

Governor Steve Sisolak  
*Chairman*



State of Nevada  
STATE BOARD OF FINANCE

*Members*  
Treasurer Zach Conine  
Controller Catherine Byrne  
Teresa J. Courier  
Brian A. Sagert

## PUBLIC NOTICE

### AGENDA

MEETING OF THE STATE BOARD OF FINANCE (Remote meeting)  
Friday, July 24, 2020  
10:00 A.M.

#### **Locations:**

Pursuant to the Governor's Emergency Directive 006, as extended, there will not be a physical location for this meeting. The public can participate by calling the conference line and entering the collaboration code when prompted. Persons on the call should avoid putting the call on hold and should mute their phone if possible when not talking.

Conference Line: **877.873.8017** Please call **775.684.5753** for collaboration code unless previously provided.

Board members, agency staff, and persons presenting or assisting presenters may be present via videoconference at the following locations and must wear facial coverings, may be subject to temperature screenings upon entering same, and should maintain social distancing while present:

Old Assembly Chambers  
Capitol Building, Second Floor  
101 N. Carson Street  
Carson City, NV 89701

Grant Sawyer State Office Building  
555 E. Washington Avenue, Suite 5100  
Las Vegas, NV 89101

These locations shall not be open to the public.

#### **Agenda Items:**

1. Roll Call
2. Public Comment  
Comments from the public are invited at this time. Pursuant to NRS 241.020(2)(d)(7), the Board intends to limit to 3 minutes the time for an individual to speak and may impose reasonable restrictions on place or manner for such comment. No restriction will be imposed based on viewpoint. Comment will only be received on matters relevant to the

101 N. Carson Street, Suite 4  
Carson City, Nevada 89701  
775-684-5600  
Website: [NevadaTreasurer.gov/BoF](http://NevadaTreasurer.gov/BoF)

Board's jurisdiction. The Board may discuss but is precluded from acting on items raised during Public Comment that are not on the agenda.

3. **For discussion and possible action:** on the Board of Finance minutes from the meeting held on June 9, 2020.

Presenter: Tara Hagan, Chief Deputy Treasurer

4. **For discussion and possible action:** on the request by the Director of the State of Nevada Department of Business and Industry to approve the Findings of Fact pertaining to the issuance of industrial development revenue bonds in one or more issues in an aggregate amount not to exceed \$950,000,000 (\$200,000,000 leveraged from State of Nevada volume cap allocation and the remaining from federal volume cap allocation) for the purpose of assisting in the financing or refinancing of a portion of the costs of the design, development, acquisition, construction, installation, equipping, ownership, operation, maintenance, renovation and administration of a high speed, intercity rail system, including, but not limited to, rolling stock, maintenance facilities, electrification infrastructure, parking facilities, a passenger station and rail lines, all running adjacent to the Interstate 15 corridor between the Nevada side of the California and Nevada border, near Primm, Nevada, and a passenger station to be located in Las Vegas, Nevada. The project will be owned and operated by DesertXpress Enterprises, LLC, dba XpressWest, or any related or successor entity or entities thereto. Approval of the Board of Finance is required pursuant to NRS 349.580(2).

Presenter: Terry J. Reynolds, Director, Department of Business and Industry

5. Public Comment.  
Comments from the public are invited at this time. Pursuant to NRS 241.020(2)(d)(7), the Board intends to limit to 3 minutes the time for an individual to speak and reserves the right to impose other reasonable restrictions on place or manner for such comment. No restriction will be imposed based on viewpoint. Comment will only be received on matters relevant to the Board's jurisdiction. The Board may discuss but is precluded from acting on items raised during Public Comment that are not on the agenda.

## **ADJOURNMENT**

### Notes:

Items may be taken out of order; items may be combined for consideration by the public body; and items may be pulled or removed from the agenda at any time.

Prior to the commencement and conclusion of a quasi judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126.

The State Board of Finance is pleased to make reasonable accommodations for persons with physical disabilities. Please call (775) 684-7109 if assistance is needed.

Tara Hagan, Secretary to the Board may be contacted at (775) 684-5600 to obtain copies of supporting materials, which are available to the public at 101 N. Carson St., Carson City, NV 89701.

**THIS AGENDA HAS BEEN POSTED IN THE FOLLOWING PUBLIC LOCATIONS:**

- **Capitol Building, 1<sup>st</sup> & 2<sup>nd</sup> Floors, Carson City, Nevada**

Also online at: [http://www.nevadatreasurer.gov/Finances/Board/BOF\\_Home/](http://www.nevadatreasurer.gov/Finances/Board/BOF_Home/) and <https://notice.nv.gov/>

**STATE BOARD OF FINANCE**  
**June 9, 2020 – 1:00 PM**  
**Summary Minutes**

**Location:**

Via videoconference at the following locations:

Old Assembly Chambers  
Capitol Building, Second Floor  
101 N. Carson Street  
Carson City, NV 89701

Governor's Office Conference Room  
555 E Washington Avenue, Suite 5100  
Las Vegas, NV 89101

Governor Sisolak called the meeting to order at 1:03 P.M.

**Board members present:**

Governor Steve Sisolak – Carson City  
Treasurer Zach Conine – Las Vegas  
Controller Catherine Byrne – via telephone  
Teresa Courier – via telephone  
Brian Sagert – via telephone

**Others present:**

Tara Hagan – Chief Deputy Treasurer  
Lori Chatwood – Deputy Treasurer  
Michelle Briggs – Deputy Attorney General  
Kendra Follett – Sherman & Howard  
Susan Brown – Governor's Finance Office  
Felicia Denney – Nevada Department of Transportation  
Marty Johnson – JNA Consulting

**Agenda Item 2 – Public Comment.**

No public comment in Carson City or Las Vegas.

**Agenda Item 3 – For discussion and possible action** – Approval of the Board of Finance minutes from the meeting held on March 10, 2020.

No public comment in Carson City or Las Vegas.

**Treasurer Conine moved to approve the minutes. Motion passed unanimously.**

**Agenda Item 4 – For discussion and possible action:** on a resolution designated by the short title "2020A Highway Improvement Revenue Bond Resolution"; authorizing the sale and issuance of the State of Nevada, Highway Improvement Revenue (Motor Vehicle Fuel Tax) Bonds, Series 2020A in the maximum aggregate principal amount of \$100,000,000; providing the form, terms and conditions of the bonds; providing for the continued imposition and collection of certain fuel taxes deposited in the state highway fund; pledging the proceeds of excise taxes and any

appropriate federal highway aid payable to the state to the payment of the bonds; ratifying action previously taken and pertaining thereto; and providing other related matters.

Ms. Chatwood presented the Highway Improvement Revenue (Motor Vehicle Fuel Tax) Bonds, Series 2020A (the “2020A Bonds”) noting the Nevada Department of Transportation Board at its meeting on Monday, June 8, 2020 passed a resolution to request the State Board of Finance issue such bonds in the amount of \$100 million to complete pending and projected projects. The Department of Transportation anticipates using these funds on the spaghetti bowl express, the I-15 at Tropicana interchange, and the I-15 at Harmon overpass. These bonds are special obligation bonds of the State payable from any eligible federal aid and from proceeds of the motor vehicle fuel taxes imposed and collected pursuant to the Fuel Tax Act (collectively, chapter 365 and 366 of NRS) and credited in part to the State Highway Fund. Pursuant to Article 9, Section 5 of the Nevada Constitution, the 2020A Bonds shall constitute special obligations of the State (not a general obligation), and therefore do not constitute a debt under Section 3, Article 9, of the Nevada Constitution nor are these bonds included in the State’s affordability model.

Ms. Chatwood noted the bonds are being issued on a parity with previously issued Motor Vehicle Fuel Tax bonds which is ~\$705 million outstanding. Bonds and other securities, in addition to the 2020A Bonds, may be issued and made payable from the gross pledged revenues having a lien thereon subordinate and junior to the lien, or having a lien thereon on a parity with the lien of the 2020A Bonds, in accordance with the provisions of the resolution.

Ms. Chatwood referred to the Pro-Forma 2020A MVFT in the materials which requires the gross pledged revenues (excluding any federal aid included as gross pledged revenues) are at least equal to 300% of the combined maximum annual principal and interest requirements to be paid during any one Fiscal Year of the 2020A Bonds, any outstanding parity securities, and any parity securities proposed to be issued. She noted the expected debt service payments, expected interest rate plus 50 basis points and revenues which remain flat to consider the effects of the COV19-19 pandemic on future revenues.

Governor Sisolak stated he is concerned about the issuance of another \$100 million in bonds. He inquired about the amount of current reserve in the Highway Fund and its current rate of return.

Ms. Chatwood noted there is no reserve fund that is set aside specifically for the bonds. However, in our modeling for the additional bonds test its based just on the highway revenues. It does not include any federal aid that is available, which is a pledged revenue, nor does it include any available monies in bond revenue.

Governor Sisolak inquired about the current amount in the Fund to finish existing projects, the return these funds receive and the anticipate borrowing costs.

Staff noted the Highway Fund is commingled in the State’s General Portfolio and the yield on as of March 31, 2020 was 1.77%; however, we would expect that to be lower to date given the current fixed income market rates. Staff noted the estimated true cost to issue the bonds to be in the 2.5% range.

Felicia Denney with the Department of Transportation noted the current the unrestricted fund balance at the end of Fiscal Year 2019 was \$340 million. She stated the department planned to use federal funds for outstanding projects but needs the \$100 million to complete committed projects and the \$60 million bond proceeds for the U.S. 95 project. We want to ensure we have sufficient funding to meet ongoing obligations.

Governor Sisolak asked how much of the \$340 million is committed.

Ms. Denney noted an estimated ending fund balance of \$186 million which then commits ~\$154 million to projects.

Governor Sisolak asked if the projects previously mentioned, such as the spaghetti bowl express, Tropicana and Harmon are included in the \$154 million and asked how much each of these projects are estimated to cost.

Ms. Denney noted the total for all three projects is ~\$100 million and these projects are not included in the \$154 million of committed funds previously mentioned.

Governor Sisolak noted a concern regarding the use of the requested bond proceeds and asked why the \$100 million in new projects cannot be funded with the projected \$186 million in reserves. He stated the State would seemingly be borrowing funds at an interest rate which is higher than the current interest earned on the money to simply increase the department's reserves.

Treasurer Conine noted the current yield to maturity on the General Portfolio is a little under 1.01% which effectively increases the spread on the borrowing costs versus interest earned. He noted he does have an opinion on the efficiency and effectiveness of the bond issuance but does not have an opinion on the need for the issuance and will cede to the Governor's judgement

Ms. Denney noted that the Highway Fund has a policy to maintain one month of operating expenditures and a month and a half of capital expenditures in the Fund and this amount is projected to be \$142 million. She noted if you subtract this required reserve from the projected \$186 million balance this leaves only \$44 million. She noted that due to this the rationale for the bonding is to ensure the minimum balance requirement is met.

Governor Sisolak asked where these amounts are in the documents.

Ms. Denney noted these amounts are not contained in the documents but rather information the department submits to the Governor's Finance Office and the Legislature as part of the biennium budget process. The Governor noted that if these numbers are substantive to the discussion and rationale for the bonds they should be included.

Governor Sisolak stated he is troubled by the fact we are heading into unprecedented times in terms of budgets and revenues. He noted that while he and the Board understands the state has various funds which can be used for State government related items and monies in the Highway

Fund are not fungible or commingled, the average citizen does not understand this nuance. He stated that at a time when the State must make unprecedented budget cuts in terms of employees and services, it is difficult to support an item which seems to be increasing a department's reserves. He noted he cannot support this at this time but is happy to work with the department and revisit the item at another meeting.

Treasurer Conine noted that his Office could keep a similar timeline for the issuance of the bonds assuming the item is revisited at the August meeting.

Controller Byrne thanked the Governor for the detailed discussion and agreed to revisit the item at the August meeting.

**Governor requested a motion to hold items 4 and 5 until the August meeting. Controller Byrne moved to hold the items until the August meeting. Motion passed unanimously.**

**Agenda Item 5** – **For discussion and possible action:** on a resolution designated by the short title "2020B Highway Improvement Revenue Bond Resolution"; authorizing the sale and issuance of the State of Nevada, Highway Improvement Revenue (Indexed Tax and Subordinate Motor Vehicle Fuel Tax) Bonds, Series 2020B in the maximum aggregate principal amount of \$60,000,000; providing the form, terms and conditions of the bonds; providing for the continued imposition and collection of certain fuel taxes deposited in the state highway fund; pledging the proceeds of excise taxes and any appropriate federal highway aid payable to the state to the payment of the bonds; ratifying action previously taken and pertaining thereto; and providing other related matters.

**Governor requested a motion to hold items 4 and 5 until the August meeting. Controller Byrne moved to hold the items until the August meeting. Motion passed unanimously.**

**Agenda Item 6** – **For discussion and possible action:** Discussion and possible action (a) regarding the State Treasurer's quarterly investment report for the quarter ended March 31, 2020 and (b) to approve or disapprove the Treasurer's investment policies for the General Portfolio and the Local Government Investment Pool (LGIP).

Ms. Hagan presented the overview of the State Treasurer's quarterly investment report for the quarter ending March 31, 2020 noting performance of both portfolios was as expected given current market conditions and stated the interest returned to state agencies beginning July 1 through March 31 totaled \$47.04 million of which \$16.16 million was distributed to the General Fund.

No questions or comments.

**Brian Sagert moved to approve Agenda Item 6. Motion passed unanimously.**

**Agenda Item 7** – **Public Comment**

No public comment in Carson City or Las Vegas.

Meeting adjourned at 1:32 pm.

DRAFT

STATE OF NEVADA



DEPARTMENT OF BUSINESS AND INDUSTRY  
OFFICE OF THE DIRECTOR

MEMORANDUM OF FINDINGS

**TO:** Nevada State Board of Finance and Clark County Board of County Commissioners

**FROM:** Terry J. Reynolds, Director, State of Nevada Department of Business and Industry

**DATE:** July 16, 2020

**RE:** Memorandum of the Director Substantiating Findings Pursuant to Nevada Revised Statutes 349.580(2) and 349.590 relating to the issuance of industrial revenue bonds for the XpressWest High Speed, Intercity Rail System Project

**BACKGROUND**

Nevada Revised Statutes (NRS) 349.400 through 349.670, inclusive, (the "Act") authorize the Director of the State of Nevada Department of Business and Industry (the "Director") to issue industrial development revenue bonds for financing projects owned, operated, or used by one or more obligors for industrial uses, including assembling, fabricating, manufacturing, processing or warehousing.

The Nevada State Board of Finance (the "Board of Finance") and the Board of County Commissioners of Clark County, Nevada (the "County Commissioners") are being asked to approve findings of the Director in connection with a proposed issuance of approximately \$950,000,000 Director of the State of Nevada Department of Business and Industry Revenue Bonds (XpressWest Passenger Rail Project), Series 2020, or such other name or names and/or series or subseries designations, in one or more series or issues (the "Bonds"). Currently the Director expects to issue the Bonds in September, 2020, contingent upon its receipt of 2020 volume cap, and an opinion of bond counsel. The U.S. Department of Transportation awarded private activity

bond authority with respect to the Bonds on March 6, 2020. The Board of Finance is expected to approve such findings in July 2020.

DesertXpress has requested that the Director issue the Bonds on its behalf. Proceeds from the sale of the Bonds will be used for the purpose of assisting in the financing or refinancing of a portion of the costs of the design, development, acquisition, construction, installation, equipping, ownership, operation, maintenance, renovation and administration of a high speed, intercity rail system, including, but not limited to, rolling stock, maintenance facilities, electrification infrastructure, parking facilities, a passenger station and rail lines, all running for approximately 35 miles immediately adjacent to the Interstate 15 corridor between the Nevada side of the California and Nevada border, approximately 0.2 miles south-south-west of Nevada Exit 1 East on Interstate 15 near Primm, Nevada, and a passenger station to be located in Las Vegas, Nevada, on the east side of Interstate 15 within the general boundary of Blue Diamond Road to the South, West Warm Springs Road to the North and Las Vegas Boulevard to the West (the “Project”). In addition, proceeds of the Bonds will be used to fund certain reserves (if any), including a debt service reserve fund, fund a portion of the interest payable on the Bonds during the period of development of the Project, and pay certain costs of issuance in connection with the issuance of the Bonds. DesertXpress or one of its affiliates will also make an equity contribution of approximately \$583 million for the costs of the Project. Bonds in the aggregate principal amount of up to \$950,000,000 (excluding any original issue premium or discount) may be issued with respect to either component of the Project identified herein; however, the aggregate amount of Bonds to be issued for the Project will not be greater than \$950,000,000.

DesertXpress submitted its application for this industrial development bond financing to the Director on December 20, 2019 (the “Application”). A summary memorandum of the Application and proposed financing prepared by the financial advisor to the Director is attached hereto as Exhibit A. The Director and DesertXpress signed a Letter Agreement dated September 26, 2019, setting forth certain requirements and fees to be paid by DesertXpress for the bond financing. Pursuant to NRS 349.585 the Director received approval of the Office of Economic Development to finance or refinance the Project on July 7, 2020, attached hereto as Exhibit B. A public hearing to receive public comment regarding the issuance of the Bonds and necessary to satisfy the public approval requirement of Section 147(f) of the Internal Revenue Code of 1986, as amended (the “TEFRA Hearing”) was held on October 17, 2019. Upon approval of the Findings, the Director expects to issue a certificate of private activity bond volume cap allocation for the Project. Subject to final approval from the Board of Finance and the County Commissioners, the Bonds will be sold in a negotiated, limited public offering and are expected to be issued in September 2020, subject to market conditions.

The Bonds and the interest due thereon will not be an obligation, debt or liability of the State of Nevada or the Director and will not constitute or give rise to any pecuniary liability or charge against the credit of the Director or the credit or taxing power of the State of Nevada, but

will be a limited obligation payable solely from loan payments made by DesertXpress and other revenues derived from the financing.

As a prerequisite to the issuance of the Bonds, attached are findings of the Director as required by NRS 349.580(2) (the “Findings”) for approval by the Board of Finance and the County Commissioners. Additional considerations of the Director as set forth in NRS 349.590 (the “Additional Considerations”) are also attached.

Additional documents relevant to the Findings and Additional Considerations have been placed on file with the Ex-Officio Secretary of the Board of Finance and the County Manager of Clark County and are available for review by the Board of Finance and the County Commissioners. A list of such additional documents is attached to the Findings. The Findings are based on the totality of the record, and the Director has not attempted to list each element of the record which has led to each of the determinations made in the Findings. The Director, in consultation with financial professionals, legal counsel and bond counsel, represents that the Findings comply with NRS 349.580(2) and recommends approval of the Findings by the Board of Finance and the County Commissioners for the issuance of the Bonds.

If the Board of Finance and the County Commissioners approve the Findings as required by law, the financing may proceed. Issuance of the Bonds as tax-exempt obligations is contingent upon the satisfaction of the following conditions:

1. Receipt of an unqualified opinion from Orrick, Herrington & Sutcliffe LLP, bond counsel to the State of Nevada Department of Business and Industry, that interest on the Bonds will be tax-exempt for federal tax purposes. This opinion will be in a standard form acceptable to the financial market. The financing will not go forward unless such opinion is delivered.
2. The issuance by the Director of a certificate of private activity bond volume cap allocation.
3. The final agreements related to the Bonds will be in forms acceptable to the Director and its legal counsel.

**FINDINGS OF THE DIRECTOR OF THE STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY PURSUANT TO NEVADA REVISED STATUTES 349.580(2) RELATING TO THE FINANCING OF AN INDUSTRIAL DEVELOPMENT PROJECT TO BE LOCATED IN CLARK COUNTY, NEVADA**

WHEREAS, DesertXpress Enterprises, LLC, dba XpressWest, a Nevada limited liability company (“DesertXpress” and, including any related or successor entity or entities thereto, the “Borrower”) has submitted its application dated December 20, 2018, as amended (the “Application”), to the Director of the State of Nevada Department of Business and Industry (the “Director”) for the issuance of industrial development revenue bonds in an amount not to exceed \$950,000,000 (excluding any original issue premium or discount) (the “Bonds”); and

WHEREAS, proceeds from the sale of the Bonds will be used for the purpose of financing or refinancing a portion of the costs of the design, development, acquisition, construction, installation, equipping, ownership, operation, maintenance, renovation and administration of a high speed, intercity rail system, including, but not limited to, rolling stock, maintenance facilities, electrification infrastructure, parking facilities, a passenger station and rail lines, all running for approximately 35 miles immediately adjacent to the Interstate 15 corridor between the Nevada side of the California and Nevada border, approximately 0.2 miles south-south-west of Nevada Exit 1 East on Interstate 15 near Primm, Nevada, and a passenger station to be located in Las Vegas, Nevada on the east side of Interstate 15 within the general boundary of Blue Diamond Road to the South, West Warm Springs Road to the North and Las Vegas Boulevard to the West (the “Project”). Bonds in the aggregate principal amount of up to \$950,000,000 (excluding any original issue premium or discount) may be issued with respect to either component of the Project identified herein; however, the aggregate amount of Bonds to be issued for the Project will not be greater than \$950,000,000; and

WHEREAS, the Director has authority to issue the Bonds pursuant to the Nevada Revised Statutes, including Sections 349.400 through 349.670, inclusive, thereof (the “Act”); and

WHEREAS, DesertXpress, and other interested parties have prepared and submitted to the Director certain reports, records and other information related to the Project, and the Director has reviewed such reports, records and other information and has otherwise investigated the facts concerning the Project to enable the Director to make the following findings in accordance with the Act;

NOW, THEREFORE, pursuant to Section 349.580(2) of the Act, the Director hereby finds and determines as follows (the “Findings”):

1. Pursuant to Section 349.580(2)(a) of the Act, based on the Application and other documents on file with the Director, the Project consists of land, buildings and other improvements and all real and personal property necessary in connection therewith (excluding inventories, raw

materials, and working capital) which is suitable for construction, improvement, preservation, restoration, rehabilitation or redevelopment of an industrial or other commercial enterprise.

2. Pursuant to Section 349.580(2)(b) of the Act, based on the Application, and other documents on file with the Director, the Project will provide significant public benefits. The public benefits include an approximately \$583 million investment in the Project located in Clark County, Nevada (the “County”) which is expected to add approximately (a) 13,650 construction jobs; (b) 2,700 permanent, direct jobs; and (c) more than 13,000 indirect jobs and provide other economic benefits to the County. See Exhibit A for a summary of estimated economic benefits.

3. Pursuant to Section 349.580(2)(c) of the Act, based on the Application, financial statements of DesertXpress, Deutsche Bank National Trust Company, as collateral agent (the “Collateral Agent”), and the Borrower in connection with the issuance of the Bonds, and other documents on file with the Director, the Borrower and has sufficient financial resources to place the Project in operation, continue or cause the operations conducted at the Project to be continued, and meet the obligations of the Borrower under the Senior Loan Agreement, dated as of September 1, 2020 (the “Financing Agreement”).

4. Pursuant to Section 349.580(2)(d) of the Act, based on the Financing Agreement, the Indenture of Trust, dated as of September 1, 2020, to be entered into by the Director and Deutsche Bank National Trust Company, as trustee (the “Trustee”) in connection with the issuance of the Bonds (the “Indenture”), and other financing documents on file with the Director, there are sufficient safeguards to assure that all money provided by or through the State of Nevada Department of Business and Industry will be expended solely for the purposes of the Project, including (a) certain provisions in the Financing Agreement and other financing documents that have been or will be entered into in connection with the issuance of the Bonds which set forth procedures ensuring that such moneys shall only be used to pay for certain costs relating to the acquisition, construction, improvement and equipping of the Project, and (b) the appointment of Deutsche Bank National Trust Company, as the Trustee and the Collateral Agent with respect to the Bonds to ensure such procedures are correctly followed. See Exhibit F hereto for related document extracts.

5. Pursuant to Section 349.580(2)(e) of the Act, based on the Application, a special use permit issued by the County and other documents on file with the Director, the Project will be compatible with the existing facilities in the area adjacent to the location of the Project.

6. Pursuant to Section 349.580(2)(f) of the Act, based upon the Application, the certificate of DesertXpress attached hereto as Exhibit G and other documents on file with the Director, the Project has received all approvals by local, state and federal governments which may be necessary at this time to proceed with the construction, improvement, rehabilitation or redevelopment of the Project.

7. Pursuant to Section 349.580(2)(g) of the Act, by submission of the Application for financing, DesertXpress has requested the Director to issue the Bonds to assist in the financing or refinancing of the Project.

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**ADDITIONAL CONSIDERATIONS OF THE DIRECTOR OF THE STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY PURSUANT TO NEVADA REVISED  
STATUTES 349.590 RELATING TO THE FINANCING OF AN INDUSTRIAL  
DEVELOPMENT PROJECT TO BE LOCATED IN CLARK COUNTY, NEVADA**

Pursuant to NRS 349.590, as additional considerations required for the approval and issuance of the Bonds, the Director has determined the following (the “Additional Considerations”). The Director hereby requests the Board of Finance to make the same determinations.

1. Pursuant to Section 349.590(1) of the Act, based upon the Application, and other documents on file with the Director, the total amount of funds necessary to be provided by the Director through the issuance of the Bonds shall not exceed \$950,000,000 (exclusive of any original issuance premium or discount).

2. Pursuant to Section 349.590(2)(a) of the Act, the Director has received a 5-year operating history from DesertXpress Enterprises, LLC, dba XpressWest, a Nevada limited liability company, either on an individual or consolidated basis. Further the Director has received assurances based on covenants in the Indenture that all the Bonds will be sold only to qualified institutional buyers as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (the “Securities Act”) and/or accredited investors as defined in Rule 501(a)(1), (2), (3) or (7) promulgated under the Securities Act in minimum denominations of \$100,000.

3. Pursuant to Section 349.590(3) of the Act, based upon the Application and other documents on file with the Director, the Borrower is not currently rated by Moody’s Investors Service, S&P Global Ratings, or Fitch Ratings, Inc.

4. Pursuant to Section 349.590(4) of the Act, based upon the Application and other documents on file with the Director, there are no existing facilities of a like nature within the County. The Director is not prohibited from financing the Project as provided in NRS 349.565.

5. Pursuant to Section 349.590(5) of the Act, the Director has considered the extent to which the Project is affected by various federal, state and local governmental action, activities, programs and development and has determined to issue the Bonds.

6. Pursuant to Section 349.590(6) of the Act, DesertXpress has not maintained facilities appropriate to the community in Nevada for longer than ten years, but have maintained facilities since 2010.

These Findings and Additional Considerations are made only for the purposes of Sections 349.580 and 349.590, respectively, of the Act and do not constitute a guarantee of financial results with respect to the Project or otherwise with respect to the business prospects of DesertXpress, the

or the Borrower. These Findings are not intended as an analysis of the Bonds as investments or intended to be relied upon by investors.

(Remainder of Page Intentionally Left Blank)

NOW, THEREFORE, the Director hereby requests, pursuant to Sections 349.580 and 349.590 of the Act, that the Nevada State Board of Finance and the Board of County Commissioners of Clark County, Nevada approve the Findings as set forth above and evidence such approval by execution of the certificate and adoption of the resolution, respectively, each in the respective form attached hereto as Exhibit H.

Dated this 16th day of July, 2020

DIRECTOR OF THE STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY

By:   
\_\_\_\_\_  
Terry J. Reynolds  
Director

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**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

**Las Vegas:** 3300 W. Sahara Avenue, Suite 425 Las Vegas, Nevada 89101 - Telephone (702) 486-2750 - Fax (702) 486-2758  
[www.business.nv.gov](http://www.business.nv.gov)

## LIST OF EXHIBITS

EXHIBIT A	Financial Advisor Memorandum
EXHIBIT B	Office of Economic Development Approval
EXHIBIT C	Reserved
EXHIBIT D	Reserved
EXHIBIT E	Governor's Certificate regarding the issuance of the Bonds for TEFRA Hearing Purposes
EXHIBIT F	Document Extracts Regarding Use of Funds
EXHIBIT G	Certificate of DesertXpress Regarding Federal, State & Local Approvals
EXHIBIT H	Form of Certificate of Approval by the State Board of Finance and Resolution of Approval by the County Commissioners

## ADDITIONAL DOCUMENTS ON FILE

1. Revenue Bonds for Industrial Development Act (NRS 349.400 – 349.670)
2. Regulations Pertaining to the Act (NAC 349.010-349.080)
3. DesertXpress Application
4. Indenture of Trust (draft), between the Director and the Trustee
5. Financing Agreement (draft), between the Director and the Borrower
6. Collateral Agency, Intercreditor and Accounts Agreement (draft), among the Borrower and the Collateral Agent and various parties
7. Preliminary Limited Offering Memorandum (draft), relating to the Bonds
8. Bond Purchase Agreement (draft), among the Director, the Borrower and the underwriters named therein

EXHIBIT A

FINANCIAL ADVISOR MEMORANDUM

(Attached)

A-1

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**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

**Las Vegas:** 3300 W. Sahara Avenue, Suite 425 Las Vegas, Nevada 89101 - Telephone (702) 486-2750 - Fax (702) 486-2758  
[www.business.nv.gov](http://www.business.nv.gov)

July 20, 2020

Terry J. Reynolds  
Director  
Nevada Department of Business and Industry  
1830 College Pkwy Ste# 100  
Carson City, NV 89706

Re: DesertXpress Enterprises, LLC  
XpressWest Passenger Rail Project  
Revenue Bonds

Director Reynolds:

Acting in our capacity as Financial Advisor (“FA”) to the Nevada Department of Business and Industry (“B&I”), Lewis Young Robertson & Burningham, Inc. (“LYRB”) provides this letter to complement your Findings to be submitted to the Board of Finance addressing the DesertXpress Enterprises, LLC XpressWest Passenger Rail Project (“XpressWest”) financing application for the proposed issuance, by the Director of the B&I, of \$200,000,000 Revenue Bonds (XpressWest Passenger Rail Project), Series 2020 (“Series 2020 Bonds”) to finance the Project, as more fully described below. The Series 2020 Bond issuance will allow XpressWest to leverage Federal funding up to \$800,000,000 for the Nevada portion of the Project.

### **Introduction**

The following discussion summarizes a compilation of materials including the Financing Application and supporting documentation, Steer Group Ridership Study, Beacon Economics LLC Economic Impact Analysis and other related materials. Conversations with the Company’s team included FECl, Morgan Stanley and the Steer Group aided in further understanding the Project, analysis and development of the strategies to create the Project. Additional information was garnered from the NDOT and public sources.

The discussion below tracks the development of the Project through its various components. I start with the Florida Project as a baseline, developing a construction budget, understanding the ridership potential which was the basis for revenue projections, economic impact analysis and the ultimate bond security and marketing. The Project’s complexity and intricacies generates a broad spectrum of inputs to consider the proper development of a Project of this magnitude. The dialogue attempts to gather that information into a concise summary for your review.

### **Bond Issuance**

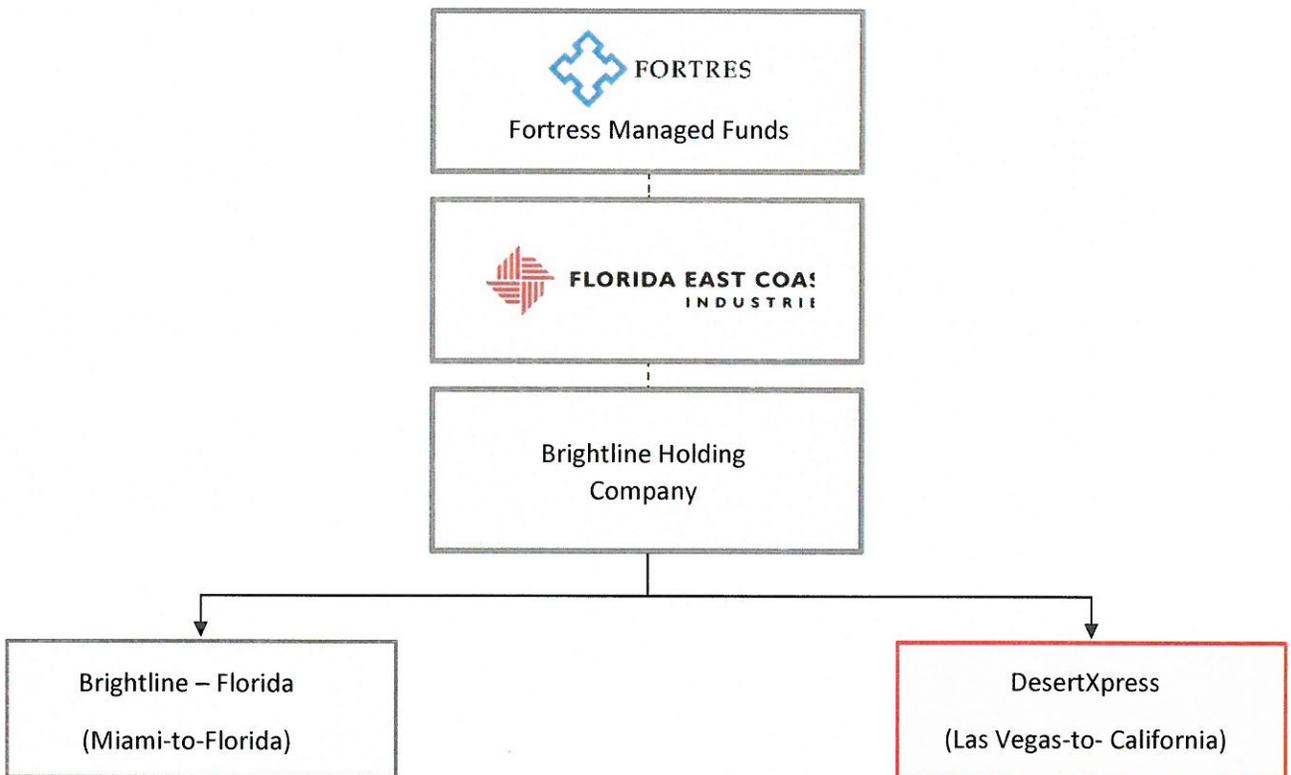
The Project, more fully described below, will largely be funded through equity and the issuance of tax-exempt bonds via two bond issuers, one in the State of California and one in the State of Nevada. Doing so, allows the Company, more fully described below, to access the tax-exempt capital markets, maximize funding sources and minimize capital costs. The California bonds will be issued by the California Infrastructure and Economic Development Bank. In conjunction with these bonds, the Director of the State of Nevada Department of Business and Industry received an application to issue revenue bonds for the Nevada portion of the Project. Deutsche Bank National Trust Company will act as trustee for all series of bonds.



The proceeds of the Series 2020 Bonds will be loaned to DesertXpress Enterprises, LLC, a Nevada limited liability company (the “Company”) to: (a) pay or reimburse a portion of the costs of the Project more fully described herein; (b) pay capitalized interest on the Series 2020 Bonds (period still to be determined); (c) fund certain reserve accounts for the Series 2020 Bonds, to the extent allowable; and (d) pay or reimburse certain costs incurred with the issuance of the Series 2020 Bonds.

**Equity Partner**

Fortress Investment Group LLC (“Fortress”) is the owner and equity partner behind the train projects. They are the only private owner of a public rail network in the United States. Fortress is a global investment management firm with approximately \$41.5 billion of assets under management as of the third quarter of 2019. Florida East Coast Industries, the parent company of the Company, is wholly owned by Fortress managed funds. They have created two separate operating companies for each of the Florida and “West Coast” Projects. While they are not cross-collateralized, they are partners in sharing information, experience, marketing and operating contracts. The following diagram depicts the relationship between the parties:



Fortress affiliated funds and companies have developed, managed and operated several assets across the rail, aviation, port and energy sectors. This activity has been executed primarily through two businesses: Florida East Coast Industries (“FECI”) and Fortress Transportation and Infrastructure (“FTI”). Through FECI, Fortress has developed, own and operate the first private passenger rail line developed in the U.S. in Florida (further described below). Secondly, FTAI is a \$700 million market capitalized and publicly traded business on the New York Stock Exchange (NYSE: FTAI). This company was publicly offered in 2015 and was previously owned by Fortress affiliated funds. The company remains managed by FIG LLC, an affiliate of Fortress. It has railroad experience in owning, operating and selling multiple freight railways in the U.S. (see Appendix A for additional details, diagrams and description of projects). FTAI maintains commercial



relationships with all of the major freight rail operators in North America which include: Central Maine & Quebec Railway, Florida East Coast Railway and Rail America. Additionally, FTAI is an aviation leasing platform, owning and leasing 221 aircrafts and engines, the energy and rail terminals (with approximately \$800 million in equity) and aviation leasing with 69 passenger aircraft and 152 commercial jet engines. More on Fortress can be found at: <https://www.fortress.com/>.

Fortress is the direct equity partner in the rail projects. For the Florida project's issuance of the Series 2019A Bonds, Fortress and its affiliates contributed approximately \$1.65 billion of equity in cash and assets to the Company, which represents approximately 36% of the Company's expected capital structure following the completion of its plan of finance.

In total for the Nevada to California Project, Fortress and its affiliates expect to contribute approximately \$600MM of equity to the Company, which would represent approximately 12% of the Company's expected capital structure following the completion of its plan of finance.

### **The Company**

DesertXpress Enterprises, LLC, a Nevada limited liability company formed in 2005, commenced development of the Project, which it owns and operates. In March 2019, Virgin Trains USA LLC, formerly known as Brightline Holdings LLC (collectively with its applicable subsidiaries, "Virgin Trains" or the "Company") acquired the membership interests of DesertXpress Enterprises, LLC, dba XpressWest, ("DesertXpress") for the purpose of completing the XpressWest Passenger Rail Project summarized herein. XpressWest is a federally authorized, high-speed passenger railroad that will connect Las Vegas with Southern California. The Company intends to rely on DXE Management LLC, a Delaware limited liability company and an affiliate of the Company (the "Manager"), for the day-to-day management of the Company's operations and business.

**Florida East Coast Industries:** The Company is an indirect 98.23% owned subsidiary of Florida East Coast Industries, LLC ("FECI"), a diversified transportation, infrastructure and commercial real estate company. FECI has extensive experience in quickly and efficiently navigating the necessary entitlements, permits and approvals needed to develop real estate. FECI has a rich history, dating back over a century when its founder, Henry Flagler, first built the Florida East Coast Railway to move passengers and freight throughout the State of Florida's entire east coast.

At the time, Florida was almost entirely undeveloped and had a total population of fewer than 400,000 people, approximately two percent of what it is today. Through the construction of the railroad, Flagler catalyzed extensive development along Florida's east coast, ultimately transforming Southeast Florida into one of the largest urbanized areas in the United States and a popular destination for tourists. Today, FECI, together with its subsidiaries, owns substantial assets in key markets along Florida's east coast. Within Florida, FECI's subsidiaries have owned, built and managed over 29 million square feet of real estate developments and completed the infrastructure for more than 2,900 acres of commercial development.



**Virgin Trains USA:** VTUSA LLC, the Company's indirect parent and subsidiary of FECI, owns 98.23% of Virgin Trains USA Florida LLC, a company with significant experience in constructing and maintaining high speed passenger rail systems. VTUSA currently owns and operates an express passenger rail system connecting Miami and



West Palm Beach, Florida, one of the most heavily traveled and congested regions in the U.S. VTUSA has also commenced construction of the expansion of its Florida passenger rail system to Orlando, Florida and intends to further expand its rail service to Disney World and Tampa, Florida. Furthermore, Virgin Trains USA Florida LLC currently owns three stations, located in the densely populated downtown centers of Miami, Fort Lauderdale and West Palm Beach.

The Company's demonstrated organizational and financial capacity to successfully implement the development of a transportation and station project in Florida will prove valuable in bringing the Project between Las Vegas and Southern California to fruition. The same leadership, experience, and financing expertise will be available from the Company for this newest expansion project.

More information on the Company and VTUSA can be found at <https://www.virgin.com/richard-branson/introducing-virgin-trains-usa>.

Virgin Trains USA's 2018 financial statements provide the following key points:

- ☞ Assets (all dollars reported in thousands):
  - Equity decreased from \$1,129,646 in December 2016 to \$1,054,688 as of December 2018
  - Cash as of December 31, 2018 was \$113
  - Restricted Cash as of December 31, 2018 was \$37,667
  - Total Assets grew from \$1,774,354 in 2017 to \$1,954,624 in 2018
- ☞ Revenues (all dollars reported in thousands):
  - \$9,961 for year-end December 31, 2018

### **Company Partnership with VTUSA**

The Company has been working closely with VTUSA as a partner to develop the Project. VTUSA assists the Company with strategies, train operations and marketing. As discussed throughout this letter, the VTUSA partnership lends their expertise and insights to add value in the development of the Project. The Company entered into a franchise agreement with VTUSA to operate the trains and aid in marketing. There will be a rebranding of Brightline trains to the VTUSA for branding and marketing purposes.

### **The Florida Project**

The Company first developed, and currently operates, a similar project in Florida that began construction in 2017. The Florida Project consists of the development and operation of a privately owned and operated, intercity express passenger rail system and related facilities, with stations located initially in Orlando, West Palm Beach, Fort Lauderdale and Miami, Florida.

The Florida Development Finance Corporation Surface Transportation Facility issued Revenue Bonds (Brightline Passenger Rail Project – South Segment), Series 2017, in the aggregate principal amount of \$600,000,000. The Series 2017 Bonds were originally rated "BB-" by Fitch Ratings. That rating was withdrawn in December 2018 as the strategic focus that includes real estate expansion brought this rating outside of Fitch's Criteria for Infrastructure and Project Finance.

Subsequently in 2019, the Florida Development Finance Corporation issued Surface Transportation Facility Revenue Bonds (Virgin Trains USA Passenger Rail Project), Series 2019A & 2019B in the aggregate principal amount of \$1,750,000,000 and \$950,000,000 respectively. Proceeds from the Bonds were used





to (a) pay or reimburse a portion of the costs of the developing and/or acquiring portions of the Project; (b) refund all four of the outstanding Series 2017 Bonds and repay the Siemens Loan in full; (c) pay the interest to accrue on the Series 2019A Bonds; (d) fund certain reserve accounts for the Series 2019A Bonds; and (e) pay or reimburse certain costs in connection with the issuance of the Series 2019A Bonds.

Virgin Trains USA Florida LLC (f/k/a Brightline Trains LLC, f/k/a All Aboard Florida – Operations LLC) will complete development, and own, operate and manage the Project. In connection with its previously announced partnership with Virgin Enterprises Limited (“VEL”), the Company intends to rebrand from “Brightline” to “Virgin Trains USA”. The Company intends to rely on Brightline Management LLC (f/k/a All Aboard Florida Operations Management LLC), an affiliate of the Company (the “Manager”), for the day-to-day management of the Company’s operations and business.

At the time of the 2019 Florida bond offering, the Florida Company had invested approximately \$1.5 billion in the development and construction of the Project. This amount included corridor and station land with an appraised value of approximately \$699 million, \$605 million in rail infrastructure, \$267 million in new rolling stock assets, and \$259 million in stations. Amounts were funded by a combination of cash and assets from Florida East Coast Industries, LLC (“FECI”), the indirect parent company of the Company, and third-party debt and vendor financing.

Here are certain highlights from the Monthly Revenue and Ridership Report for the month ended February 2020 (<https://emma.msrb.org/ER1317450-ER1026542-ER1433062.pdf>):

- ☞ February ridership was up 39% year-over-year and total revenue were up over 50%
  - They will likely see a severe ridership decline due to the COVID-19 pandemic impact
- ☞ Carried 109,630 passengers (new monthly record ridership)
  - This ridership generated \$2.9MM in revenues with ancillary revenue of \$0.7 million
  - 2018 ridership was 579,205 with 2019 ridership was 1,012,804
- ☞ Entered into MOU with Disney for the development of a station on Disney property; engineering has commenced on that project
- ☞ Advanced 2 new stations in South Florida; on track to bring new service on-line in late 2020
- ☞ 2019 YTD figures (through December) carried a total of 1,012,804 passengers and recognized \$22.1 million of total revenues, an increase of 75% and 122%, respectively, over the prior year. The strong year-over-year results are due to the addition of service to Miami in May 2018, as well as the continued service by repeat customers over the past 12 months. The average fare per passenger also increased 25%. The December 2019 ridership report can be viewed at <https://emma.msrb.org/ER1302455-ER1015351-ER1420726.pdf>.

More information on this project can be found in the related Limited Offering Memorandum found on EMMA (the MSRB website) at <https://emma.msrb.org/ER1212729-ER949247-ER1350255.pdf> or Brightline’s website at <https://www.gobrightline.com/>.

### **Lessons Learned from the Florida Project**

In capitalizing on the Florida Project experience, the Company is applying the following “lessons learned” from the Florida Project:

- ☞ Utilizing electric energy systems for the trains
- ☞ Forecast measured ramping of the ridership projections
  - Worldwide modeling experience demonstrates likely ridership levels realized by year 4
- ☞ Adjust ticket pricing
- ☞ Establishing proper reserves and levels



- Integrating feedback from investment community
- Reserve funds will likely include capitalized interest, ramp-up reserve, debt service reserve, O&M and R&R
- ▣ Additional station development once partnerships / relationships are established
- ▣ Continue to foster additional relationships and opportunities

### **The Nevada Project as a Whole**

The Nevada Project consists of 170 miles of single track with approximately 35 miles of double track / sidings between Victorville, California and Las Vegas Nevada. 135 miles of the track will be in California, mostly in the median. The 35 miles of track in Nevada will mostly align east of Interstate-15. The Project will be fashioned after the Company's sister project in Florida, which connects cities from Orlando in the north down to Miami in the south.

The Project expects to provide 3 distinct classes of service, for which travelers will be able to reserve specific seats at times that fit their schedule. Wi-Fi, business centers and related services will be provided. Ancillary services onboard trains and in stations will include the sale of passenger tickets, food and beverage, merchandise, parking and other related services.

The Company intends to create partnerships with major resorts and convention centers and may offer customers the ability to check-in for the hotel or convention venues prior to arrival. VIP services with casino/hotel partners will likely be available as well. The Project will connect roughly 25 million people in Southern California with the 2.25 million in Clark County, Nevada.

A few of the milestones of the Project Development include:

- ▣ 2005: executed agreement to commence the Environmental Impact Statement ("EIS") process
- ▣ 2010: several California counties adopt resolution of support of the Project
- ▣ 2011: Senator Harry Reid sent a letter to Governor Brown regarding Nevada's portion of the Project
- ▣ 2011: majority of public land secured via lease with Bureau of Land Management ("BLM")
- ▣ 2011: 404 permits for the State of Nevada issued by the US Army Corps of Engineers
- ▣ 2014: Federal Railroad Administration released its Southwest Multi-State Rail Planning Study identifying the Las Vegas South California corridor as a top performing corridor in network
- ▣ 2015: Nevada High Speed Rail Authority awards the franchise to XpressWest with facilitating the implementation of a passenger rail system connecting southern California and southern Nevada
- ▣ 2016: Southern California Regional Rail Authority (Metrolink) and XpressWest executed a Memorandum of Understanding to coordinate with each other on the development of the phased high-speed rail service between Anaheim and Las Vegas.
- ▣ 2020: State of Nevada through its Department of Transportation (NDOT) and XpressWest executed a Developer Agreement allowing access to NDOT's rights of way along the I-15 corridor. The agreement furthers the efforts of working together with NDOT to advance the Project including alignment, routing and design while also sharing and analyzing information concerning potential future expansion of interchanges to avoid conflicts and create Project efficiencies.
  - It also includes timely sharing of information, processing permits and continuing in good faith to execute all necessary agreements in furtherance of this agreement.





- ☞ 2020: Caltrans Right of Way Agreement executed
- ☞ Continued cooperation and development have occurred to bring the Project to this point



The trains will be fully electric trainsets with catenary system (overhead wires used to supply electricity). They will be European-style high speed trains with significant environmental benefits. The Project will elevate transportation options by providing a high-quality train service. These benefits include, amongst others: reduced fossil fuel consumption which reduces pollution; reduced road use which reduces road maintenance; more efficient energy usage; productivity on the train; and safety in reducing cars on the roads. The trains will travel at speeds

up to 180 mph running at 45-minute intervals with an estimated 85-minute travel time between stations. For reference, the current travel time is approximately 2.5+ hours without traffic. The current plans have only 2 stations, one in Victorville, CA and the other in Las Vegas, NV with no stops along the route.

The Project land will be used as follows:

- ☞ Train station and parking: ~430,000 sf
  - 90,000 for the ground floor with 340,000 for platform / parking
- ☞ Retail: ~100,000 sf
- ☞ Hotel: ~830,000 sf
- ☞ Residential: ~1,200,000 sf

### **The Nevada Project Construction Budget**

The Company has been working on a construction budget that encompasses the Project's many different components. The following Project budget was originally developed in the summer of 2019 with 15% of the Project engineering completed. The Company was able to apply experience gained from the Florida Project to help influence the budget as appropriate. The Company continues to refine the budget as they engage contractors in bidding its Guarantee Maximum Price ("GMP") contracts for the two largest cost components: 1) "Rail Infrastructure" which includes the rail construction and everything below and 2) "Systems & Electrification" which includes the surface and everything above to operate the trains. GMPs are contracts that guarantee the project construction price within a fixed contract, regardless of actual construction costs. In the simplest term, it caps or locks the price of the Project.

The Company determined that the GMP method was best to insulate the Company from cost overruns. While GMPs inherently have a higher price due to their fixed nature, they provide an advantage by locking in the costs of the Project. Upon further consideration, the Company felt more comfort with a higher upfront fixed cost rather than being exposed to potential change orders and project cost overruns from the design-build method. Furthermore, in properly sizing the bonds, the GMP provides the basis for a fixed budget and not having to estimate and manage a contingency budget.

As for the timing of the GMP contracts, the Company has been actively engaged in the bidding process and are nearing completion. As of the date of this letter, the Rail Infrastructure GMP is coming together well and will be within budget. The Systems & Electrification GMP is nearly final and will also be under budget.

The remaining two largest components: a) train stations & facility maintenance buildings and b) land will be addressed as follows:

- ☞ The train stations will bid out separately as design-build projects for two reasons:



- Based upon existing and Florida Project experience, the Company feels very confident in controlling those costs as design-builds. Existing estimates are comfortably within budget. Construction schedules will allow for those to start a year from now.
- These components have delayed start dates that wouldn't lend themselves to securing a GMP now. These components will be bid out and managed within their respective construction timelines.

☞ The major land parcels are currently under purchase contract with fixed prices.

The budget below continues to be refined with information garnered from the processes above. While one component may be a bit high (the land may come in higher), other components are in line to come under budget (the equipment acquisition). Accordingly, since the entire budget's integrity remains sound, it was determined the keep the budget as presented below.

Item	Amount Paid from Bond Proceeds	Amount paid from other sources	Notes on Budget
Site prep for rail infrastructure	\$670,000,000	\$2,330,000,000	GMP contract to include infrastructure of the rail line, systems to run line & trains and power & electrification of Project
New equipment acquisition		650,000,000	GMP contract to include purchase of all train sets
Construction of buildings / train stations		350,000,000	Design-build concept to include 2 train stations (Victorville / Las Vegas) and vehicle maintenance facility (adjacent to Victorville Station)
Land acquisition		\$100,000,000	All major parcels under purchase contracts with fixed prices
Bond issuance costs	10,000,000	43,000,000	
Capitalized interest	120,000,000	510,000,000	Anticipated to be throughout construction period
<b>Total</b>	<b>\$800,000,000</b>	<b>\$3,983,000,000</b>	

Source: Company

On March 4, 2020, the Company met with the Clark County Board of County Commissioners to seek approval of the plans for a train station and adjacent parking. The application was unanimously approved by the Commissioners and was recorded with a Notice of Final Action from the Department of Comprehensive Planning on March 12, 2020.



The following teams are designing and constructing the track & stations:

Design	Construction
<b>Track &amp; System Design Team</b>	<b>Track &amp; System Design Team</b>
Jacobs: Rail design for NV HNTB: Rail design for CA High-speed experts advancing systems design	Skanska, Balfour Beatty: Las Vegas paving – rail infrastructure pre-con management Commence rail construction in Q4 2020
<b>Maintenance Depot Design</b>	<b>Station / Maintenance Depot</b>
Gannett Fleming – initial design & engineering	The Company intends on engaging contractors in a bid process in 2020
<b>Station Design</b>	
Architects working on concept designs	
<b>Near-Term Objectives</b>	
Delivered 30% track & systems design in Nov. Complete station concept design in 1H of 2020	

The construction timeline assumes starting construction by the second half of 2020 and be in operation by late 2023.

### **Adjacent Development Project**

In conjunction with the Project, the Company is acquiring property around the stations for future development, i.e. commercial, hotel, retail. These future developments are not included in these figures.

This construction budget does not include any development costs of the adjacent land. While the potential development of property adjacent to the stations and railway would likely benefit the train operations and visibility for ridership, the two different development projects are not tied together. The land development will not be financially tied to the train project nor will it support the train financings. The land development will be pursued in the future with no immediate timetable.

It should be noted that the Company has seen benefits from the development of land surrounding the train stations with its Florida Project. The Company remains incentivized to be creative and proactive with the adjacent land’s development as overall success will be synergistic with train ridership and property development.



### The Project – Las Vegas / Nevada Specific Aspects

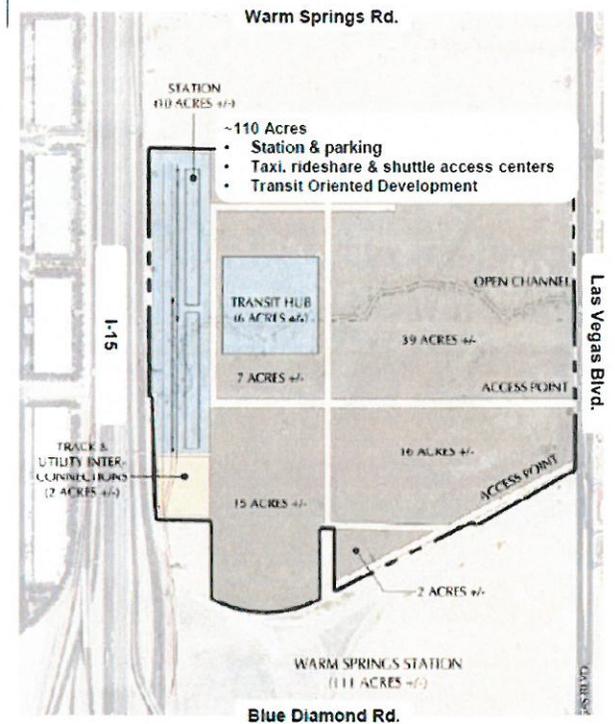
The station in Las Vegas will be located on approximately 100 acres located between I-15 on the west, Warm Springs Road on the north, Las Vegas Blvd. on the east and Blue Diamond Road to the south. There will be three tracks with adjacent station hub and parking within approximately three miles of the strip and approximately 1 mile southwest of McCarran International Airport.

The Company has been working closely with Clark County, briefing key individuals from planning, development, and management, as well as Commission Members, since September 2019. No additional concerns have been raised that haven't been addressed in the design.

The Company is coordinating efforts with the local taxi companies, lift companies (i.e. UBER, LIFT, etc.), limo companies, public transit and the like for ease of access and adjustment of traffic patterns to minimize congestion on and near the property.

Zoning is for H-1 which includes development of gaming enterprises and is compatible with commercial and mixed commercial and residential use. Parts of the site fall in overlay districts, including:

- ☞ Gaming enterprise: areas for potential expansion of gaming activities and resort hotel uses
- ☞ Mixed use (MUD-1 & MUD-2): intense mixed-use and residential development
- ☞ Airport Environs: uses compatible with airport



### Public Right of Way and Agreements

XpressWest is working with the BLM, NDOT and Caltrans to finalize all agreements necessary to secure rights-of-way in or along the I-15 corridor from Victor Valley to Las Vegas. The Bureau of Land Management (BLM) is responsible for managing the portion of the corridor on public lands owned by the U.S. government. Pursuant to a Right-of-Way Grant (ROW) issued to the Company on December 15, 2011, the Company has the right to construct, operate and maintain the Project on such public lands. The Company is responsible for paying to BLM annually rent which is adjusted each year based on the Implicit Price Deflator-Gross Domestic Product (IPD-GDP) index. The ROW Grant expires on December 31, 2040 and may be renewed.

The NDOT Developer Agreement executed in June 2020 outlined the Project's access of NDOT's rights of way, continued efforts to design and route the Project and expressed continued efforts to finalize the remaining contracts needed to complete the Project. XpressWest committed to fund, design and construct the Project, abide by all rules and regulations applicable to the Project, the timely sharing of information, to pay NDOT an annual capital expenditure contribution fee and other applicable expenses. In turn, NDOT will timely review the Project's plans, specifications and maps, timely review all permit applications, cooperate with the XpressWest to advance the Project and execute agreements as



necessary. The right-of-way occupancy permit is only terminable for failure to cure a default provision in this or any other agreement entered into between the parties, as outlined in the applicable agreement.

The following contracts are in various stages of completion.

Agreement	Notes
MOU with NDOT to develop Project	Executed February 2019
BLM Lease	Signed lease, will amend final with alignment
NDOT Development Agreement	Executed in June 2020
NDOT Design & Construction Agreement	Underway and will be completed prior to construction commences
NDOT Conditional Right of Way Occupancy Permit	Underway with Design & Construction Contract
Caltrans Right of Way Agreement	Executed in June 2020
Caltrans Construction, Maintenance & Operations Agreement	Underway and will be completed prior to construction commences
Caltrans Encroachment Permit	Intermittently completed throughout Project, already received certain encroachment permits
Private Lands	California parcel was purchased and closed on in February 2020  Las Vegas parcel is under contract and diligence is complete

### **Ridership and Revenue Forecasts Study**

In 2016, the High Desert Corridor Joint Powers Authority commissioned the Steer Group ([www.Steergroup.com](http://www.Steergroup.com)) to develop ridership forecasts and a revenue model for XpressWest's non-stop high-speed link covering approximately 170 miles between Southern California and Las Vegas (the "Steer Study"). Steer is a global business consultancy headquartered in the UK with extensive experience advising clients across the transportation sector. Steer has advised companies from intercity to high-speed rail, such as Amtrak and Italo. They routinely advise national, regional and city governments across the globe. More information on Steer and its projects is found in **Appendix B**. Steer's original 2016 report was updated in December 2019 using professional practices and procedures and information obtained from the following sources:

- ☞ General Las Vegas visitor market data points
- ☞ Various figures on travel and visitor from local and state sources (both California and Nevada)
- ☞ Cell phone data, GPS data, Google travel times, behavioral research focus groups and surveys
- ☞ Convention data
- ☞ McCarran International Airport website

As a part of the study to enhance the accuracy data inputs, Steer conducted an extensive survey to understand potential travelers' stated preferences as to their preferred modes of transportation. Steer collected surveys from over 4,000 people using various methods to support the study. The study presented people with various modes of transportation to determine preference. Once preference was



established, they adjusted the variables (journey time, costs, reliability, amenities, comfort, safety, etc.) to determine inputs to travel decisions to see at which point they would make a decision to change the mode of travel. With all of these data points, they attempted to predict the probability that travelers would choose trains over other modes of travel. This provided a likelihood and reliable indication of people's propensity to use the new train system. The survey process generated empirical data to aid in the ridership and financial projections.

This isn't to say this project is unique and findings may vary. Steer did find ways to be to be conservative in its methodology and application. For example, a potential trip from Southern California may go slightly beyond Las Vegas. It may not reasonable or realistic to expect travelers to take the train to Las Vegas and then use other modes of travel to travel to Mesquite for instance. The findings were filtered to remove these types of anomalies.

Applying the data from the various sources and surveys, Steer constructed two demand forecasting models to estimate the potential for the Company to capture sufficient market share of riders: one for car travelers and one for air travelers. These models use "logit" function-based discrete choice models to determine mode choice, an established choice modeling technique which we have used on a large number of transportation projects in the US and internationally.

The final Steer report stated they "explore[d] the characteristics of the existing travel market between California and Las Vegas and analyze[d] how this demand might change in the future following the introduction of XpressWest. Finally, [they] present[ed] [their] forecasts of ridership and revenue for the service over the period from 2023 to 2050."

The Company will utilize the Steer estimates of ridership and appropriate applicable fares together with experience from the Florida Project and ongoing internal analysis to develop its financial modeling. These market estimates have used independent industry publications, government publications, and third-party forecasts in conjunction with the Company's assumptions about its markets. Neither the Company nor Steer intends to independently verify such third-party information. While the Company is not aware of any misstatements or omissions regarding any market, industry or similar data presented herein, such data involves risks and uncertainties and is subject to change based on various factors.

The following sections highlight aspects of the study.

### **Projected Ridership**

It is estimated that there were over 84 million one-way trips in and out of the Las Vegas area with approximately 42-million total visitors to Las Vegas in 2018. Steer relied on data from the Las Vegas Convention and Visitors Authority ("LVCVA") data pool, California visitor information amongst other sources of visitor and travel data. The LVCVA data pool is a great resource with a long, rich and stable source of data. Steers figures will differ from LVCVA figures as those do not include those persons under 21, not staying in hotels, those staying with friends, family and/or VRBO or day trippers. 2018 represents the base year as it was the last complete year of available data.

An important statistic is it is estimated that Southern California residents account for approximately 26% of all visitors to Las Vegas. In addition to this market of visitors from Southern California, the Project can also attract ridership from those whose travel will include both Southern California and Las Vegas. Combine this general market with those Clark County residents visiting Southern California, that represents the target pool of potential riders on the Project. The one-way trip market (in millions) is



summarized as follows and assumes 31.1 million one-way trips made to Las Vega by Southern Californian residents:

One-Way Trip Market (in millions)	Auto	Air	Bus	Total
Southern Cal to Las Vegas	23.6	4.7	2.8	31.1
Las Vegas / Clark County to CA	6.5	1	0.1	7.5
Other locations to Las Vegas via CA	3.8	0.8	0.1	4.6
<b>Total</b>	<b>33.8</b>	<b>6.4</b>	<b>3.0</b>	<b>43.2</b>

Source: Steer

The 11 million estimated Southern California Visitors (which translates to 22 million one-way trips) was increased to 31 million one-way trips based on an extensive survey conducted by Steer which collected 4,000 survey responses to verify their findings. Understanding the visits from Southern California is a key element in determining the potential ridership of the train Project.

In verifying future growth patterns, in addition to the LVCVA data pool, Steer looked at Las Vegas strip hotel occupancy. Historically, these levels have been very consistent and reliable. Hotel occupancy historically has demonstrated stable visitation patterns, other than during the great recession. As visitation continues to increase, Las Vegas hoteliers / casinos continue to match room capacity to increased demand. Las Vegas commissioned a study to project future growth by a reputable, independent professional. The growth was projected at 1.9% per year as compared to historical trends of 2.4% for the past 30-yrs. Assuming the base case summary that the train system will become operational in 2023, the Steer Study suggests the following ridership (in millions):

Summary of Model	2024	2027	2030	2035
In-scope market (million one-way trips)	48.4	50.5	52.8	56.4
High-Speed-Rail (“HSR”) Capture Rate	11%	19%	19%	19%
Captured HSR ridership (million one-way trips)	5.1	9.9	10.2	10.8
Induced HSR ridership (million one-way trips)	0.4	0.7	0.7	0.8
Total HSR ridership (million one-way trips)	5.5	10.5	10.9	11.6
Average HSR one-way fare (\$, 2018 prices)	57	56	56	56
HSR farebox revenue (\$M, 2018 prices)	311	596	617	653

Source: Steer

The ridership is anticipated to originate from the following markets:

Million one-way trips	2024	2027	2030	2035
<b>By originating market</b>				
Southern Cal	34.2	35.6	37	39.1
Las Vegas	8.7	9.2	9.7	10.7
Other	5.4	5.7	6.1	6.6
<b>Total</b>	<b>48.3</b>	<b>50.5</b>	<b>52.8</b>	<b>56.4</b>



<b>By current mode</b>				
Auto	37.8	39.5	41.3	44.1
Air	7.3	7.7	8.0	8.5
Bus	3.3	3.4	3.5	3.8
Total	48.4	50.6	52.8	56.4

Source: Steer

As such, the Steer Study anticipates capturing the following markets:

Market	2024	2027	2030	2035
<b>% captured market shared (excluding induced travel)</b>				
Southern Cal	13%	23%	23%	23%
Las Vegas	5%	9%	9%	9%
Other	8%	14%	14%	14%
Total	26%	46%	46%	46%
<b>% captured market shared (excluding induced travel)</b>				
Auto	9%	17%	17%	17%
Air	20%	37%	37%	37%
Bus	3%	5%	5%	5%
Total	11%	19%	19%	19%

Source: Steer

As for a comparable case studies, it was determined that the northeast corridor is the best US comparable. 2013 figures suggested that travel between the New York / New Jersey and DC market would garner 20.2% market share with conventional trains. With high speed trains, the market share could approach 30%. The Italo is an international comparison. The following table highlights the capture rate from both systems:

	Amtrak Northeast Corridor	Italo	XpressWest
Estimated stabilized capture rate	27%	23%	19%

Source: Steer

Base Case Annual Ridership by Origin	2024	2027	2030	2035
<b>Ridership (including induced travel in millions)</b>				
Southern Cal	4.6	8.9	9.1	10.2
Las Vegas	0.5	0.9	0.9	1
Other	0.4	0.8	0.9	0.9
Total	5.5	10.6	10.9	12.1

Source: Steer



The Nevada Department of Transportation provided the following estimates on daily traffic figures:

Category	Figures
Daily traffic figures	49,000
Annual drivers	17,885,000
Example #1: Passengers per car	1
Total passengers	17,885,000
Example #2: Passengers per car	3
Total passengers	53,655,000
Source: NDOT; adjustments by LYRB	

A presentation to stakeholders from December 2019 assumed the following train configurations:

Category	Figures
Minimum departure intervals (minutes)	45
Typical car train (# of cars)	8
Typical train capacity	500
Potential maximum trains per day one way (one-way)	32
Max total riders one way	16,000
Max total riders both ways	32,000
Max total riders per year before adjustments	11,680,000
Source: XpressWest Stakeholder Presentation	

The Steer Study projected the ridership as follows:

Year/Ridership	Year 1	Year 2	Year 3	Year 4
Projected Riders	5,500,000	8,100,000	10,000,000	10,500,000
% of Daily Traffic with 1 passenger	30.8%	45.3%	55.9%	58.7%
% of Daily Traffic with 3 passenger <sup>3</sup>	10.3%	15.1%	18.6%	19.6%
% of Current Train Capacity	47.1%	69.3%	85.6%	89.9%

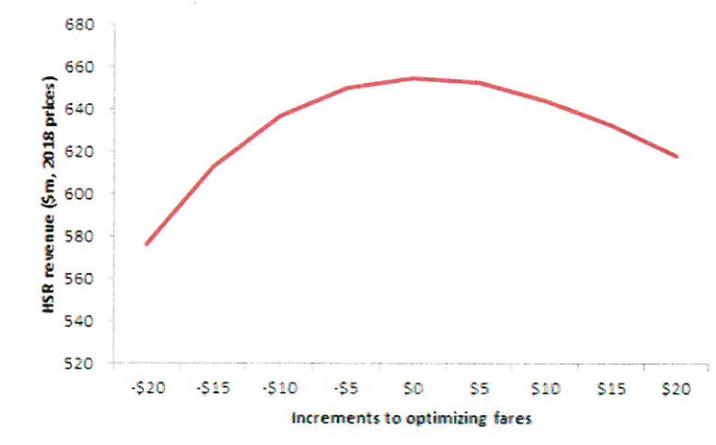
The Steer study used “ramp-up” assumptions to project the time period of initial ridership on the Project to full ridership expectancy. The assumptions are based upon experience with other high-speed rail projects in the US and Internationally. The ramp-up rates are illustrated in the following table:

Time Period	Assumed Ramp-UP Rate (%)
First 12-month of operation	50%
Second 12-months of operation	75%
Third 12-months of operation	95%
Thereafter	100%
Source: Steer	



## Fares

When considering fares, Steer did extensive analysis of pricing as compared to alternate modes of transportation and train projects elsewhere. They further looked at the impact on Company revenues by adjusting fares to attract riders. The table below, taken from the Steer study, illustrates the impact on Company revenues.



## Car Ownership

In tracking vehicle ownership, the US Department of Transportation – Federal Highway Administration in 2018 released a 2017 National Household Travel Survey (NHTS) which provided an inventory of daily travel in the US and its major Census Divisions and add-on areas. This report is the only source of national-level statistics on personal travel in the US. Their report summarizes trends in household and personal travel patterns, including information on changes to the household-based vehicle fleet and commuting patterns.

One area of focus was the vehicle ownership trend. The following table outlines how, in recent years, the percentage of households without a vehicle or multiple vehicles has grown:

Year	No Vehicle	One Vehicle	Two Vehicles	Three or More Vehicles	ALL
1969	20.6%	48.4%	26.4%	4.6%	100%
1977	15.3%	34.6%	34.4%	15.7%	100%
1983	13.5%	33.7%	33.5%	19.2%	100%
1990	9.2%	32.8%	38.4%	19.6%	100%
1995	8.1%	32.4%	40.4%	19.1%	100%
2001	8.1%	31.4%	37.2%	23.2%	100%
2009	8.7%	32.3%	36.3%	22.7%	100%
2017	8.9%	33.5%	33.1%	24.4%	100%

Source: USDOT – FHA 2017 National Household Travel Survey

- Most riders are converted from car owners
  - o As car ownership declines, ridership potentially goes up
  - o California household travel survey addresses this



## Steers Reliability and Results

We attempted to compare the results of the Steer study to other studies in both the US and Internationally. Unfortunately, most of the studies Steer conducted are confidential / proprietary in nature. Steer however did share the fact that on two studies they completed, that ridership and revenue projections were within 5% of projections. Due to its proven reliability and success, they applied the same methodology used on previous studies to this study.

## Revenues

Relying upon figures from the Steer Study, XpressWest created a pro forma that assumes a more conservative ridership than projected in the Steer Study to arrive at a debt service coverage factor of 1.06x in 2024 which climbs to 2.14 in 2026 and ultimately to 2.64x by 2029. The following points are highlights from the pro forma:

- ☞ After the first year's ridership, assuming 90% of the Steer Study, the pro forma assumes 80% of the projected Steer Study ridership to generate revenues
- ☞ To meet 1.10x debt service, XpressWest will need 50% of total projected riders
- ☞ Assumes a modest 2.43% average increase to fare over the 6-year pro forma
- ☞ The model assumes modest ancillary revenues (food & beverage sales on train) averaging at \$10 per rider.
  - Includes only other revenue streams from onboard the train and excludes revenues derived through sales or leasing of space to third-party vendors within the station. ***While the station-level revenues represent an upside for the business, the Company is still in the preliminary stages of station design and opted to exclude revenue opportunities from the station in its projections.***
  - Additionally, this excludes advertising, sponsorship, naming rights or branding revenues, which represent additional revenue streams for the business, but which are not directly tied to the total number of passengers on the train.
- ☞ Leveraging the Steer Study, XpressWest projects stabilization at ~8.5 million riders in Year 4
  - The 45-minute departure intervals and train capacity on weekends constrain the 10.5 million ridership limit

## Pro Forma

The following pro formas demonstrate the projected revenues and expenses from the Company to cover debt service. The pro formas take into consideration the Steer ridership report, Florida Project experience and feedback from investors. The initial years of debt service through construction and the ridership ramp-up period will be interest only. Once ridership has stabilized in the model, principal has a level amortization thereafter. It is anticipated that the principal will **amortize over a 30-year period beginning in year 6**. The first pro forma assumes 100% ridership. The second pro forma adjusts only the ridership, with no change to expenses, to determine what percentage of projected ridership is necessary to have 1.10x debt service coverage. To offset the first year's lower debt service, the Project has a variety of reserves described further below.

The following pro forma assumes 100% of the projected pro forma ridership:



Year	2024	2025	2026	2027	2028	2029
<i>Steer Study Projected Ridership</i>	<i>5,500,000</i>	<i>8,100,000</i>	<i>10,000,000</i>	<i>10,500,000</i>	<i>10,500,000</i>	<i>10,500,000</i>
<b>Pro Forma Ridership / Passengers</b>	<b>4,900,000</b>	<b>6,600,000</b>	<b>7,700,000</b>	<b>8,500,000</b>	<b>8,600,000</b>	<b>8,700,000</b>
Average fare	\$66.00	\$68.00	\$70.00	\$71.00	\$72.00	\$74.00
Ticket revenue	\$323	\$449	\$539	\$604	\$619	\$644
Passenger ancillary revenue	\$0	\$0	\$0	\$0	\$0	\$0
Other ancillary revenue	\$60	\$90	\$110	\$120	\$130	\$130
Ancillary revenue	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Revenue</b>	<b>\$383</b>	<b>\$539</b>	<b>\$649</b>	<b>\$724</b>	<b>\$749</b>	<b>\$774</b>
Variable Costs	\$30	\$50	\$50	\$60	\$60	\$60
Train operations	\$110	\$120	\$120	\$130	\$130	\$130
Corporate & other	\$20	\$20	\$30	\$30	\$30	\$30
<b>Total operating costs</b>	<b>\$160</b>	<b>\$190</b>	<b>\$200</b>	<b>\$220</b>	<b>\$220</b>	<b>\$220</b>
EBITDA	\$223	\$349	\$449	\$504	\$529	\$554
Margin	58.3%	64.7%	69.2%	69.6%	70.6%	71.6%
Depreciation & amortization	\$130	\$130	\$130	\$130	\$130	\$130
Operating income	\$93	\$219	\$319	\$374	\$399	\$424
Interest expense (ex. Capitalized interest)	\$210	\$210	\$210	\$210	\$210	\$210
<b>Net income</b>	<b>-\$117</b>	<b>\$9</b>	<b>\$109</b>	<b>\$164</b>	<b>\$189</b>	<b>\$214</b>
DSCR = ((EBITDA - Maintenance CAPEX) / Interest Expense)	1.06	1.66	2.14	2.40	2.52	2.64



In stressing the pro forma debt service coverage, the following projections assumes a percentage, as shown below, of the projected pro forma ridership, with no change to expenses, to derive a debt service coverage of 1.10x.

Year	2024	2025	2026	2027	2028	2029
<i>Steer Study Projected Ridership</i>	<i>5,500,000</i>	<i>8,100,000</i>	<i>10,000,000</i>	<i>10,500,000</i>	<i>10,500,000</i>	<i>10,500,000</i>
Original Pro Forma Ridership / Passengers	4,900,000	6,600,000	7,700,000	8,500,000	8,600,000	8,700,000
<b>Adjusted</b>	<b>100%</b>	<b>74%</b>	<b>60%</b>	<b>55%</b>	<b>52%</b>	<b>50%</b>
Stressed Pro Forma Ridership / Passengers	4,900,000	4,884,000	4,620,000	4,675,000	4,472,000	4,350,000
Average fare	\$66.00	\$68.00	\$70.00	\$71.00	\$72.00	\$74.00
Ticket revenue	\$323	\$332	\$323	\$332	\$322	\$322
Passenger ancillary revenue	\$0	\$0	\$0	\$0	\$0	\$0
Other ancillary revenue	\$60	\$90	\$110	\$120	\$130	\$130
Ancillary revenue	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue	\$383	\$422	\$433	\$452	\$452	\$452
Variable Costs	\$30	\$50	\$50	\$60	\$60	\$60
Train operations	\$110	\$120	\$120	\$130	\$130	\$130
Corporate & other	\$20	\$20	\$30	\$30	\$30	\$30
Total operating costs	\$160	\$190	\$200	\$220	\$220	\$220
EBITDA	\$223	\$232	\$233	\$232	\$232	\$232
Margin	58.3%	55.0%	53.9%	51.3%	51.3%	51.3%
Depreciation & amortization	\$130	\$130	\$130	\$130	\$130	\$130
Operating income	\$93	\$102	\$103	\$102	\$102	\$102
Interest expense (ex. Capitalized interest)	\$210	\$210	\$210	\$210	\$210	\$210
Net income	-\$117	-\$108	-\$107	-\$108	-\$108	-\$108
DSCR = ((EBITDA - Maintenance CAPEX) / Interest Expense)	1.06	1.11	1.11	1.10	1.10	1.10

Other revenues include F&B, merchandise, sponsorships, branding and other fees for the train.



## Economic Impact to Nevada

XpressWest anticipates that the Project will have a significant economic impact in both California and Nevada by creating skilled, high-paying jobs during both the initial construction phase and from full-time permanent jobs which will generate new property and sales tax revenues. These jobs and revenues will generate additional economic value within the community with its employees utilizing local services.

The Company engaged Beacon Economics to outline the Project’s potential economic benefits from operations and construction between Southern California and Clark County. The report is dated February 1, 2019. In summary, XpressWest anticipates the following benefits to the local economies as listed in the Beacon Study:

### **Construction**

- Construction related expenditures included direct construction costs (labor and materials), developer/management fees, architects and engineer expenses, legal fees, insurance and marketing costs. The Nevada portion of the construction will likely be between \$1-\$2 billion.
- It is anticipated that the following positions will directly be created:
  - Project management: 150
  - Engineer / design: 75
  - Professional: 15
  - Labor: 355
  - Iron / Carpenter: 324
  - All other: 180

Region	Output (Millions)	Employment	Labor Income (Millions)	Federal, State & Local Tax Revenue (millions)
San Bernardino County	\$2,130	15,871	\$801	\$274.6
Clark County	\$1,982	13,656	\$711	\$246.6
California & Nevada	\$4,812	30,672	\$1,826	\$626.7

Source: Beacon Economics

### **Operations**

Region	Output (Millions)	Employment	Labor Income (Millions)	Federal, State & Local Tax Revenue (millions)
San Bernardino County	\$46.9	404	\$17.3	\$4.8
Clark County	\$73.4	460	\$22.5	\$8.5
California & Nevada	\$140.4	937	\$48.0	\$16.2

Source: Beacon Economics

### **Clark County – Economic Impact**

- Generates \$2.0B in economic output with \$1.2B generated by direct spending, \$300M from indirect spending and \$500M from induced spending.
- Supports 13,656 jobs with 8,537 supported through direct spending, 1,919 through indirect spending and 3,200 through induced spending



- Generates \$711M in labor income, with \$473M generated from direct spending, \$99M from indirect spending and \$139M from induced spending

**Expenditures from the Rail System**

- The day-to-day operations of the Project would also generate ongoing expenditures. These would come not only from the train but also from the operations, with potentially more being generated from mixed use developments near the rail line’s terminus in Las Vegas. However, only the operations of the rail line are considered in this analysis. Ongoing operations for the Project are estimated to support 541 jobs annually. These jobs include railroad engineers, mechanics, station staff, and other railroad related positions.

Department	Positions
Regional Operations Management	5
Stations	301
Safety & Security	41
Transportation	80
Mechanical	108
Railroad engineering	6
<b>Total</b>	<b>541</b>

Source: Company, Beacon Economics

- In addition, about 270 jobs will be supported through the Project’s operations annually.

**Project Economic Impact**

- The Beacon Study suggests that in addition to an increase in economic activity in Clark County during construction, there would also be ongoing economic activity generated from day-to-day operations by the jobs directly supported by the rail system. Using the IMPLAN modeling system, Beacon estimates the direct, indirect and induced economic impact of the operations of the rail system. In the County, the Project would:
  - Generate \$73.4M in economic output
  - Support 460 jobs
  - Generate \$22.5M in labor outcome
  - Generate \$8.5M in federal, state and local tax revenue

Clark County Impact	Output (Millions)	Employment	Labor Income (Millions)	Federal, State & Local Tax Revenue (millions)
Direct	\$45.4	271	\$13.6	
Indirect	\$13.3	88	\$4.5	
Induced	\$14.7	102	\$4.4	
<b>Total</b>	<b>\$73.4</b>	<b>460</b>	<b>\$22.5</b>	<b>\$8.5</b>

Source: Beacon Economics



#### 10-yr Outlook

- Once completed, the Study suggests the rail system will support 5,410 person-years of employment over the next decade. Beacon estimates the direct, indirect and induced economic impact of the operations of the rail system over this ten-year period for Clark County specifically.

Clark County Impact	Output (Millions)	Employment	Labor Income (Millions)	Federal, State & Local Tax Revenue (millions)
Direct	\$441.0	2,705	\$132.3	
Indirect	\$129.3	855	\$44.2	
Induced	\$142.6	988	\$42.8	
<b>Total</b>	<b>\$713.8</b>	<b>4,548</b>	<b>\$219.3</b>	<b>\$82.7</b>

Source: Beacon Economics

#### Other economic and environmental impacts identified by the Beacon Study

- Reducing road congestion and traffic
- Reduced traffic will lengthen useful life of roads delaying expensive repairs
- Reduce pollution
- Increase property valuations along portions of corridor

### Funding Sources

The Project financing is diverse in the sense that it is being funded from a variety of state and federal sources in conjunction with equity capital.

The Company has invested approximately \$132 million as of July 31, 2019 in the development and construction of the Florida Project, which was funded by a combination of cash and assets, directly or indirectly from Florida East Coast Industries, LLC ("FECI"), the indirect parent company of the Company.

The bonds to be issued are intended to be private activity bonds from California, Nevada and US DOT allocations which allows the project to access the tax-exempt municipal bond market which will likely have a lower interest rate than financing the Project elsewhere. The issuance of the bonds allows the Project to leverage Federal dollars up to 4x the local allocation. The following table outlines the allocation of funding:

Sources	
California tax-exempt debt	\$2.4B
USDOT tax-exempt debt	\$1.0B
Nevada tax-exempt debt	\$0.8B
<b>Total Debt</b>	<b>\$4.2B</b>
Equity contribution	\$0.5-1.0B
<b>Total Sources</b>	<b>~\$5.0B</b>



## **Security**

The Series 2020 Bonds will be secured as described in bond documents to include indentures, collateral agreements, trust estates to generally consist of:

- a) All Series 2020 Project Revenues
- b) Moneys in all related Project Accounts
  - a. Specific reserve accounts will be established for capitalized interest, ramp-up ridership, debt service reserve, O&M and R&R as further described below
- c) Instruments, equipment (including rolling stock), inventory, other goods, investment property and the like
- d) Letter-of-credit rights, letters of credit, money, oil, gas and other minerals, agreements and similar contracts
- e) Tangible and intangible property, fixtures, governmental approvals, proceeds of insurance policies and other associated proceeds and profits

## **Series 2020 Bond Reserve Fund Components**

The Series 2020 Bonds will have the following reserves. Due to the nature of the complete project being funded with bonds issued in California and Nevada along with private equity, the reserves below are listed in the aggregate across all sources of funding.

For tax purposes, only the capitalized interest and debt service reserve funds will be funded from the tax-exempt bonds. As the other reserve funds are considered “operating accounts”, those would have to be funded from taxable sources. Therefore, the balance of the funds will be funded from equity or other funding sources.

- ☞ Capitalized Interest – 100% through construction period: ~\$630MM
  - From bond proceeds
- ☞ Ramp-up reserve fund will offset low ridership levels: the amount will be established by considering: model cashflows and input from investors: ~\$4-5MM
- ☞ Debt Service Reserve Fund – 6 months (standard in project finance market): ~\$105MM (projections include a \$210MM debt service payment)
- ☞ O&M reserve fund – 1 month: ~\$10-12MM
- ☞ R&R reserve fund – 18-months: ~\$15MM

## **Bond Marketing and Sale Information**

The Company has retained Morgan Stanley as the underwriter for the Series 2020 Bonds. Morgan Stanley successfully underwrote and sold all of the Florida Project’s bonds. In marketing the Florida bonds, the following highlights that sales effort:

- ☞ \$1.7BB project financing for the Florida Project
- ☞ Morgan Stanley traveled the country with the Company presenting to investors
  - 40 investor roadshows
  - 300 investors view of electronic investors roadshow
- ☞ 67 different investors ultimately purchased the bonds
- ☞ \$4BB in orders, roughly 235% subscription rate
- ☞ The bonds continue to trade well showing promise for this bond sale
- ☞ Many of those investors have been asking Morgan Stanley when the next project will come



Morgan Stanley has experience on other Nevada projects and has demonstrated professionalism and proficiency in completing those projects.

The Company is preparing to enter the market as soon as they receive the approvals from the requisite authorized parties from California and Nevada.

### **COVID Impacts to Travel**

As to all forms of travel, the current COVID pandemic has impacted and will continue to impact general travel for period of time. As it is impossible to ascertain the long-term impacts to travel curtailment, the Project will need to address this reality. With the hopes of a COVID vaccine in early 2021 and the Project opening in 2023, there may not be a reduction in trips. However, the Project may need to take additional actions during the construction period that may or may not impact timing or costs.

### **Summary**

The Project has garnered the support and the interest from political leadership, transportation experts, state and federal transportation authorizers along with local residents and authorities. The Company itself has sought insight and advice from various industry professionals. These interests all appear to be aligned to alleviate the frequent traffic congestion between Southern California to Las Vegas, improve safety, encourage economic development, reduce emissions, reduce vehicles on roadways and enhance travel opportunities.

The financial projections, which rely on information that can be difficult to forecast and identify given the uniqueness of the Project and lack an exact comparison, appears to be realistic in nature. Having a sister project in Florida that enables the Company to capitalize on its experience and shared leadership, management, asset and knowledge resources provides support for, and confidence in, the Project.

The potential economic impact of the Project will lead to hundreds of construction and permanent jobs as well as hundreds of millions of dollars of investments in the areas that will produce significant tax revenues into the local and state economies. In addition, the Project will likely be an immediate answer to the problems with transportation issues between Southern California and Las Vegas.

The major obstacle will be ridership. The data suggests that the demand will be sufficient due to a variety of factors that include increased interest in quality alternate modes of transportation, decreasing car ownership and the costs and time of various alternate modes of travel. The Project's success in easing drive times may limit the ridership on the train network. However, the survey aspect of Steer's study indicates an interest in a quality mode of transportation in this corridor from a mixture of Southern Californian visitors, regional visitors connecting Southern California and Las Vegas visits and Clark County residents traveling to Southern California.

The Company has compiled a team of professionals to evaluate options and execute the plan. Fortress is a large, experienced equity partner to support the Project on various levels. The Project's construction budget will be largely fixed with various guaranteed maximum price contracts and purchase contracts. Steer has demonstrated an accurate expertise in ridership and revenue projections. Beacon's study suggests a large economic impact from the Project. Morgan Stanley's interactions with the investment community will integrate investor input into the marketing of the bonds. FECL's management will bridge industry experience and local knowledge.



## **Conclusion**

The XpressWest group has created a unique project that, if successful, will bring transportation, economic and environmental benefits to the region. The Project will not only create new jobs but will provide a solution to existing transportation problems. This Project will also provide a green energy solution to traffic that will reduce pollution, reduce road maintenance, enhance safety and improve the lives of those traveling in this corridor.

Upon examining the various materials provided to me heretofore and discussing the financing application with members of XpressWest's overall team, the Project appears to be viable and the projections seem reasonable. If the projections are met, as described herein, XpressWest should be able to meet its financial obligations as they come due and support the bonds being issued to construct the Project.

LYRB concurs with the B&I that the XpressWest Project should be presented to the Board of Finance for its consideration.

We welcome the opportunity to discuss the XpressWest financing application. Please contact me at my office at (801) 456-3903, by cell (801) 647-4823 or by e-mail [david@lewisyoung.com](mailto:david@lewisyoung.com).

Sincerely,

David Robertson  
Vice President



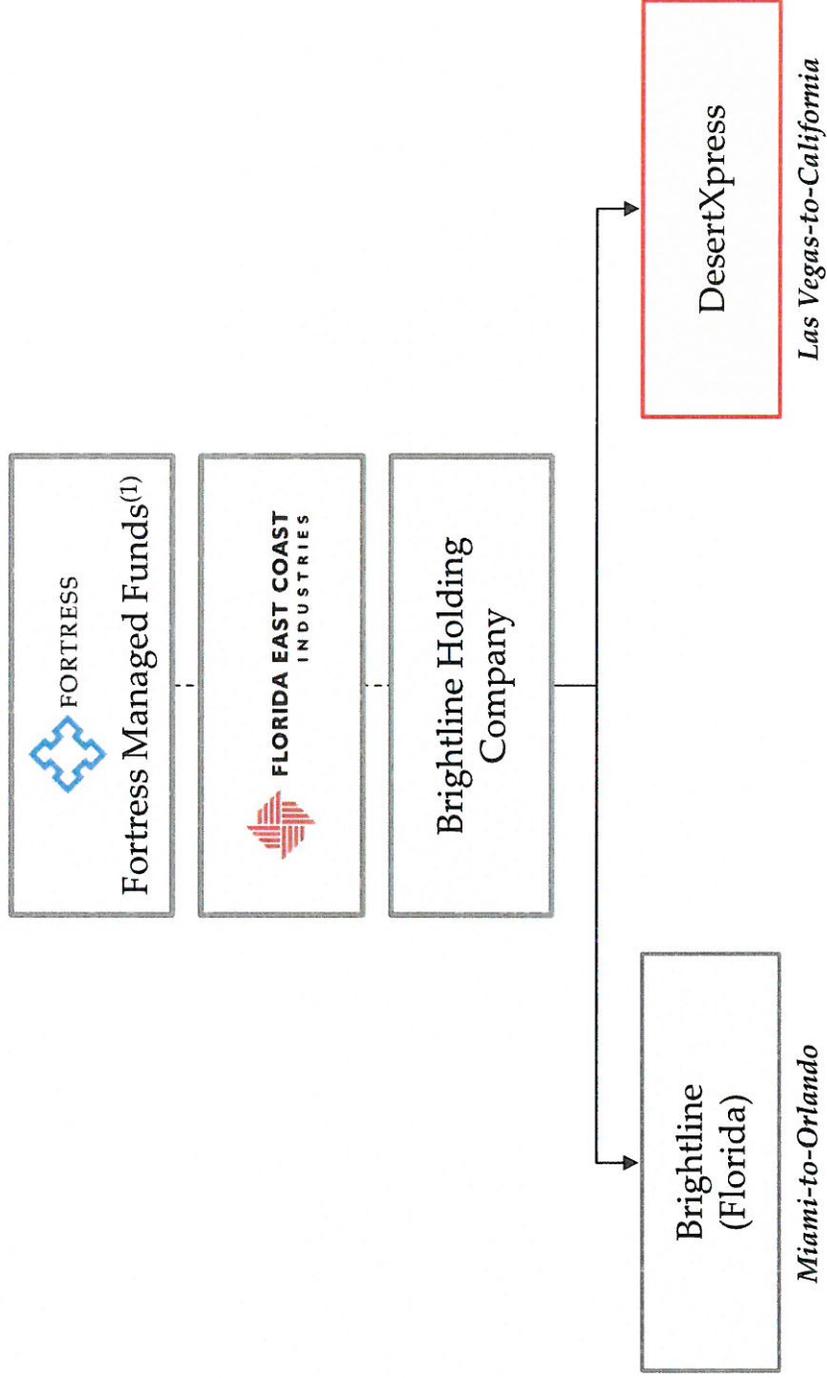
Fortress is a global investment manager with over \$40 billion of assets under management. Florida East Coast Industries, the parent company of the Project, is wholly owned by Fortress managed funds

Fortress affiliated funds and companies have developed, managed and operated several assets across the rail, aviation, port and energy sectors. This has been executed primarily through 2 businesses:

- a. Florida East Coast Industries – ***Privately owned by Fortress affiliated funds and the parent company of DesertXpress***
  - i. Developed, own and operate the first private passenger rail line
  - ii. Developed with over \$1 billion invested to complete phase 1 and ultimately will be a total of ~\$3 billion investment to complete that project
  - iii. Completed line will be from Orlando to Miami
- b. Fortress Transportation and Infrastructure (NYSE: FTAI) – ***\$1 billion market capitalization publicly traded business on the New York Stock Exchange.***
  - i. Railroad Experience (*see pages below on this*) – owned, operated and sold multiple freight railways in the U.S. and FTAI maintains deeply entrenched commercial relationships with all of the leading freight rail operators in North America
    1. Central Maine & Quebec Railway
    2. Florida East Coast Railway
    3. Rail America
  - ii. Industry leading aviation leasing platform – Own and lease 221 aircrafts and engines
  - iii. 3 Energy and Rail Terminals – ~\$800 million in equity
  - iv. Aviation Leasing - 69 passenger aircraft; 152 commercial jet engines

## Fortress Relationship to Borrower

- XpressWest sponsored by Fortress Investment Group, one of the largest global investment managers with \$41.5 billion of assets under management as of September 30, 2019



Note: Chart has been simplified and does not reflect all subsidiaries or affiliates.

1. Fortress is a subsidiary of Softbank Group.

# FTAI Railroad Experience

- FTAI has owned, operated, and managed several freight railways in the U.S.
- FTAI maintains deeply entrenched commercial relationships with all of the leading freight rail operators in North America

## Central Maine & Quebec Railway



- Short line railroad from Montreal to Maine with 480 miles of owned track and ~35,000 annual carloads
- Acquired out of bankruptcy in 2014
- Significant economic turnaround through new management, capex investments, and pricing gains
- Sold to Canadian Pacific for \$130 million in December 2019

## Florida East Coast Railway



- Class II regional railroad spanning 351 miles of mainline track from Jacksonville to Miami Florida
- Acquired in 2007 and doubled EBITDA over 6 years
- Joint collaboration with Port Miami and Port Everglades to develop on-dock rail facilities; acts as exclusive rail provider
- Sold to Grupo Mexico for \$2.1 billion in March 2017

## Rail America



- Owned and operated a number of short-line and regional railroads in the U.S. and Canada
- Acquired in 2007, took public in 2009
- Doubled EBITDA over 6 years through implementing pricing gains, cost savings initiatives, and a new management team
- Sold to Genesee & Wyoming for \$1.4 billion in 2012





APPENDIX B – STEER REPRESENTATIVE PROJECTS AND AMTRAK RIDERSHIP HISTORY

In January 2020, Inframation Deals released its project finance and league tables trend report for 2019 that captures over 74 deals in the transport sector totaling \$160.98 billion. Steer ranked first in value and number of transport infrastructure deals. Steer acted as advisor on 16 deals that reached financial close in 2019, with a total transaction value of \$12.5bn. Across all sectors, Steer ranked fifth in value and number of transactions — transport deals account for 24% of total transactions in value.

Steer has developed various studies for the following projects:

- Ongoing Amtrak consultant
  - o Produced ridership forecast to support \$2.4BB Federal loans for Amtrak to purchase Acela trains (28 sets); largest amount ever awarded
  - o Acela – Amtrak’s service in northeastern US
- Amtrak experienced highest ridership to date in 2019 with total ridership exceeding of 32.5 million passengers
  - o The Amtrak Ridership report the following ridership per system

Region	FY2015	FY2016	FY2017	FY2018	FY2019	% Change to FY 2018
Acela	3,473,644	3,489,311	3,442,188	3,428,338	3,577,455	+4.3%
Northeast Regional	8,215,523	8,409,662	8,569,867	8,686,930	8,940,745	+2.9%
State Supported	14,686,508	14,079,344	15,012,812	15,079,135	15,438,804	+2.4%
Long Distance	4,488,542	4,655,599	4,698,458	4,513,474	4,554,835	+0.9%
Total	30,882,129	31,274,790	31,738,575	31,716,252	32,519,241	+2.5%

Source: Amtrak Annual Reports

- Amtrak maintains a relationship with ride-sharing companies, LYFT
  - o Virgin also has ride-sharing relationships with LYFT

EXHIBIT B

OFFICE OF ECONOMIC DEVELOPMENT APPROVAL

(Attached)

B-1

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**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

**Las Vegas:** 3300 W. Sahara Avenue, Suite 425 Las Vegas, Nevada 89101 - Telephone (702) 486-2750 - Fax (702) 486-2758  
[www.business.nv.gov](http://www.business.nv.gov)

**DETERMINATION AND APPROVAL OF THE STATE OF NEVADA  
GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT PURSUANT TO  
NEVADA REVISED STATUTES 349.585 RELATING TO THE FINANCING OR  
REFINANCING OF A PROJECT LOCATED IN CLARK COUNTY, NEVADA**

WHEREAS, DesertXpress Enterprises, LLC, dba XpressWest, a Nevada limited liability company ("DesertXpress" and, including any related or successor entity or entities thereto, the "Borrower") has submitted the attached application dated December 19, 2019 (the "Application") to the Director of the State of Nevada Department of Business and Industry (the "Director") for the issuance of industrial development revenue bonds in an amount not to exceed \$950,000,000 (the "Bonds") for the purpose of assisting in the financing or refinancing a portion of the costs of the design, development, acquisition, construction, installation, equipping, ownership, operation, maintenance, renovation and administration of a high speed, intercity rail system, including, but not limited to, rolling stock, maintenance facilities, electrification infrastructure, parking facilities, a passenger station and rail lines, all running for approximately 35 miles immediately adjacent to the Interstate 15 corridor between the Nevada side of the California and Nevada border, approximately 0.2 miles south-south-west of Nevada Exit 1 East on Interstate 15 near Primm, Nevada, and a passenger station to be located in Las Vegas, Nevada, on the east side of Interstate 15 within the general boundary of Blue Diamond Road to the South, West Warm Springs Road to the North and Las Vegas Boulevard to the West (the "Project"); and

WHEREAS, the Director has authority to issue the Bonds pursuant to the Nevada Revised Statutes, including Sections 349.400 through 349.670 thereof (the "Act"); and

WHEREAS, the Borrower, and other interested parties have prepared and submitted to the Director certain reports, records and other information related to the Project, and the Director has reviewed such reports, records and other information and has otherwise investigated the facts concerning the Project so as to enable the Director to make certain findings in accordance with the Act; and

WHEREAS, pursuant to Section 349.585 of the Act, the State of Nevada Governor's Office of Economic Development (the "Office") must, prior to the issuance of the Bonds, determine that the Project is consistent with the State Plan for Economic Development and must approve the financing of the Project;

NOW, THEREFORE, pursuant to Section 349.585 of the Act, the Office hereby determines and approves as follows:

The Project is consistent with the State Plan for Economic Development developed by the Executive Director of the Office pursuant to Subsection 2 of Section 231.053 Nevada Revised Statutes.

Based upon the foregoing, the Project is hereby approved by the Office.

This determination and approval is made only for the purposes of Section 349.585 of the Act and does not constitute a guarantee of financial results with respect to the Project or otherwise with respect to the business prospects of the Borrower. This determination and approval is not intended as an analysis of the Bonds as investments or intended to be relied upon by investors.

IN WITNESS WHEREOF, the STATE OF NEVADA GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT has caused this determination and approval to be made this 7th day of JULY, 2020.

THE STATE OF NEVADA GOVERNOR'S  
OFFICE OF ECONOMIC DEVELOPMENT

By:



Executive Director

EXHIBIT C

RESERVED

C-1

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**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

**Las Vegas:** 3300 W. Sahara Avenue, Suite 425 Las Vegas, Nevada 89101 - Telephone (702) 486-2750 - Fax (702) 486-2758  
[www.business.nv.gov](http://www.business.nv.gov)

EXHIBIT D

RESERVED

D-1

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**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

**Las Vegas:** 3300 W. Sahara Avenue, Suite 425 Las Vegas, Nevada 89101 - Telephone (702) 486-2750 - Fax (702) 486-2758  
[www.business.nv.gov](http://www.business.nv.gov)

EXHIBIT E

GOVERNOR'S CERTIFICATE REGARDING THE  
ISSUANCE OF THE BONDS FOR TEFRA HEARING PURPOSES

(Attached)

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E-1

**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

**Las Vegas:** 3300 W. Sahara Avenue, Suite 425 Las Vegas, Nevada 89101 - Telephone (702) 486-2750 - Fax (702) 486-2758  
[www.business.nv.gov](http://www.business.nv.gov)

CERTIFICATE BY THE GOVERNOR  
REGARDING THE DEPARTMENT OF BUSINESS AND INDUSTRY'S ISSUANCE OF  
INDUSTRIAL REVENUE BONDS

I, Steve Sisolak, Governor of the State of Nevada, DO HEREBY CERTIFY:

A public hearing was held on October 17, 2019, at the Southern Nevada office of the Nevada Department of Business and Industry Director's office located at 3300 West Sahara Avenue, Suite 400, Las Vegas, Nevada, 89102 to hear public comment on plans for the issuance and sale of up to \$950,000,000 Revenue Bonds (XpressWest Passenger Rail Project), Series 2020, or such other name or names and/or series or subseries designations, in one or more series (the "Bonds") to assist in the (1) financing or refinancing of a portion of costs of the design, development, acquisition, construction, installation, equipping, ownership, operation, maintenance, renovation and administration of a high speed, intercity rail system, including, but not limited to, rolling stock, maintenance facilities, electrification infrastructure, parking facilities, a passenger station and rail lines, all running for approximately 35 miles immediately adjacent to the Interstate 15 corridor between the Nevada side of the California and Nevada border, approximately 0.2 miles south-south-west of Nevada Exit 1 East on Interstate 15 near Primm, Nevada, and a passenger station to be located in Las Vegas, Nevada on the east side of Interstate 15 within the general boundary of Blue Diamond Road to the South, West Warm Springs Road to the North and Las Vegas Boulevard to the West (collectively, the "Facilities"), (2) funding of certain reserves (if any), including a debt service reserve fund, (3) funding of a portion of the interest payable on the Bonds during the period of development of the Facilities, and (4) paying certain costs of issuance in connection with the issuance of the Bonds.

Notice for the hearing was given and the hearing was conducted in accordance with the Report of Hearing. Such Notice and Report of Hearing are attached hereto as Exhibit A. Solely for the purpose of satisfying the public approval requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, and for no other purpose, I hereby approve the plan of financing for the issuance of the Bonds. This approval is not to be construed as a pledge of the faith and credit of or by the State of Nevada, or of any agency, instrumentality, municipality, or subdivision of the State of Nevada.

IN WITNESS WHEREOF, I have set my hand this \_\_\_ day of \_\_\_\_\_, 2020

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STEVE SISOLAK  
Governor, State of Nevada

E-2

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**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

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[www.business.nv.gov](http://www.business.nv.gov)

EXHIBIT F

DOCUMENT EXTRACTS REGARDING USE OF FUNDS

(Attached)

F-1

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**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

**Las Vegas:** 3300 W. Sahara Avenue, Suite 425 Las Vegas, Nevada 89101 - Telephone (702) 486-2750 - Fax (702) 486-2758  
[www.business.nv.gov](http://www.business.nv.gov)

## Extracts from the Collateral Agency Agreement

### Section 5.01 Establishment of Project Accounts.

(i) The following Project Accounts (inclusive of any sub-account (which may include a separate internal ledger) thereof) are hereby established and created at the Account Bank (the Project Accounts set forth in clauses (i) through (x) collectively, the “Securities Accounts”):

(1) an account entitled “DXE Revenue” as further described on Exhibit C hereto (the “Revenue Account”) and within the Revenue Account:

(A) [reserved];

(B) a sub-account entitled “DXE Revenue – Interest Series 2020 Nevada” as further described on Exhibit C hereto (the “Series 2020 Nevada Interest Sub-Account”);

(C) [reserved]; and

(D) a sub-account entitled “DXE Revenue – Principal Series 2020 Nevada” as further described on Exhibit C hereto (the “Series 2020 Nevada Principal Sub-Account”); and

(2) an account entitled “DXE Loss Proceeds” as further described on Exhibit C hereto (the “Loss Proceeds Account”);

(3) an account entitled “DXE Construction” as further described on Exhibit C hereto (the “Construction Account”), and within the Construction Account:

(A) [reserved];

(B) [reserved];

(C) a sub-account entitled “DXE PABs Proceeds Sub-Account Nevada” as further described on Exhibit C hereto (the “PABs Proceeds Sub-Account Nevada”);

(D) a sub-account entitled “DXE PABs Proceeds Sub-Account Nevada (USDOT)” as further described on Exhibit C hereto (the “PABs Proceeds Sub-Account Nevada (USDOT)”);

(E) [reserved];

(F) a sub-account entitled “DXE Equity Contribution Sub-Account Nevada” as further described on Exhibit C hereto (the “Equity Contribution Sub-Account Nevada”); and

(G) a sub-account entitled “DXE Other Proceeds Sub-Account” as further described on Exhibit C hereto (the “Other Proceeds Sub-Account”); and

(4) an account entitled “DXE Debt Service Reserve” as further described on Exhibit C hereto (the “Series 2020 Debt Service Reserve Account”) and within the Series 2020 Debt Service Reserve Account:

(A) [reserved]; and

(B) a sub-account entitled “DXE Debt Service Reserve Sub-Account Nevada” as further described on Exhibit C hereto (the “Series 2020 Nevada Debt Service Reserve Sub-Account”); and

(5) an account entitled “DXE Major Maintenance Reserve” as further described on Exhibit C hereto (the “Series 2020 Major Maintenance Reserve Account”), and within the Major Maintenance Reserve Account, a sub-account entitled “DXE MMR Non-Completed Work” as further described on Exhibit C hereto (the “Non-Completed Work Sub-Account”);

(6) an account entitled “DXE O&M Reserve” as further described on Exhibit C hereto (the “Series 2020 O&M Reserve Account”);

(7) an account entitled “DXE Ramp-Up Reserve” as further described on Exhibit C hereto (the “Ramp-Up Reserve Account”);

(8) an account entitled “DXE Mandatory Prepayment” as further described on Exhibit C hereto (the “Mandatory Prepayment Account”), and within the Mandatory Prepayment Account:

(A) [reserved];

(B) a sub-account entitled “DXE PABs Mandatory Prepayment Series 2020 Nevada” as further described on Exhibit C hereto (the “Series 2020 Nevada PABs Mandatory Prepayment Sub-Account”);

(9) an account entitled “DXE Capital Projects” as further described on Exhibit C hereto (the “Capital Projects Account”); and

(10) an account entitled “DXE Equity Lock-Up” as further described on Exhibit C hereto (the “Equity Lock-Up Account”).

Each such Project Account shall be identified in the manner set forth in Exhibit C attached hereto. To the extent that the Borrower requests the deposit of funds therein, the Revenue Account shall include the sub-accounts (each of which shall be a separately identified account with a separate and distinct name and account number) described in Section 5.02(c). Notwithstanding

anything herein to the contrary and except upon and during the continuance of a Secured Obligation Event of Default, upon the written instruction of the Borrower, the Collateral Agent may from time to time hereafter establish and maintain sub-accounts within the Project Accounts for the purposes and the term specified in any such request and providing for deposits and withdrawals in those circumstances expressly provided for in any such instruction; *provided, however* that the Borrower shall not be permitted to create any such sub-account in contravention of the purposes for which the Project Accounts were established. Furthermore, in accordance with this Agreement and except upon and during the continuance of a Secured Obligation Event of Default, upon the written instruction of the Borrower in accordance with the applicable Additional Senior Secured Indebtedness Documents, the Collateral Agent may from time to time hereafter establish and maintain Additional Major Maintenance Reserve Accounts, Additional Debt Service Reserve Accounts, Additional O&M Reserve Accounts and additional sub-accounts within the Construction Account for Additional Projects, and each such account shall be considered a Project Account for the purposes and the term specified in any such request and providing for deposits and withdrawals in those circumstances expressly provided for in any such instruction.

(ii) The Borrower hereby confirms that, on or prior to the Closing Date, the Main Operating Account and the Equity Funded Account have been established with [Bank of America, N.A.], in its capacity as the Deposit Account Bank, and each such account shall be maintained in the name of the Borrower and shall be subject to an Account Control Agreement. The Borrower may from time to time establish additional Operating Accounts for the purposes set forth in Section 5.13(a). Even though established at the Deposit Account Bank, each Operating Account, the Equity Funded Account and each Collection Account shall also constitute a Project Account.

(iii) All of the Project Accounts shall be under the control of the Collateral Agent (in the case of any Operating Account, the Equity Funded Account and any Collection Account, at the Deposit Account Bank subject to the control of the Collateral Agent pursuant to the Account Control Agreements) and, except as expressly provided herein (including in Section 5.13) (and in the case of any Operating Account, the Equity Funded Account and any Collection Account, to direct the Deposit Account Bank in accordance with the terms of the Account Control Agreements), the Borrower shall not have any right to withdraw funds from any Project Account. The Borrower hereby irrevocably authorizes the Collateral Agent to credit funds to or deposit funds in, and to withdraw and transfer funds from, each Project Account in accordance with the terms of this Agreement and the Collateral Agent hereby agrees to credit funds to or deposit funds in, and to withdraw and transfer funds from each Project Account in accordance with the terms of this Agreement (and in the case of any Operating Account, the Equity Funded Account and any Collection Account, in accordance with the terms of the Account Control Agreements). The Project Accounts shall be maintained at all times in New York, New York or Jersey City, New Jersey with the Account Bank or, in the case of any Operating Account, the Equity Funded Account and any Collection Account, at the Deposit Account Bank.

(iv) The Borrower may establish a distribution account (the “Distribution Account”) with [Bank of America, N.A.], in its capacity as the Deposit Account Bank, and such account shall be maintained in the name of the Borrower. The Distribution Account shall not constitute a Project Account and shall not constitute Collateral.

#### **Section 5.04 Construction Account.**

(v) The Collateral Agent acting at the written direction of the Borrower shall transfer (and the Borrower shall cause to be deposited) into (i) [reserved], (ii) [reserved], (iii) the PABs Proceeds Sub-Account Nevada of the Construction Account all net proceeds of the Series 2020 Nevada Bonds (in respect of the Series 2020 Nevada Loan), other than proceeds of the Series 2020 Nevada Bonds that are USDOT Bonds, and (iv) the PABs Proceeds Sub-Account Nevada (USDOT) all net proceeds of the Series 2020 Nevada Bonds that are USDOT Bonds (in respect of the Series 2020 Nevada Loan) other than as set forth in clause (c) below. Net proceeds of [Required Equity Contributions,] Additional Equity Contributions, Additional Senior Indebtedness and Permitted Subordinated Debt, in each case issued to finance a portion of Project Costs prior to the Revenue Service Commencement Date, may be deposited into the Other Proceeds Sub-Account or into a separate sub-account of the Construction Account (as confirmed by the Borrower) in accordance with the Financing Obligation Documents and, subject to Sections 5.16(d) and 9.08 herein, shall be disbursed in accordance with Section 5.04(f) herein.

(vi) The Borrower will be entitled to instruct the Collateral Agent to open new sub-accounts of the Construction Account by providing to the Collateral Agent instructions in respect of the same for the purpose of depositing the proceeds of any Additional Senior Indebtedness issued to finance a portion of the Project Costs and permitted to be incurred by the Financing Obligation Documents as set forth in Section 5.04(a), including any proceeds from the Additional Parity Bonds issued in respect of Additional Project Completion Indebtedness or Additional Station Indebtedness from time to time in accordance with the Indentures.

(vii) [reserved] The proceeds of the Series 2020 Nevada Bonds, net of amounts used to pay certain costs of issuance and fund certain deposits on the Closing Date required hereunder and under the Nevada Indenture and after application in accordance with Section 3.3(b) of the Nevada Indenture, will be deposited on the date of issuance of the Series 2020 Nevada into the PABs Proceeds Sub-Account Nevada or the PABs Proceeds Sub-Account Nevada (USDOT) in accordance with Section 5.04(a). Funds on deposit in the PABs Proceeds Sub-Account Nevada and the PABs Proceeds Sub-Account Nevada (USDOT) will be used to pay, or reimburse for a prior payment of, Project Costs as permitted by Law, including the Code; *provided, however*, that such funds may be used to pay interest on the Series 2020 Nevada Bonds solely after all funds available for such payments in the Series 2020 Nevada Funded Interest Account have been used; and *provided, further, however* that such funds may not be used to pay Project Costs that are not Qualified Costs unless the Borrower shall have provided to the Collateral Agent and the Nevada Trustee an opinion of Bond Counsel to the effect that use of such funds to pay Project Costs that are not Qualified Costs will not adversely affect the exclusion of interest on any Bonds (other than Taxable Bonds) from gross income of the Owners thereof.

(viii) (i) [reserved].

(ii) Amounts deposited in the Equity Contribution Sub-Account Nevada will be held in such sub-account and, subject to the conditions of this Agreement, applied

in accordance with Section 5.04(f) from time to time to the payment of Project Costs solely for those portions of the Project located in Clark County, Nevada, to pay only Project Costs (other than Qualified Costs) until amounts on deposit in the PABs Proceeds Sub-Account Nevada and the PABs Proceeds Sub-Account Nevada (USDOT) have been fully expended and then to pay any remaining Project Costs; *provided, however*, that such amounts shall be used to pay interest on the Series 2020 Nevada Bonds solely after all funds available for such payments in the Series 2020 Nevada Funded Interest Account have been used.

(ix) Notwithstanding anything herein to the contrary, the Borrower will be entitled to [(i)] direct the Collateral Agent pursuant to an Equity Transfer Certificate (substantially in the form attached hereto as Exhibit K) from time to time to transfer funds between and among the Equity Contribution Sub-Accounts and the Other Proceeds Sub-Account, solely to the extent (A) such funds constitute proceeds of [a Required Equity Contribution or] an Additional Equity Contribution or proceeds of Permitted Additional Senior Indebtedness or Permitted Subordinated Debt and (B) such transfers are otherwise in compliance with any applicable Financing Obligation Documents, as certified by the Borrower in the Equity Transfer Certificate[, and (ii) make allocations of Required Equity Contributions, solely for federal income tax purposes, that, if implemented through actual fund transfers, would be inconsistent with the restrictions set forth in subsection (d) above].

(x) Subject to Sections 5.16(d) and 9.08 hereof, the Borrower will request pursuant to a Construction Account Withdrawal Certificate disbursements of moneys on deposit in the Construction Account, including the PABs Proceeds Sub-Accounts, the Equity Contribution Sub-Accounts and the Other Proceeds Sub-Account as set forth in this paragraph (f); *provided, however*, that, if the funds on deposit in the Construction Account are the proceeds of Additional Senior Indebtedness (other than Additional Project Completion Indebtedness), the Borrower shall not be required to satisfy the conditions in subclauses (ii), (iii) or (ix) of this paragraph (f) for disbursement of such funds. Amounts in the Construction Account will be transferred by the Collateral Agent as directed in the applicable Construction Account Withdrawal Certificate to pay Project Costs upon receipt of the following documents and satisfaction of the following conditions, as applicable, not later than the second (2<sup>nd</sup>) Business Day prior to the proposed date of disbursement (or such shorter period prior to the Closing Date as is acceptable to the Collateral Agent with respect to disbursements on the Closing Date):

(1) Delivery to the Collateral Agent of a duly executed Construction Account Withdrawal Certificate from the Borrower setting forth the amount requested and all other required information set forth therein including certification by the Borrower as to satisfaction of the applicable requirements set forth in subclauses (ii) through (xii) below;

(2) Delivery to the Collateral Agent of a duly executed certificate from the Borrower, stating that (A) for any amount requested pursuant to such Construction Account Withdrawal Certificate, the work on the Project performed as of the date of such Construction Account Withdrawal Certificate has been performed generally

consistent with the terms of the Transaction Documents and such amount does not exceed the amount of Project Costs then due and payable or which are due and payable within 30 days of the requested disbursement date, and (B) the Revenue Service Commencement Date is reasonably expected to be achieved on or prior to the Revenue Service Commencement Deadline; *provided however*, that upon a determination that the Revenue Service Commencement Date will not occur on or before the Revenue Service Commencement Deadline, a draw from the Construction Account will be allowed so long as the Technical Advisor is satisfied that the Borrower's remediation plan demonstrates that the Revenue Service Commencement Date can be achieved on or before [DATE] which satisfaction must be evidenced by certification thereof in the Technical Advisor Certificate; and, *provided further, however*, that none of the foregoing requirements of this clause (ii) will apply to Project Costs constituting the payment of interest on the Series 2020 Bonds or any Additional Senior Indebtedness or the Costs of Issuance of the Series 2020 Bonds or any Additional Senior Indebtedness that are otherwise being paid in accordance with the Financing Obligation Documents;

(3) The amounts requested pursuant to the Construction Account Withdrawal Certificate for the payment or reimbursement of Project Costs have been incurred in connection with the planning, design, developing, equipping, renovating, financing and construction and placing into service of the Project, shall be applied to pay or reimburse Project Costs, are a proper charge against the applicable sub-account from which such amounts are being drawn and have not been the basis for a prior requisition that has been paid;

(4) All amounts previously drawn for the payment or reimbursement of Project Costs through the procedures set forth in Section 5.04 of this Agreement have been fully applied and have been applied solely to pay or reimburse Project Costs;

(5) No Potential Secured Obligation Event of Default or Secured Obligation Event of Default has occurred and is continuing (unless such disbursement will cure such Potential Secured Obligation Event of Default or Secured Obligation Event of Default) or will occur as a result of the disbursement;

(6) The representations and warranties given by the Borrower under the Financing Obligation Documents will be true and correct in all material respects on and as of the applicable draw date, except to the extent such representations or warranties specifically refer to an earlier date, in which case it shall be true and correct in all material respects as of such date;

(7) [Reserved];

(8) No Bankruptcy Event with respect to the Borrower has occurred and is continuing;

(9) (i) [reserved]; and (ii) amounts to be disbursed from the PABs Proceeds Sub-Account Nevada or the PABs Proceeds Sub-Account Nevada (USDOT) (1) will be used solely to pay or reimburse for Project Costs incurred in the jurisdictional limits of Clark County, Nevada (but, with respect to the PABs Proceeds Sub-Account Nevada (USDOT), such amounts may also be used for the purchase of, or to otherwise finance the acquisition or use of, rolling stock);

(10) The funds being requisitioned will be used as represented and warranted in the Senior Loan Agreements or any other applicable Secured Obligation Document and to the extent applicable as stated in the Federal Tax Certificate;

(11) Delivery to the Collateral Agent of all unconditional lien releases and waivers for all past Construction Account Withdrawal Certificates, in each case, from each Contractor that has timely filed a notice to owner sufficient to perfect such Contractor's right to a lien in compliance with all laws and have not previously been delivered to the Collateral Agent, other than with respect to Permitted Security Interests;

(12) All Governmental Approvals necessary to perform the work for which Project Costs are being requested shall have been obtained and maintained as and when required under applicable law and under the Transaction Documents, except where failure to obtain or maintain such Governmental Approval would not reasonably be expected to have a Material Adverse Effect; and

(13) With respect to any Additional Projects, the satisfaction of the applicable conditions under the applicable Financing Obligation Documents.

(xi) Notwithstanding anything herein to the contrary, if on the Business Day immediately preceding an Interest Payment Date for the Series 2020 Bonds prior to the Revenue Service Commencement Date, after giving effect to all transfers required to be made under Sections 5.02(b) and 5.02(e), there are insufficient moneys on deposit in the applicable sub-account of the Debt Service Fund (including the Series 2020 Funded Interest Accounts) under the Nevada Indenture to pay interest on the applicable Series 2020 Bonds on the next Interest Payment Date, the applicable Trustee will notify the Collateral Agent in writing of such deficiency and the Collateral Agent shall (without the need of a Construction Account Withdrawal Certificate and without further direction by the Borrower) transfer moneys on deposit in the applicable sub-accounts of the Construction Account, to the extent any such moneys are available, to the applicable Interest Account in the amount necessary (taking into account the amounts then on deposit in such Interest Account and in the applicable Series 2020 Funded Interest Accounts) to make the Interest Payment due on the applicable Series 2020 Bonds on such Interest Payment Date. Unless otherwise directed by a Responsible Officer of the Borrower to apply moneys in the Equity Contribution Sub-Accounts, the PABs Proceeds Sub-Accounts and the Other Proceeds Sub-Account of the Construction Account for use in accordance with this paragraph (g) in a different proportion, such amounts shall be transferred *pro rata* from such Sub-Accounts.

(xii) The Collateral Agent shall comply with any Construction Account Withdrawal Certificate received pursuant to this Section 5.04; *provided*, that if any payment, withdrawal or transfer of funds requested therein is not in compliance with this Agreement or the other Financing Obligation Documents, so long as the Collateral Agent has received notice thereof from any of the other Secured Parties, the Collateral Agent will notify the Borrower in writing of such non-compliance and the Borrower shall not be entitled to cause such proposed payment, withdrawal or transfer until such time as it has submitted a revised requisition that complies with the terms hereof or thereof; and *provided, further*, that the failure to give any such notice shall not be deemed to be an approval of the proposed payment, withdrawal or transfer or a waiver of any rights of the Secured Parties with respect thereto. Except as contemplated in the immediately preceding sentence, the Borrower shall, in the absence of a Secured Obligation Event of Default having occurred and being continuing, be entitled to withdraw funds from all of the accounts contemplated herein for the purposes (and in accordance with the terms) set forth herein. Upon receipt of a notice of a Secured Obligation Event of Default and solely during the continuance thereof, the Collateral Agent shall comply with the requirements of Section 5.16(d) hereof. For the avoidance of doubt, any Secured Party shall at all times have the right to give the notice contemplated by the first sentence of this paragraph if the relevant requisition does not comply with the terms of this Agreement.

(xiii) Except as otherwise required by any applicable Law, to the extent that on the Revenue Service Commencement Date, there shall be any funds remaining on deposit in the Construction Account or any sub-account thereof and such funds are not designated pursuant to the applicable Financing Obligation Documents for the financing of any Additional Projects, such amounts will be applied as follows:

First, amounts will be retained in the Construction Account in the amount necessary for the payment of any remaining Project Costs needed to achieve the Completion Date as determined by the Borrower and certified by the Technical Advisor;

Second, from any (i) [reserved], and (ii) excess unspent Series 2020 Nevada Bond proceeds that remain in the PABs Proceeds Sub-Account Nevada or the PABs Proceeds Sub-Account Nevada (USDOT), upon election and direction by the Borrower, for the optional redemption in whole or in part of the Series 2020 Nevada Bonds by the Nevada Issuer (acting upon the written request and direction of the Borrower) at a redemption price of 100% of the principal amount thereof plus interest accrued to the date fixed for redemption in accordance with the Nevada Indenture; and

Third, after the transfer (if any) pursuant to the preceding clause Second is complete, to the Revenue Account, except to the extent excess proceeds of any Series 2020 Bonds are required pursuant to the Code to be used to redeem or defease such Series 2020 Bonds or for other permitted purposes.

#### **Section 5.05 Debt Service Reserve Account.**

(xiv) The Series 2020 Debt Service Reserve Account will be established solely for the benefit of the Owners of the Series 2020 Bonds and the Owners of Additional Parity Bonds outstanding pursuant to the Indentures and will be held by the Collateral Agent, and the Security Interest thereon maintained, for the exclusive benefit of only such Owners and shall not be available to the Owners of any Escrow Bonds prior to conversion to Additional Parity Bonds, any other Additional Senior Indebtedness Holders, any other Secured Party or any other Person.

(xv) The Series 2020 Nevada Debt Service Reserve Sub-Account will be funded on the Revenue Service Commencement Date in an amount equal to the applicable Debt Service Reserve Requirement with respect thereto. In addition, on each Transfer Date, the Collateral Agent will cause amounts in the Revenue Account, to the extent available, to be deposited in accordance with Section 5.02(b) hereof into the applicable sub-account of the Series 2020 Debt Service Reserve Account. Upon the issuance of any Additional Parity Bonds issued to finance Additional Project Completion Indebtedness, Rolling Stock Indebtedness or Additional Station Indebtedness from time to time pursuant to the Indentures (but subject to Section 5.05(d)), each applicable Series 2020 Debt Service Reserve Sub-Account will be funded in accordance with and at the times set forth in Section 12.2 of the Indentures in an amount equal to the Debt Service Reserve Requirement for such Additional Parity Bonds.

(xvi) Except as provided in paragraph (f) below, moneys on deposit in the Series 2020 Debt Service Reserve Account shall be used by the Collateral Agent (without the requirement of a Funds Transfer Certificate and without any further direction of the Borrower) as follows:

(1) (x) [reserved]; and (y) If on any Transfer Date immediately preceding an Interest Payment Date or Principal Payment Date, as applicable, with respect to the Series 2020 Nevada Bonds, the funds on deposit in the Series 2020 Nevada Interest Sub-Account or the Series 2020 Nevada Principal Sub-Account (as applicable) together with funds in the Series 2020 Nevada Funded Interest Account and in the Interest Account or the Principal Account of the Debt Service Fund under the Nevada Indenture (as applicable) (after giving effect to the transfers contemplated in Fifth and Sixth in Section 5.02(b) hereof solely with respect to the Series 2020 Nevada Bonds and the transfers contemplated in Section 5.02(e)) are insufficient to pay the principal, redemption price or interest on the Series 2020 Nevada Bonds on the applicable Interest Payment Date or Principal Payment Date, funds on deposit in the Series 2020 Nevada Debt Service Reserve Sub-Account will be transferred to the Interest Account or the Principal Account, as applicable, for payment of interest or principal due and payable on the Series 2020 Nevada Bonds on the next Interest Payment Date or Principal Payment Date as applicable.

(2) Following the taking of an Enforcement Action, moneys in the Series 2020 Debt Service Reserve Account shall be applied in the manner set forth in Section 9.08.

(xvii) The Borrower may from time to time request that any Additional Debt Service Reserve Account be established in accordance with the requirements of any Additional Senior

Secured Indebtedness Documents, which Account would be established solely for the benefit of the specific Additional Senior Secured Indebtedness Holders under the applicable Additional Senior Secured Indebtedness Documents, and held by the Collateral Agent, and the Security Interest thereon maintained, for the exclusive benefit of only such Additional Senior Secured Indebtedness Holders and shall not be available to the Owners of the Series 2020 Bonds, any Owners of any Additional Parity Bonds, any other Additional Senior Indebtedness Holders, any other Secured Party or any other Person. Amounts in the Revenue Account shall be transferred to each Additional Debt Service Reserve Account in accordance with the priority set forth in Section 5.02(b) as shall be necessary to maintain the applicable Additional Debt Service Reserve Requirement; *provided* that such transfer of amounts from the Revenue Account shall be made no more frequently than on each Transfer Date. Except as provided in paragraph (f) below, moneys on deposit in any Debt Service Reserve Account shall be used by the Collateral Agent (without the requirement of a Funds Transfer Certificate and without any further direction of the Borrower) as follows:

(1) In the event funds on deposit in the Revenue Account are insufficient to fund the transfers contemplated in Fifth and Sixth in Section 5.02(b) hereof for the payment of debt service on any Additional Senior Secured Indebtedness at the times required thereby, after application of the transfers contemplated in Section 5.02(e), funds on deposit in the applicable Debt Service Reserve Account shall be transferred and applied to pay such debt service when due.

(2) Following an Enforcement Action, monies in any Additional Debt Service Reserve Account shall be applied in the manner described in Section 9.08.

(xviii) Except as provided in paragraph (f) below, any amounts on deposit in any Debt Service Reserve Account (including any sub-account of the Series 2020 Debt Service Reserve Account) in excess of the applicable Debt Service Reserve Requirement shall be applied in accordance with the requirements of Section 5.02(d) hereof.

(xix) Notwithstanding any other provision of this Agreement, the Borrower may substitute for all or any portion of the cash or Permitted Investments on deposit in any Debt Service Reserve Account or sub-account thereof, a Qualified Reserve Account Credit Instrument in favor of the Collateral Agent; *provided*, however, with respect to the Series 2020 Bonds and any other Additional Senior Secured Indebtedness the interest on which is tax-exempt, the Borrower shall be required to deliver to the applicable Trustee a written opinion of Bond Counsel to the effect that such actions will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the applicable Secured Obligations. In the event the Borrower replaces cash or Permitted Investments on deposit in any Debt Service Reserve Account or sub-account thereof with such Qualified Reserve Account Credit Instrument and delivers any such Qualified Reserve Account Credit Instrument to the Collateral Agent, the cash or Permitted Investments so replaced will be transferred to the Revenue Account.

(xx) The Collateral Agent shall (without further direction from the Borrower) draw on any Qualified Reserve Account Credit Instrument provided in accordance with the preceding

paragraph (f) if: (i) such Qualified Reserve Account Credit Instrument is not replaced 30 days prior to expiry thereof, (ii) upon being notified by the Borrower that there has been a downgrade of the issuer of such Qualified Reserve Account Credit Instrument such that it is no longer an Acceptable Bank or Acceptable Surety, as applicable, or (iii) at any time funds are payable out of the applicable Debt Service Reserve Account or sub-account thereof.

## **Indenture**

The Indenture also provides that the Bonds may be issued as Escrow Bonds secured by Escrow Property.

EXHIBIT G

CERTIFICATE OF DESERTXPRESS REGARDING FEDERAL, STATE & LOCAL  
APPROVALS

(Attached)

G-1

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**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

**Las Vegas:** 3300 W. Sahara Avenue, Suite 425 Las Vegas, Nevada 89101 - Telephone (702) 486-2750 - Fax (702) 486-2758  
[www.business.nv.gov](http://www.business.nv.gov)

CERTIFICATE OF DESERTXPRESS ENTERPRISES, LLC REGARDING FEDERAL, STATE, AND LOCAL APPROVALS OF THE PROJECT

This certification is made by DesertXpress Enterprises, LLC, dba XpressWest, a Nevada limited liability company (“DesertXpress”), in connection with the findings made by the Director of the State of Nevada Department of Business and Industry (the “Director”) pursuant to Nevada Revised Statutes 349.580(2)(b) relating to the issuance by the Director of the State of Nevada Department of Business and Industry Revenue Bonds (XpressWest Passenger Rail Project), Series 2020, or such other name or names and/or series or subseries designations, in one or more issues, for the purpose of assisting in the financing or refinancing of a portion of the costs of the design, development, acquisition, construction, installation, equipping, ownership, operation, maintenance, renovation and administration of a high-speed, intercity rail system, including, but not limited to, rolling stock, support facilities and systems, rail electrification infrastructure, parking facilities, a passenger station, adjacent highway improvements, and rail lines, all running for approximately 35 miles immediately adjacent to and within the Interstate 15 corridor between the Nevada side of the California and Nevada border, approximately 0.2 miles south-south-west of Nevada Exit 1 East on Interstate 15 near Primm, Nevada, and a passenger station to be located in Las Vegas, Nevada, on the east side of Interstate 15 within the general boundary of Blue Diamond Road to the South, West Warm Springs Road to the North, and Las Vegas Boulevard to the West (the “Project”).

THE UNDERSIGNED, DOES HEREBY CERTIFY THAT any remaining local, state, and federal government approvals for the Project which may be necessary at this time to proceed with the construction, improvement, rehabilitation, or redevelopment of the Project are procedural in nature.

IN WITNESS WHEREOF, I have hereunto set my signature as an authorized officer of DesertXpress this 3<sup>rd</sup> day of July, 2020.

DESERTXPRESS ENTERPRISES, LLC, a Nevada limited liability company

DocuSigned by:  
By:   
1CE1C2B8D9C5418...

President  
Its: \_\_\_\_\_

EXHIBIT H

FORM OF CERTIFICATE OF APPROVAL BY THE STATE BOARD OF FINANCE  
AND RESOLUTION OF APPROVAL BY THE COUNTY COMMISSIONERS

(Attached)

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H-1

**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

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CERTIFICATE OF APPROVAL BY THE STATE BOARD OF FINANCE

The undersigned duly qualified Chief Deputy Treasurer and Ex-Officio Secretary of the State Board of Finance of the State of Nevada (the "Board of Finance"), does hereby certify as follows:

1. The Board of Finance met on July \_\_, 2020, in a duly noticed open meeting at which a quorum of the members of the Board of Finance were in attendance.

2. At such meeting the Board of Finance approved the Findings of the Director of the Department of Business and Industry of the State of Nevada (the "Director") dated as of July 16, 2020, relating to its Revenue Bonds (XpressWest Passenger Rail Project), Series 2020, or such other name or names and/or series or subseries designations, in an amount not to exceed \$950,000,000, to be issued in one or more series or issues (the "Bonds") and reviewed the Additional Considerations contained therein.

3. The foregoing actions have not been amended, modified, rescinded and are now in full force and effect.

IN WITNESS WHEREOF, I have executed and delivered this Certificate on the date set forth below.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

STATE BOARD OF FINANCE

By: \_\_\_\_\_  
Tara Hagan  
Chief Deputy Treasurer  
Ex-Officio Secretary

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK APPROVING CERTAIN FINDINGS MADE BY THE DIRECTOR OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA PURSUANT TO NEVADA REVISED STATUTES SECTION 349.580 RELATING TO THE FINANCING OF A HIGH SPEED, INTERCITY RAIL SYSTEM PROJECT LOCATED IN THE COUNTY OF CLARK; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.**

**WHEREAS**, DesertXpress Enterprises, LLC, dba XpressWest, a Nevada limited liability company (“DesertXpress”), has applied to the Director of the State of Nevada Department of Business and Industry (the “Director”) for the issuance of industrial development revenue bonds (the “Bonds”) pursuant to Nevada Revised Statutes (“NRS”) Sections 349.400 to 349.670, inclusive, for the purpose of assisting in the financing or a refinancing of a portion of costs of the design, development, acquisition, construction, installation, equipping, ownership, operation, maintenance, renovation and administration of a high speed, intercity rail system, including, but not limited to, rolling stock, maintenance facilities, electrification infrastructure, parking facilities, a passenger station and rail lines, all running for approximately 35 miles immediately adjacent to the Interstate 15 corridor between the Nevada side of the California and Nevada border, approximately 0.2 miles south-south-west of Nevada Exit 1 East on Interstate 15 near Primm, Nevada, and a passenger station to be located in Las Vegas, Nevada on the east side of Interstate 15 within the general boundary of Blue Diamond Road to the South, West Warm Springs Road to the North and Las Vegas Boulevard to the West (the “Project”); and

**WHEREAS**, pursuant to NRS Section 349.580, the Director, after reviewing the application and other materials submitted to the Director, has made certain findings with respect to the financing of the Project as are provided in the “Findings of the Director of the State of Nevada Department of Business and Industry Pursuant to Nevada Revised Statutes 349.580(2) Relating to the Financing of an Industrial Project to be Located in Clark County, Nevada” (the “Director’s Findings”), contained in a Memorandum of Findings, dated July 16, 2020, addressed to the Nevada State Board of Finance and the Clark County (the “County”) Board of County Commissioners (the “Board of County Commissioners”); and

**WHEREAS**, the Director requests in the Director’s Findings that the Board of County Commissioners approve the Director’s Findings pursuant to NRS Section 349.580(2); and

**WHEREAS**, the Board of County Commissioners has reviewed the Director’s documents and heard testimony before the Board of County Commissioners concerning the Director’s Findings;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Clark County, Nevada the following:

H-2

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1. The Director's Findings be and the same hereby are approved pursuant to NRS Section 349.580(2), based upon the materials submitted by the Director and other material submitted to the Board of County Commissioners, and testimony described above in the final preamble hereto. This approval is made for the purposes of NRS Section 349.580(2). It is not (i) an analysis of the Bonds or the appropriateness or risks of the Bonds as investments, (ii) a guarantee, or (iii) a finding that there is no risk in the Project, the Bonds or both.

2. The approval in Paragraph 1 is based upon the satisfaction of the requirements of the Director.

3. The Clerk of the Board of County Commissioners is hereby authorized and directed to mail a certified copy of this Resolution to the Director.

4. Nothing in this Resolution obligates the County in any way with respect to the Project or the Bonds.

5. If any action taken herein is found to be unenforceable, the remaining actions and provisions of this Resolution shall remain valid and enforceable unless and until the Board of County Commissioners determines otherwise.

6. The County Manager and County Attorney are authorized to take all steps necessary to carry out the actions taken herein and to carry out the purpose and intent of this Resolution.

7. This Resolution shall be effective upon its passage and approval.

PASSED AND ADOPTED THIS 21st day of July, 2020.

AYES:

NAYS:

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Marilyn Kirkpatrick  
Chairman

ATTEST:

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Lynn Marie Goya  
County Clerk

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H-3

**Carson City:** 1830 E. College Parkway, Suite 100 Carson City, Nevada 89706 - Telephone (775) 684-2999 - Fax (775) 684-2998

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