

# Marysville-Union County Port Authority Financing Tools



Because of their various governmental powers and sales tax-exempt status, port authorities have the advantage of passing savings on to economic development projects, thus making projects possible that might not otherwise happen. The Marysville-Union County Port Authority can facilitate economic development projects in the following ways:

- Loaning monies at competitive rates and terms, either as a direct loan or a “pass-through” bond based on the credit of the entity for which the bonds are being issued
- Constructing, owning and/or operating public infrastructure facilities (such as parking structures) as a component of a public-private project
- Acquiring and selling property for economic development projects
- Providing an exemption of Ohio sales tax on construction materials for projects using the Port for conduit financing

## **Option 1: Bond Financing**

The Marysville-Union County Port Authority may issue Economic Development Special Obligation Bonds, the proceeds of which can be used for:

- Land acquisition
- Site preparation
- Extension or upgrading of private and public infrastructure such as roadways, bridges, parking facilities, water/sewer lines, stormwater facilities, electric, gas and telecommunication infrastructure
- Funding a reserve amount and paying for the cost of issuance

Depending upon the credit backing the bonds, the financing may be sold as private placement or as fully registered taxable bonds, in denominations of \$100,000 or integral multiples of \$5,000. Taxable tranches of bonds with a credit rating of “A” could be sold with maturity dates ranging from 1 year (at current market rates) to 20 years. A Bond Pricing Summary with detailed payment schedule could be provided after determination of credit backing/enhancement.

Any public infrastructure components of the project, such as public road/water/sewer/stormwater improvements, could be issued as tax-exempt municipal bonds. The tranches and maturity dates would be similar to the taxable bonds, with rates usually lower for Aa rated financing.

The project also benefits by not paying Ohio sales taxes on construction materials purchased in Ohio (see graphic on page 3 for detailed example).

## **Option 2: Conduit Financing - Private Placement**

The Marysville-Union County Port Authority would act as a conduit for a privately placed transaction with a financing source selected by the developer. The proceeds of the financing transaction would be made available to the developer on whatever terms are agreed to by the developer and the financing source, and the financing source would essentially “purchase” the transaction from the Port Authority operating as a conduit for the transaction. The funds could be used for any purpose allowable by the funding source, but the developer could not begin purchasing construction materials until the Port Authority agreements are in place.

Structurally, most often the Port Authority would take a ground lease interest in the project for a nominal amount, and the developer would lease the project back from the Port Authority. Often the lease payments and the payments made to the developer's funding source would be calculated in such a manner so that the lease payments through the port functionally service the debt to the funding source. In exchange for the Port Authority's assistance, the developer would agree to complete the project through a construction-manager-at-risk agreement. At the conclusion of the lease periods, the developer would repurchase the improvements from the Port Authority for a nominal payment.

The advantage of financing the project through this method would be to save significant costs associated with a traditional bond issuance, such as bond counsel, underwriter's counsel and rating agency fees. These fees are typically paid out of the bond proceeds and often do not impact the amount of proceeds available for the project, but obviously the fees increase the total cost of capital for the project. The project benefits by not paying Ohio sales taxes on construction materials purchased in Ohio.

### **Option 3: Conduit Financing - Structured Lease**

The Marysville-Union County Port Authority would act as a conduit for a self-financed transaction with a financing source selected by the developer. The Port Authority, as owner of the structure for a recommended minimum period of five years, provides the benefit to the end user of the Port's tax-exempt status. At the conclusion of the lease periods, the developer would repurchase the improvements from the Port Authority for a nominal payment. The project benefits by not paying Ohio sales taxes on construction materials purchased in Ohio (see graphic on page 3 for detailed example).

The general steps and schedule for this process are as follows:

- **Term Sheet:** a term sheet is developed between the Port Authority and client, and outlines the terms and structure of the project and various agreements (ground lease, project lease, project fee, etc.). Once the term sheet is accepted by both parties, a deposit is typically made by the client to cover Port Authority legal costs for development of project agreements. Typical time frame is 2 weeks.
- **Project Agreements:** the following documents are typical components of a Structured Lease project, but may vary depending upon specific project requirements and financing structure arranged by the client. The documents are developed concurrently and are typically completed within 3-6 weeks, depending in part upon the complexity of the project.
  - *Ground Lease: Port Authority leases land from the client. This provides site control to the client and keeps the Port Authority out of the chain of title.*
  - *Project Lease: Port Authority leases structure being constructed or improved to client, which provides the benefit of tax exempt status on Ohio sales taxes for construction materials.*
  - *Bill of Sale: This document recognizes the transfer of assets (the structure being constructed or improved) to the Port Authority.*
  - *SDNA: The "Assent, Subordination, Non-Disturbance and Attornment" agreement, if needed, allows the Port Authority to subordinate its interest in the property to a Mortgagee, and guarantees the Port Authority will not assign, transfer or otherwise encumber its interest in the property.*
  - *Tax Exemption Certificate: This document is presented to the client upon execution of all other project documents, and is used by the project construction manager and any sub-contractors purchasing construction materials in Ohio. The certificate should be provided to any vendor from which materials are being purchased so that Ohio sales taxes are not charged on the purchase.*

The following example illustrates how the Port can facilitate economic development projects to provide up front savings of Ohio sales taxes on construction materials.

### Sales Tax Exemption on Construction Materials

- Project:** A company is constructing a new building with a budget of \$42 M for real property improvements (roofing, concrete, steel, framing, HVAC, etc.).
- Structure:** The Port Authority owns the building and leases it to the company. The Company owns the land and leases it to the Port Authority
- Term:** The Port Authority will entertain options for early termination on a case-by-case basis, but typically a minimum of five years after completion of the project.
- Benefit:** Because the real property improvements are owned by the Port Authority, the construction materials are exempt from Ohio sales taxes. For a \$252 M project with a materials cost of \$126 M, the average savings would be \$8.8 M, based on the Union County sales tax rate of 7%

### Fee Schedule - Effective 2021

The Marysville-Union County Port Authority has established the following fee schedule to support development finance transactions

#### Capital Lease Financing

Application Fee	\$2,500
Term Sheet Deposit	\$12,500
Legal Fee	Varies
Closing Fee*	20% commercial, 35% residential
Annual Lease Fee	\$2,000

\*This fee is capped at \$400,000

#### Bond Issuance, TIF Financing, Special Assessment Financing

Application Fee	\$2,500
Term Sheet Deposit	\$12,500
Legal Fee	Varies
Closing Fee	0.50%
Annual Administrative Fee	0.10%

#### Property Assessed Clean Energy (PACE) Program

Application Fee	\$2,500
Term Sheet Deposit	\$12,500
Legal Fee	Varies
Closing Fee	Determined by Board
Annual Administrative Fee	Determined by Board

Fees for other financing programs are determined by the Port Authority on a case-by-case basis.

#### Definitions

- **Application Fee:** payable upon submission of project application to Port Authority or, if application is waived, after initial discussion with Port Authority and prior to development of Term Sheet. This fee is non-refundable and is applied as a credit towards total fees due at closing if project proceeds.
- **Term Sheet Deposit:** payable at the time of execution of Term Sheet. This fee is non-refundable and is applied as a credit towards total fees due at closing if project proceeds.

- **Closing Fee (Capital Lease Only):** a percentage of savings to project through exemption of Ohio sales taxes on construction materials. General assumption is that 50% of total project cost is materials, and that most construction materials are purchased outside of Union County. The sales tax rate to be used for estimated savings will be determined separately for each project. This item may be negotiable depending on type of project, documentation provided of total project costs, and other factors determined to be relevant by the Port Authority.
- **Closing Fee (Bond Issuance):** a percentage of principal amount of bonds issued, paid out of bond sale proceeds
- **Annual Administrative Fee:** percentage of outstanding principal amount at beginning of each year, or every 12 months from bond issuance date to be paid up front at the time of closing.
- **Annual Lease Fee:** amount payable every year while project lease is in effect to be paid up front at the time of closing.