

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

☒ Action ☐ Information

MEAD Number:
201911

Resolution:
☒ Yes ☐ No

TITLE:

3rd Party Indemnification of Insurers

PRESENTATION SUMMARY:

Information will be presented to seek Board approval to provide limited indemnification with respect to two prospective property claim payments from its insurers per Board Resolution 2011-30 requiring approval to indemnify third parties.

PURPOSE:

Authorize the General Manager/Chief Executive Officer or his designee to indemnify WMATA's lead property insurance company, FM Global and certain other insurers in order to obtain partial payments on two large property claims.

DESCRIPTION:

WMATA seeks settlement with its insurance companies for claims relating to 1) a failure/destruction of a rectifier transformer at a Traction Power Substation at Stadium Armory on September 21, 2015; and 2) roof and interior damage to Carmen Turner Facility Building G caused by high winds on August 17, 2016. These settlements include releases with limited indemnification and hold harmless provisions for the benefit of the insurance providers.

Key Highlights:

Staff seeks Board approval to provide a limited indemnity to WMATA's first layer Property insurers, as required in their release terms, for partial settlement of two property losses:

* Destruction of a rectifier transformer at Stadium Armory on September 21, 2015

* Roof and interior damage to CTF Building G on August 17, 2016

Background and History:

On September 21, 2015, a rectifier transformer at a traction power substation at Stadium Armory failed and was destroyed. The loss is estimated at \$9,000,000.

On August 17, 2016, high winds described as a microburst ripped off part of the roof, and wind and rain cause further damage to the interior of CTF Building G. Building G is used to repair body damage to non-revenue vehicles. The loss is estimated at \$1,250,000 by WMATA estimates.

Both losses are covered under WMATA's master Property insurance program providing total limits of \$500,000,000 and a \$1,000,000 deductible.

Discussion:

The insurers in the first \$50,000,000 (primary) layer of coverage are FM Global, which has its own adjuster, and five other insurers which utilize one outside adjuster. Both claim release documents contain the following indemnification language:

"The undersigned agrees to indemnify and hold Insurers harmless from and against all liability, loss, damage, costs, and expenses (including reasonable attorneys' fees and other costs incurred in the defense of any suit) arising from any claim asserted by any mortgagee, or loss payee, who alleges that it is entitled to all or any portion of the amount specified ..."

Due to the magnitude of the transformer loss (estimated at \$9,000,000), WMATA's property insurers have offered a partial payment of \$2,000,000 at this time while the RFP for replacement is in process.

For the Building G loss, FM Global has offered a settlement of \$125,000, which staff has determined is fair and reasonable. The other insurance carriers on this claim will require the same indemnification language as FM Global once they make their payment; they are included in this indemnification request.

FUNDING IMPACT:

This item concerns insurance recoveries, so there is no impact on funding.

Project Manager:	Jim Hamilton
Project Department/Office:	TRES/RISK

TIMELINE:

Previous Actions	N/A
Anticipated actions	Sign claim release documents and return to insurers.

after presentation	
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RECOMMENDATION:

Authorize the General Manager/Chief Executive Officer or his designee to indemnify WMATA's lead property insurance company, FM Global, and certain other insurers in order to obtain partial payments on two large property claims.

**SUBJECT: DELEGATION OF THE AUTHORITY TO INDEMNIFY AND HOLD HARMLESS
INSURANCE COMPANIES FOR CERTAIN CLAIMS**

2017-53

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

WHEREAS, Pursuant to Resolution 2011-30, Board of Directors approval is required for the Washington Metropolitan Area Transit Authority (WMATA) to enter into indemnification agreements with third parties in non-procurement contracts; and

WHEREAS, WMATA desires to partially settle its insurance claims relating to: 1) a failure/destruction of a rectifier transformer at a Traction Power Substation at Stadium Armory; and 2) roof and interior damage to Carmen Turner Facility Building G caused by high winds, however, these partial settlements include an indemnification and hold harmless provision for the benefit of the insurance provider; now, therefore be it

RESOLVED, That the Board of Directors authorizes the General Manager/Chief Executive Officer or his designee to indemnify and hold harmless those insurance companies settling, in whole or in part, those claims identified above so long as the indemnification is substantially similar to the following:

The undersigned agrees to indemnify and hold Insurers harmless from and against all liability, loss, damage, costs, and expenses (including reasonable attorneys' fees and other costs incurred in the defense of any suit) arising from any claim asserted by any mortgagee, or loss payee, who alleges that it is entitled to all or any portion of the amount [paid to WMATA]; and be it finally

RESOLVED, That in order to expedite receipt of the settlement payment(s), 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

Motioned by Mr. Evans, seconded by Mrs. Hudgins

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