



## Legislation Text

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141313

SUBSTITUTE 2

110324, 110372, 141263, 141264

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Substitute resolution approving a refined project description for The Milwaukee Streetcar, approving a project budget for capital costs, approving the estimate of annual operating and maintenance costs, approving the project's financial plan, appropriating funding as necessary, and authorizing the Commissioner of Public Works to take various actions to advance the project.

This resolution approves the 2.5-mile Milwaukee Streetcar project, which is defined as the Phase 1 Starter System (a 2.1-mile segment of the 3.6-mile Locally Preferred Alternative) and the 0.4-mile Lakefront Streetcar Line, approves a project budget for capital costs, approves the estimate for annual operating and maintenance costs, approves the project's financial plan, appropriates funding as necessary, and authorizes the Commissioner of Public Works to take various actions to advance the project.

Whereas, The Milwaukee Connector Alternatives Analysis was conceived in 1999 to investigate fixed-guideway transit improvements in Milwaukee's Central Business District that would utilize \$91.5 million in federal Interstate Cost Estimate (ICE) funding dedicated for this use; and

Whereas, The Wisconsin Center District (WCD) established certification status as a recipient of federal funding from the Federal Transit Administration (FTA) to administer funding dedicated to project development of the Milwaukee Connector; and

Whereas, The Milwaukee Connector Alternatives Analysis was a multi-jurisdictional effort guided by the Milwaukee Connector Steering Committee, which consisted of representatives from the WCD, the Metropolitan Milwaukee Association of Commerce, Milwaukee County and the City of Milwaukee; and

Whereas, In 2009, the U.S. Congress allocated 60% (\$54.9 million, with a \$9.7 million local match) of the ICE funding to the City of Milwaukee for a streetcar system and 40% to Milwaukee County for the purchase of buses; and

Whereas, In combination with extensive public input, the Steering Committee evaluated a wide range of alternative streetcar technologies, alignments, and route limits, concluding the Alternatives Analysis with adoption of a Locally Preferred Alternative (LPA) which consisted of a 3.6-mile double-track modern streetcar line connecting The Brewery development, the Park East Corridor, the BMO Harris Bradley Center, the Wisconsin Center District, the Shops of Grand Avenue, the Milwaukee Intermodal Station, the Historic Third Ward, Easttown, the Lower East Side and Brady Street (LPA

map attached to this file as Exhibit A); and

Whereas, Phase 1 of the LPA consists of a 2.1-mile segment of the LPA that connects the Milwaukee Intermodal Station with the Lower East Side (“Phase 1 Starter System”), providing service to many residential, commercial, employment, parking and hotel destinations; and

Whereas, The WCD continued as the recipient of federal funding during performance of the Preliminary Engineering/Environmental Assessment phase of project development, which continued analysis of the LPA through refinement of engineering plans from 10% to 30% design completion level, vehicle procurement planning, utility coordination, cost estimate refinements, development of operation and maintenance plans, refinement of maintenance facility design and environmental documentation in accordance with National Environmental Protection Act standards; and

Whereas, Common Council Resolution File Number 110372, adopted on July 26, 2011, approved Alternative 1-2A in the Draft Environmental Assessment for The Milwaukee Streetcar dated July 7, 2011, as the Locally Preferred Alternative for The Milwaukee Streetcar project; and

Whereas, Common Council Resolution File Numbers 110372 and 110324 (also adopted on July 26, 2011) established the project budget for the Phase 1 Starter System of the LPA at \$64.6 million (\$54.9 million federal funds, \$9.7 million local funds), authorized local funding, and authorized the Commissioner of Public Works to take actions to advance the project to final design and construction subject to certain oversight; and

Whereas, Since adoption of Common Council File Number 110372, significant progress has been made to further advance and develop the project; and

Whereas, Following additional public hearings and community input, The Milwaukee Streetcar Environmental Assessment was formally approved by the FTA through the issuance of a Finding of No Significant Impact (FONSI) dated January 25, 2012; and

Whereas, The City of Milwaukee Department of Public Works established certification status to become an FTA grant recipient and was awarded an FTA grant for remaining federal funding dedicated to the project, subject to providing the requisite local share and various additional conditions and requirements; and

Whereas, Various FTA-required project plans, including a Project Management Plan, Safety and Security Management Plan, Disadvantaged Business Enterprise (DBE) Plan/DBE Goal Setting Methodology, Title VI Policy, Risk Register, Succession Plan, Quality Assurance Management Plan, and a Technical Capacity and Capability Statement, have been developed or submitted to the FTA; and

Whereas, The Final Design phase for The Milwaukee Streetcar project has progressed from the 30% design engineering level to the 60% level; and

Whereas, The 60% plan development phase included significant utility coordination activities in an

effort to reduce costs of utility relocations and modifications necessary to allow the project to be constructed and operated; and

Whereas, As part of this utility coordination effort, utility design criteria were established and various documents were developed, including *Utility Accommodation Peer Agency Review*, *Utility Coordination Guidelines*, *Policy for Utility Access during Streetcar Operations*, *Policy for Stray Current Corrosion Measures*, and *Stray Current and Corrosion Control Evaluation*, all of which are dated April 17, 2013; and

Whereas, Extensive alignment refinements and route adjustments were evaluated to avoid conflicts with steam tunnels, manholes and other utility infrastructure, including shifting the northbound track between St. Paul Avenue and Wells Street from Broadway to Milwaukee Street to avoid conflict with a major AT&T communications structure and We Energies steam and electric facilities; and

Whereas, The new Milwaukee Street route required the Department of Public Works to perform additional environmental documentation and secure FTA approval; and

Whereas, FTA issued a concurrence with the environmental re-evaluation and determination of no additional environmental impact associated with the Milwaukee Street route in January, 2014, and confirmed that the original FONSI for the project remained valid; and

Whereas, The extensive utility coordination efforts resulted in a significant reduction from initial estimates of utility facilities relocation and modification costs presented by the privately-owned utilities; and

Whereas, Significant events have occurred during the final design phase that have affected project development; and

Whereas, Capital cost estimates for the Phase 1 Starter System of The Milwaukee Streetcar did not include costs for the relocation or modifications of privately-owned utility facilities based on longstanding practice supported by state statute that require privately-owned utilities to relocate or modify their facilities, at their own expense, so that facilities do not obstruct or incommode public works projects in local rights-of-way; and

Whereas, A *Petition for Declaratory Ruling to Determine Allocation of Costs for Relocation of Utility Structures for the Milwaukee Streetcar Project* was filed with the Wisconsin Public Service Commission (PSC) in December, 2011; and

Whereas, In July, 2013, the Wisconsin Legislature passed 2013 Wisconsin Act 20, which, among other things, provides that a municipal regulation is unreasonable if it requires a privately-owned utility to pay any part of the cost to modify or relocate the privately-owned utility's facilities to accommodate an urban rail transit system which begins service on or after July 2, 2013; and

Whereas, The PSC issued a Final Decision on August 29, 2014, declaring unreasonable and void s. 115-22 of the Milwaukee Code of Ordinances, Common Council File Number 110372, and any other current or future municipal regulations that require privately-owned utilities to pay their own

modification or relocation costs to accommodate The Milwaukee Streetcar project; and

Whereas, On September, 17, 2014, the City petitioned the PSC for a rehearing of this matter; and

Whereas, The PSC took no action on the Petition for Rehearing, which, by operation of law, was deemed denied as of October 17, 2014; and

Whereas, The City filed a Petition for Judicial Review on November 17, 2014, requesting that a Milwaukee County circuit court reverse the PSC's Final Decision on the basis that the PSC erred in voiding File Number 110372 and s. 115-22 of the Code of Ordinances, and requesting that the court declare the relevant sections of 2013 Wisconsin Act 20 unconstitutional; and

Whereas, Pending the outcome of the Petition for Judicial Review, the comprehensive project budget for the Phase 1 Starter System has been revised to incorporate estimated costs to modify or relocate privately-owned utility facilities (up to \$22.8 million) to allow the project to go forward should the City be found responsible for such costs by a final decision issued by a court of competent jurisdiction, including appeals therefrom; and

Whereas, The comprehensive project budget for the Phase 1 Starter System has also been revised to reflect cost escalations and other cost refinements that have occurred since development of the 30% cost estimate; and

Whereas, Utility facility relocation and modification costs for all utilities have been budgeted based on conceptual-level design engineering and reflect estimates prepared directly by the utilities where provided; however, the City will, during the remaining final design phase, make efforts to further reduce the project's utility-related costs, including evaluation of additional route adjustments; and

Whereas, Capital costs for the Phase 1 Starter System are estimated at \$98.9 million (including \$22.8 million for utility relocation) (2016 dollars), of which \$54.9 million would be federally-funded and \$44.0 million would be locally-funded (\$9.7 of this local funding was previously approved); and

Whereas, The annual operating and maintenance cost for the Phase 1 Starter System is estimated at \$2.83 million (2018 dollars), which would be offset by potential sponsorship/advertisement revenue estimated at \$290,000 per year and farebox revenue estimated at \$588,000 per year, leaving approximately \$1.95 million annually to be funded by City or other sources; and

Whereas, The City has secured a Congestion Mitigation and Air Quality (CMAQ) grant for this project in the amount of \$3.18 million, which, when combined with farebox revenue and sponsorship/advertising revenue, is expected to fund operations of the Phase 1 Starter System for the initial 18-month service period; and

Whereas, Streetcar operations are eligible for an additional CMAQ grant to fund an additional 18-month service period; and

Whereas, Pursuant to Common Council File Number 110372, the City Comptroller's Office retained

the Southeastern Wisconsin Regional Planning Commission to review the capital cost estimates (including overall costs, unit costs, vehicle costs, and cost overrun mitigation measures), annual operating and maintenance cost estimates (including the service plan, number of vehicles and availability of private vendors to operate the system), ridership projections, and annual revenues for the Phase 1 Starter System, and has generally validated the estimates in a report dated October 30, 2014; and

Whereas, The Milwaukee Streetcar project schedule calls for revenue service for the Phase 1 Starter System to begin in 2018; and

Whereas, As final design activities for the Phase 1 Starter System have been underway, the City has also been participating in a separate initiative to dramatically redevelop a portion of Milwaukee's Lakefront known as the Milwaukee Gateway project; and

Whereas, The Milwaukee Gateway project is a unique collaboration between the City of Milwaukee, Milwaukee County, the Wisconsin Department of Transportation, the Greater Milwaukee Committee, the business community and developers to upgrade public spaces, improve connections to the Lakefront and facilitate major private-sector investment in this area; and

Whereas, The Milwaukee Gateway project includes reconfiguration of Hoan Bridge /Interstate 794 ramps, local road improvements, pedestrian improvements, and planned private-sector developments, including the Northwestern Mutual office tower, the 833 East Michigan Street office building, and the 44-story Couture mixed-use tower on the site of the Milwaukee County Transit Center; and

Whereas, As part of the Milwaukee Gateway vision, stakeholders have expressed an enthusiastic interest in serving the Lakefront with streetcar transit service and maintaining the existing transit function at the site of the current Milwaukee County Transit Center; and

Whereas, The Couture development is proposed to incorporate transit-oriented development principles, including a ground-level streetcar station and concourse in the development; and

Whereas, A Lakefront Streetcar Line is proposed to connect with the Phase 1 Starter System with a route using Michigan Street and Clybourn Avenue (map attached hereto as Exhibit B); and

Whereas, Capital costs for the Lakefront Streetcar Line are currently estimated at \$25 million based on conceptual design, including, pending the outcome of the Petition for Judicial Review, estimated costs to modify or relocate privately-owned utility facilities to allow the project to go forward should the City be found responsible for such costs by a final decision issued by a court of competent jurisdiction, including appeals therefrom; and

Whereas, Local funding would be used to perform additional system planning, operational planning,

environmental documentation, FTA coordination, and detailed design engineering for the Lakefront Streetcar Line; and

Whereas, Upon completion of 60% design and refinement of capital cost estimates for the Lakefront Streetcar Line, additional federal grant funding will be sought for implementation; and

Whereas, The annual operating and maintenance cost for the Lakefront Streetcar Line is estimated at \$550,000 (2018 dollars), which would be expected to be offset by about \$150,000 in annual potential sponsorships/advertisements and farebox revenues, leaving approximately \$400,000 per year to be funded by City or other sources; and

Whereas, Both capital-cost estimates and operating-cost estimates for the Lakefront Streetcar Line will continue to be refined as the project is further developed and defined; and

Whereas, The Phase 1 Starter System and the Lakefront Streetcar Line will support \$980 million in development currently under construction in downtown Milwaukee and an additional \$1.2 billion in development proposed in downtown Milwaukee, and will promote additional development as see in other cities with similar systems; and

Whereas, The Phase 1 Starter System and the Lakefront Streetcar Line infrastructure investment would be expected to support or create a total of 2,444 jobs, including 854 direct jobs, 810 indirect jobs and 780 induced jobs; and

Whereas, A financial plan has been developed to fully fund capital costs associated with the Phase 1 Starter System and to provide \$15 million in funding for capital costs of the Lakefront Streetcar Line without impacting the existing City tax levy; and

Whereas, This financial plan funds annual operating and maintenance costs for both the Phase 1 Starter System and the Lakefront Streetcar Line using non-property tax revenue sources; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that The Milwaukee Streetcar project Locally Preferred Alternative as defined in the Milwaukee Streetcar Environmental Assessment dated October, 2011 (a copy of which is attached to this file as Exhibit C), with the subsequent Milwaukee Street route refinement, is approved and adopted; and, be it

Further Resolved, That the Phase 1 Starter System of The Milwaukee Streetcar project Locally Preferred Alternative as defined in the Milwaukee Streetcar Environmental Assessment dated October, 2011 (with the subsequent Milwaukee Street route refinement) is approved and adopted; and, be it

Further Resolved, That the Lakefront Streetcar Line, as shown in Exhibit B attached to this file, is approved for project development; and, be it

Further Resolved, That the Phase 1 Starter System and the Lakefront Streetcar Line are part of a

broader, long-term vision for a comprehensive, citywide, multimodal transit system consisting of a multi-layered transit network that could include expanded and improved baseline rubber-tired bus service operating trunk lines on the city's existing street grid, expanded streetcar service in the center-city area within an approximate 3- to 5-mile mile radius of the central business district, rubber-tired bus rapid transit operating limited-stop service on city arterial streets for trips of 3 to 15 miles, and commuter rail service operating on existing railroad lines for trips of 10 to 35 miles; and, be it

Further Resolved, That a comprehensive transit system shall be developed in cooperation with the Milwaukee County Transit System, mainline and shortline railroads, and a regional transit authority, should one be formed in the future; and, be it

Further Resolved, That the Department of Public Works and the Department of City Development shall jointly develop a conceptual comprehensive citywide transit plan and submit that plan to the Common Council within 120 days of adoption of this resolution; and, be it

Further Resolved, That the \$44.0 million local share of capital costs for the Phase 1 Starter System and \$15.0 million local share of capital costs for the Lakefront Streetcar Line shall be funded as follows:

- \$9.7 million - Tax Incremental District No. 49 (Cathedral Place); previously approved through adoption of Common Council File Number 110372.
- \$18.3 million - Tax Incremental District No. 56 (Erie/Jefferson Street); subject to Common Council adoption of File Number 141264.
- \$31.0 million - Tax Incremental District No. 82 (East Michigan Street); subject to Common Council adoption of File Number 141263.

; and, be it

Further Resolved, That operating and maintenance costs for both the Phase 1 Starter System and the Lakefront Streetcar Line shall be funded by farebox and other operating revenue, such as sponsorships and advertising, state/federal grants (e.g., CMAQ grants), private contributions and grants, and, if necessary, the City Parking Fund until such time as a dedicated local funding source for public transit in Milwaukee County is established; and, be it

Further Resolved, That the proper City officers shall continue to advocate for a dedicated funding source for public transit in Milwaukee County, which funding could be available to cover Streetcar operating costs; and

Further Resolved, That the Commissioner of Public Works is directed to:

1. Amend the existing FTA grant agreement to reflect the current project definition for The Milwaukee Streetcar, as approved by this resolution.
2. Accept the \$3.18 million CMAQ grant for streetcar operations, with the required local share projected to be satisfied by farebox revenue, to fund the initial 18 months of Phase 1 Starter System operations.
3. Apply for additional CMAQ funding to fund an additional 18 months of streetcar operations.
4. Execute the professional service contracts or contract amendments necessary to complete design engineering for the Phase 1 Starter System and procure owner representative services through the construction phase of The Milwaukee Streetcar.
5. Issue a Request for Proposals for vehicle procurement for The Milwaukee Streetcar.
6. Establish an evaluation committee to select a vehicle vendor and to negotiate and execute contracts with the selected vehicle vendor, subject to subsequent Joint Committee on Downtown Streetcar Implementation review and approval.
7. Issue a Request for Proposals for an operator to operate and maintain the streetcar system.
8. Negotiate and execute any agreements with privately-owned utilities necessary to perform final design and construction of utility facility relocations and modifications to allow The Milwaukee Streetcar to be constructed and operated.
9. Continue efforts to minimize utility facility relocation and modification costs during final design through continued discussions with utilities and evaluation of additional minor route refinements as necessary.
10. Perform additional environmental documentation associated with any route refinements and seek FTA approval as necessary.
11. Negotiate acquisition of the minor real estate interests necessary to implement The Milwaukee Streetcar project.
12. Apply for a \$200,000 U.S. Department of Transportation grant (with a \$200,000 local share requirement to be funded by Tax Incremental District No. 82 - East Michigan Street), under the Ladders of Opportunity grant program, to develop and implement a workforce development program to prepare targeted workers from areas of high unemployment for employment opportunities arising from construction and operation of The Milwaukee Streetcar.



13. Solicit, negotiate and accept any private or public grants or contributions that may be available to fund The Milwaukee Streetcar's capital or operating costs.

14. Continue to work with Milwaukee County and the Milwaukee County Transit System for the purposes of integrating and coordinating the proposed streetcar service with the local bus service provided by the Transit System or any regional transit authority that may be formed in the future.

15. Let construction contracts for the Phase 1 Starter System in accord with all applicable FTA third party contracting requirements.

16. Solicit sponsorships/advertising/naming rights for the Milwaukee Streetcar and to negotiate and execute agreements with potential sponsors, the revenues from which would be used to offset annual streetcar operating costs.

17. Proceed with project development of the Lakefront Streetcar Line, including performing system planning, preliminary engineering, final design, utility coordination, vehicle procurement and right-of-way acquisition.

18. Apply for additional federal grant funding and seek private contributions to fund the remaining Lakefront Streetcar Line capital costs.

19. Proceed with construction of the Lakefront Streetcar Line upon the project becoming fully funded.

20. Pursue such future federal streetcar operating funds as may be available.

; and, be it

Further Resolved, That the Commissioner of Public Works is authorized to enter into an operating agreement for The Milwaukee Streetcar with the appropriately-selected transit service provider based on the results of the Request for Proposals process; and, be it

Further Resolved, That the Comptroller is directed to transfer funds for the capital costs of The Milwaukee Streetcar which are made available for this purpose through federal grants and tax incremental district revenues to the appropriate capital Project/Grant accounts; and, be it

Further Resolved, That the proper City officers are authorized and directed to take all actions necessary, including the execution of documents, to implement the proposed Milwaukee Streetcar project as defined and approved by this resolution, and to carry out the provisions of this resolution, and, be it

Further Resolved, That the final design phase and construction phase of The Milwaukee Streetcar shall be supervised by the Joint Committee on Downtown Streetcar Implementation and, if at any time during design or construction, total costs for either the Phase 1 Starter System or the Lakefront Streetcar Line (in 2016 dollars) exceed authorized funding, the Joint Committee on Downtown Streetcar Implementation shall report this conclusion to the Common Council, along with any necessary adjustments to the project scope or other cost-saving measures for Council review; and be it

Further Resolved, That the Joint Committee on Downtown Streetcar Implementation shall periodically report to the Common Council on the progress and financial status of The Milwaukee Streetcar project.

LRB156252-1  
Jeff Osterman  
12/08/2014