



Finance & Administration Committee

Action Item III-A

June 12, 2014

Silver Line Acceptance

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

Action Information

MEAD Number:
200854

Resolution:
 Yes No

TITLE:

Silver Line Acceptance

PRESENTATION SUMMARY:

This presentation provides the Board an overview of the Silver Line Phase I Acceptance for review and approval.

PURPOSE:

To provide the Finance and Administration Committee with a status update on the conditions that must be satisfied prior to acceptance of Phase 1 of the Dulles Corridor Metrorail Project (Silver Line) into the Adopted Regional System (ARS).

DESCRIPTION:

Key Highlights:

- Metro declared Operational Readiness on Tuesday, May 27, 2014 at 5:30 a.m. Metro is now in control of the Silver Line and has up to 90 days to prepare for the start of passenger service.
- Based on the Title VI equity analysis, Metro staff has determined that the Silver Line project does not have a disproportionately high and adverse impact on minority and low income ridership.
- WMATA and MWAA entered into a Fourth Amendment to the Cooperative Agreement to address completion of the subsequent work identified after the time of acceptance.

Background and History:

Phase 1 of the Silver Line is an 11.4 mile, five stations extension being constructed under the Metropolitan Washington Airports Authority (MWAA) by the Dulles Transit Partners (DTP).

December 2012: Metro Board approved the staff report public hearing docket B12-03 staff report and modifications to Metrobus service that will be implemented with the Silver Line opening. Staff briefed the WMATA Board on the proposed Silver Line operating plan and the impacts on the Metrorail service.

FTA requirements for Title VI changed effective October 1, 2012 requiring formal public participation plan, public outreach for equity analysis and Board approval of Title VI

equity analysis.

April 2013: WMATA Board approved the coordinated Silver Line Service Plan and the Title VI Staff Report.

September 2013: Briefed the WMATA Board on the planned information and marketing campaign for current and potential riders about the new Silver Line Service.

November 2013: Staff briefed the Board on the activities that must be completed prior to Metro and MWAA declaring Operational Readiness Date (ORD).

Discussion:

Operational Readiness

Metro declared Operational Readiness on the Silver Line on Tuesday, May 27, 2014 at 5:30 a.m. This means Metro is now in control of all the Silver Line stations, the right of way and the facilities, and has up to 90 days to prepare for the start of passenger service.

The following items were reviewed and satisfactory completed prior to Metro declaring ORD:

- All Testing Completed
- System Performance Demonstration
- Training
- Spare Parts
- Identification of Critical Punch List
- Documents, Agreements Property conveyance
- Safety and Security Certification

As part of the turnover, Metro Transit Police Department (MTPD) has taken on security responsibility for the system. A new Silver Line patrol sector will police the line, and MTPD has staffed up in preparation for the expanded service.

MTPD has been working for more than a year to train and build good working relationships with the three local jurisdictions that have authority in and around the Silver Line: Fairfax County, Virginia State Police, and the Washington Metropolitan Airports Authority.

MTPD and other Metro staff have provided first responders (police officers and firefighters) from these jurisdictions with Metro familiarization training, station walk-thrus, and courses on Metro roadway safety. All told, MTPD has trained more than 875 first responders from the three jurisdictions.

During the last few weeks, MTPD led an emergency drill along the Silver Line, simulating real life scenarios, including the possibility of an emergency train evacuation along an elevated portion of the Silver Line track.

This drill provided an opportunity for all of the first responders to focus on coordination

and practice unified command. The drill paired officers from different departments together in teams, similar to a real event when the first responders arriving at the scene would need the familiarity and confidence to work together.

Silver Line Title VI Equity Analysis

FTA Title VI guidelines require that transit agencies conduct an analysis of a New Starts project within six months of revenue operations. Since a year has now elapsed and with additional public outreach information, staff has done the analysis again.

Based on the analysis, Metro staff has determined that the Silver Line project does not have a disproportionately high and adverse impact on minority and low income rail ridership. Benefits accrue proportionally to minority and low income riders. Minority and low income Metrobus customers are also not disproportionately affected by service changes, specifically when looking at rates comparable to the ridership in Virginia where the service changes are occurring.

Status of Conditions for Board Acceptance

Prior to the Board acceptance and adoption into the Adopted Regional System (Article 2, Section 2 C, Article 6) the following eight conditions established by the Board through resolution #2007-04 must be met:

Completed:

1. Satisfactory completion of the Final Environmental Impact Statement (FEIS)
2. Issuance of a Record of Decision by Federal Transit Administration (FTA)
3. Board approval of final financial plan
4. Execution of implementing financial commitments between MWAA and funding partners

Remaining:

5. WMATA's determination of Project completion and its acceptability
6. Conveyance to WMATA by MWAA of property interest in the project property for WMATA's continuing control of the project property
7. Any indemnification obligation not to be a liability or potential liability for WMATA
8. All land use and permitting approvals to be complete and final

Progress status on remaining conditions

Condition #5: Metro has been working closely with MWAA to shorten the timeframe by completing construction, testing and punchlist tasks in parallel. Currently, a status list is reviewed bi-weekly with MWAA and DTP and no significant delays have been identified.

Condition #6: Conveyance documents will provide Metro with full control of 100% of the 11.4 miles of Phase I. Fee simple acquisition of real estate interests are not on jurisdictional partners' rights-of-way while the permanent easements are.

The ownership of Silver Line Phase I assets will transfer from MWAA to WMATA upon acceptance, while revenue service is expected to commence a short time thereafter.

WMATA and MWAA have developed and agreed upon a methodology for valuing the assets to achieve compatibility with WMATA's financial records requirements. On June 6, 2014, a jointly-signed letter from WMATA's Acting CFO and MWAA's CFO was sent to FTA Region III's Regional Counsel outlining the asset valuation methodology and requesting a response or objections to the approach by June 20, 2014. WMATA's external financial auditor has confirmed that the appropriate asset valuations must be included in WMATA's balance sheet for the end of the fiscal year within which WMATA accepts legal ownership of the project and all substantial risks have transferred to WMATA.

Condition #7: According to the Cooperative Agreement, "Any indemnification obligation from WMATA to Toll Road Investors Partnership II (TRIP II), MWAA, or any other entity associated with the Project is subject to Board approval, and any indemnification obligation provided by DRPT to TRIP II, or MWAA, or any other entity associated with the Project will be subject to a determination by WMATA that such indemnification does not create a liability or potential liability for WMATA".

With the exception of WMATA's indemnification of Virginia Department of Transportation (VDOT) which was a condition of obtaining permits from VDOT for the purposes of access, maintenance and operation (Resolution 2014-01), WMATA has not indemnified any other parties associated with Dulles Corridor Metrorail Project or identified any other indemnification that creates a liability or potential liability for WMATA.

Condition #8: All land use and permitting approval documentation will be delivered by MWAA. All of these issues have been negotiated and are awaiting final signature. Fairfax Special Exemption for West Falls Church yard requires additional sound testing but this is not considered to be an issue.

Subsequent Work after WMATA Acceptance

In Board Resolutions 2004-15, 2006-62 and 2007-04, the Board conditionally accepted the Dulles Corridor Metrorail Project into the ARS upon the fulfillment of Eight ARS Conditions, including Condition #5 which requires that WMATA determine "that the Project has been completed in accordance with the Final Environmental Impact Statement (FEIS), the approved General Plans and all WMATA system requirements, and that the Project, as built and tested, is suitable for acceptance into the ARS."

There will be work that will not be complete at the time of acceptance. To address completion of the work, WMATA and MWAA entered into a Fourth Amendment to the Cooperative Agreement. Under the Fourth Amendment, the following work will be completed after WMATA acceptance:

- Replacement of the Remote Terminal Units (RTUs) on the project by no later than August 31, 2015
- Resolution of the Traction power RTUs by September 30, 2014
- Installation of the Art in Transit by June 30, 2015
- Completion of the permanent enhancement work at the entrances of the pavilions by August 31, 2014
- Delivery of the point detector rod for the derailer #13 at Wiehle Avenue by September 30, 2014
- Implementation of the permanent solution of converting three track circuits from audio

frequency to AC single rail power frequency track circuits by December 15, 2014

Based upon the agreements in the Fourth Amendment to complete the work and MWAA's agreement to reimburse WMATA for all costs associated with the work, Staff recommends that the Board accept the Dulles Corridor Metrorail Project into the ARS without the completion of the work listed above as required by ARS Condition #5.

FUNDING IMPACT:

Budget requirements for the Silver Line are included in the previously approved budgets.

TIMELINE:

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RECOMMENDATION:

Based upon the current status of the work and the commitments of MWAA in the Fourth Amendment to the Cooperative Agreement, Metro staff recommends that subject to completion of the Eight Conditions, the Board authorize the General Manager to accept Phase I of the Dulles Corridor Metrorail Project (Silver Line) into the ARS and determine a revenue service date.

SUBJECT: CONDITIONS FOR APPROVAL OF PHASE I OF THE DULLES CORRIDOR METRORAIL PROJECT INTO THE ADOPTED REGIONAL SYSTEM

RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, For the first time in the Washington Metropolitan Area Transit Authority's (WMATA) history that the construction of an extension of the Adopted Regional System (ARS) is not directly under WMATA's control, and therefore, the Board of Directors has conditioned acceptance of the Dulles Corridor Metrorail Project ("Silver Line" or "Project") into the ARS upon the fulfillment of the following conditions identified as the "ARS Contingencies":

1. Satisfactory completion of the Final Environmental Impact Statement (FEIS);
2. Issuance of a Record of Decision by the Federal Transit Administration (FTA);
3. Board of Directors approval of a final financial plan for the construction, acquisition and operation of the new facilities;
4. Execution of implementing financial commitments between the Virginia Department of Rail and Public Transportation (DRPT) and funding sources in the form of local funding agreements and the Federal full funding agreement;
5. WMATA's determination that the Project has been completed in accordance with the FEIS, approved General Plans and all WMATA system requirements and that the Project, as built and tested, is suitable for acceptance into the ARS;
6. Conveyance to WMATA by DRPT of a property interest in the Project property adequate to assure WMATA's continuing control of the Project property throughout the useful life of the Project;
7. Any indemnification obligation from WMATA to Toll Road Investors Partnership II, the Metropolitan Washington Airports Authority (MWAA), or any other entity associated with the Project is subject to Board of Directors approval, and any indemnification obligation provided by DRPT to Toll Road Investors Partnership II, MWAA, or any other entity associated with the Project

will be subject to a determination by WMATA that such indemnification does not create a liability or potential liability for WMATA; and

8. All land use and permitting approvals from any federal, state, or local regulatory agency shall be complete and final before WMATA's acceptance of the Project in the ARS, to ensure that jurisdictional stakeholders do not impose additional requirements upon transfer of interests to WMATA for operational purposes; and

WHEREAS, On April 24, 2014, WMATA and MWAA entered into an agreement for the Silver Line to specify the work activities that:

1. Must be completed by MWAA for WMATA to declare the Operational Readiness Date (ORD);
2. May be completed by MWAA after ORD but which must be completed before WMATA accepts the Project;
3. May be completed by MWAA after WMATA acceptance of the Project, as well as to define certain reimbursement, funding and insurance requirements to be met by MWAA; and

WHEREAS, WMATA determined that the Project has sufficiently satisfied WMATA operational readiness requirements to enable WMATA to accept care, custody and control of the Project; and

WHEREAS, On May 27, 2014, WMATA declared ORD; and

WHEREAS, ARS Contingencies 1 through 4 have been satisfied; and

WHEREAS, Amendment 4 to the Cooperative Agreement addresses the completion of remaining work on the Project necessary to satisfy ARS Contingency 5; and

WHEREAS, Under the Cooperative Agreement between MWAA and WMATA dated September 14, 2007, MWAA is required to transfer (or cause to be transferred) all necessary property interests to WMATA for the operation of the Silver Line, as one of the conditions precedent to be satisfied before WMATA can accept the Project into the ARS; and

WHEREAS, With the exception of WMATA's indemnification of the Virginia Department of Transportation (VDOT), which was a condition of obtaining permits from VDOT for the purposes of access, maintenance and operation, and was approved by the Board of Directors in Resolution 2014-01; WMATA has not indemnified any other parties associated with the Silver Line or identified any other indemnification that creates a

liability or potential liability for WMATA, and therefore, ARS Contingency 7 is satisfied; and

WHEREAS, The property interests to be conveyed to WMATA will be granted mostly by the VDOT, Fairfax County and MWAA, with the remainder being granted by utility companies, private adjacent property owners, and Northern Virginia Regional Park Authority; and

WHEREAS, The conveyance documents will consist of the following:

- Permanent Easements for Routes 7 and 123 Right of Way
- Easements for the Dulles International Airport Access Highway and Dulles Connector Road
- Fee Simple Interests for ancillary facilities (such as pavilions and traction power sub-stations)
- Utility Easements
- Wiehle-Reston Pedestrian Bridge Easement
- Licenses from NVRPA and Dominion Virginia Power; and

WHEREAS, MWAA, through a Bill of Sale, will convey to WMATA all equipment and personal property acquired by, or built for MWAA for the Project; and

WHEREAS, The WMATA Board of Directors' authorization is required to execute these conveyance documents and to place them in escrow in advance of the Board's approval of final acceptance of the Project into the ARS; and

WHEREAS, Based upon the current status of the work on the project and the commitments of MWAA in the Fourth Amendment to the Cooperative Agreement to ensure that the work to be performed after WMATA acceptance will be completed, the Silver Line will satisfy the ARS Contingencies established by the Board; and

WHEREAS, WMATA staff and Fairfax County staff have developed a Mutual Aid Agreement to assist WMATA to move passengers if there is a temporary problem with the operation of Metrorail within Fairfax County; and

WHEREAS, As part of the Silver Line, Fairfax County has constructed a parking garage at the Wiehle-Reston East Metrorail Station, which it will operate but for the parking fee collection equipment and remote video equipment, which it wants WMATA to operate; and

WHEREAS, The costs of WMATA's involvement with this parking garage will either be covered by the existing SmarTrip® Operations Agreement, by Fairfax County or as part of WMATA's overall remote monitoring program; now, therefore be it

RESOLVED, That the Board of Directors, subject to satisfaction of the eight ARS Conditions, authorizes the General Manager/Chief Executive Officer (GM/CEO) to accept the Project into the ARS and determine a revenue service date; and be it further

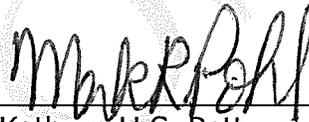
RESOLVED, That the Board of Directors authorizes the execution of the conveyance documents described in this Resolution and the placement of these documents in escrow; and be it further

RESOLVED, That the Board of Directors authorizes the GM/CEO to execute the Mutual Aid Agreement; and be it further

RESOLVED, That the GM/CEO is authorized to negotiate and execute the agreement for the operation of a parking garage at the Wiehle Avenue Metrorail Station and to make such changes not materially adverse to WMATA's interests as he deems appropriate; and be it finally

RESOLVED, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,


for Kathryn H.S. Pett
General Counsel

WMATA File Structure No.:
12.7.1 Infrastructure Agreements



Washington Metropolitan Area Transit Authority

Silver Line Acceptance

Finance and Administration Committee

June 12, 2014



Operational Readiness

ORD* = May 27, 2014

2009

2010

2011

2012

2013

2014



Acceptance

Requirements considered for the ORD:

- ✓ All Testing Completed
- ✓ System Performance Demonstration
- ✓ Training
- ✓ Spare Parts
- ✓ Identification of Critical Punchlist
- ✓ Documents, Agreements Property Conveyance
- ✓ Safety and Security Certification

✓ We made it to **ORD**

* ORD = Operational Readiness Date



Silver Line Title VI

- Original analysis - Spring 2013
- Analysis “refreshed” to reflect new schedule and requirements:
 - Updated ridership figures
 - Application of DI/DB policies
 - Additional public outreach
- Finding: No Disparate Impact/Disproportionate Burden



Eight Conditions for Acceptance

Rail Activation Plan



Operational Readiness



- ✓ 1. Satisfactory completion of the Final Environmental Impact Statement (FEIS)
- ✓ 2. Issuance of a Record of Decision by Federal Transit Administration (FTA)
- ✓ 3. Board approval of final financial plan
- ✓ 4. Execution of implementing financial commitments between MWAA and funding partners

✓ Completed Underway



Eight Conditions for Acceptance

Rail Activation Plan



Operational Readiness



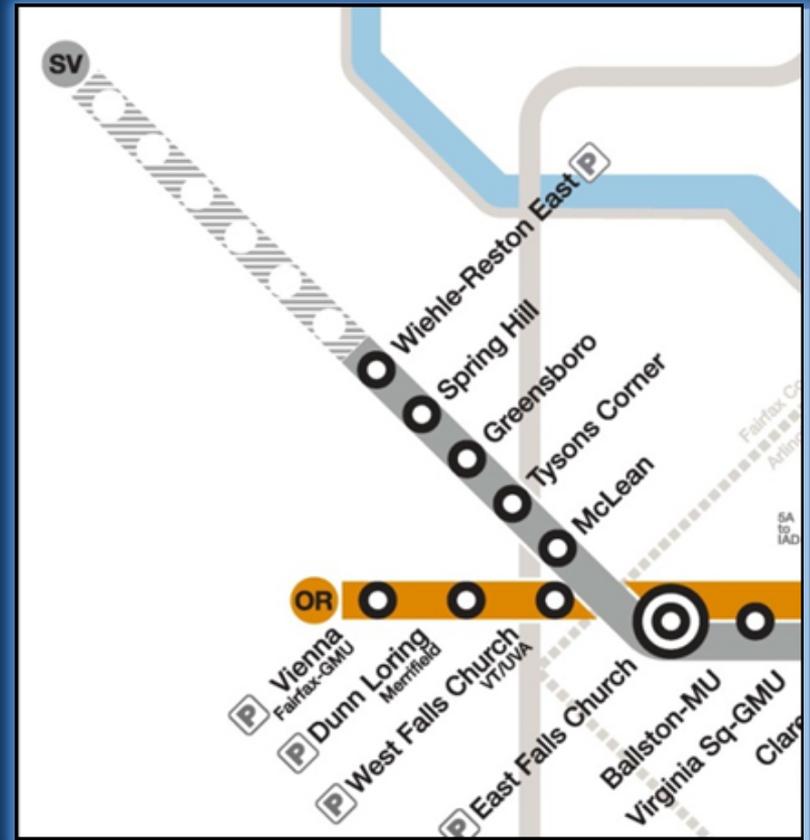
- 5. WMATA's determination of Project completion and its acceptability
- 6. Conveyance to WMATA by MWAA of property interest in the Project property for WMATA's continuing control of the Project property
- 7. Any indemnification obligation not to be a liability or potential liability for WMATA
- 8. All land use and permitting approvals to be complete and final

✓ Completed Underway

Conditions Underway

❑ WMATA's determination of Project completion and its acceptability

- ✓ Parallel work activities to allow efficient move to revenue
- ✓ Items are part of agreement for ORD
- ✓ Outside work activities

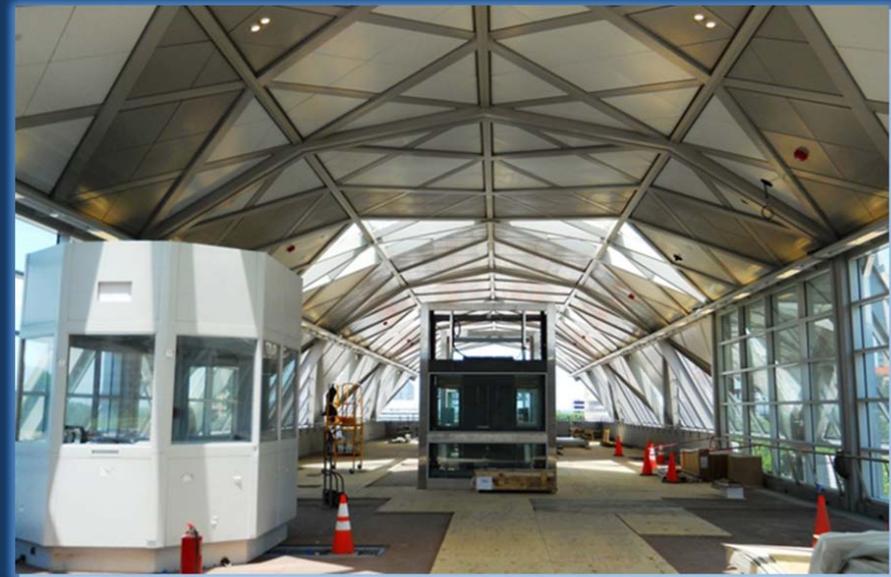




Conditions Underway

❑ Conveyance to WMATA by MWAA of property interest in the Project property for WMATA's continuing control of the Project property

- ✓ Conveyance documents will provide Metro with continuing control of 100% of the 11.4 miles of Phase 1
- Fee simple acquisition of real estate interests not on jurisdictional partners' rights-of-way
- Permanent easements for real estate interests on jurisdictional partners' rights-of-way





Conditions Underway

- ❑ Any indemnification obligation not to be a liability or potential liability for WMATA
- ✓ Only one indemnification provided as required by VDOT





Conditions Underway

❑ All land use and permitting approvals to be complete and final

✓ MWAA to deliver all land use and permit documents





Subsequent Work After WMATA Acceptance

Based upon the Fourth Amendment to the Cooperative Agreement

- Replacement of the Remote Terminal Units (RTUs)
- Resolution of the traction power RTUs
- Installation of the Art in Transit
- Completion of the permanent enhancement work at the pavilion entrances
- Delivery of the point detector rod for the derailer #13 at Wiehle Avenue
- Completion of converting the three track circuits from audio frequency to AC single rail power frequency track circuits



Recommendation

Based upon the current status of the work and the commitments of the Metropolitan Washington Airports Authority (MWAA) in the Fourth Amendment to the Cooperative Agreement, Metro staff recommends that subject to completion of the Eight Conditions, the Board authorize the General Manager to accept Phase I of the Dulles Corridor Metrorail Project (Silver Line) into the Adopted Regional System (ARS) and determine a revenue service date.



Acceptance