

Administrative Item (A) 01-27-2022

Washington Metropolitan Area Transit Authority

Board Action/Information Summary

☒ Action ☐ Information

MEAD Number:
202337

Resolution:
☒ Yes ☐ No

TITLE:

Indemnification - City of College Park

PRESENTATION SUMMARY:

Request Board approval to indemnify the City of College Park in order to use their facilities to hold a public hearing.

PURPOSE:

Request Board approval to indemnify the City of College Park within a facility usage agreement.

DESCRIPTION:

WMATA will be holding hybrid public hearings on its Proposed FY2023 Operating and Capital Budgets and FY2023-2028 Capital Improvement Program, which will allow for both virtual and in-person participation. A total of three hearings will be held, one each in the District of Columbia, Maryland and Virginia in order to allow for convenient in-person participation.

The City of College Park, Maryland, has agreed to host the Maryland WMATA Compact Public Hearing on Metro's Proposed FY2023 Operating and Capital Budgets and FY2023-2028 Capital Improvement Program at its new city hall facility. The agreement between Metro and the City of College Park for use of their city hall facility contains indemnification language.

Under Resolution 2011-30, Board of Directors' approval is required to indemnify a counterparty.

The **City of College Park, Maryland** is an interested party.

Key Highlights:

- WMATA seeks to use City of College Park facilities for one of its Compact Public Hearings on its Proposed FY2023 Operating and Capital Budget and FY2023 Capital Improvement Program.
- The agreement to use the City of College Park facility contains language

indemnifying the City. The City has indicated it cannot waive that language in its agreement with Metro.

- In order to maintain the schedule of public outreach for the Proposed FY2023 Budget, Metro needs to use the City of College Park's facilities. This requires signing their usage agreement and agreeing to indemnify the City.

Background and History:

Metro conducts public outreach, including Compact public hearings, annually to get feedback on its proposed budgets, Capital Improvement Program and any proposed changes to service and fares included in those budgets.

Through the hearings on the Proposed FY2021 Budget (February 2020), Metro conducted in-person public hearings. For the Proposed FY2022 Budget (February 2021), Metro conducted its hearings virtually, in order to adhere to public health guidelines associated with the COVID-19 pandemic. In order to conduct its hearings virtually, Metro had to obtain a waiver from the Commonwealth of Virginia, which requires Metro to hold a public hearing on its capital improvement program "within the geographic limits of the Northern Virginia Transportation Commission."

For hearings on the Proposed FY2023 Budget, Metro was unable to obtain a waiver from the Commonwealth of Virginia to hold a virtual public hearing. In order to ensure equitable access to the public hearing process for all customers within Metro's service area, the Board decided to hold three "hybrid" Compact public hearings that would allow for both virtual and in-person participation, one in each of Metro's three Compact jurisdictions. Staff selected the College Park City Hall as its Maryland location due to its location, proximity to transit and facilities - both physical and technological to allow for hybrid meetings and for social distancing.

Discussion:

In order to use the College Park City Hall for one of its Compact public hearings, Metro must agree to the indemnification language contained in the facility usage agreement. Under Resolution 2011-30, the Board has exclusive authority to indemnify counterparties.

Failure to sign an agreement with the City of College Park for use of its facility would require Metro to find a new location for a Compact public hearing within Maryland, delaying the public outreach timeline for the Proposed FY2023 Budget and ultimately delaying its adoption by the Board.

FUNDING IMPACT:

No impact on funding. This action will only allow Metro and the City of College Park to enter into an agreement to use the City's facility, which is being provided free of

charge.

Project Manager:	Jennifer Ellison
Project Department/Office:	Office of the Board Corporate Secretary

TIMELINE:

Previous Actions	December 2021 – Board authorization to hold public hearings on Metro's Proposed FY2023 Budget and FY2023-2028 Capital Improvement Program.
Anticipated actions after presentation	February 2022 - Compact public hearings on Metro's Proposed FY2023 Operating and Capital Budgets and FY2023-2028 Capital Improvement Program. March 2022 - Board adoption of Metro's Proposed FY2023 Operating and Capital Budgets and FY2023-2028 Capital Improvement Program.

RECOMMENDATION:

Board approval to indemnify the City of College Park within a facility usage agreement.

Presented and Adopted: January 27, 2022

SUBJECT: APPROVAL TO INDEMNIFY CITY OF COLLEGE PARK, MARYLAND, IN CITY
HALL CHAMBERS USE PERMIT

2022-02

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

WHEREAS, Resolution 2011-30 requires Board of Directors approval for WMATA to indemnify a counterparty; and

WHEREAS, WMATA desires to rent the City Hall Council Chambers of the City of College Park, Maryland, to conduct public hearings on WMATA's fiscal year 2023 budget; and

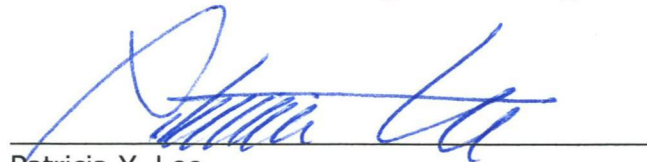
WHEREAS, The City Hall Council Chambers use permit requires WMATA to indemnify the City of College Park, Maryland;

NOW THEREFORE, be it

RESOLVED, That the Board of Directors authorizes the Board Corporate Secretary or her designee to indemnify the City of College Park, Maryland, for use of the City Hall Council Chambers as may be required in its use permit, substantially in the form as shown in Attachment A; and be it finally

RESOLVED, That to provide for timely public hearings on WMATA's fiscal year 2023 budget, this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Patricia Y. Lee
Executive Vice President and General Counsel

WMATA File Structure Nos.:
15.2.1 Grants of Indemnification

Motioned by Mr. Smedberg, seconded by Dr. Hadden Loh

Ayes: 7- Mr. Smedberg, Ms. Babers, Mr. Zappi, Ms. Kline, Mr. Letourneau, Dr. Hadden Loh, and Mr. Drummer

Attachment A

CITY OF COLLEGE PARK, MARYLAND FACILITY USAGE PERMIT APPLICATION:

I, and my organization, agree to hold the City harmless from any actions, liability, claims, suits, damages, risk of loss, and costs or expenses of any kind, including attorneys' fees, which may be brought or made against the City, or which the City must pay or incur, by reason of or in any manner resulting from use of this Facility or the acts or omissions of myself, my organization, and/or our agents and guests, or the failure to perform any of the obligations under the terms of this Usage Permit.

CITY OF COLLEGE PARK, MARYLAND COVID-19 ADDENDUM:

I voluntarily agree to assume all of the foregoing risks, and accept sole responsibility for any injury to my child(ren) or myself (including, but not limited to, permanent injury, illness, permanent disability, and death), as well as for any damage, loss, claim, liability, or expense, of any kind, that I or my child(ren) may experience or incur in connection with my child(ren)'s attendance at City facilities or at City-sponsored events ("Claims"). I voluntarily agree on behalf of the organization, if applicable, to assume all the foregoing risks, and accept sole responsibility for any Claims by any participant. On my behalf, and on behalf of my child(ren), and if applicable on behalf of the organization, I hereby release, covenant not to sue, discharge, and hold harmless the City, its employees, elected and appointed officials, volunteers, agents and representatives, of and from the Claims, including all liabilities, claims, actions, damages, costs or expenses of any kind, arising out of or relating thereto. I understand and agree that this release includes any Claims based on the actions, omissions, or negligence of the City, its employees, elected and appointed officials, volunteers, agents, and representatives, whether a COVID-19 infection occurs before, during or after participation in activities at a City facility or a City-sponsored event.