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ERIE COUNTY LEGISLATURE

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County of Erie

DENNIS T. GORSKI
COUNTY EXECUTIVE

PHONE: 716/858-8500
FAX #: 716-858-8411

January 5, 1999

The Honorable
Erie County Legislature
25 Delaware Avenue
Buffalo, New York 14202

**Re: \$20,000 Appropriation to the Erie/Niagara/
Chautauqua Rail Steering Committee**

Honorable Members:

The Erie/Niagara/Chautauqua Rail Steering Committee serves as the regional rail oversight group concerned with the economic impact of the CSX/NS acquisition of Conrail. CSX and NS have had an acquisition plan approved by the federal Surface Transportation Board (STB). Unfortunately for Western New York, that plan fails to inject new rail completion into the region or address the Niagara Frontier's unique position as an international border crossing.

In response to the STB's failure to protect the region's interests, the Rail Steering Committee and the NYS Attorney General's Office have filed suit in the 2nd Circuit Court of Appeals to have the STB's decision modified to protect the more than 26,000 workers whose jobs depend on competitive rail service in Western New York.

The Committee will be asking the Court to require the STB to inject true rail competition into the region, just as they have done in Detroit, Philadelphia and Northern New Jersey. Competition will mean lower costs for shippers and more opportunities for rail and inter-modal traffic.

In the past, Erie County has financially supported the work of the Rail Steering Committee. The Committee is requesting its members, including Erie County, for additional contributions to permit its efforts on behalf of local businesses and employees to continue.

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Erie County's participation with the Erie/Niagara/Chautauqua Rail Steering Committee is facilitated through the Erie County Industrial Development Agency (ECIDA). It is recommended that the sum of \$20,000 be added to the County's 1998 contract with the ECIDA.

Please refer the enclosed resolution to the appropriate committee of your Honorable Body. Representatives of the Rail Steering Committee will be available to answer any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. T. Gorski", with a long horizontal flourish extending to the left.

DENNIS T. GORSKI
County Executive

REF: BUDUKENC.RSC

PROPOSED RESOLUTION

Re: \$20,000 Appropriation to the Erie/Niagara/Chautauqua Rail Steering Committee

WHEREAS, many Erie County businesses depend on the availability of rail service for their transportation needs; and

WHEREAS, the least expensive rail services will only be available if competition exists for the provision of such services; and

WHEREAS, the federal Surface Transportation Board (STB) has thus far failed to inject competition in local rail services as it acts on the CSX/NS acquisition of Conrail; and

WHEREAS, as the Erie/Niagara/Chautauqua Rail Steering Committee is an organization comprised of public and private sector representatives from throughout the three counties; and

WHEREAS, the Rail Steering Committee is challenging STB actions, and is seeking a decision which will produce competition in rail service in Western New York; and

WHEREAS, Erie County has previously provided financial assistance to the Committee in its legal action concerning the STB's decision; and

WHEREAS, Erie County's participation with the Erie/Niagara/Chautauqua Rail Steering Committee is facilitated through the Erie County Industrial Development Agency (ECIDA); and

WHEREAS, it is in the best interest of local businesses and the estimated 26,000 men and women whom they employ, for Erie County to continue to support the work of the Rail Steering Committee.

NOW, THEREFORE, BE IT

RESOLVED, that the sum of \$20,000 is hereby appropriated to the Erie County Industrial Development Agency for the Erie/Niagara/ Chautauqua Rail Steering Committee in Agency Payments, Public Benefit Agencies, monitored by Environment and Planning, Contractual Expenses (DAC 110922302830139), for the purpose of assisting the Committee in seeking action by the federal Surface Transportation Board to inject competition into Western New York rail service following the CSX/NS acquisition of Conrail; the source of said funds being the appropriation of \$20,000 in 1998 unanticipated revenues in DAC 11092310304, Payments in Lieu of Taxes in County-Wide Accounts Monitored by Budget, the annual budget for this account having been realized; and be it further

RESOLVED, that the County Executive is hereby authorized to execute an amendment to the ECIDA/County of Erie agreement to effectuate this purpose; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive, the County Attorney, the Budget Director, the Commissioner of Environment & Planning and the Executive Director of the Erie County Industrial Development Agency.

ACCOMPANYING MEMORANDUM

Re: \$20,000 Appropriation to the Erie/Niagara/Chautauqua Rail Steering Committee

I. Summary of Recommendation

That an appropriation of \$20,000 be provided to the Erie County Industrial Development Agency (ECIDA) for the Erie/Niagara/Chautauqua Rail Steering Committee to pursue the injection of competition into local rail service following the CSX/NS acquisition of Conrail.

II. Fiscal Impact

The appropriation will be made available by the appropriation of unanticipated revenues in the 1998 account for Payments in Lieu of Taxes in the County-Wide Accounts monitored by Budget.

III. Background of Proposal

The Erie/Niagara/Chautauqua Rail Steering Committee serves as the regional rail oversight group concerned with the economic impacts of the CSX/NS acquisition of Conrail. CSX and NS have had an acquisition plan approved by the federal Surface Transportation Board (STB). Unfortunately for Western New York, that plan fails to inject new rail completion into the region or address the Niagara Frontier's unique position as an international border crossing.

In response to the STB's failure to protect the region's interests, the Rail Steering Committee and the NYS Attorney General's Office have filed suit in the 2nd Circuit Court of Appeals to have the STB's decision modified to protect the more than 26,000 workers whose jobs depend on competitive rail service in Western New York.

The Committee will be asking the Court to require the STB to inject true rail competition into the region, just as they have done in Detroit, Philadelphia and Northern New Jersey. Competition will mean lower costs for shippers and more opportunities for rail and inter-modal traffic.

Erie County's participation with the Erie/Niagara/Chautauqua Rail Steering Committee is facilitated through the ECIDA.

IV. Reasons for Recommendation

The actions of the STB must be challenged into order to achieve competition in local commercial rail service. Competition in rail service will lower costs for local businesses, making it easier for them to compete economically. Stronger local businesses will help them maintain their collective 26,000 jobs.

V. Consequences of Negative Action

The Rail Steering Committee will not have adequate financial resources to continue their legal fight to stimulate rail service competition. The future of local businesses and jobs will be jeopardized.

VI. Steps Following Approval of Measure

The County Executive will execute an amendment to the contract with the ECIDA to provide funding to the Erie/Niagara/ Chautauqua Rail Steering Committee.

AMENDMENT

THIS AMENDMENT ("Amendment") dated as of the ____ day of December, 1998, by and between the COUNTY OF ERIE, a New York municipal corporation, with offices located at 95 Franklin Street, Buffalo, New York 14202 (the "County"), and the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a New York public benefit corporation with offices located at Suite 300, Liberty Building, 424 Main Street, Buffalo, New York 14202 (the "Agency").

WITNESSETH:

WHEREAS, the County and the Agency have entered into a certain Agreement dated May 21, 1998 (the "County Agreement"), pursuant to which the Agency agrees to perform certain economic development services and the County agrees to provide certain funds to the Agency therefor; and

WHEREAS, the County has requested that the Agency provide a study of rail impacts to Erie County resulting from transportation needs of local industry, which study would define options and opportunities for local businesses and government, in connection with the pending sale of Conrail to CSX Transportation and Norfolk Southern Railroad; and

WHEREAS, to facilitate such rail study, the County will remit \$20,000.00 for the performance by the Agency of such additional economic development services.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree that the County Agreement is hereby amended as follows:

1. All terms with initial capital letters shall have the meanings ascribed to them in the above recitals.

2. Exhibit A to the County Agreement is hereby amended, to add the following paragraph:

"14. The Agency shall cause a study to be prepared of rail impacts to Erie County resulting from the transportation needs of local industry, which study would define options and opportunities for local businesses and government, in connection with the pending sale of Conrail to CSX Transportation and Norfolk Southern Railroad."

3. In addition to the other amounts payable by the County to the Agency under the County Agreement, the County shall pay to the Agency an additional \$20,000.00, upon submission by the Agency of an invoice in form acceptable to the County.

4. Except as amended herein and as previously amended by the parties, the County Agreement remains unmodified, and in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first written above.

COUNTY OF ERIE

ERIE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Dennis T. Gorski,
County Executive

By: _____
Ronald W. Coan,
Executive Director

Approved as to Form

By: _____

Approved as to Content

By: _____