

Consent Item (B) 01-25-2024

Washington Metropolitan Area Transit Authority

Board Action/Information Summary

☒ Action ☐ Information

Document
Number:
205689

Resolution:
☐ Yes ☒ No

Presentation Name:

Indemnification of Montgomery County, Maryland

Project Manager:

Jennifer Ellison

Project Department:

Office of the Board Corporate Secretary

Purpose/Key Highlights:

Request Board approval to indemnify Montgomery County, Maryland for use of the Silver Spring Civic Building at Veterans' Plaza.

Interested Parties:

Montgomery County, Maryland is an interested party.

Background:

WMATA will be holding five public hearings on its Proposed FY2025 Operating and Capital Budgets and FY2025-2030 Capital Improvement Program (CIP); three hearings will allow for in-person participation, and two hearings will allow for virtual/online participation. The three in-person hearings will include one hearing each in Metro's three Compact jurisdictions - the District of Columbia, the State of Maryland and the Commonwealth of Virginia.

Given the extent of service and fare changes included in the Proposed FY2025 Operating Budget, staff sought locations for the three in-person hearings that could accommodate large crowds and are transit accessible.

Staff has selected the Silver Spring Civic Building at Veterans' Plaza for the Maryland public hearing location due to its capacity and accessibility to Metrorail and several Metrobus and local transit routes. Montgomery County requires WMATA to enter into a Facility Use License Agreement in order to use the Silver Spring Civic Building,

which agreement includes an indemnification provision. Board Resolution 2011-30, as amended, requires Board approval to indemnify a counterparty.

Discussion:

In order to use the Silver Spring Civic Building at Veterans' Plaza for a public hearing, Metro must agree to the indemnification language contained in the Facility Use License Agreement.

Failure to secure the Silver Spring Civic Building for a public hearing will require Metro to seek an alternate location for this event, which may delay the outreach timeline for the FY2025 Budget and delay final Board budget adoption.

Funding Impact:

Usage fees for Metro to use the Silver Spring Civic Building at Veterans' Plaza are estimated to cost \$1500 or less. Funding is available within the Office of the Board Corporate Secretary's Approved FY2024 budget for this expense.

Previous Actions:

December 2023 - Presentation of General Manager's Proposed FY2025 Operating and Capital Budgets and FY2025-2030 CIP.

January 2024 - Finance Committee/Board authorization for public hearings on Metro's Proposed Operating and Capital Budgets and FY2025-2030 CIP, including proposed changes to fares and service

Next Steps:

March 2024 - Compact public hearings on Metro's Proposed FY2025 Operating and Capital Budgets and FY2025-2030 CIP, including proposed service and fare changes

April 2024 - Board adoption of Metro's FY2025 Operating and Capital Budgets and FY2025-2030 CIP, including service and fare changes

Recommendation:

Approval to: indemnify Montgomery County, Maryland for use of the Silver Spring Civic Building at Veterans' Plaza

SUBJECT: APPROVAL TO INDEMNIFY MONTGOMERY COUNTY, MARYLAND FOR USE
OF SILVER SPRING CIVIC BUILDING

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 use the Silver Spring Civic Building at Veterans' Plaza, owned by Montgomery County, Maryland, to conduct a public hearing on WMATA's Proposed Fiscal Year 2025 Operating and Capital Budgets and FY 2025-2030 Capital Improvement Program; and

WHEREAS, Montgomery County requires WMATA to enter into a Facility Use License Agreement in order to use the Silver Spring Civil Building, which agreement includes an indemnification provision in substantially the form shown in Attachment A;

NOW, THEREFORE, be it

RESOLVED, That the Board of Directors authorizes the Board Corporate Secretary or her designee to indemnify Montgomery County, Maryland, as may be required in Montgomery County's Facility Use License Agreement for use of the Silver Spring Civic Building at Veterans' Plaza, in substantially the form shown in Attachment A; and be it finally

RESOLVED, That in order to provide for timely public hearings on WMATA's proposed budgets and capital improvement program, this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,

/s/
Patricia Y. Lee
Executive Vice President, Chief Legal Officer,
and General Counsel

Attachment A

MONTGOMERY COUNTY, MARYLAND FACILITY USE LICENSE AGREEMENT, INDEMNIFICATION PROVISION:

17. Indemnification. User and its agents agree to indemnify, defend, and hold harmless the County from any loss, injury, liability, damage, claim, lien, cost or expense, including reasonable attorneys' fees and costs, arising from the use of the facility by the User, any person acting under the User's authority, or by any person in the facility as a participant or potential participant in any activity the User conducts in the facility or arising out of a breach of this Agreement by the User. The User's foregoing responsibility to indemnify and hold harmless the County extends to any incidents resulting from the failure to use caution near architectural structures such as a raised stage or stairs. This agreement to indemnify and hold harmless the County will survive expiration and termination of this Agreement. User need not indemnify, defend, or hold harmless the County for any loss, cost, damage, claim, or other expense arising out of the County's sole negligence or intentional misconduct.