



December 15, 2017

Memorandum

To: William Spivey, Executive Director
Florida Development Finance Corp ("FDFC")

From: Jeff Larson, President, Larson Consulting Services, Orlando
Financial Advisor to FDFC

Re: FDFC Bond Resolution No. 17- 12; Brightline North Segment Borrower LLC ("the Company"); Up \$1,150,000,000 Florida Development Finance Corporation Surface Transportation Facility Revenue Bonds (Brightline Passenger Rail Project- North Segment), Series 2017("the North Segment Bonds")

Following the presentations to the FDFC Board by the Company and its Financing Team in 2015, and the FDFC Board's approval of Resolution No.15-04 on August 5, 2015 for up to \$1.75 Billion in Surface Transportation Revenue Bonds, as supplemented by the FDFC Resolution No. 17-09 for the \$600,000,000 South Segment Bonds, Series 2017("South Segment Bonds"), the Company has approached FDFC for consideration of Resolution No. 17-12 for the North Segment Project. The North Segment Project will cover the Passenger Rail Project Phase from West Palm Beach to Brevard County and then west to the Orlando Station at the Orlando International Airport. The Brightline Financing Team was able to successfully price the South Segment \$600Million bond issue on November 30th. This was oversubscribed by 3.77X via \$2.263Billion in bond orders from 61 QIBs, allowing the interest rate to be lowered from 5.875% to 5.625%. FDFC and its professionals have been actively involved in this process, with the South Segment Bonds set to close on December 19th.

The Company has requested a meeting to update the FDFC Board and provided revised and amended documents from the 2015 Bond Resolution regarding the bond financing for the proposed North Segment Bonds for up to \$1.15Billion, or the remainder of their unused total \$1.75Billion USDOT PAB's approval and allocation. FDFC received TEFRA approval for the entire \$1.75Billion initially on August 5, 2015, and an updated TEFRA approval on August 1, 2017.

The timing of this request is due, in large part, to the potential of federal tax legislation in Congress that may restrict or eliminate the ability after December 31, 2017 to issue tax-exempt Private Activity Bonds ("PABs"). Therefore, FDFC Staff, FDFC Issuer's Counsel and Financial Advisor have been reviewing the proposed FDFC Resolution and attachments for Board consideration at its meeting on December 18th. Please allow this memo to serve as a summary of the proposed 2017 North Segment Bonds, and adherence/application of FDFC's Conduit Issuance Policy. We are serving as the Financial Advisor to FDFC, and not as the Financial Advisor to the Company.

North Segment Bond Structure

Under its own Indenture, the proposed North Segment Financing Plan includes the North Segment Series 2017 Bonds being issued by December 31, 2017 at an initial tax-exempt PAB's fixed interest rate, following FDFC Board approval, to fund an Escrow with the Trustee with the \$1.15Billion in proceeds, together with any other Company or Underwriter cash contribution at closing. **This Escrow Portfolio of securities, consisting of only U.S. Government Securities and Agencies, and related cash flow from Escrow Securities, would be the sole source of payment to the North Segment bondholders.** A review by FDFC, Issuer's Counsel, and Financial Advisor of the Escrow Securities Portfolio, and Escrow Sufficiency, would be a condition of closing, supported by a "Verification Report" from a nationally recognized certified public accounting firm approved FDFC, as well as by Bond Counsel for legal federal tax laws and regulations regarding escrows. Pricing and closing would also require the Company's receipt of the USDOT approval and PAB's allocation letter, and we understand that is expected shortly. During the Escrow Period, no escrow funds will be allowed to be released to cover any project costs, costs of issuance, or North Segment related fees or expenses other than debt service obligations to the North Segment bondholders.

From a bondholder's credit perspective as clearly laid out in the PLOM, there would be no tie to the South Segment Bonds, and no reliance on any feasibility of the North Segment Project during this Escrow Period. A new and separate Brightline North Segment Borrower LLC is being established that is structured to be bankruptcy-remote from other Brightline or FECI entities. Brightline/AAF would be responsible to pay for all of the cost of issuance for FDFC, Issuer's Counsel, and Financial Advisor and the Brightline Financing/Legal Team, including the Underwriter, from its own source of funds and not from North Segment bond proceeds. The fees and expenses from the professionals noted below are expected to be either invoiced on an hourly basis by the legal team or be a percentage of the total fees and expenses for FDFC, Larson Consulting, etc. on any remarketed North Segment Bonds, but paid by December 31, 2017.

The Indenture provides that the Escrow can be established for a definitive initial, short term period (estimated to be six months at a Flexible Mode Rate). The Escrow will be initially structured to correspond to the initial Escrow Period, with the ability, subject to Bond Counsel, Underwriter, and FDFC review and approval, to be extended for an additional period of time. An extension of the Escrow does not require FDFC Board approval, but we would recommend that you update the Board at that time following a review of new set of Escrow Securities and Escrow Verification Report by FDFC Staff, Broad and Cassel and Larson Consulting Services. Any shortfall in the Escrow Sufficiency has to be covered by the Company.

The North Segment bonds will have a mandatory Put feature related to the end of the Escrow Period, whereby at some future date (TBD), the Escrow funds would be released to either:

- a) Fully retire the Series 2017 North Segment Bonds from Escrow proceeds, (in the event that the North Segment Project does not go forward), or,

- b) Assist with the remarketing of the Series 2017 North Segment bonds via a Mode Conversion and Rate reset under the North Segment Indenture via a Supplemental Indenture and a reoffering memorandum (not a reissuance per Bond Counsel), or other form of Company debt or equity. (Given the structure of the South Segment Bonds Indenture, and limitation on additional parity debt, the potential remarketing of the FDFC bonds in this case could be sized to cover both a refunding of the South Segment Bonds and North Segment Bonds, all subject to FDFC, Company, Underwriter and Bond Counsel approval).

FDFC Staff, FDFC's Issuer Counsel and Financial Advisor, would be involved in the case of a recasting of the Escrow in the event that it is extended under the Indenture to insure that the bondholder's risk is still related solely to the Escrow of U.S. Government Securities.

In the event of either (a) or (b) above for the "Escrow Release Event", we understand that the typical fees and expenses to the FDFC as Issuer and its professionals would be paid by the Company whether the new source of funding is a future FDFC Bond issue, or another form of equity or debt financing. **Any remarketing of the North Segment Series 2017 FDFC bonds via a Mode Conversion and Rate Reset at that time would require FDFC Board approval, a new reoffering memorandum, Supplemental Indenture, all required permitting, security, and entitlement issues finalized, a Ridership/Feasibility Study outlining the new bonds and structure, and related security documents.** We understand from the Company, Underwriter and Financing Team, that the remarketed bonds could be issued on a tax-exempt basis, subject to Bond Counsel opinion, via a Supplemental Indenture. Subject to the Escrow Release event, any Project Funds from the North Segment Bonds would only be spent in Orange and Brevard counties. Any other rail or transit costs related to improvements in Indian River, St. Lucie, or Martin counties would be paid out of Company or AAF affiliated company funds.

A. BACKGROUND AND UPDATE FROM PRIOR FDFC APPROVAL

Key members of the Financing Team for the Company's 2017 North Segment Bonds, in addition to FDFC Issuer's Counsel, are listed below:

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| Borrower: | Brightline North Segment Borrower LLC |
| Borrower's Financial Advisor: | NA |
| Affiliated Company: | All Aboard Florida Operations, LLC, an affiliated company to the Borrower (Borrower for the South Segment Bonds) |
| Parent Company: | Florida East Coast Industries, LLC ("FECI"), is a diversified transportation, infrastructure and commercial real estate company and one of Florida's oldest and largest businesses. FECI, headquartered in Coral Gables, FL, is a private company currently owned by certain private equity funds managed by affiliates of |

Fortress Investment Group LLC (“Fortress”), which acquired FECI in May 2007, and had over \$36.1 billion in assets under management as of September 30, 2017. In February 2017, Fortress and Softbank announced a definitive merger agreement under which Softbank intends to acquire Fortress for \$3.3 Billion. Fortress’s shareholders approved the sale on July 12, 2017. Softbank is a large Japanese multinational conglomerate that was established in 1981, and is expected to have Fortress operate as an independent business under Softbank. This acquisition is expected to close by the end of 2017.

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| Rail Service Operator: | Florida East Coast Railway, LLC (“FECR”). FECR, headquartered in Jacksonville, Florida, was established in 1885, and had been owned by Fortress funds since 2007. FECR currently operates a freight railroad on the South Segment tracks, and also all the way north up to Jacksonville, Florida representing 351 miles of mainline track. The service agreement with All Aboard Florida/Brightline contains several terms regarding the joint use of the track for both freight and passenger service, including the joint operation of train dispatch, which is managed via a 50-50 joint venture between the two companies that provides for priority scheduling of passenger trains. On June 30, 2017, FECR was sold to a subsidiary of Grupo Mexico, the largest owner and operator of freight railroads in Mexico, for \$2.1 billion, and AAF continues to maintain an operations service agreement with FECR. |
| Borrower’s Counsel: | Skadden, Arps, Slate, Meagher and Flom, New York, NY |
| Bond Counsel: | Greenberg Traurig, P.A., Miami, Florida |
| Underwriter: | Morgan Stanley |
| Underwriters’ Counsel: | Mayer Brown,LLP, Chicago, Illinois |
| Trustee, Escrow Agent: | Deutsche Bank, Jacksonville, Florida |
| Dissemination Agent: | Digital Assurance Corporation (“DAC”), Orlando, Florida |
| Verification Agent, Bidding Agent for Escrow: | Causey Demgen & Moore, P.C., Denver, Colorado |

Projected Sources and Uses Statement: (Estimates, Provided for Illustrative Purposes)

Source of Funds:

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|---------------------------|----------------------------------|
| Bond Par Amount: | \$1,150,000,000.00 |
| Company Cash Contribution | 1,300,000.00 |
| Total Source Of Funds: | <u>\$1,151,300,000.00</u> |

Use of Funds

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|------------------------|----------------------------------|
| Fund Escrow: | \$1,150,000,000.00 |
| Cost of Issuance(est): | 1,300,000.00(1) |
| Total Use of Funds: | <u>\$1,151,300,000.00</u> |

- (1) Estimate only, to be discussed with Company and Financing Team. Company Contribution to increase to cover FDFC Issuance Fee, Issuer's Counsel, Financial Advisor, Bond Counsel, Company Counsel, Underwriter's Counsel, Trustee Agent and Trustee Counsel, Dissemination Agent, Verification Agent, Rating Agency Fees, and other COI items necessary for the North Segment Bonds. These items are being developed, including Underwriter's Discount, and LCS to receive a COI Summary.

As FA to FDFC, LCS will be involved with the bond pricing via the Underwriter.

Security Structure: The documents have been amended from the FDFC approved documents in 2015 for the North Segment Bonds to fit with the initial Escrow Structure as described earlier.

Ratings Status: Per our discussions with the Underwriter and experience on prior Escrow related issues, the North Segment Bonds are expected to receive the highest short term ratings available, "A1P1+", due to the U.S. Government Securities in the Escrow, Verification Report, and the rating agencies prior review of other comparable escrow financings. Due to the timing and year end pressures, the Bonds may not close with this ratings, but we expect that they would be available in January 2018 and we would be kept up to date on this by the Underwriter.

Minimum Denominations: Given the underlying ratings, and high quality of the Escrow, \$5,000 and multiples thereof, as requested by the Underwriter. (U.S. Government currently has long term ratings of Aaa/AAA/AA+ from Moodys, Fitch and S&P Global Ratings, and the highest short term ratings from all three agencies).

Investors: We understand due to timing that the North Segment Bonds would be priced and underwritten by year end by Morgan Stanley (estimated week of December 25th) and sold to investors as schedules permit. LCS will be involved in the bond pricing on behalf of FDFC.

Financial Covenants: This would be addressed in any future Supplemental Indenture following a potential Escrow Release Event and brought back to the FDFC Board for review and consideration as mentioned above. Given the successful pricing of the South Segment Bonds, expected to include similar covenants.

Projected Cash Flow From Operations and Debt Service Coverage: Not relevant during the Escrow Structure, ability to service bonds' debt service requirements and redemption to be 100% covered by the Escrow.

B. REPORTING REQUIREMENTS- CONTINUING DISCLOSURE TO INVESTORS VIA THE DISSEMINATION AGENT

Dissemination Agent per SEC Rule 15 c2-12, Digital Assurance Corporation, will be engaged on the North Segment Bonds. Issuer's Counsel, FDFC Staff, and Financial Advisor will work with the Underwriter, Company, and Bond Counsel to develop the Continuing Disclosure Agreement related to the Escrow Structure and Material Event Notice requirements.

Economic Development/Employment Metrics for FDFC:

These would be developed for any future FDFC bond issue post the Escrow Release Date, and be brought back to the Board for review and approval. Expected to be similar to the South Segment Bonds.

C. FINANCIAL ADVISOR RECOMMENDATION

We have had a chance to review the North Segment Bonds' Indenture, initial round of amended bond documents, amended draft PLOM, and support material on this proposed bond financing over a compressed period of time. This review has also included discussions with Bond Counsel and the Underwriter regarding the proposed Escrow and Escrow structuring process.

We recommend this proposed Brightline \$1.15Billion North Segment bond issue to you, and to the Board, as part of their consideration of Resolution No. 17-12 on December 18thth, subject to:

- (1) The Escrow be structured as currently outlined and summarized above, and its sufficiency to 100% cover any debt service obligations under the proposed North Segment Bonds be supported by the Verification Report, Bond Counsel opinion, and reviewed by LCS and Broad and Cassel.
- (2) The Bonds are to be underwritten by Morgan Stanley, and may be sold in minimum denominations of \$5,000 for investment grade and higher rated bonds, with the ratings expected to be procured during the first calendar quarter 2018, if not sooner.

- (3) Continued receipt and review by LCS, Broad and Cassel, FDFC Staff, Trustee and Trustee's Counsel of the updated PLOM, Numbers, Bond Documents, and continuing disclosure agreements, as changes and inserts are made.
- (4) Close coordination with the Company, Underwriter, and Legal Team, on the proposed Financing Timetable, including, but not limited to, the proposed date of PLOM distribution, proposed pricing date, and closing date.
- (5) LCS' participation on behalf of FDFC in the Bond Pricing and Allocation of initial bonds. As requested by FDFC, LCS will also review that the pricing is done at current market coupons and yields for a comparable Tax Exempt AMT bond issue for the initial Escrow Period and Flex Rate.
- (6) FDFC Staff, FDFC Counsel, and Financial Advisor review and participation in any future Escrow Reset prior to the Escrow Release Date.
- (7) Any future Supplemental Indenture and reoffering memorandum and related security documents at the time of the Escrow Release Date to come back to the FDFC Board for review and consideration.
- (8) Receipt of appropriate Indemnification from the Company regarding this financing, to the satisfaction of FDFC Issuer's Counsel, FDFC Staff, and LCS.
- (9) Receipt of a Good Faith Check payable to FDFC from the Company in the amount of \$100,000, to be held in escrow and uncashed by Issuer's Counsel, received prior to the release of Resolution No. 17-12, if approved by the FDFC Board. Good Faith Check to be used, in the event of the Series 2017 North Segment bonds not closing, by FDFC to cover the reasonable fees and expenses of Issuer's Counsel, Issuer's Financial Advisor and FDFC. At closing, if not used, then returned uncashed following closing to the Company.

We appreciate the opportunity to support FDFC on this proposed Brightline North Segment Bond issue. It was exciting to see the tremendous progress being made on the South Segment Phase, and the successful pricing of those bonds. I would be happy to discuss this with any Board member prior to the 18th, and will be at the Board meeting to help address any questions.

Jeffrey T. Larson
President
Larson Consulting Services, Orlando
SEC and MSRB Licensed, Series 50, Municipal Advisor