k) the project has, so far as feasible, been located in a low income area of the municipality so that employment opportunities will become available to the residents of such area.

The finance board shall consult with the appropriate local and regional planning agencies to ascertain the relationship of a proposed project to any existing local or regional comprehensive plan.

Such review shall be accomplished as expeditiously as practicable and in any event the finance board shall make a favorable or unfavorable recommendation with respect to the application within twenty days, Sundays and holidays excluded, of its submission. If the finance board makes an unfavorable recommendation, it shall state its reasons therefor and offer the applicant an opportunity to submit an application amended so as to meet the finance board's objections. A favorable recommendation may contain such conditions as the finance board deems in the public interest, such as, but not limited to, a requirement that contracts for the construction of the project or for the acquisition of materials therefor let by the authority be awarded as a result of competitive bidding. The finance board may not, however, in any way require that any contract let by an industrial occupant be made the subject of competitive bidding.

Upon receipt of a favorable recommendation from the finance board, the department of Commerce and Development shall promptly issue a certificate of convenience and necessity which shall be made subject to the conditions recommended by the finance board. No certificate of convenience and necessity shall be issued in the absence of a favorable recommendation of the finance board.

The issuance of a certificate of convenience and necessity shall conclusively evidence that the finance board has made such determinations of facts or circumstances, has given such approvals and has reached such opinions as are prerequisite to the issuance of such certificate.

(3) The bonds, the lease with the industrial occupant, the trust agreement and the bond issue resolution, as executed or adopted as the case may be, are substantially in the form submitted to the finance board.

Section 13. The proceeds from the sale of any bonds shall be deposited with the trustee under the trust agreement to the credit of a special fund or funds to be used solely for the payment of the cost of the project and shall be disbursed in such manner and under such restrictions as may be provided in the trust agreement except that such amount as may be provided in the trust agreement for paying the expenses of the authority prior to the time when the revenues of the project are available for such purpose may be paid over to the authority and such amount as may be provided in the trust agreement, or otherwise, for reimbursing a municipality for advances made under section nineteen may be paid over to such municipality.

Section 14. All rentals or other monies payable under a lease of a project for the financing of which bonds have been issued shall be paid to the trustee under the trust agreement securing said bonds. The issuing municipality acting by and through an authority is further authorized to pledge such rentals and other revenues to the payment of the interest on and the principal of said bonds. Such pledge shall be valid and binding from the time when the pledge is made: the rentals or other revenues or other monies so pledged and thereafter received by the municipality acting by and through an authority or the trustee on its behalf shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the issuer, irrespective of whether such parties have notice thereof. A trust agreement by which a pledge is created or a financing statement need not be filed or recorded under the Uniform Commercial Code or otherwise except in the records of the authority.

The monies so pledged shall be set aside, at such regular intervals and in such amounts as may be provided in the trust agreement, in the sinking fund for the payment of such interest, principal and the redemption price or purchase price of such bonds. The use and disposition of monies to the credit of such sinking fund shall be subject to the provisions of the trust agreement. Except as may otherwise be provided in the trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. The balance of such rentals and other revenues not needed for such sinking fund requirements shall be applied as may be provided in the trust agreement.

Section 15. All monies received by an issuing municipality acting by and through an authority pursuant to the provisions of this chapter, whether as proceeds from the sale of revenue bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. The trust agreement shall provide that any officer to whom, or any bank or trust company to which, such monies shall be paid shall act as trustee of such monies and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and the trust agreement may provide.

Section 16. Any holder of bonds issued under the provisions of this chapter or of any of the coupons appertaining thereto, and the trustee, except to the extent the rights herein given may be restricted by the trust agreement securing the same, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under the trust agreement, and may enforce and compel the performance of all duties required by this chapter or by the trust agreement to be performed by the issuer or by any officer or agency thereof.

Section 17. A municipality acting by and through an authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the issuing municipality acting by and through its authority for either or both of the following additional purposes: — (i) construction improvements, of any project and (ii) paying all or any part of the cost of any additional project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the issuer in respect of the same, shall be governed by the provisions of this chapter insofar as the same may be applicable.

Section 18. All monies of any authority from whatever source derived or of a municipality acting hereunder by and through an authority shall be paid to the treasurer of the authority, except the proceeds of bonds and the rentals or other revenues from a project the lease of which secures bonds, which shall be paid as provided in the trust agreement securing said bonds. Such monies shall be deposited in the first instance by the treasurer in one or more banks or trust companies in one or more special accounts, and each of such special accounts to the extent the same is not insured shall be continuously secured by a pledge of direct obligations of the United States of America, of the Commonwealth or of the municipality in which the authority is established, having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer, or be held by a trustee or agent satisfactory to the authority. All banks and trust companies are authorized to give such security for such deposits. The monies in said accounts shall be paid out on the war-

rant or other order of the chairman of the authority, or of such other person or persons as the authority may authorize to execute such warrants or orders. Every authority shall file an annual report with the Department of Commerce and Development and with the municipality creating the authority on forms prepared and distributed by the said department. Every authority shall have its books, accounts and records audited annually by a certified public accountant and a copy of his audit report shall be attached to and be made a part of the aforesaid annual report. A concise financial statement shall be published annually, at least once in a newspaper of general circulation in the city or town in which the principal office of the authority is located. If such publication is not made by the authority, the city or town shall publish such statement at the expense of the authority. If the authority fails to make such an audit, then the controller, auditors or accountant designated by the municipality are hereby authorized and empowered from time to time to examine at the expense of the authority the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and other matters relating to its finances, operations and affairs.

The state auditor shall have the right to examine the books, accounts and records of any authority.

Section 19. Any municipality may appropriate money for the benefit of an industrial development financing authority for organizational expenses, and for operating expenses and to transfer to any such authority, with or without consideration, any interest in real or personal property or interest therein for industrial development facilities, not directly related to a particular industrial development project or projects. Any municipality may appropriate money for planning and other preliminary expenses for a particular industrial development project or projects; provided, however, that such municipality shall be reimbursed from the proceeds of bonds issued to finance such industrial development project for all such advances.

Section 20. The operation and maintenance of the projects by a municipality acting by and through an authority will constitute the performance of essential governmental functions, and an authority or municipality shall not be required to pay any taxes or assessments upon any project constructed or any property acquired or used by either under the provisions of this chapter. Income derived therefrom by such authority or municipality shall not be subject to taxation by the Commonwealth. Bonds issued under this chapter, and any income derived therefrom, including any sale, exchange or transfer of such bonds, shall at all times be free from taxation.

Land and buildings of a municipality or authority shall, if leased for any activity or transaction entered into by the lessee for financial profit or gain, whether or not to an industrial occupant, be taxed by the city or town in which such land and buildings may be situated to the lessees thereof respectively, in the same manner as such land and buildings would be taxed to such lessees if they were owners thereof, except as follows:

- (a) the payment of the tax shall not be enforced by any lien upon or sale of such land or buildings, but for the purpose of enforcing the payment of such taxes by such lessees to the city or town in which such land or buildings are situated, a sale of the leasehold interest therein may be made by the collector of the city or town in the manner provided by law for selling real estate for the nonpayment of real estate taxes;
- (b) real estate acquired by a municipality and leased for any activity or transaction described above to a corporation or group of corporations operating under chapter one hundred and twenty-one A shall be taxed as provided therein and not otherwise.

Tangible personal property of a municipality or authority shall, if leased for any activity or transaction entered into by the lessee for financial profit or gain, whether or not to an industrial occupant, be subject to taxation under chapter fifty-nine and be taxed by the city or town in which such property may be situated to the lessee thereof in the same manner and to the same extent as such property would be taxed to such lessee if such lessee were the owner thereof.

If such lessee is subject to the excise levied under the provisions of sections thirty to fifty-one, inclusive of chapter sixty-three, such tangible personal property shall be treated as though it were owned by such lessee for the purpose of such excise, and it shall be valued at eight times its annual rental rate, unless and to the extent that such property is treated by the lessee as owned by it for federal income tax purposes, in

which case its value shall be its adjusted basis, as defined in the applicable provisions of the federal Internal Revenue Code, as amended and in effect for such year. All tangible property, real or personal, so leased shall be considered tangible property owned or rented and used in the Commonwealth by such lessee for the purposes of section thirty-eight of chapter sixty-three.

Section 2. Chapter 23A of the General Laws is hereby amended by adding after Section 10 under the caption STATE INDUSTRIAL FINANCE BOARD, the following three sections: —

Section 11. There shall be in the department the state industrial finance board, in this section and section twelve referred to as the finance board, consisting of the commissioner of commerce and development or his designee and eight persons, who shall be residents of the Commonwealth, to be appointed by the governor, one of whom shall be a representative of the Associated Industries of Massachusetts, one a representative of the State Labor Council AFL-CIO, one a representative of the business of finance, one a representative of the real estate profession, one who is a certified public accountant, one who is a professional engineer, one who is qualified by training and experience in industrial development, and one who is qualified by training and experience in the administration of municipal affairs. Upon the expiration of the term of any appointed member his successor shall be appointed for a term of four years. Any vacancy on said board shall be filled for the remainder of the unexpired term.

The commissioner or his designee shall be the chairman. The finance board shall annually elect a member as vice-chairman and shall also elect a secretary who need not be a member of the board. The secretary shall keep a record of the proceedings of the finance board and shall be the custodian of all books, documents and papers filed with the finance board and of the minute book or journal of the finance board and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the finance board and to give certificates under the official seal of the finance board to the effect that such copies are true copies.

Five members of the finance board shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the finance board. An appointed member of the finance board may be removed by the governor for misfeasance, malfeasance or willful neglect of duty, but only after reasonable notice and a public hearing unless such notice and hearing are in writing expressly waived.

The members of the finance board shall serve without compensation, but each member shall be reimbursed for all necessary travel and other expenses incurred by him in the discharge of his official duties.

Section 12. The finance board shall, on request of any city or town desiring to establish an industrial development financing authority, analyze the program presented and suggest proper procedures for such city or town to follow before it establishes such authority. The finance board shall review each application made under section twelve of chapter forty D for a certificate of convenience and necessity, and shall submit its findings with respect thereto to the department. No member of the finance board shall participate in the review of any application by a city or town of which he is a resident or of any application involving a project to be financed under said chapter forty D in which he, or any member of his immediate family, has a financial interest, or is an officer, director, partner, employee or creditor of any firm, corporation or business engaged in such project.

The finance board may adopt such rules and regulations as it deems necessary in transacting its business, and in carrying out its duties.

Section 13. The department may employ such personnel as may be necessary to carry out its duties under the provisions of section eleven and under the provisions of chapter forty D.

All departments, divisions, boards, bureaus, commissions or other agencies of the state government shall provide such assistance and information as the department may request in order to carry out said duties.

SECTION 3. In making his initial appointments to the state industrial finance board established under section eleven of chapter twenty-three A of the General Laws, as inserted by section two of this act,

the governor shall, in the manner provided by said section eleven, appoint two members for terms expiring on June thirtieth, nineteen hundred and sixty-eight, two members for terms expiring on June thirtieth, nineteen hundred and sixty-nine, two members for terms expiring on June thirtieth, nineteen hundred and seventy-one, as he may designate. Any vacancy in the term of an initial appointee shall be filled for the remainder of the unexpired term. Upon the completion of the term of any initial appointee, his successor shall be appointed in the manner and for the term set forth in aid section eleven of said chapter twenty-three A.

SECTION 4. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

	House of Representatives,	December 4, 1967.
Passed to be enacted,	Robert H. Quinn,	Acting Speaker.
	In Senate,	December 5, 1967.
Passed to be enacted,	John Joseph Moakley,	Acting President.

December 6, 1967.  
Approved,

John Volpe  
Governor.

**CHAPTER 40D HAS BEEN AMENDED AS FOLLOWS**

SECTION 1. Paragraph (k) of Section 1 of Chapter 40D is hereby amended by striking out paragraph (k) of Section 1 and inserting in place thereof the following section: —

(k) “Industrial enterprise”, an enterprise engaged in applying skill and labor to the giving of new shapes, new qualities or new combinations to matter as material products or to the preservation, storage, handling or transportation of manufactured or natural products.

SECTION 2. Paragraph (1) of Section 1 of Chapter 40D is hereby amended by striking out paragraph (1) of Section 1 of Chapter 40D and inserting in place thereof the following section: —

(1) “Industrial development facilities” or “facilities”, used in connection with any industrial manufacturing, or research and development enterprise, or any part thereof, located within or partially within the municipality creating an authority, and acquired or constructed by municipalities acting by and through said authority or an industrial occupant pursuant to the terms of this chapter, including all or all buildings, docks, wharves, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, riparian rights, water rights, franchises, machinery, equipment, furnishings, landscaping, utilities, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, such as, but not limited to, office warehouse, terminal, transportation and back-up power generating facilities (which facilities need not merely be in connection with or incidental to other facilities if the operation of such facilities themselves is an industrial enterprise).

**SAMPLE OF MUNICIPAL ORDINANCE ESTABLISHING AN  
INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY**

At a duly called (special, regular, annual) meeting of the governing body (town meeting for town – city council for cities) of the City/Town of \_\_\_\_\_ held on \_\_\_\_\_ for the purpose of voting on the establishment of the Industrial Development Financing Authority of the City/Town of \_\_\_\_\_ it was duly voted as follows:

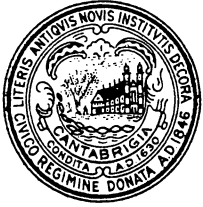
The governing body declares that an Industrial Development Financing Authority is needed in the City/Town of \_\_\_\_\_ and that (1) unemployment or the threat thereof exists in the City/Town of \_\_\_\_\_, or (2) security against future unemployment and lack of business opportunity is required in the city, and that unemployment or the threat thereof can be alleviated or the security against future unemployment and lack of business opportunity can be provided, by attracting new industry to the city or substantially expanding industry existing in the city through an industrial development project or projects financed under Chapter 772 of the Acts of 1967. The council/town meeting determines that there is need for such an authority and in making this determination, the council/town meeting has taken into consideration the city's/town's ability to adjust to any expected increase in the demand for municipal facilities and services as a result of the expected increase in employment and business activity from such industrial development.

The clerk is hereby directed to file a certified copy of the within ordinance together with the names of the duly appointed and qualified original directors with the State Industrial Finance Board, the Department of Commerce and Development, and the Secretary of State of the Commonwealth of Massachusetts.

The City/Town of \_\_\_\_\_ respectfully requests a certificate of organization which certificate shall be conclusive evidence of the lawful establishment of the Industrial Development Financing Authority of the City/Town of \_\_\_\_\_ and the Directors thereof.

A TRUE COPY ATTEST:

\_\_\_\_\_  
City/Town Clerk



# CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139  
Tel. 876-6800

EXECUTIVE DEPARTMENT  
JAMES L. SULLIVAN  
City Manager

September 16, 1974

To the Honorable, the City Council:

I strongly recommend favorable consideration by your Honorable Body of the enclosed Resolution approving the establishment of a Board to be known as the "Industrial Development Financing Authority", and the acceptance of Chapter 772 of the Acts of 1967, an Act providing for further industrial development of cities and towns.

Very truly yours,

James L. Sullivan  
City Manager

JLS/b

Acceptance of Chapter 7722 of the Acts of 1967

In City Council,  
Sept. 16, 1974

9/16/74

Order Adopted

Need order to re-  
enter in Treasury  
and  
copy sent to  
Dept. of Commerce  
State Insurance Finance  
Board  
Secretary of State