

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

<input checked="" type="radio"/> Action <input type="radio"/> Information	MEAD Number: 201908	Resolution: <input checked="" type="radio"/> Yes <input type="radio"/> No
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TITLE:

Utility Indemnification Hold Harmless Agreement

PRESENTATION SUMMARY:

To obtain Board approval to enter into an indemnification hold harmless agreement.

PURPOSE:

To obtain Board approval for Indemnification Hold Harmless Agreement with Power Distribution Companies.

DESCRIPTION:

Key Highlights:

Board Resolution 2011-30 requires Board approval for WMATA to enter into indemnification agreement with third parties in non-procurement contracts.

Background and History:

WMATA owned switchgear in the electrical rooms connected to utility companies with their approved seals that are subject to occasional flooding. To seal out the water, WMATA would install nonstandard seals on the utility lines.

Discussion:

WMATA would like to use a seal not listed on Power Distribution Companies' approved list of seals. The Power Distribution Companies will allow the exception, but WMATA must hold them Harmless for any injuries or damages caused by using an alternative seal.

FUNDING IMPACT:

There is no funding impact for WMATA to indemnify Power Distribution Companies.	
Project Manager:	Nichalos Gardner
Project Department/Office:	CPPM/ENGA

TIMELINE:

Previous Actions	None
Anticipated actions after presentation	Replace the seals.

RECOMMENDATION:

Board approval of the Pepco Indemnification Hold Harmless Agreement

PRESENTED AND ADOPTED: September 28, 2017

**SUBJECT: DELEGATION OF THE AUTHORITY TO INDEMNIFY AND HOLD HARMLESS
UTILITY COMPANIES FOR THE USE OF ROXTEC SEALS**

2017-43

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

WHEREAS, Pursuant to Board Resolution 2011-30, Board of Directors approval is required for the Washington Metropolitan Area Transit Authority (WMATA) to provide an indemnification for the benefit of a third party in non-procurement contracts; and

WHEREAS, WMATA has identified a water intrusion issue associated with utility-approved seals currently used on WMATA conduit, switchgear, and/or electrical rooms; and

WHEREAS, WMATA desires to install a different seal that is not currently approved by power distribution companies in order to improve the waterproofing of WMATA facilities; and

WHEREAS, The power distribution companies will allow installation of utility non-approved waterproof seals only if WMATA provides an indemnification to their benefit; now, therefore be it

RESOLVED, That the Board of Directors authorizes the General Manager/Chief Executive Officer or his designee to indemnify power distribution companies for the use of waterproofing seals so long as the indemnification is substantially similar to or more favorable to WMATA than the following:

With respect to any injury or damage to persons or property that may arise, however caused, as a result of or in connection with the use by WMATA of the waterproofing seal on the conduit, switchgear and/or electrical room at WMATA owned or operated Metrorail Passenger Stations and Traction Power Stations, and including without limitation all costs and expenses borne by Potomac Electric Power Company (PEPCO) in enforcing its rights under this Indemnification and Hold Harmless provision, WMATA will indemnify and hold harmless PEPCO, its parents, subsidiaries, affiliates, successors, assigns, agents, employees, directors and officers, contractors and subcontractors, from and against any liability, loss, cost and expense (including attorney's fees); and be it finally

Motioned by Mr. Evans, seconded by Mr. Goldman

Ayes: 8 – Mr. Evans, Ms. Harley, Mr. Corcoran, Mr. McMillin, Mr. Price, Mr. Goldman, Mrs. Hudgins and Mr. Horner

RESOLVED, That in order to expedite WMATA's installation of certain non-standard seals on PEPCO utility lines, this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Patricia Y. Lee
General Counsel

File Structure Nos.:
2.7. Delegation of Authority
15.2.1 Grants of Indemnification