

April 30, 2021

The Honorable Beth A. Wood, CPA  
North Carolina State Auditor  
20601 Mail Service Center  
Raleigh, NC 27669-0600

Dear Auditor Wood:

I am the chair of the Bald Head Island Transportation Authority (the “Authority”) and am writing in response to a letter that was sent to you on April 26, 2021 (the “Letter”) by Robert Blau and Paul Carey. It is important that you have full and accurate information regarding the matters discussed in the Letter.

Mr. Carey and Mr. Blau are individuals who own property on Bald Head Island (the “Island”). We are not aware of any evidence that they represent any particular group of property owners as they state in the Letter.

The Letter reiterates concerns about the purchase price for the System that have been raised by the Village Council, and to which the Authority has responded in depth. There is no evidence that the ownership and operation of the System by the Authority, including the proposed rate increases will cause any harm to the economy of the Island or to the users of the System, most of whom are not residents of the Village. The Letter also notes that the Village has indicated its interest in purchasing the System itself (presumably at the same price that the Authority proposes to purchase it). The LGC Staff has requested the Village to provide information regarding its legal authority to purchase and operate the System; as far as we are aware, that information has not been provided. Furthermore, the Village has not made an offer to the Seller, arranged financing, or applied to the LGC for approval of a transaction.

In the Letter, Mr. Carey and Mr. Blau also state that if the LGC approves the proposed issuance of revenue bonds that is on its agenda for May 4, 2021, they “intend to urge the Village to ask an appropriate state court to stop the Authority from proceeding with its revenue bond issue until the entire matter has been adjudicated.” There is no evidence that there are any grounds on which a court might have jurisdiction over a question about the determination of the purchase price of assets purchased by a public body from a private entity. Nor is it clear that the Village Council would be willing or interested in bringing such a lawsuit, or whether it would have standing to do so.

Consultants. With respect to the assertions in the Letter regarding third party consultants, the Authority did not rely on the sellers (Bald Head Island Limited, or “Limited” as the owner of the parking and barge operations, and Bald Head Island Transportation, Inc., or “Transportation” as the owner of the regulated ferry and tram) in its selection of the consultants to assist in in the transaction. The Financial Advisor and Underwriter were selected in an RFP process; the real estate appraisers and other experts were selected based on their reputations in their respective fields and the experience of others in working with them.

Worsley Real Estate Company (“Worsley”), a well-known commercial appraiser in southeastern North Carolina, was engaged to provide an appraised value for the real estate portion of the System. Worsley was expressly directed not to use the income approach, as that value could not be determined separate from the operation of the ferry and barge operations. See [Worsley Report \(Deep Point\)](#): “in order to insure the opinion of value herein accounts only for the real property, the Sales Comparison and Income Approach were not utilized.”

Prior Financial Information. Contrary to the assertions in the Letter, the Authority and its consultants did rely on the prior performance of the System, as shown on the audited financial statements of Limited and Transportation, to assist it in assessing the enterprise value of the System and the feasibility of its operation going forward. In fact, Limited created new, separate audited financial statements for the

historical operation of the barge and the parking for the five year period 2014-2019, in order to separate those numbers out from the other activities of Limited. Additionally, consolidated unaudited financial statements were provided going back to 2009, along with operational data extending back several decades. The diligence of the prior financial data follows the municipal market standard for revenue bond financings in order to facilitate the independent evaluation of the assumptions supporting the financing by the LGC staff, S&P and potential investors, and allows the Authority and the working group to meet the fair dealing and disclosure requirements of the SEC and MSRB. The operational data and audited financial statements, along with the audited financial statements for Transportation, formed the historical basis for the Feasibility Study and the pro forma financials, as is clearly shown in those reports.

Mr. Blau and Mr. Carey insist that the prior years' financial information is not available to the public, was not taken into account in negotiating the purchase price, and was not included in the Feasibility Study. In fact, as stated, that information is set forth in detail in the Mercator Feasibility Study and the Cash Flow models, all of which are on the Village web page and the Bald Head Association (the Island's homeowners' association) webpage. The audited financial statements have been available to the Trustees since 2018; updated audits were delivered as they became available. Historical financial information was also presented to the Village Council in 2017 in connection with the Village's approval of the creation of the Authority. Three years' audited financial statements on the historical operation of the System in the hands of the Seller will also be part of the Official Statement used to market the Bonds, and are essential in meeting the material disclosure and antifraud standards of any public municipal bond sale.

Village Representation on the Authority. The authorizing statute requires that three of the eleven Authority Trustees be from the Village, and the fourth be a resident of the System service area (which includes Southport and the Village); to date, that fourth member has been a resident of the Village. In addition, the statute requires two more Trustees to be residents of Southport and Brunswick County, respectively. Thus, by statute, a majority of the Trustees are people who live in the service area of the System, and are most directly impacted by its operation. In negotiating the purchase price for the System, the Authority designated four of its Trustees to lead the process. Those four were Brad Smith, a resident of the Village, myself, as chair and a property owner on the Island, David Jessen, who was a resident property owner at the time he joined the Authority, and Robert Howard, a resident of Southport. Thus the interests of the residents and property owners of the Island and the service area were well represented on the negotiating team.

The negotiations of the purchase price for the System were described in detail in closed sessions of the Authority pursuant to NCGS § 142-218.11(5). All members of the Authority were present (or permitted to be present) in those sessions. The purchase price for the System was conducted at arms' length, and resulted in a purchase price \$8.250 million less than the Seller's original asking price, based on its own enterprise valuation. The valuation process used has been explained in great detail, both at the public information session (which is recorded and available on the Village web page) and in writing. In arriving at a purchase price for the System, the Authority followed its statute, obtained third party appraisals, and then used its best efforts to negotiate the lowest possible purchase price, a price that is below the appraised value of the assets making up the System.

NCUC Oversight. The Authority, as a public body, will not be regulated by the North Carolina Utilities Commission (NCUC) pursuant to Chapter 62 of the North Carolina General Statutes. In general, the NCUC does not have jurisdiction over utilities owned and operated by public bodies. NCGS § 62-2(23). That will also mean that the ferry and tram portions of the System will no longer be operated in a way to provide the owner with a guaranteed rate of return, as required under Chapter 62 for privately owned regulated utilities. See NCGS § 62-133(b)(4), which requires that in fixing the rates for any public utility subject to the provisions of this Chapter, the Commission shall "fix such rate of return on the cost of the

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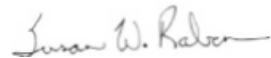
Page 3

property ascertained pursuant to subdivision (1) of this subsection as will enable the public utility by sound management to produce a fair return for its shareholders.” With a public body owning the assets, there is no incentive for profit or rate of return. We also note that the non-regulated portion of the System (barge and parking) currently provides approximately 40% of the revenue for the System; those rates and charges are already unregulated.

Investment Grade Rating. Contrary to the claims made by Mr. Blau and Mr. Carey, a BBB- investment grade rating for a stand-alone transportation asset is a positive result, and meets the requirements of the LGC for approval. It is not appropriate to compare a non-recourse revenue based financing, designed to be supported by its users, to a general obligation bond that is supported by the general taxing power of a governmental unit. In fact, it seems clear that the General Assembly intended not to have any taxpayer money involved in the acquisition or operation of the System, but rather to keep it supported by the users.

As always, the Authority stands ready to answer any questions you and other members of the LGC may have about the transaction and the financing.

Very truly yours,



Susan Rabon

Chair

Bald Head Island Transportation Authority

cc: Honorable Dale R. Folwell, CPA, NC State Treasurer and Chair, Local Government Commission  
Members of the Local Government Commission  
Sharon Edmundson, Deputy Director, NC Department of State Treasurer  
Timothy Romocki, Director, Debt Management, NC Department of State Treasurer  
Mr. Paul Carey  
Mr. Robert Blau  
J. Andrew Sayre, Mayor, Village of Bald Head Island