

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

☒ Action ☐ Information

MEAD Number:
201997

Resolution:
☒ Yes ☐ No

TITLE:

700MHz Radio Project Antenna Leases

PRESENTATION SUMMARY:

As a component of Metro's 700MHz Radio System project, Metro will need to enter into up to 16 antenna lease agreements across the region. Several landlords require that Metro indemnify them, which is an unfunded liability to Metro and requires Board approval.

PURPOSE:

To request Board approval for staff to execute certain antenna lease agreements which require Metro to indemnify the landlord, in the form of unfunded liability clauses.

DESCRIPTION:

As part of the Job Creation Act of 2012, the Federal Communications Commission (FCC) requires emergency management agencies operating on the 400MHz-490MHz frequency band to upgrade to the 700MHz frequency. Metro is required to comply with the FCC mandate and has awarded a contract to Motorola to oversee the project to upgrade Metro's Comprehensive Radio Communications System (CRCS). The project must be completed no later than December 2021. The project will replace all above-ground and below-ground radio infrastructure and equipment throughout Metro's service region. An important piece to implementing the 700MHz radio system project is entering into strategically-located antenna leases so that Metro has full radio coverage throughout the region. Metro and Motorola have been identifying and negotiating antenna sites and Metro is now preparing to execute multiple antenna lease agreements, some of which require Board approval.

Key Highlights:

- Multiple antenna lease agreements are required throughout the region for Metro to fulfill its obligations under an FCC mandate to upgrade all emergency management radio systems to the 700MHz frequency band.
- This project must be completed by December 2021.
- Metro is prepared to execute several antenna lease agreements, several of which require Board approval due to indemnification provisions some

landlords are requiring

Background and History:

Metro is required to satisfy the terms and conditions of the Middle Class Tax Relief and Job Creation Act (the "Act"), enacted by Congress on February 22, 2012. The Act requires that Metro vacate its T-band frequencies (400MHz to 490MHz) within ten years (by February 22, 2022); however it did not provide Metro with alternate frequencies. In response, Metro coordinated with and submitted a waiver to the Federal Communication Commission (FCC) to gain access to sixteen frequencies within the 700MHz frequency band. The FCC approved this waiver request in May 2015.

As such, Metro is converting to the 700MHz radio frequency band to comply with requirements of the Act. The project will replace all above-ground and below-ground radio infrastructure and equipment, which includes:

- Design and construction of 28 above-ground antenna sites
- Radio and cellular coverage within the underground system
- Replacing all radio subscriber units (bus, rail, police, individual handheld radios and all consoles, consolettes, and other radio equipment which will transmit over the new radio infrastructure)

The new 700MHz radio system, along with new infrastructure supporting 800MHz in the underground system, is expected to be constructed and in-use by December 2021. Once the 700MHz radio system is in use, Metro will terminate existing leases that support the current T-band frequency radio system.

Discussion:

To support the implementation of the 700MHz radio system, up to 16 antenna lease agreements will need to be executed. Radio antenna tower sites are limited throughout the Washington Metropolitan Region and Metro has hired Motorola to identify strategically-located antenna sites that can provide the emergency communication coverage Metro requires. Motorola and Metro have been negotiating with landlords throughout the region and Metro is now preparing to execute on multiple leases. In order to meet the December 2021 project completion date, Metro must execute the leases by July 1, 2018.

Several landlords are requiring that Metro indemnify them, in the form of unfunded liability clauses; these landlords are: (1) American Towers LLC, (2) GTP Structures I, LLC, (3) CoxCom LLC, (4) Washington Suburban Sanitary Commission, (5) CTI Towers Assets III, LLC, and (6) U.S. Bank National Association. Each landlord requires different indemnification provisions, such as:

- Relocation of generator by landlord at Metro's expense

- Structural analysis of the telecommunications tower by landlord at Metro's expense
- In the event Metro might bring hazardous materials to the property
- In the event Metro damages other tenant's equipment
- In the event a lien is placed on the property as a result of Metro

While Metro typically does not indemnify third-parties because such a provision subjects Metro to a potentially unfunded liability, agreeing to indemnify another party is required from time to time and requires Board approval. Given the limited availability of antenna tower sites to support this region-wide mandate, staff recommends Metro's agreeing to such indemnification provisions. The terms of all the leases are between 25 - 30 years, if all options are exercised. These leases are required and necessary to meet the Act's mandate.

FUNDING IMPACT:

The indemnification language in the leases do not allow for quantitative analysis of any future impact on funding, if any.	
Project Manager:	Anabela Talaia
Project Department/Office:	CFO/LAND

TIMELINE:

Previous Actions	None.
Anticipated actions after presentation	July 2018: Execute antenna lease agreements.

RECOMMENDATION:

Board approval for staff to execute certain antenna lease agreements which require Metro to indemnify the landlord, in the form of unfunded liability clauses.

SUBJECT: APPROVAL TO INDEMNIFY COUNTERPARTIES IN CONNECTION WITH
EXECUTION OF ANTENNA LEASE AGREEMENTS FOR THE 700MHz RADIO
SYSTEM PROJECT

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

WHEREAS, Resolution 2011-30 requires the General Manager/Chief Executive Officer (GM/CEO) to seek Board of Directors approval for any non-procurement agreement requiring the Washington Metropolitan Area Transit Authority (WMATA) to indemnify the counterparty; and

WHEREAS, Pursuant to the Job Creation Act of 2012, emergency management agencies, including WMATA, currently operating on the 400-490 MHz frequency band are required to upgrade to the 700 MHz frequency by December 2021; and

WHEREAS, In order to upgrade to the 700 MHz frequency, WMATA must replace the above-ground and below-ground radio infrastructure and equipment throughout WMATA's service region; and

WHEREAS, WMATA also must enter into antenna lease agreements with landlords in order to gain access to strategically located antennas by July 1, 2018, in order to meet the December 2021 deadline; and

WHEREAS, Several of the landlords require WMATA to indemnify the landlord for use of their antenna towers; NOW, THEREFORE be it

RESOLVED, That the Board of Directors authorizes the GM/CEO or his designee to indemnify the landlords as may be required by the landlord in any antenna lease agreement; and be it finally

RESOLVED, That in order to ensure that WMATA gains access to antennas by July 1, 2018, this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Patricia Y. Lee
General Counsel

WMATA File Structure No.:
15.2.1 Grants of Indemnification

PROPOSED