

CITY OF AURORA, ILLINOIS
RESOLUTION NO. R08-318
DATE OF PASSAGE June 24, 2008

RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT ESTABLISHING THE CITY OF AURORA'S PARTICIPATION ON THE REGIONAL ANSWER TO THE CANADIAN NATIONAL (TRAC) COALITION AND APPROVING THE PROVISIONS CONTAINED THEREIN

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (1) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, said section of the Constitution authorizes a home rule unit to exercise any power any perform any function pertaining to its government and affairs for the protection of the public safety, health, welfare and morals; and

WHEREAS, Canadian National Railway Company (CN) filed an application with the Surface Transportation Board to acquire the Elgin, Joliet and Eastern Railway Company (EJ&E) in October 2007. As part of the acquisition, CN plans to nearly quadruple the number of trains on the line, which runs through the south and west suburbs of Chicago. In addition, CN requests permission to lay 19 miles of new tract next to the current railway in Aurora and other areas, and

WHEREAS, Resolution R08-165, approved by the City Council on April 8, 2008, supported participation in a full coalition of communities affected by the proposed acquisition, and

WHEREAS, a full coalition has been established, which has been named as The Regional Answer to Canadian National (TRAC), and as such all participating communities have been asked to approve a uniform intergovernmental agreement (IGA) as well as various provision contained within the IGA, and

WHEREAS, the City of Aurora's participation in The Regional Answer to Canadian National (TRAC) Coalition is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Aurora, Illinois, that the Council approve and the Mayor and Clerk be authorized to execute the Intergovernmental Agreement Establishing The Regional Answer to Canadian National ("TRAC") - A Regional Coalition of Units of Local Government Pursuing Common Goals In Opposition To Canadian National (CN) Rail Congestion, attached hereto as Exhibit A.

PASSED AND APPROVED by the City Council of the City of Aurora, IL on June 24, 2008.

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AYES 12 NAYS 0 NOT VOTING _____

ATTEST:

[Signature]
CITY CLERK

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MAYOR

EXHIBIT A

AN INTERGOVERNMENTAL AGREEMENT ESTABLISHING
THE REGIONAL ANSWER TO CANADIAN NATIONAL ("TRAC")
A REGIONAL COALITION OF UNITS OF LOCAL GOVERNMENT
PURSUING COMMON GOALS IN OPPOSITION TO CN RAIL CONGESTION

This Intergovernmental Agreement is dated June 24, 2008,
and is entered into by and among the signatory units of local government.

WITNESSETH:

WHEREAS, a cooperative Intergovernmental Agreement is appropriate, and such an agreement is authorized and encouraged pursuant to the authority granted specifically in the Constitution of the State of Illinois, Article Seven, Section 10, and as further implemented and provided in Chapter 5 ILCS, Section 220/5; and

WHEREAS, in addition, each county by virtue of the powers set forth in the Counties Code, 55 ILCS 5/1001 et seq., and each municipality by virtue of the powers set forth in the Illinois Municipal Code, 65 ILCS 5/1-1-1 et seq., are authorized to enter into this Intergovernmental Agreement; and

WHEREAS, many units of local government in the greater Chicago metropolitan region share serious concerns with respect to the adverse public health, safety, welfare, environmental and traffic impacts of the proposed acquisition and change of control of the Elgin, Joliet and Eastern Railway Company ("EJ&E") by the Canadian National Railway Company ("Canadian National"), which is the subject of the application now pending before the United States Surface Transportation Board (the "Canadian/EJ&E application"); and

WHEREAS, the units of local government who become signatories to this Intergovernmental Agreement ("signatory member" or "signatory members") desire to establish a framework to focus and articulate their shared concerns on these issues and implement cooperative efforts to address such concerns, which framework has and may be referred to herein as the "The Regional Answer to Canadian National" ("TRAC") Coalition; and

WHEREAS, each signatory member has appropriated not less than \$10,000.00, and delivered said funds to TRAC with a copy of this Intergovernmental Agreement, to articulate these serious shared concerns to the public and a broad range of public officials, including but not limited to, the United States Surface Transportation Board; and

WHEREAS, the signatory members wish to combine and expend said funds for legal, governmental and administrative advocacy, communication and educational efforts which will serve to speak to the shared concerns of the signatory members, their respective residents, corporate, institutional, and governmental constituencies and the region, with respect to the adverse public health, safety, welfare, environmental and traffic impacts of the proposed Canadian/EJ&E Application; and

WHEREAS, the proposed Canadian/EJ&E Application, if approved, will negatively alter the transportation infrastructure of the region, jeopardize the respective character of the signatory member communities, and endanger the health, safety and welfare of the residents of each signatory member and the residents of this region.

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NOW THEREFORE, for the mutual benefit of all the signatory members, each signatory member agrees by their duly authorized officials, as follows:

1. Each signatory member shall appoint a representative to act on its behalf on TRAC. Each signatory member's representative shall be allowed to cast one vote on behalf of the signatory member on any issue brought before the TRAC Coalition for a vote.
2. The Executive Committee of the TRAC coalition shall consist of the following members:
 - A. A representative of DuPage County;
 - B. A representative of a municipality located, at least in part, in DuPage County;
 - C. A representative of Kane County;
 - D. A representative of a municipality located, at least in part, in Kane County;
 - E. A representative of Lake County, Illinois;
 - F. A representative of a municipality located, at least in part, in Lake County, Illinois;
 - G. A representative of Lake County, Indiana;
 - H. A representative of a municipality located, at least in part, in Lake County, Indiana;
 - I. A representative of Will County;
 - J. A representative of a municipality located, at least in part, in Will County;
 - K. A representative of a municipality located, at least in part, in northern Cook County (North of Roosevelt Road);
 - L. A representative of a municipality located, at least in part, in southern Cook County (South of Roosevelt Road); and
 - M. A representative of a township unit of local government.
 - N. A representative of a park board/district or forest preserve district.
 - O. A representative of a school district.
3. Each Executive Committee member shall be selected by a majority vote of the signatory members within the category which they will represent; e.g.: all signatory townships shall by consensus select one of their members to fill the Executive Committee seat created in 1M above. Each county Executive Committee member shall be appointed by the chairman of the respective county board.
4. The physical presence of eight (8) members of the Executive Committee shall constitute a quorum of the Executive Committee. All decisions taken and/or actions authorized by the Executive Committee shall be approved by a majority vote of such a quorum of the Executive Committee.
5. The Executive Committee shall elect a Chairman, or Co-Chairmen, of the Executive Committee who will preside over all meetings of the Executive Committee, and all meetings of the entire TRAC Coalition. The Executive Committee may also elect such other officers as they see fit, assigning said officers such roles and functions as deemed necessary for the operation of the Executive Committee and the TRAC Coalition as a whole.
6. A separate, segregated fund entitled "The Regional Answer to Canadian National Fund" ("TRAC Coalition Fund") shall be established and administered by the Executive Committee in the following manner:

- A. All funds contributed to the TRAC Coalition Fund shall be held and administered by the City of Aurora, Illinois, a home rule unit of Illinois government, acting for and on behalf of the Executive Committee and the TRAC Coalition.
 - B. The TRAC Coalition Funds shall be held, invested, expended and accounted for in terms of receipts and expenditures by the Executive Committee as a separate, segregated fund.
 - C. From time to time, but not less than quarterly, the Executive Committee shall provide a periodic accounting, with supporting documentation, for all TRAC Coalition Funds, to the respective chief executive officer(s) of each signatory member, or their respective designee(s).
 - D. Subject to the other terms and conditions of this Intergovernmental Agreement, the Executive Committee shall provide direction to all consultants retained and compensated with TRAC Coalition Funds.
 - E. No part of the TRAC Coalition Fund shall be utilized to support or oppose any candidate(s) for public office or any referendum question(s), or for any other purpose prohibited by law.
 - F. Upon a signatory members withdrawal from TRAC, and/or upon termination of the TRAC Coalition Fund, refunds of any remaining deposits shall be made on a pro-rata basis, based upon total funds contributed by signatory members, and then only to the extent the Executive Committee determines what portion of the remaining deposits have not been obligated for payment.
7. The TRAC Coalition Fund shall be used for the purposes of, including but not limited to, providing legal, governmental and administrative advocacy, communications, and educational efforts which speak to concerns of the affected signatory members, their residents, corporate, institutional, and governmental constituencies and the region, with respect to the adverse public health, safety, welfare, environmental, and traffic impacts of the proposed Canadian/EJ&E Application, and for any other related support purposes.
 8. A signatory member may terminate its membership and participation in TRAC and the TRAC Coalition Fund without cause on thirty (30) days' written notice to the members of the Executive Committee and sent to the principal office of each Executive Committee member. For purposes of this Intergovernmental Agreement, notice shall be deemed given if personally delivered, or when sent by facsimile transmission or when sent via a recognized overnight delivery service.
 9. After the formation of the Executive Committee, any new signatory member shall sign and deliver a copy of this Intergovernmental Agreement to the Executive Committee Chairman (Co-Chairmen) along with their initial contribution to the TRAC Coalition Fund.
 10. The signatory members agree to reasonably cooperate with good faith efforts to implement this Intergovernmental Agreement and shared intentions of the signatory members on which it is based. To that end, the respective designee(s) of each signatory member shall meet or otherwise confer regularly to consider, and reasonably act upon, general questions of policy, strategy, and the securing of resources which may be provided pursuant to this Intergovernmental Agreement.
 11. The failure of a signatory member to insist upon the strict performance of any provision of this Intergovernmental Agreement by another signatory member shall not be deemed a waiver of any right to insist upon strict performance thereafter.

12. This Intergovernmental Agreement shall be binding upon and effective as to each signatory member from and after it is approved by the respective Corporate Authorities of such party hereto.

13. Miscellaneous Provisions:

- A. If any provision of this Intergovernmental Agreement shall be declared invalid for any reason, such invalidation shall not affect any other provisions of this Intergovernmental Agreement which can be given effect without the invalid provision and to that extent, the provisions of this Intergovernmental Agreement are severable.
- B. This Intergovernmental Agreement shall be governed by the laws of the State of Illinois.
- C. This Intergovernmental Agreement shall be binding on all signatory members and may not be modified or amended orally, but only in writing by an instrument signed by all signatory members hereto.
- D. This Intergovernmental Agreement may be executed in one or more identical, duplicate original counterparts, which counterparts, when affixed together, shall constitute one and the same document.
- E. Each party represents to the other, that such party has full authority to execute this Intergovernmental Agreement and fulfill the terms, conditions, provisions, and obligations herein provided.
- F. Only the respective signatory members to this Intergovernmental Agreement, and no other party, shall have the right to enforce or rely on this Intergovernmental Agreement.

IN WITNESS WHEREOF, the signatory members hereto have, pursuant to the authority of their respective Corporate Authorities, caused a duplicate original of this Intergovernmental Agreement to be executed, attested and delivered by its duly authorized officers as of the date first mentioned above.

APPROVED this 24th day of June, 2008

City of Aurora
[Name of Signatory Entity]

By: [Signature]
[Print Name] Mayor Pro tem
[Title] Robert J. O'Connor

Its Authorized Agent, acting through its Corporate Authorities Pursuant to the Resolution which is attached

ATTEST:

By: [Signature]
[Print Name] Cheryl M. Vonhoff
[Title] City Clerk