

## Consent Item (A) 11-21-2019

Washington Metropolitan Area Transit Authority

### Board Action/Information Summary

☒ Action ☐ Information

MEAD Number:  
202120

Resolution:  
☒ Yes ☐ No

#### TITLE:

700 MHz leases MIEMSS and Pepco indemnification

#### PRESENTATION SUMMARY:

As a component of Metro's 700 MHz Radio System project, Metro has been negotiating antenna lease agreements across the region. For two sites currently in negotiation, the landlords, Pepco and the Maryland Institute for Emergency Medical Services (MIEMSS) require that Metro indemnify them, which requires Board approval.

#### PURPOSE:

Request Board approval for Metro to indemnify two landlords in antenna lease agreements required for the 700 MHz radio system project.

#### DESCRIPTION:

As part of the Job Creation Act of 2012 ("the Act"), the Federal Communications Commission (FCC) requires emergency management agencies operating on the 400 MHz-490 MHz frequency band to upgrade to the 700 MHz 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 700 MHz radio system project is entering into strategically-located antenna leases so that Metro has full radio coverage throughout the region.

#### Key Highlights:

- The sites form a part of the radio grid coverage in the region enabling Metro to fulfill its obligations under a FCC mandate to upgrade all emergency management radio systems to the 700 MHz frequency band.
- This project must be completed by December 2021.
- Metro is prepared to execute lease agreements with **Pepco** and **MIEMSS**. Each landlord requires Metro to indemnify them for use of their antennas, which indemnification requires Board approval.

## Background and History:

Metro is converting to the 700 MHz 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 700 MHz radio system, along with new infrastructure supporting 800 MHz in the underground system, is expected to be constructed and in-use by December 2021. Once the 700 MHz radio system is in use, Metro will terminate existing leases that support the current 400 MHz frequency band radio system.

## Discussion:

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. Staff have been negotiating with **Pepco** and **MIEMSS** and Metro is now preparing to execute the agreements.

While Metro does not typically 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:	Cynthia Jachles
Project Department/Office:	CFO/LAND

## TIMELINE:

<b>Previous Actions</b>	None
<b>Anticipated actions after presentation</b>	December 2019: Execute antenna lease agreements.

**RECOMMENDATION:**

Request Board approval for Metro to indemnify two landlords in antenna lease agreements required for the 700 MHz radio system project.

**PRESENTED AND ADOPTED: November 21, 2019**

**SUBJECT: APPROVAL TO INDEMNIFY PEPSCO AND THE MARYLAND INSTITUTE OF  
EMERGENCY MEDICAL SERVICES**

**2019-42**

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

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

WHEREAS, WMATA must upgrade its Comprehensive Radio Communications System to the 700 MHz frequency by December 2021; and

WHEREAS, In order to upgrade to the 700 MHz frequency by December 2021, WMATA must enter into antenna lease agreements with two landlords, Pepco and the Maryland Institute for Emergency Medical Services (MIEMSS) to use two strategically located antenna sites; and

WHEREAS, Pepco and MIEMSS each require WMATA to indemnify them for use of their respective antenna towers;

NOW, THEREFORE, be it

*RESOLVED*, That the Board authorizes the General Manager and Chief Executive Officer to indemnify Pepco and MIEMSS as may be required in their respective antenna lease agreements; and be it finally

*RESOLVED*, That, to ensure WMATA obtains the antenna sites in a timely manner, this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,

  
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Patricia Y. Lee  
General Counsel

WMATA File Structure No.:  
15.2.1 Grants of Indemnification

**Motioned by Mr. Bulger, seconded by Mr. Goldman  
Ayes: 6- Mrs. Hudgins, Mr. Bulger, Mr. Goldman, Mr. Dorsey, Mr. Marootian and Mr. McMillin  
Abstain: 2- Mr. Horner and Mr. Graham**