

## Administrative Item (A) 09-22-2022

Washington Metropolitan Area Transit Authority

### Board Action/Information Summary

☒ Action ☐ Information

MEAD Number:  
203388

Resolution:  
☒ Yes ☐ No

#### TITLE:

Silver Line Phase 2 Acceptance

#### PRESENTATION SUMMARY:

This presentation provides the Board an overview of the Silver Line Phase 2 project and process for acceptance of this Metrorail Extension into the Adopted Regional System (ARS).

#### PURPOSE:

To provide the Board an update on Silver Line Phase 2 following declaration of Operational Readiness (ORD) on June 23, 2022. Staff is recommending that the Board delegate to the WMATA General Manager and Chief Executive Officer (GM&CEO) authority to accept the project into the Adopted Regional System (ARS) at such time as a determination has been made that all acceptance conditions have been met, and establish a date for start of passenger service.

#### DESCRIPTION:

Construction of Silver Line Phase 2 has been undertaken by the **Metropolitan Washington Airports Authority (MWAA)**. MWAA awarded design-build contracts to **Capital Rail Constructors**, a joint venture of **Clark Construction Group LLC** and **Kiewit Infrastructure South Co.**, for Package A of Silver Line Phase 2 (mainline and stations), and to **Hensel Phelps Construction Company** for Package B (Dulles Rail Yard and ancillary buildings). Major subcontractors and consultants under these entities including **Mass. Electric Construction Company**, **Parsons Corporation**, **Dewberry**, **Systra**, and **M.C. Dean**.

Major consultants and contractors supporting Metro's efforts on the project include **Mott MacDonald**, **Gannett Fleming**, **HNTB**, and **Cubic Transportation Systems**.

**WMATA** and **MWAA** executed a Cooperative Agreement on August 7, 2013 that specifies the roles and responsibilities of WMATA during the design, construction and acceptance activities leading to opening the line to passenger service.

#### Key Highlights:

- MWAA declared the Project's Substantial Completion, including the Dulles Yard, in October 2021; Substantial Completion is a milestone in MWAA's agreement with the contractors. Metro has no role in this determination.
- Metro declared Operational Readiness (ORD) at 6:00 am on June 23, 2022 and since then has been in control of the Silver Line Phase 2 project and has started all required testing and pre-revenue activities needed for final safety certification and acceptance of the project for start of customer service.
- WMATA and the Metropolitan Washington Airports Authority (MWAA) entered into a Second Amendment to the MWAA-WMATA Phase 2 Cooperative Agreement on June 17, 2022, to address pending work items that must be completed by MWAA (i) prior to WMATA acceptance and, (ii) after WMATA acceptance.
- WMATA intends to enter into a Third Amendment to the MWAA-WMATA Phase 2 Cooperative Agreement to specify certain activities that may be completed by MWAA after WMATA Acceptance with associated reimbursements, funding and insurance obligations to be satisfied by MWAA.
- In previous Board briefings to the Board's Safety & Operations Committee, staff has outlined the status of this project and the several construction deficiencies identified by Metro staff and Metro's Office of Inspector General (OIG).
- Several of the deficiencies have been remedied to comply with Metro requirements or are being remedied pursuant to a mutually agreed upon path forward. Metro has executed appropriate agreements, including a Trust Account Agreement with MWAA to ensure funding of future remediation or maintenance costs associated with identified defects.
- The Board has reviewed the Title VI equity analysis of rail services increases for the FY2023 budget and determined that the Silver Line Phase 2 project does not have a disparate impact on minority customers nor a disproportionate burden on low-income riders.

### **Background and History:**

The current Silver Line (Phase 1) terminates at the Wiehle-Reston East Station and opened for service in July 2014. Phase 2 of the Silver Line is an 11.4 mile, six station extension being constructed by the Metropolitan Washington Airports Authority (MWAA) pursuant to a Cooperative Agreement with WMATA executed on August 7, 2013.

The new stations are Reston Town Center, Herndon, Innovation Center,

Washington Dulles International Airport, Loudoun Gateway, and the terminus at Ashburn Station. The project also includes a new Dulles Rail Yard and ancillary facilities designed for 168 Metrorail cars.

### **Discussion:**

#### **Operational Readiness:**

Metro declared Operational Readiness for Silver Line Phase 2, including the Dulles Yard, as of June 23 2022, at 6:00 a.m. This means Metro is now in control of all the Silver Line Phase 2 stations and the Dulles Yard, the right of way and the facilities and has started all required testing and pre-revenue activities needed for final certification and acceptance. Key activities include items such as:

- On-Boarding Assets – Complete Asset Database, Implement Warranty Management, Verify and Tag all Assets, Transfer or Creation of Utility and Consumables Supply Accounts
- Staff and First Responder Familiarization – Conduct Staff Orientation, Execute Emergency Exercises, Establish Access Controls, Conduct First Responder Training
- Final Documents – Complete Safety Certification, Execute Maintenance and Property Conveyance Agreements
- Policy and Procedure Updates – Update Maintenance Policies, Update Standard Operating Procedures, Operational Systems, and Training
- Final Station Mobilization – Marketing Campaign/Advertising Installations, Implement Parking Operations per executed agreements with Fairfax and Loudoun Counties, Distribute Station Maintenance Materials (such as snow removal equipment), Deployment of kiosk materials, Deploy new system maps systemwide, Exercise Automatic Fare Collection equipment

#### **Silver Line Title VI Equity Analysis**

FTA Title VI guidelines require that transit agencies conduct an analysis of a New Starts project within six months of revenue operations.

Based on the analysis, Metro staff has determined that the Silver Line Phase 2 project does not have a disproportionately high and adverse impact on minority and low-income rail ridership.

#### **Conditions for Board Acceptance**

Article 6 (Conditions for WMATA Acceptance) in the Silver Line Phase 2 Cooperative Agreement requires that the following ten conditions must be met prior to acceptance:

1. **Punch List** – Completed unless agreed to otherwise by WMATA
2. **Property Transfers** – Must be Completed
3. **Spare Parts and Training** – All materials to be received
4. **Record Deliverables** – All records and documents to be received
5. **Assignment of Warranties** – MWAA shall have assigned to WMATA all warranties and associated documentation
6. **Permits** – MWAA to obtain all land use and permitting approvals from federal, state, and local regulatory agencies
7. **Payments** – MWAA shall have paid all funds owed to WMATA as per the Cooperative Agreement
8. **Safety & Security** – Metro Chief Safety Officer be ready to certify to and receives concurrence from the Washington Metrorail Safety Commission (WMSC) that Silver Line Phase 2 is ready for passenger service
9. **Insurance** – Metro to have received all Certificates of Insurance as per Article 7 of the Cooperative Agreement
10. **Storm Water Management** – MWAA shall have obtained maintenance agreements as required for storm water management ponds

The above conditions are at various stages of progress and must be completed prior to acceptance. Acceptance of the project into the Adopted Regional System will occur only after all conditions have been met or compliance assured by appropriate amendments to the Cooperative Agreement.

#### **FUNDING IMPACT:**

Budget requirements for the Silver Line Phase 2 are included in the previously approved budgets.	
Project Manager:	Neil Nott
Project Department/Office:	CAPD/PICO

#### **TIMELINE:**

<b>Previous Actions</b>	On March 24, 2022, the Board adopted the FY2023 budget (Resolution 2022-06) that included funds for operating this Metrorail Extension and concurred in the Title VI determination
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<b>Anticipated actions after presentation</b>	Th GM&CEO will accept and establish a service start date for Silver Line Phase 2 upon determining that all acceptance conditions have been met in accordance with appropriate agreements and this proposed resolution
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## **RECOMMENDATION:**

Based upon the current status of the work and the commitments of MWAA in the Cooperative Agreement, as amended, Metro staff recommends that subject to: 1) Completion of the ARS Acceptance Tasks set forth in Section 2.7.C of the Phase 2 Cooperative Agreement; 2) satisfaction of the Conditions for WMATA Acceptance set forth in Article 6 of the Phase 2 Cooperative Agreement; 3) WMATA not having received notification that the Washington Metrorail Safety Commission (WMSC) or the Federal Transit Administration (FTA) has identified any unacceptable hazardous conditions as part of the pre-revenue service review, and 4) no later than three (3) days prior to WMATA Acceptance, MWAA has made full payment to the trust account as set forth in the Trust Account Agreement between the parties, authorizes the General Manager and Chief Executive Officer(GM&CEO) to accept the Silver Line Phase 2 into the Adopted Regional System and determine a date for start of passenger service.

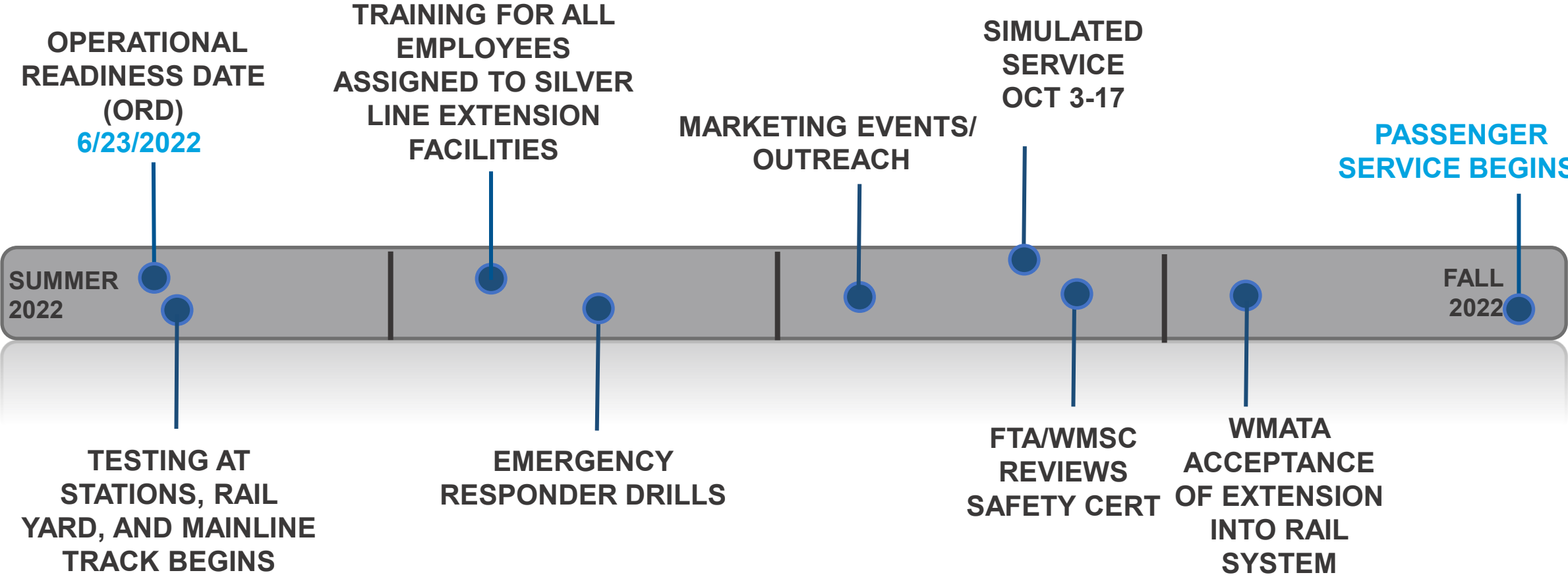
The Board also authorizes the GM&CEO to execute appropriate real property conveyance documents necessary for WMATA to own and operate Silver Line Phase 2.

# Silver Line Extension

Board of Directors  
September 22, 2022



# Path to Passenger Service



**PRESENTED AND ADOPTED: September 22, 2022**

SUBJECT: CONDITIONS FOR ACCEPTANCE OF SILVER LINE PHASE 2 INTO THE  
ADOPTED REGIONAL SYSTEM

**2022-27**

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

WHEREAS, Pursuant to Compact § 13, the Board of Directors is required to approve any changes to the mass transit plan; and

WHEREAS, On August 7, 2013, WMATA and the Metropolitan Washington Airports Authority ("MWAA") entered into that certain Cooperative Agreement, as amended (the "Phase 2 Cooperative Agreement"), whereby MWAA is providing the day-to-day management of certain contracts for the design and construction of Silver Line Phase 2, and upon WMATA Acceptance, WMATA will be the owner and operator of Silver Line Phase 2; and

WHEREAS, In the Phase 2 Cooperative Agreement, "WMATA Acceptance Determination" means "the determination by WMATA that, with respect to Phase 2 of the Project, all conditions in Article 6 of this Agreement have been satisfied and all ARS Acceptance Tasks have been completed, and that Phase 2 is therefore eligible and ready for WMATA Acceptance"; and

WHEREAS, On July 1, 2022, WMATA and MWAA entered into that certain Trust Account Agreement whereby no later than three (3) business days prior to WMATA Acceptance, MWAA will make a payment into a trust account for WMATA's use to address certain issues that WMATA or MWAA considers construction defects; and

WHEREAS, WMATA and MWAA intend to enter into a Third Amendment to the Phase 2 Cooperative Agreement to specify certain work or activities that may be completed by MWAA after WMATA Acceptance, as well as certain reimbursement, funding and insurance obligations to be satisfied by MWAA; and

WHEREAS, Pursuant to the Phase 2 Cooperative Agreement, MWAA shall transfer, or cause to be transferred, to WMATA certain real property interests and the Board is required to approve execution of the conveyance documents for such property interests and place them in escrow prior to WMATA Acceptance; and

**Motioned by Mr. Smedberg, seconded by Mr. Letourneau:**

**Ayes: 6- Mr. Smedberg, Ms. Babers, Ms. Kline, Mr. Letourneau, Dr. Hadden Loh and Mr. Drummer**



WHEREAS, In Resolution 2022-06, the Board reviewed the Title VI equity analysis of rail service increases for the FY 2023 budget, including Silver Line Phase 2, and adopted the staff's conclusion that Silver Line Phase 2 does not have a disparate impact on minority riders nor a disproportionate burden on low-income riders; and

WHEREAS, Based on the current status of the work on Silver Line Phase 2, the Board currently believes that Silver Line Phase 2 will satisfy the conditions for WMATA Acceptance in the near future;

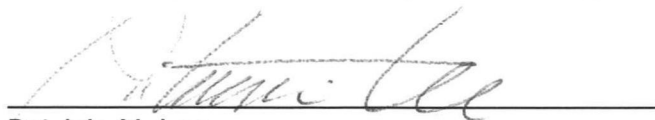
NOW, THEREFORE, be it

*RESOLVED*, That the Board of Directors, subject to: 1) completion of the ARS Acceptance Tasks set forth in Section 2.7.C of the Phase 2 Cooperative Agreement; 2) satisfaction of the Conditions of WMATA Acceptance set forth in Article 6 of the Phase 2 Cooperative Agreement; 3) WMATA not having received notification that the Washington Metrorail Safety Commission or the Federal Transit Administration has identified any unacceptable hazardous conditions as part of the pre-revenue service review, and 4) no later than three (3) days prior to WMATA Acceptance, MWAA having made the full payment to the trust account as set forth in the Trust Account Agreement between the parties, authorizes the General Manager and Chief Executive Officer to accept Silver Line Phase 2 into the Adopted Regional System and determine a revenue service date; and be it further

*RESOLVED*, That the Board of Directors authorizes the General Manager and Chief Executive Officer or his designee to execute real property conveyance documents necessary and appropriate for WMATA to own and operate Silver Line Phase 2 and to place such conveyance documents in escrow prior to WMATA Acceptance; and be it finally

*RESOLVED*, That to allow staff to timely prepare for a revenue service date this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,

A handwritten signature in dark ink, appearing to read 'Patricia Y. Lee', is written over a horizontal line.

Patricia Y. Lee  
Executive Vice President and General Counsel

WMATA File Structure No.:  
12.7.1 Infrastructure Agreements