

Consent Item (C) 07-23-2020

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

Action Information

MEAD Number:
202187

Resolution:
 Yes No

TITLE:

Montgomery County Free Rides Indemnification

PRESENTATION SUMMARY:

Staff seeks Board approval to include a mutual indemnity clause as required in the fare buydown agreement for Montgomery County Kids Ride Free and Seniors Ride Free Programs.

PURPOSE:

Agreement renewal between Montgomery County, Maryland acting by and through the Montgomery Department of Transportation and WMATA for the Montgomery County Kids Ride Free and Seniors Ride Free Programs, which requires a mutual indemnification in the agreement.

DESCRIPTION:

Staff requests Board approval to include a mutual indemnity clause as required in the fare buydown agreement for Montgomery County Kids Ride Free and Seniors Ride Free Programs.

There are no interested parties in this action.

Key Highlights:

- Montgomery County's Kids Ride Free Program is open to eligible elementary and secondary school students, under 18 and County residents, during all hours of MetroBus operations and on select routes.
- Participants must present a valid youth Cruiser SmarTrip card or school ID to bus operators.
- The Seniors Ride Free Program is open to senior citizens, 65 and over, Monday through Friday 9:30 am - 3:00 pm and Saturday from 8:30 am to 4:00 pm. with a valid Senior ID card.
- Renewal agreement for both programs includes a mutual indemnification clause.

Background and History:

The Board has authorized the Montgomery County Kids Ride Free Program annually through WMATA budget resolutions with Montgomery County reimbursing WMATA for fares associated with the Metrobus rides taken by its students on select routes Monday through Friday from 2:00 pm until 8:00 pm. In July 2019, the Board authorized Resolution 2019-20 which expanded the Montgomery County Kids Ride Free Program hours to include all days and hours of Metrobus operations and appropriated funding to reimburse WMATA for rides associated with this program and the Seniors Ride Free subsidized reduced fares to Metro.

Discussion:

WMATA and Montgomery County through the Montgomery Department of Transportation have historically operated the County's Seniors and Kids Ride Free programs without a written agreement. A joint indemnity clause is being requested by the County to renew the fare buydown agreement and maintain ridership privileges. The indemnification holds harmless the other party to the Contract including its boards, agencies, agents, officials and employees from and against any loss, cost, damage and other expenses suffered or incurred as a result of the indemnifying party's negligence, errors, acts or omissions or failure to perform any of the contractual obligations as may be required as part of program implementation.

Resolution 2011-30 requires approval by the Board for WMATA to indemnify a counterparty.

FUNDING IMPACT:

There is no funding impact. The Seniors Ride Free and Kids Ride Free Programs maintain ongoing regional ridership and revenue opportunities with favorable impact to WMATA.

TIMELINE:

Previous Actions	July 2019 – Board of Directors approved Resolution 2019-20 authorizing a fare buydown agreement and Montgomery County Kids Ride Free Program expansion.
Anticipated actions after presentation	Mutual indemnification and renewal of the Montgomery County Free Ride Programs.

RECOMMENDATION:

Recommend approval to include a mutual indemnity clause as required in the fare buydown agreement for Montgomery County Kids Ride Free and Seniors Ride Free Programs.

PRESENTED AND ADOPTED: July 23, 2020

SUBJECT: APPROVAL TO INDEMNIFY MONTGOMERY COUNTY, MARYLAND

2020-30

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

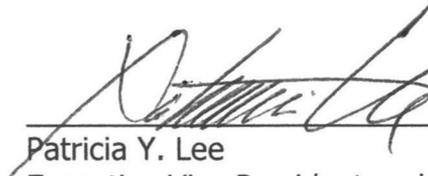
WHEREAS, Montgomery County, Maryland, acting by and through the Montgomery County Department of Transportation (MCDOT), is renewing an agreement with WMATA for the Montgomery County Seniors Ride Free and Kids Ride Free programs and requires an indemnification in the agreement, which shall be a mutual indemnity clause;

NOW THEREFORE, be it

RESOLVED, That the Board authorizes the General Manager and Chief Executive Officer or his designee to include a mutual indemnity, where MCDOT and WMATA agree to indemnify each other, as may be required in the agreement for Montgomery County Seniors Ride Free and Kids Ride Free programs substantially in the form shown as Attachment A; and be it finally

RESOLVED, That in order to timely execute the proposed agreement with MCDOT, this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Patricia Y. Lee
Executive Vice President and General Counsel

WMATA File Structure No.:
15.2.1 Grants of Indemnification

Motioned by Mr. Smedberg, seconded by Mr. Goldman
Ayes: 8- Mr. Smedberg, Ms. Gidigbi, Mr. Goldman, Mr. Horner, Mr. Letourneau, Mr. Marootian, Mr. Slater and Mr. McMillin

Attachment A

18. INDEMNIFICATION

The County and the Contractor mutually agree to indemnify and hold harmless the other party to the Contract including its boards, agencies, agents, officials and employees from and against any loss, cost, damage and other expenses, suffered or incurred as a result of the indemnifying party's negligence, errors, acts or omissions or failure to perform any of the contractual obligations in this agreement. Any indemnification given by the County is subject to and limited to the types of liability and the maximum damage amounts established, for the County, in the Maryland Local Government Torts Claims Act, § 5-301, *et seq.*, Courts & Judicial Proceedings Article, Annotated Code of Maryland. Any indemnification provided by Contractor is subject to the limitations and requirements of the Washington Metropolitan Area Transit Authority Compact codified as Md. Code. Ann. Transp. §10-204.