

METROPOLITAN COUNCIL  
390 Robert Street North, Saint Paul, Minnesota 55101-1805

**RESOLUTION NO. 2016-24**

**RESOLUTION EXPRESSING THE METROPOLITAN COUNCIL'S INTENTION  
TO AUTHORIZE CERTIFICATES OF PARTICIPATION TO PROVIDE LOCAL  
MATCHING FUNDS FOR THE SOUTHWEST LIGHT RAIL TRANSIT PROJECT**

**WHEREAS**, the Legislature has found “that, for the provision of essential mobility and transportation options in the metropolitan area, for the encouragement of alternatives to the single-occupant vehicle and for the development of transportation service designed to meet public needs efficiently and effectively, there is a need for the creation of transit programs in the metropolitan area”; and

**WHEREAS**, pursuant to Minnesota Statutes sections 473.405 to 473.449 the Metropolitan Council is authorized to own, construct and operate within the metropolitan area a regional transit system, including a light rail transit system; and

**WHEREAS**, pursuant to Minnesota Statutes section 473.405 the Legislature has conferred on the Metropolitan Council “all powers necessary or convenient to discharge its duties” relating to the regional transit system; and

**WHEREAS**, pursuant to Minnesota Statutes section 473.3994 the Metropolitan Council is “responsible for planning, designing, acquiring, constructing, and equipping” the Southwest Light Rail Transit (“SWLRT”) Project; and

**WHEREAS**, on July 15, 2016, the Federal Transit Administration (“FTA”) issued its Record of Decision for the SWLRT Project under the National Environmental Policy Act; and

**WHEREAS**, at its August 10, 2016 meeting the governing body of the Metropolitan Council made its Determination of Adequacy under the Minnesota Environmental Policy Act and authorized its staff to submit to the FTA an Application to Enter Engineering for the SWLRT Project; and

**WHEREAS**, Minneapolis, St. Louis Park, Hopkins, Minnetonka, Eden Prairie and Hennepin County have twice reviewed and approved design plans for the proposed SWLRT Project under the “municipal consent” provisions of Minnesota Statutes section 473.3994; and

**WHEREAS**, the estimated cost of the SWLRT Project is \$1.858 billion; and

**WHEREAS**, the federal government’s participation is anticipated to be \$929 million (50%) of the SWLRT Project cost; and

**WHEREAS**, the SWLRT Project currently needs to identify a source for \$144.5 million that includes the unfunded portion of the planned state share and cost of delays so that the 50% local share is fully funded and the SWLRT Project can move forward and remain eligible for the \$929 million federal share; and

**WHEREAS**, at its August 30, 2016 meeting the Hennepin County Regional Railroad Authority (“HCRRA”) voted to contribute an additional \$20.5 million to increase its total funding share to 10% of the capital costs of the Project as permitted by law; and

**WHEREAS**, Certificates of Participation can be used to finance public infrastructure projects; and

**WHEREAS**, Certificates of Participation are not public “debt” and can allow the Metropolitan Council to fund part of the local share of the SWLRT Project consistent with the Metropolitan Council’s project and statutory responsibilities; and

**WHEREAS**, at its August 31, 2016 meeting the Counties Transit Improvement Board (“CTIB”) voted to increase its funding contribution by \$20.5 million and further participate in financing costs by reimbursing no less than 11.35% of Metropolitan Council-authorized Certificates of Participation.

**NOW, THEREFORE, BE IT RESOLVED THAT**, having considered the Metropolitan Council’s statutory responsibilities for providing essential mobility and transportation options in the metropolitan area, encouraging alternatives to single-occupant vehicles, and developing transportation services designed to meet public needs efficiently and effectively through transit programs, the Metropolitan Council:

- (1) Finds that it is in the public’s interest for the Metropolitan Council to exercise powers and take actions necessary or convenient to discharge its duties and responsibilities with regard to the SWLRT Project and the regional transit system as a whole; and
- (2) Finds that the SWLRT Project will be a transportation alternative for many communities and individuals that will help provide individuals with access to employment, housing, recreational, educational and other opportunities; and
- (3) Finds that the SWLRT Project should be advanced so the Project can provide services critical to the region and the Project can remain eligible for \$929 million in federal funding; and
- (4) Determines that issuance of Certificates of Participation will not result in the Metropolitan Council incurring public debt; and

- (5) Commits to authorizing up to \$103.5 million in Certificates of Participation to fund part of the local match required for the SWLRT Project, at least 11.35 percent of which will be financed by CTIB; and
- (6) Intends to issue Certificates of Participation for the SWLRT Project on or after July 3, 2017; and
- (7) Authorizes its Regional Administrator to negotiate and execute on behalf of the Metropolitan Council one or more memoranda of understanding or other agreements with CTIB and HCRRA that address: agreements for the issuance and financing of Certificates of Participation; and other agreements related to the Project contributions of the Metropolitan Council, CTIB and HCRRA referenced in this resolution. The memoranda of understanding or other agreements must be equitable and proportionate and must include at least the following:
  - (a) Provisions for CTIB financing of its share of the Certificates of Participation that will not disadvantage the marketing of the certificates or the Metropolitan Council's application for the Full Funding Grant Agreement with the FTA; and
  - (b) If the Legislature authorizes additional sales tax proceeds or other substantial on-going new revenues to be received by the Metropolitan Council for the purpose of systemic transit expansion, provisions:
    - (i) requiring the Metropolitan Council to reimburse CTIB the full amount of CTIB's additional contribution of up to \$20,500,000, as well as all amounts paid by CTIB for financing costs. The Metropolitan Council will in good faith take all necessary actions within its authority to defease, assume or otherwise release CTIB from its financing obligations so that there will be no further obligation for CTIB to make annual payments on costs attributable to the additional contributions under the memoranda of understanding or other agreement.
    - (ii) requiring the Metropolitan Council to reimburse HCRRA the full amount of HCRRA's additional contribution of up to \$20,500,000.
    - (iii) requiring the Metropolitan Council to reimburse itself for the full amount of the Metropolitan Council's additional contributions described in this resolution, as well as all amounts paid by the Metropolitan Council for financing costs.
  - (c) If the Legislature authorizes additional sales tax proceeds or other substantial on-going new revenues to be received by CTIB for the purpose of systemic transitway expansion, provisions:

- (i) requiring CTIB to reimburse itself the full amount of CTIB's additional contribution of up to \$20,500,000, as well as all amounts paid by CTIB for financing costs.
- (ii) requiring the CTIB to reimburse HCRRA the full amount of HCRRA's additional contribution of up to \$20,500,000.
- (iii) requiring CTIB to reimburse the Metropolitan Council for the full amount of the Metropolitan Council's additional contributions described in this resolution, as well as all amounts paid by the Metropolitan Council for financing costs. CTIB will in good faith take all necessary actions within its authority to allow the Metropolitan Council to defease outstanding Certificates of Participation issued to fund the Metropolitan Council's additional contributions described in this resolution.

The reimbursements described in this Paragraph (7) shall be consistent with the expressed intent of the Legislature and consistent with the Metropolitan Council's statutory authorities.

Adopted this 31<sup>st</sup> day of August, 2016.

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Adam Duininck, Chair

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Emily Getty, Recording Secretary