



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION, INFORMATION OR DISCUSSION

TOPIC: University of Maryland, College Park: Memorandum of Agreement with the Maryland Transit Administration Regarding the Maryland-National Capital Purple Line

COMMITTEE: Finance

DATE OF COMMITTEE MEETING: September 29, 2015

SUMMARY: The University of Maryland, College Park (UMCP) requests approval from the Board of Regents, and execution by the Chancellor, of a Memorandum of Agreement (MOA) with the Maryland Transit Administration of the Maryland Department of Transportation (MTA) for the design, construction, operation and maintenance of the Purple Line through the UMCP campus. The Purple Line is a proposed 16.2-mile light rail line running from New Carrollton to Bethesda. Approximately 1.5 miles of this alignment passes through the UMCP campus. The development of the Purple Line will be undertaken using a public-private partnership structure. MTA will contract with a private entity (the Concessionaire) to design, finance, construct, operate and maintain the Purple Line. In April of 2011, the Board of Regents endorsed the Purple Line in a non-binding term sheet.

Key elements of the MOA are included on Attachment A.

ALTERNATIVES: The alternatives are to not agree to the MOU and to further negotiate its terms.

FISCAL IMPACT: With the exception of the cost of bike lanes, MTA bears the entire cost to construct the Purple Line. MTA (through its Concessionaire) bears all costs of operating the Purple Line, except that UMCP has agreed to perform snow removal, trash removal, landscaping, and maintenance of surface stormwater features. The University controls, and retains revenue from, advertising. The "hop on/hop off" free transit availability given to campus ID holders, as well as the new paid connectivity to Bethesda, New Carrollton, and points in-between will allow the University to adjust its existing shuttle bus services. The fare "buy down" program will allow the University to offer discounted fare programs to full-time faculty and staff.

CHANCELLOR'S RECOMMENDATION: That the Finance Committee recommend that the Board of Regents approve for the University of Maryland, College Park the execution of a Memorandum of Agreement with the Maryland Transit Administration of the Maryland Department of Transportation; and delegate to the Chancellor the authority to execute, after appropriate legal review by the Office of the Attorney General, all required documentation, including the contemplated easement, all consistent with the University System of Maryland Policy "Acquisition and Disposition of Real Property."

COMMITTEE RECOMMENDATION: RECOMMEND APPROVAL

DATE: 9/29/15

BOARD ACTION:

DATE:

SUBMITTED BY: Joseph F. Vivona (301) 445-1923

Key Elements of the MOA

Safety and Pedestrian Movement:

MTA is responsible for the safe operation of the Purple Line. In interfacing with campus activity, campus pedestrian traffic always has the right of way over Purple Line trains. Physical barriers that impede pedestrian flow are prohibited without the University's permission. A to-be-negotiated Campus Traffic Management Plan will address signage, other visual guides, any mutually-acceptable barriers and channelization devices for pedestrian safety. It will also establish contingency plans for emergencies and major special events. MTA's insurance shall protect the University from claims arising out of Purple Line operations. MTA will require the Concessionaire to indemnify the University against any claims.

Special Campus Design and Operation Requirements:

There are a series of special restrictions on Purple Line operations on campus: a) train speed shall not exceed 15 mph; b) Electromagnetic Interference (EMI) shall not affect any research facility in an amount greater than now-existing ambient levels or .01mG; c) ground-borne vibration will not exceed the ambient vibration levels or the NIST level A, whichever is greater, beyond 100 feet of the nearest track centerline; d) noise levels shall not exceed an FTA-defined "Moderate Impact" for an institutional site or, near the Leonardtown community, a "Moderate Impact" for an FTA-defined residential site; e) track and field facilities displaced due to Purple Line alignment will be relocated and rebuilt pursuant to NCAA requirements; f) ticket vending machines will be located in two locations slightly distant from the main Campus Center Station to support anticipated high ridership events; g) the University retains all naming rights on campus; h) the University controls all advertising content and revenue on fixed assets of the Project (but not rolling stock); and i) mechanical barriers at the Presidential Drive entrance to campus will be used to help the University limit after-hours, non-transit campus access.

Impact Mitigation Approach:

The Concessionaire must design and construct the Purple Line "using, to the maximum extent feasible, source-based mitigation of the most effective technology available." If source-based mitigation does not sufficiently address EMI, vibration, or noise, then the Concessionaire must design, fund and construct secondary facilities-based mitigation (*e.g.*, Faraday cages, anti-vibration mounts and tables) or, as a last resort, fund relocation of sensitive equipment to another location.

Traffic:

Campus Drive at the core of campus will be reconfigured. There will be three vehicle travel lanes, a new bike lane (paid for by the University) and a sidewalk. The two outside vehicle travel lanes are for trains and buses only. The center lane will be westbound vehicular traffic only (except for special events or emergencies).

Design Review and Approval:

UMCP's Architecture Landscape Review Board will review the design of campus stations and other buildings (such as transfer power stations). The Campus Construction Management Plan will establish a schedule of "major submittals" related to design to be given by the Concessionaire to the University for review and approval. The University agrees to approve or reject submittals within 30 days. If the 30 day deadline is not met, then the Concessionaire may send a "deemed approved" notice to the University and, if the University fails to respond within 10 days of this second notice, then the submittal shall be "deemed approved."

Construction Requirements:

Construction of the project on campus will be done pursuant to existing University general conditions which, among other things, include rules regarding noise, times of construction, notice of major events (e.g., utility relocations), and work stoppages during key times, such as final exams. The Concessionaire may not begin work on campus unless and until the Concessionaire and University agree on a "Campus Construction Management Plan." The plan shall "require development of a collaborative relationship between the Concessionaire and the University" and shall require "the development and use of adequate budgets and the employment of high quality logistical planning by the Concessionaire in order to minimize disruption during construction to the Campus."

Real Estate:

The University will grant MTA a permanent, non-exclusive easement for the rail right of way, station areas, transfer power stations and any other reasonably necessary permanent feature of the Purple Line on campus. The University will cooperate with MTA in granting temporary rights of entry for construction staging.

The Work Group:

A key element of the MOA as it addresses impact mitigation is the creation of a Research Facilities Mitigation Work Group. This 9-member Work Group is to be formed within 60 days of execution of the MOA. The University and MTA shall each appoint a co-chair plus 2 technical experts. The parties then jointly appoint 3 "neutral" members who are required to "be recognized to have experience in EMI, vibration mitigation, or the operation of scientific research facilities....It is the intent of the parties that such technical experts be members of organizations such as the National Institutes of Standards and Technology, Underwriters Laboratories, or similar agencies/organizations which would not be likely to have commercial conflicts of interest...." The Concessionaire is required to participate in Work Group meetings and provide reasonable cooperation and support. The Work Group reviews and approves the Concessionaire's EMI, vibration, and noise mitigation program. It authorizes disbursements from a Research Facilities Mitigation Fund, which consists of a \$2 million in an "evergreen" line item in MTA's budget. The Mitigation Fund is intended to backstop mitigation needs that arise after start of Purple Line operations and provides an immediate source of funding if a later-arising interference occurs. In addition, MTA will hold the Concessionaire in default for non-compliance.

Future Campus Projects:

Neither the Mitigation Fund nor the Concessionaire's mitigation obligation are intended to relate to future campus buildings. The University will locate and design future buildings taking the then-existing Purple Line into account.

Fare Concessions:

All University ID holders may ride the Purple Line for free on the 5-station segment of the Purple Line between the M Square Research Park and UMUC. For full-time students, faculty and staff, MTA has agreed to allow the University to "buy down" up to one-third of the cost of the standard Purple Line fare for travel outside the fare free zone. The University gets an amortized credit (estimated to be not less than \$300,000 for 30 years) for the value of its real estate plus a credit for the cost, to the University of providing maintenance, landscaping and police services in support of Purple Line operations.

