

SEVEN COUNTY INFRASTRUCTURE COALITION
February 18, 2022

Resolution No. 2022-02C

RESOLUTION AUTHORIZING EXECUTIVE DIRECTOR TO SIGN A CONTRACT WITH CIB ALLOWING THE USE OF CIB FUNDS FOR RAIL LITIGATION EXPENSES AND RELATED MATTERS.

WHEREAS, on December 15, 2021, the U.S. Surface Transportation Board (STB), which regulates freight rail, approved the application from the Seven County Infrastructure Coalition and granted the Coalition a construction permit to build the 85 mile Uinta Basin Railway, connecting the Uinta Basin to the national rail network just above Price River Canyon on Highway 6, at a place called Kyune. The STB application is complimented by applications to the cooperating agencies of the U.S. Forest Service, as the rail will cross Forest Service lands, and the U.S. Army Corp of Engineers that regulates water ways, and others like the U.S. Fish and Wildlife Service. The Coalition has received approval from the Army Corp of Engineers and anticipates approval from the Forest Service in March; and

WHEREAS, on February 10, 2022, Eagle County, Colorado filed a petition in the U.S. Appellate Court for the District of Columbia challenging the STB's rail approval; and

WHEREAS, on February 11, 2022 the Center for Biological Diversity, Living Rivers, the Sierra Club, and others filed a petition in the U.S. Appellate Court for the District of Columbia also challenging the STB's rail approval; and

WHEREAS, the STB and other federal agencies are the named parties to the foregoing appeals, it is both customary and advisable for the applicant of a challenged decision to intervene and participate in the litigation appeal; and

WHEREAS, of the rail grants from the Utah Community Impact Board approximately \$2.1 Million remains available for use to intervene and help defend the STB rail approval for the Uinta Basin Railway: and

WHEREAS, in discussions with Uinta Basin Railway, Drexel Hamilton Infrastructure Fund Partners II, LLC, as the sole member of UBRY, and Rio Grande Pacific Corporation, the private partners have expressed a willingness to pay for one half of the litigation expenses up to \$500,000 to defend lawsuits against the Uinta Basin Railway; and

WHEREAS, in discussions with staff for the CIB and upon approval by the CIB Board, the Coalition Board desires to authorize the Executive Director to execute such agreements with the CIB to allow for the use of remaining CIB rail grant funds to help defend litigation related to the Uinta Basin Railway up to \$500,000 to pay for one half of the litigation expenses:

NOW, THEREFORE, be it resolved by the Governing Board of the Seven County Infrastructure Coalition, Utah as follows:

1. The Governing Board hereby authorizes the Executive Director to execute an agreement or other documents with the CIB memorializing the CIB's approval to allow the use of CIB funds to defend rail litigation expenses up to \$500,000 to pay for one half of the rail litigation expenses as the Executive Director may deem advisable. The Board further authorizes any application of the Coalition seal and attestation of the Executive Director's signature on the CIB document as deemed desirable.
2. All parts of this Resolution are severable, and if any section, clause or provision of this Resolution shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, clause or provision shall not affect the remaining sections, clauses or provisions of this Resolution.
3. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Resolution shall be in full force and effect immediately upon its approval and adoption

APPROVED AND ADOPTED this February 18, 2022.

Motion by Commissioner _____ and

Seconded by Commissioner _____.

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

Carbon County	Yea ___ No ___
Daggett County	Yea ___ No ___
Duchesne County	Yea ___ No ___
Emery County	Yea ___ No ___
San Juan County	Yea ___ No ___
Sevier County	Yea ___ No ___
Uintah County	Yea ___ No ___

Co-Chair Casey Hopes

Co-Chair Greg Miles

(COALITION SEAL)

ATTEST:

Heather B. Hoyt