

Utah State Finance Review Commission

Marlo M. Oaks, Utah State Treasurer, Chair

John Dougall, Utah State Auditor

Sophia DiCaro, Executive Director, Governor's Office of Planning and Budget

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Blake Wade

Cleon Butterfield

Perri Babalis

Via email

September 4, 2024

Dear Treasurer Oaks, and members of the State Finance Review Commission:

We are writing to ask that the Utah State Finance Review Commission request a moratorium on all tax-exempt financings by Utah Inland Port Authority (UIPA) projects until a formal financial management process can be put in place to analyze the profusion of UIPA-driven tax-exempt offerings.

Given the large number of recently established inland port locations across the state, an avalanche of UIPA sponsored tax-exempt offerings will soon be issued using projected port tax differentials. The Port Authority's "first come, first served" mentality is not the key to a successful long-term financing plan for billions of dollars of UIPA projects.

Utah's Finance Review Commission was set up in 2022 out of concern about the initial UIPA Salt Lake City inland port project with the responsibility to "approve, review, make recommendations, and monitor borrowing and lending practices and activities for public infrastructure districts." The USFRC is mandated to "provide training and other information on debt management, lending and borrowing best practices."

In order to carry out these legislative instructions, the USFRC should recommend that the State of Utah develop a formal financial management process for UIPA-related tax-exempt financing that would ensure transparency, accountability and fair distribution of tax-payer exempt financing benefits to the most deserving projects.

The Utah Office of the Treasurer is highly regarded nationally because of its financial integrity and tight financial management controls that are demonstrated by our long standing AAA credit rating. The State's specialized expertise in managing private activity financing is demonstrated by the highly successful operations of the Utah Private Activity Bond Program (PAB). The expertise of the Utah Inland Port Authority has yet to be demonstrated.

The PAB manages hundreds of millions of dollars of tax-exempt bond authorizations each year through a transparent, rigorous and professionally managed program. The Board members of the PAB Program are an impressive cross-section of seasoned Utah financial experts and the PAB financial review process is fully documented with on-line user guidelines, manuals and project scorecards. As a result, many critical single family and multi-family housing projects are completed each year, student loans are funded, important exempt public facilities are built, and selected private manufacturing projects that provide demonstrated public benefits are resourced with full transparency and accountability.

We believe that an important next step for the USFRC is to use the authority granted by the Legislature to recommend a moratorium on UIPA-related tax-exempt financing until a review process similar to the PAB program can be established for Public Infrastructure District (PID) tax-exempt financings which benefit private entities. We further recommend a "Volume Cap" be determined on the amount of PID tax-exempt finance offerings available each year so as not to swamp the municipal market for traditional Utah State and local municipal bond offerings. Without such a cap, borrowing costs for all Utahns might increase.

The new process should take less than six months to implement because the model already exists. Now is the perfect time to pause and establish the right process for the future before expensive, long-term financial mistakes are made.

Expert economists predict that the Federal Reserve will likely cut interest rates up to three times in the next six months--potentially more in 2025--as inflationary pressures continue to decline and as the risk of a recession increases (as predicted by Piper Sandler economists). Therefore, Utah tax-exempt borrowings should be cheaper in the future thus saving millions of dollars for the issuing Utah entities and hence Utah taxpayers.

We recommend that the USFRC take advantage of this unique window of opportunity to establish a rigorous and transparent process for authorizing PID tax-exempt financing offerings thus building on the success of the PAB program by providing consistent long term financial guidance (per your charter) to Utah public entities and creating long term financial value for all Utahns.

We have appended some observations of how a best practices PAB-based financial management process might improve current UIPA sponsored tax-exempt projects using the example of the current Tooele Valley PID program and we would appreciate the opportunity to discuss this proposal with you in more detail.

Sincerely,

Craig Wallentine

Patty Becnel

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Chris Eddington

Naomi Silverstone

Joan Gregory

Deeda Seed

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Heather Dove

Monica Hilding

Ann Floor

Drew Potter

Helene Cuomo

Casey Eddy

Jim King

Cc: Utah Inland Port Authority Board

Governor Cox

Senate President Adams

House Speaker Mike Schultz

Tooele County Council

Background:

The Tooele Valley PID project serves Zenith Bolinder LLC , a company owned by the father and uncle of Utah State Representative Bridger Bolinder and Charles “Chuck” Akerlow of Zenith Development. Akerlow spent a year in prison after pleading guilty to six misdemeanor counts of failure to pay \$620,000 in federal excise tax on diesel fuel - money that was unrecoverable because the corporation was defunct. The developers also appear on a Tooele County delinquent tax notice for 2023, and were unable to get a traditional bank loan for the project.

This industrial development (which apparently does not qualify for PAB funding) is less than a mile from Great Salt Lake and in an area with serious air pollution, water quality and quantity issues, and 12,000 acres of high functioning Great Salt Lake wetlands.

The TV PID has not made its preliminary limited offering memorandum (PLOM) available to the public but is projecting a pricing date by the beginning of October, thus effectively preventing any community input on their “public” project.

The TV PID is authorizing two tranches with a total of \$100MM tax-exempt bonds with authorized borrowing rates up to 12-13%. If the interest rate on this publicly subsidized borrowing is 12-13%, then the total cost of borrowing \$100 MM over 30 years would generate a total cost of borrowing in the hundreds of millions of dollars. The TV PID is also authorizing property tax authority for 40 years claiming that it may need the extra ten years of taxing authority to pay off its 30 year bonds.

A PAB -based financial review would require documentation of public benefits claimed by UIPA projects:

Bonds/Job Ratio - amount of bonds per new permanent job created; likely highly unfavorable for TV PID project

Creation of New Jobs

Above Average Wages

Retention of Jobs

Training and Education of Employees

Documented Need based on multi-year project cash flow projections

Additional fiduciary questions that should be resolved in the PID financing project scoring process:

What will this bond offering do to the significant tax revenue shortfalls Tooele County already faces? What is the impact on education, health and public services?

Who is going to personally benefit and by how much?

Who in the community will be negatively impacted and by how much?

What are the unintended consequences of the Tooele Valley PID financing? (Not just a list of risk factors for the investors, but what are the risk factors for the community?)

How will this impact Tooele's already precious water resources?

What impact will the TV PID have on the State of Utah's commitments to the Great Salt Lake and its wetlands?

What impact will the TV PID have on the State of Utah's commitments for improved air quality on the Wasatch Front?