

1 Supervisor Michael Mayo, Sr., Chairperson,
2 From the Committee on Transportation, Public Works, and Transit, reporting on:

3
4 File No. 14-312
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6 (ITEM) A resolution by Supervisor Jursik providing policy guidance on the future
7 operation and management of the Milwaukee County Transit/Paratransit System
8 (MCTS), by recommending adoption of the following:
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10 **AN AMENDED RESOLUTION**

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12 WHEREAS, Milwaukee County provides public transit services through a
13 management contract with Milwaukee Transport Services, Inc. (MTS), a company that
14 exists primarily to serve the County's transit needs; and
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16 WHEREAS, the Milwaukee County Department of Transportation (McDOT)
17 issued a Request for Proposals (RFP) in April 2013 for transit management services to
18 operate the Milwaukee County Transit/Paratransit System (MCTS); and
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20 WHEREAS, in July 2013, following a review evaluation and scoring process,
21 McDOT announced its intent to award the contract to MV Transportation Inc.; and
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23 WHEREAS, appeals protesting the RFP award pursuant to Milwaukee County
24 Ordinance Chapter 110 were filed by two other unsuccessful proposers and, after being
25 denied by McDOT, were appealed to a County Board standing committee; and
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27 WHEREAS, the co-chairs of the Committee on Finance, Personnel, and Audit, to
28 which the appeals were referred, appointed an Administrative Determination Review
29 Committee of five members to hear the appeals; and
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31 WHEREAS, the Administrative Determination Review Committee held hearings
32 on the appeals and ruled on February 20, 2014, that the RFP procedures used by
33 McDOT were flawed such that the Department's intent to award the contract to MV
34 Transportation, Inc., was arbitrary and unreasonable, and no award could be made to
35 any other bidder using the April 2013 RFP; and
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37 WHEREAS, the 2014 Adopted Budget for Org. 5600-DOT-Transit, which was
38 approved prior to the Administrative Determination Review Committee decision,
39 included the following policy language:
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41 *The Milwaukee County Comptroller shall form a Workgroup to identify and report*
42 *on the advantages and challenges of in-sourcing versus outsourcing transit*
43 *management and operations. The report of the Workgroup shall be submitted for*
44 *review during the March 2014 committee cycle to the Committees on*
45 *Transportation, Public Works and Transit and Finance, Personnel and Audit. The*
46 *report shall examine employee ramifications, unfunded liabilities, taxpayer*

47 *impacts and other issues identified by the Workgroup. The Workgroup shall be*
48 *chaired by the Comptroller or designee and shall consist of members that the*
49 *Comptroller chooses, but shall include at a minimum the following individuals or*
50 *designees:*

- 51
52 *1. SEWRPC representative*
53 *2. MC-DOT Director*
54 *3. DAS-Office for Persons with Disabilities Director*
55 *4. Transit Services Advisory Committee representative*
56 *5. County Board Chairperson designee*
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58 *Unless the County Board approves a contract for outside management and*
59 *operation of the transit system by April 1, 2014, the policy of Milwaukee County is*
60 *to bring management and operation of transit in-house. The Milwaukee County*
61 *Department of Transportation - Director's Office shall work with other*
62 *departments as necessary to develop a transition plan which transfers the*
63 *management and operation of all existing services of the Milwaukee County*
64 *Transit System to an internal County department or division. The plan shall*
65 *provide an effective transition that is coordinated with the expiration of the MTS*
66 *contract without any major interruption in service delivery. Aspects of the model*
67 *that Milwaukee County uses to manage and operate General Mitchell*
68 *International Airport (GMIA) may be used to help operate the Transit System.*
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70 *In effect, the current contract between Milwaukee County and MTS, Inc. is for the*
71 *management services provided by two individuals. The expense incurred by the*
72 *system (including operating expenses, capital equipment, wages and benefit*
73 *liabilities) are funded by governmental taxing authorities and riders. Yet the*
74 *services provided through the management contract, including entering into*
75 *emergency contracts, are removed from normal County oversight. In addition,*
76 *transit services rely on a separate series of internal and external overhead costs*
77 *such as procurement, risk management, legal, accounting, budget, payroll,*
78 *accounts payable, treasury, human resources, pension, health, information*
79 *technology, facilities management and labor relations. Milwaukee County already*
80 *owns the buses, facilities and other assets of MCTS. Milwaukee County also*
81 *already effectively serves as the backstop for the MCTS pension system. The*
82 *direct provision of management and operation of the transit system by an internal*
83 *department or division will help clear up questions that have arisen related to the*
84 *chain of command and responsibilities.*
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86 ; and

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88 WHEREAS, the Comptroller submitted a report to the County Board dated
89 February 25, 2014, in response to the budget directive outlined above, that reported on
90 the advantages and disadvantages of outsourcing or in-sourcing transit operations while
91 acknowledging the Workgroup had substantial discussion regarding blended models of
92 in-sourcing and outsourcing; and

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WHEREAS, the County Executive, in an email to County Board Supervisors dated March 24, 2014, indicated that while he preferred to rebid the transit services contract, he wanted the Board to pass a clear policy direction to pursue outsourcing rather than in-sourcing, and in addition, approve a revised appeals process prior to issuing a new RFP; and

WHEREAS, the County Executive further indicated that McDOT would be seeking County Board approval of a \$250,000 contract with a management consulting firm for “merger and acquisition” services in order to pursue the County’s adopted policy of bringing management and operation of transit in-house, if a new contract with a private vendor was not in place by April 1, 2014; and

WHEREAS, the County Executive also reported that the director of McDOT and Corporation Counsel spoke to Federal Transit Administration (FTA) officials who indicated that simply making the top two managers of MTS, Inc., County employees and leaving the remaining employees at MTS, Inc., as currently structured would likely not satisfy competitive bidding requirements; and

WHEREAS, FTA officials did indicate that it was possible that there may be other alternatives that were not contemplated that would allow the MTS Inc./County relationship to be restructured that would satisfy competitive bidding requirements; and

WHEREAS, the Committees on Transportation, Public Works, and Transit and Finance, Personnel, and Audit, in response to the Comptroller’s Workgroup report, directed further review of policy questions to Corporation Counsel regarding employee union bargaining rights, and Corporation Counsel recently reported on comparative rights of transit workers as Milwaukee County employees in contrast to outside employee rights; now, therefore,

BE IT RESOLVED, that the Milwaukee County Board of Supervisors directs that the stated 2014 Adopted Budget transit policy directive outlined in this resolution shall be clarified as follows:

- The definition of in-house management and operation includes the use of an instrumentality of the municipality or similar legal structure to provide effective County control

; and

BE IT FURTHER RESOLVED, that Corporation Counsel, working in conjunction with the Office of Comptroller, shall submit to the Federal Transit Administration (FTA) legal changes that would be necessary to satisfy the FTA while providing a restructured relationship with Milwaukee Transport Services, Inc., to achieve the most cost effective, locally run, not-for-profit transit system for Milwaukee County; and

139 BE IT FURTHER RESOLVED, that Corporation Counsel may retain outside
140 services to assist with effectuating this policy.

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