

立法會
Legislative Council

LC Paper No. PWSC198/16-17

(These minutes have been
seen by the Administration)

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**Public Works Subcommittee of the Finance Committee
of the Legislative Council**

**Minutes of the 19th meeting
held in Conference Room 1 of the Legislative Council Complex
on Saturday, 20 May 2017, at 9:00 am**

Members present:

Ir Dr Hon LO Wai-kwok, SBS, MH, JP (Chairman)

Hon Charles Peter MOK, JP (Deputy Chairman)

Hon Abraham SHEK Lai-him, GBS, JP

Hon Tommy CHEUNG Yu-yan, GBS, JP

Hon Jeffrey LAM Kin-fung, GBS, JP

Hon Starry LEE Wai-king, SBS, JP

Hon CHAN Hak-kan, BBS, JP

Dr Hon Priscilla LEUNG Mei-fun, SBS, JP

Hon WONG Kwok-kin, SBS, JP

Hon Paul TSE Wai-chun, JP

Hon LEUNG Kwok-hung

Hon Claudia MO

Hon Steven HO Chun-yin, BBS

Hon Frankie YICK Chi-ming, JP

Hon WU Chi-wai, MH

Hon YIU Si-wing, BBS

Hon MA Fung-kwok, SBS, JP

Hon CHAN Chi-chuen

Hon CHAN Han-pan, JP

Hon LEUNG Che-cheung, BBS, MH, JP

Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon CHIANG Lai-wan, JP
Hon Alvin YEUNG
Hon CHU Hoi-dick
Hon Andrew WAN Siu-kin
Hon HO Kai-ming
Hon Holden CHOW Ho-ding
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LAU Kwok-fan, MH
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon YIU Chung-yim
Dr LAU Siu-lai

Members absent:

Hon Michael TIEN Puk-sun, BBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon LAM Cheuk-ting
Hon SHIU Ka-chun
Hon Kenneth LAU Ip-keung, MH, JP

Public officers attending:

Mr Raistlin LAU Chun, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)3
Mr HON Chi-keung, JP	Permanent Secretary for Development (Works)
Ms Selene TSOI Sze-long	Deputy Secretary for Development (Planning and Lands)3
Mr TSE Chin-wan, JP	Deputy Director of Environmental Protection (1)
Ms Margaret HSIA Mai-chi	Principal Assistant Secretary for Financial Services and the Treasury (Treasury) (Works)
Mrs Betty FUNG CHING Suk-ye, JP	Permanent Secretary for Home Affairs
Mr YEUNG Tak-keung, JP	Commissioner for Sports Home Affairs Bureau
Ms Linda LAW Lai-tan	Principal Assistant Secretary for Home Affairs (Recreation and Sport)2
Mr Michael MAK Sheung-ching	Senior Architect (Recreation and Sport) Home Affairs Bureau

Attendance by invitation:

Mr Alastair GRAHAM	KPMG Director (Infrastructure Advisory)
Mr Michael CAMERLENGO	KPMG Director (Infrastructure Advisory)
Mr Ramsey YU	KPMG Director (Infrastructure Advisory)

Clerk in attendance:

Ms Sharon CHUNG	Chief Council Secretary (1)2
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Staff in attendance:

Miss Rita YUNG	Senior Council Secretary (1)2
Mr Raymond CHOW	Senior Council Secretary (1)6
Ms Mandy LI	Council Secretary (1)2
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Ms Christy YAU	Legislative Assistant (1)7
Miss Joey LAW	Clerical Assistant (1)2

Action

The Chairman advised that in the 2016-2017 legislative session, the Subcommittee had completed the scrutiny of nine items up to the last meeting, with a total funding of \$21,018.1 million. There were seven funding proposals on the agenda for the meeting, involving a total funding allocation of \$56,452.1 million. If the funding proposals were all endorsed by the Subcommittee, the number of endorsed proposals would add up to 16 and the total amount of funding would reach \$77,470.2 million.

2. Mr LEUNG Kwok-hung asked the Chairman about the meaning of reading out the aforesaid figures. The Chairman said that he read out the figures at the beginning of each Subcommittee meeting to report the progress of the work of the Subcommittee. Mr LEUNG considered that by reading out the figures but failing to mention the Administration's ramming of the funding proposal PWSC(2017-18)2 through the Subcommittee without the adequate support of a sufficient number of members (including those of the pro-establishment camp), the Chairman had showed his "uselessness". The Chairman responded that what Mr LEUNG suggested him to say was just Mr LEUNG's own opinion and it was inappropriate for Mr LEUNG to call him "useless".

3. The Chairman reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP") of the Legislative Council ("LegCo"), they should disclose the nature of any direct or indirect pecuniary interests relating to the funding proposals under discussion at the meeting before they spoke on the proposals. He also drew members' attention to Rule 84 of RoP on voting in case of direct pecuniary interest.

Head 703 - Buildings**PWSC(2017-18)2 272RS Kai Tak Sports Park**

4. The Chairman advised that the proposal, i.e. PWSC(2017-18)2, was to upgrade the remaining part of 272RS to Category A at an estimated cost of \$31,898 million in money-of-the-day prices for the development of the Kai Tak Sports Park ("the Sports Park"). The Subcommittee had commenced deliberation on the proposal at the meeting on 6 May 2017 and continued its discussion at the meetings on 10 and 17 May 2017.

5. At the Chairman's invitation, the Permanent Secretary for Home Affairs ("PSHA") briefed members on the supplementary information papers provided by the Administration (LC Papers Nos. [PWSC168/16-17\(01\)](#), [\(02\)](#) and [\(03\)](#)). The papers were tabled at the meeting for members' information. Mr CHAN Chun-ying commented that the Administration should have set out the relevant information in the funding proposal for members' information.

6. The Chairman said that the Subcommittee had spent about eight hours on discussing the funding proposal at three previous meetings. He hoped that members could finish the question and answer session in the first half of the meeting.

Performance bond

7. Mr MA Fung-kwok held that the successful bidder of the Sports Park project could make a profit of about 5% to 10% (i.e. \$1.5 to \$3 billion) in the design and construction stages. He asked the Administration whether it would consider pegging the amount of performance bond to the profit made by the Contracted Party during the project period, for example, requiring the Contracted Party to deposit a sum equivalent to half of its estimated profit as performance bond to ensure that it would run the Sports Park proactively during the operational stage. Dr KWOK Ka-ki and Mr Nathan LAW enquired whether the Administration would consider introducing a "capping mechanism" in respect of the Contracted Party's profit so as to protect the interest of both the Government and the public.

8. PSHA said that according to the information provided by the Development Bureau, the projected profit margin of contractors in this type of project was 2% to 3%. In the capital expenditure of \$31.9 billion, it was estimated that the works contract value of the Contracted Party was about \$27 billion. Therefore, assuming a profit margin of about 2% to 3%, the profit of the works contract with the Contracted Party was about \$500 million to \$800 million. Permanent Secretary for Development (Works)

supplemented that the aforesaid profit margin of local contractors for reference purpose was worked out by the consultant commissioned by the Development Bureau from the open data collected in the past few years. Commissioner for Sports, Home Affairs Bureau ("C for S/HAB") added that public works projects were not subject to any "capping mechanism". The amount of funding sought by the Administration under 272RS was already the cap of the project estimate of the construction works of the Sports Park. The Administration hoped to attract a sufficient number of tenderers for submission of bids so as to increase competition and minimize the possibility of unsuccessful tendering. PSHA undertook to consider Mr MA's suggestion of pegging the amount of performance bond to the profit made by the Contracted Party during the design and construction stages.

"Bid incentives"

9. Referring to the supplementary information paper ([LC Paper No. PWSC168/16-17\(01\)](#)), Mr CHAN Chun-ying pointed out that the proposed "bid incentives" accounted for 0.57% of the project cost of the Sports Park. Such proportion was higher than that of the Redevelopment Project of Convention Centre in New South Wales, Australia (the bid incentives accounted for 0.34% of the project cost) and New Champlain Bridge Corridor Project in Montreal, Canada (the bid incentives accounted for 0.25% of the project cost) for which "bid incentives" were also provided. He enquired about the criteria adopted by the Administration in pitching the "bid incentives" at the proposed level.

10. PSHA explained that given the risk of unsuccessful tendering facing the Redevelopment Project of Convention Centre in New South Wales, Australia, the New South Wales Government provided bigger "bid incentives". As for the bridge project in Canada, the "bid incentives" provided for each unsuccessful tenderer actually accounted for 0.126% of the total contract value. By comparison, the ceiling of the "bid incentives" the Government provided for each unsuccessful tenderer was \$60 million, representing only 0.188% of the project estimate (about \$31.9 billion) of the entire Sports Park project. The percentage was comparable to the levels of similar incentives provided overseas.

11. Mr YIU Si-wing asked whether the Administration would consider providing "bid incentives" to two (instead of three as proposed) unsuccessful tenderers and reducing the "bid incentives" for each unsuccessful tenderer so that the total amount earmarked for this purpose would be less than the proposed \$180 million. Mr LEUNG Chi-cheung commented that the successful tenderer might not be willing to adopt part of the design proposal of unsuccessful bids and was concerned whether the "bid incentives"

arrangement would waste public money. Dr CHIANG Lai-wan held that the Sports Park project would be able to attract large companies to submit bids even without any incentives. Ms Tanya CHAN enquired whether using the intellectual property rights of unsuccessful bids to improve the elements in the winning tender was an established practice in implementing public works projects, and whether the Administration would specify in the tender document its right to use the intellectual property rights of unsuccessful bids.

12. PSHA said that the provision of "bid incentives" for the Sports Park project was to ensure a sufficient number of quality bids (at least three). Under the "bid incentives" arrangement, each unsuccessful tenderer would be provided with bid incentives of no more than \$60 million or 50% of the actual cost incurred in the preparation of the tender, whichever was lower. The total amount for the "bid incentives" would be capped by \$180 million (i.e. \$60 million x three unsuccessful tenderers). For the purpose of preventing unsuccessful tenderers from making abusive claims of the bid incentives, tenderers would be required to provide, to the satisfaction of the Government, evidence of the actual expenses incurred in tender preparation. The Government was willing to further discuss with members about the specific arrangements of the "bid incentives".

13. C for S/HAB supplemented that this was the first time for the Government to propose the provision of "bid incentives" for a public works project. The relevant tender document would stipulate that the tenderer should agree to grant to the Government an irrevocable and non-exclusive license (with a right to sub-licence) of the intellectual property rights in its tender submission documents so as to enable the Government or its agents, the Contracted Party or its agents and other contractors or operators authorized by the Government to use any of such intellectual property rights.

14. Mr Jeremy TAM asked whether the Administration had gauged the interest of potential tenderers in submitting bids; if it had, of the details. He considered that the Administration should decide on the provision of "bid incentives" after knowing the number of tenderers. Mr TAM and the Chairman enquired whether the market knew the proposed "bid incentives". Dr YIU Chung-yim asked (a) when the Administration invited interested consortia to participate in the prequalification exercise and the number of consortia which were invited to participate in the exercise; (b) whether the Administration openly invited interested consortia in the market to submit Expression of Interest ("EOI") for prequalification purpose; and (c) the criteria based on which the Administration conducted the prequalification exercise.

15. PSHA said that as the Government had openly invited private companies to submit EOI for prequalification purpose between 28 April and 30 June 2017, the number of tenderers could only be confirmed after 30 June. As regards the prequalification exercise, the Government had listed out the relevant requirements (e.g. tenderers should have the experience of designing major stadia, operating stadia with a capacity of more than 20 000 audiences or mega shopping malls, undertaking major works projects, etc.). The Government, when briefing potential tenderers on the Sports Park project, had mentioned that the funding request submitted to the LegCo covered the provision of the "bid incentives". Pursuant to the Government's procurement policy, the terms in the tender document could not be changed freely during the procurement process. If the provision of bid incentives was decided only after receiving the tenders, it would be unfair to the companies which did not submit EOI and such practice was therefore not feasible.

16. Mr Jeremy TAM was concerned that the Administration did not mention the proposed "bid incentives" when briefing the Panel on Home Affairs on the procurement arrangements of the Sports Park project at its meeting in February this year and not until May this year did the Administration included the relevant proposal to the discussion paper submitted to the Subcommittee. He queried why the Administration had started to invite interested consortia to participate in the prequalification exercise before obtaining the approval of the Finance Committee ("FC") for the "bid incentives". He was worried that the provision of "bid incentives" for unsuccessful tenderers would set a precedent.

17. PSHA responded that during internal discussion on the Sports Park project among government bureaux/departments, the risk of unsuccessful tendering likely to be faced by the project in the absence of incentives aroused particular concern. The Government reached a consensus internally in March this year on making this special and one-off arrangement. C for S/HAB stressed that the Government would conduct the official tendering exercise of the Sports Park project only after FC had approved the funding proposal of 272RS.

18. Mr LAU Kwok-fun said that he would submit a jointly-signed letter to the Administration, requesting the Administration to respond to his questions, which included (a) in the light of the controversial bid incentives arrangement, whether the Administration would consider putting it aside and taking the traditional tendering approach instead; (b) whether the Administration would consider increasing the amount of performance bond by requesting the Contracted Party to deposit a sum equivalent to approximately three years of the basic operating expenditure of the Sports

Park; (c) whether the Administration would consider "capping" the construction cost of the Sports Park project; and (d) whether the Administration would formulate a set of clear standards to monitor the performance of the Contracted Party (including the possible penalties to be imposed by the Administration in the event that the performance of the Contracted Party was not satisfactory). PSHA undertook to provide a response to Mr LAU's suggestions.

(Post meeting note: The supplementary information provided by the Administration was issued to members vide [LC Paper No. PWSC182/16-17\(01\)](#) on 29 May 2017.)

Procurement models

19. Mr CHAN Chi-chuen enquired whether the Administration would consider drawing up three separate contracts under the "Design", "Build" and "Operate" (D→B→O) model for the development of the Sports Park. Dr CHIANG Lai-wan held that the Administration should consider developing the Sports Park under the "Design and Build first, then private sector Operates" (DB→O) model. Mr Nathan LAW asked whether the Administration had assessed the adoption of the "Design and Build first, then Government Operates" (DB→G) model for the development of the Sports Park.

20. PSHA replied that the Design-Build-and-Operate ("DBO") model allowed the future operator of the Sports Park to directly participate in the design of facilities and have the opportunity to put forward enhancement suggestions during the construction phase. This would help ensure that the hardware of the Sports Park could fully meet future operational needs, thus realizing the full potential of the project. To allow a single consortium to design and construct the Sports Park according to its operation strategy would also help enhance construction efficiency and risk management, and ensure the timely delivery of the project. Concluding a DBO contract with a single consortium would facilitate the Government's supervision and management over the project.

21. Mr CHU Hoi-dick sought information from the Administration on the Operations Consultant's financial projection for the Sports Park in the first five years of operation under the DB→G procurement model, and a comparison with the financial projection in the first five years of operation under the DBO procurement model. PSHA undertook to provide relevant information after the meeting.

(*Post meeting note:* The supplementary information provided by the Administration was issued to members vide [LC Paper No. PWSC182/16-17\(01\)](#) on 29 May 2017.)

22. Dr LAU Siu-lai pointed out that major overseas stadia which were operated successfully under the DBO model were mostly run by football clubs. She enquired whether the Administration had taken into account the differences between the local and overseas sports scene in deciding the procurement model of the Sports Park. She urged the Administration to consider providing sports facilities in various districts across the territory instead of bringing together the facilities in the Kai Tak Development Area. Moreover, the Government (e.g. the Leisure and Cultural Services Department ("LCSD")) should train up professionals to manage park facilities.

23. Mr Alastair GRAHAM, KPMG Director (Infrastructure Advisory), responded that it was the right choice for the Government to take forward the Sports Park project under the DBO model. This would bring in the necessary expertise for operating a vibrant and successful Sports Park. PSHA added that the Government had limited experience in marketing and attracting new events. Moreover, it lacked the flexible commercial skills and experience in operating a major international stadium. The Government planned to operate the Sports Park by drawing experience from the private sector in operating major stadia.

Management of the Sports Park

24. Mr WU Chi-wai noted that among the three major facilities of the Sports Park, the Public Sports Ground and Indoor Sports Centre were public sports facilities, while most of the commercial facilities would be located in the Indoor Sports Centre Building. He enquired whether the Administration would consider directly managing and operating the Public Sports Ground and Indoor Sports Centre instead of entrusting their operation to the Contracted Party. Mr WU was concerned that in case of disputes as to whether profit-making or public interest should come first arose from the development and operation of the Sports Park, whether the Administration would play the role of arbitrator to resolve the disputes. The Chairman enquired whether the Administration had a say in the proposed charges of various venues of the Sports Park to ensure that the Contracted Party would not overcharge users.

25. PSHA said that having two operators (i.e. the Government and the private Contracted Party) respectively managing the sports and commercial facilities in the Indoor Sports Centre Building would give rise to management

issues. The Government had to make a lot of coordination efforts to resolve the differences between the relevant departments and the Contracted Party. Tenderers should study carefully the potential risks of operating the Sports Park (including the requirement to be accountable to the Government and the public for the effectiveness of the Sports Park's operation) before submitting bids. PSHA further said that in its supplementary information paper ([LC Paper No. PWSC168/16-17\(03\)](#)) provided for the Subcommittee, the Administration had already explained that the contract to be signed between the Government and the Contracted Party in future would require the latter to obtain prior approval from the Home Affairs Bureau ("HAB") for charges of facilities for community sports purposes.

Achieving sports policy objectives through developing the Sports Park

26. Mr Nathan LAW enquired whether the Administration would establish a set of key performance indicators ("KPIs") to assess if the development of the Sports Park achieved the three major sports policy objectives of promoting sports in the community, supporting elite sports and maintaining Hong Kong as a centre for major international sports events. C for S/HAB replied that the supplementary information paper ([LC Paper No. CB\(1\)162/16-17\(02\)](#)) provided for the Subcommittee had set out a series of KPIs drawn up by the Government for the Sports Park to ensure that the modus operandi of the Sports Park and the events organized there were mainly targeted at the promotion of sports development.

27. Dr Fernando CHEUNG asked (a) how the Administration ensured that the Contracted Party, in adopting the DBO model to develop the Sports Park, would mainly engage in promoting sports development instead of profit-making; (b) regarding the use of the Main Stadium of the Sports Park by the Government for up to seven days per year to stage events without venue hiring charges, whether the Administration would specify the number of sports and other types of events to be held; and (c) whether the Administration would require the Contracted Party to use the Indoor Sports Centre of the Sports Park entirely for sports events instead of at least 2/3 of court hours as proposed.

28. PSHA replied that by setting a series of KPIs, the Government aimed at ensuring that the modus operandi of the Sports Park and the events organized there were mainly for the promotion of sports development. On monitoring, HAB and the Contracted Party would set up a Joint Review Committee ("JRC") focusing on operation outcome so as to meet the operational requirements and KPIs specified in the contract. Monitoring sub-committee(s) would be set up under JRC and meet on a monthly basis to discuss issues on operation, event arrangements, and repairs and maintenance.

C for S/HAB supplemented that the Indoor Sports Centre would have a multi-purpose main arena with a seating capacity of up to 10 000 and an ancillary sports hall with a seating capacity of 500 to allow sports events and competitions of different nature and standards in the two venues. The Indoor Sports Centre would be required to reserve 2/3 of available court hours for sports events; while the Main Stadium should stage at least 10 football event days per year. The Public Sports Ground would also be open for public use. The Government planned to hold major sports events such as the Sport for All Day in the Main Stadium of the Sports Park.

29. Mr Jeremy TAM sought supplementary information from the Administration on the organizational structure of the future JRC which comprised representatives from HAB and the Contracted Party. PSHA said that the main function of JRC was to monitor the operational performance of the Contracted Party. The Chief Executive Officer of the head company of the Contracted Party should be required to attend its meetings. She undertook to provide the information requested by Mr TAM after the meeting.

(Post meeting note: The supplementary information provided by the Administration was issued to members vide [LC Paper No. PWSC182/16-17\(01\)](#) on 29 May 2017.)

30. Mr HO Kai-ming made enquiries on whether the Hong Kong Premier League would be held in the Main Stadium and the hire charges. Mr Nathan LAW was concerned whether the hire charges of the Main Stadium of the Sports Park would exceed the affordability of the local sports sector. C for S/HAB replied that the Main Stadium of the Sports Park was expected to make available vacant time slots for local organizations to stage events and the charges of the facilities concerned would be determined with reference to similar facilities operated by LCSD, educational institutions and other non-profit-making organizations. At present, details of the terms for hiring the Hong Kong Stadium for the Hong Kong Premier League were being negotiated between the Hong Kong Football Association and LCSD. The hiring of the Main Stadium of the Sports Park by football clubs would follow similar arrangements in future. PSHA added that the Government had prepared a set of KPIs for the Sports Park to ensure that the local sports sector would have the opportunity to use the various facilities of the Sports Park and the charges would remain at reasonable levels.

31. At 9:40 am, the Chairman said that he received four motions proposed by Hon CHU Hoi-dick pursuant to paragraph 32A of the Public Works Subcommittee ("PWSC") Procedure. He reminded members that if they intended to propose any motions pursuant to paragraph 32A of the PWSC

Procedure, they should submit the motions as early as possible for his timely perusal.

Motion on adjournment of discussion on PWSC(2017-18)2

32. At 9:52 am, when speaking on the item, Mr LEUNG Kwok-hung moved a motion pursuant to paragraph 33 of the PWSC Procedure to adjourn the discussion on PWSC(2017-18)2.

33. The Chairman said that the Subcommittee would proceed forthwith to deal with Mr LEUNG's motion. Each member could speak once on the motion, and the speaking time should not be more than three minutes.

34. Mr LEUNG Kwok-hung was worried that the Main Stadium of the Sports Park would be underused after completion and end up as a "white elephant" project.

35. Mr WU Chi-wai, Mr Jeremy TAM, Dr LAU Siu-lai, Dr Fernando CHEUNG, Mr CHAN Chi-chuen, Dr YIU Chung-yim, Mr KWONG Chun-yu, Dr KWOK Ka-ki and Mr CHU Hoi-dick spoke in support of Mr LEUNG Kwok-hung's motion. Mr LAU Kwok-fan spoke against the motion.

36. The Chairman put to vote the question that the discussion on PWSC(2017-18)2 be adjourned. At the request of Mr LAU Kwok-fan, the Chairman ordered a division and the division bell was rung for five minutes. Thirteen members voted for, 20 voted against the motion and no one abstained. The votes of individual members were as follows:

For:

Mr LEUNG Kwok-hung
Mr CHAN Chi-chuen
Dr Fernando CHEUNG
Mr Andrew WAN
Ms Tanya CHAN
Mr Jeremy TAM
Dr LAU Siu-lai
(13 members)

Mr WU Chi-wai
Dr KWOK Ka-ki
Mr Alvin YEUNG
Mr CHU Hoi-dick
Mr KWONG Chun-yu
Dr YIU Chung-yim

Against:

Mr Abraham SHEK
Mr Jeffrey LAM
Dr Priscilla LEUNG
Mr Paul TSE

Mr Tommy CHEUNG
Mr CHAN Hak-kan
Mr WONG Kwok-kin
Mr Steven HO

Mr Frankie YICK
Mr MA Fung-kyok
Ms Alice MAK
Mr HO Kai-ming
Mr Wilson OR
Mr CHEUNG Kwok-kwan
(20 members)

Mr YIU Si-wing
Mr LEUNG Che-cheung
Mr KWOK Wai-keung
Mr Holden CHOW
Mr CHAN Chun-ying
Mr LAU Kwok-fan

Abstain:
(0 member)

37. The Chairman declared that the motion was negatived. The Subcommittee resumed discussion on PWSC(2017-18)2.

Project cost

38. Dr CHIANG Lai-wan noted that the sum of contingencies (\$2,294.5 million) and provision for price adjustment (\$8,050.7 million) exceeded \$10 billion. In view of the signs of downward movement in the costs of works projects, she considered that the aforesaid project estimate was too high.

39. Mr CHU Hoi-dick noted that the project estimate of a 15 000-seat mega performance venue ("MPV") in the West Kowloon Cultural District ("WKCD") was as high as \$6 billion, while the construction cost of the 10 000-seat multi-purpose main arena in the Indoor Sports Centre of the Sports Park was only \$2.3 billion. He questioned the projection basis of the latter. PSHA replied that the project estimate of the MPV in WKCD was provided by the consultant commissioned by the West Kowloon Cultural District Authority.

Facilities of the Sports Park

40. Dr KWOK Ka-ki said that as the plan to construct the Main Stadium of the Sports Park had aroused much controversy, the Administration should consider constructing other facilities first and providing the Main Stadium later. C for S/HAB said that the Hong Kong Stadium could not fully meet the needs of major sports events. The stakeholders in the sports sector (including various sports associations) therefore had very high expectations of the Sports Park. They had urged the Government to implement the Sports Park project and construct the Main Stadium as soon as possible.

41. Dr Fernando CHEUNG requested that (a) the Administration should designate certain areas of the retail and dining outlets for the operation of

social enterprises; and (b) the Administration should require the Contracted Party of the Sports Park to employ a certain proportion of ethnic minorities and disabled persons. He also enquired how the Administration would assist the disadvantaged and grassroots in using the facilities of the Sports Park with a view to achieving the policy objective of promoting sports in the community. PSHA responded that the Administration would seriously consider Dr CHEUNG's suggestion. However, given that the tender document of the Sports Park project was still at the drafting stage, she could not make any commitments on the numbers for (a) and (b) for the time being.

42. Mr Nathan LAW enquired whether the Administration would consider converting the area for retail and dining outlets to sports facilities (e.g. a 6 700 to 50 000-seat football pitch) and opening more turf pitches in the park for public use. PSHA replied that the Government would, in the tender document, require the Contracted Party to provide vibrant and commercially-minded shopping facilities and diversified dining outlets of various categories and prices to cater for the needs of different visitors. On the other hand, the Government planned to develop new or improve various existing sports and recreation facilities, including providing additional football pitches, in different districts.

43. Mr CHAN Chi-chuen enquired whether (a) the Administration would provide unisex toilets and changing facilities in the Sports Park; and (d) how the retractable roof of the Main Stadium could insulate/prevent the noise impact arising from events took place inside. He also said that the unisex toilets to which he referred were not disabled toilets.

44. Senior Architect (Recreation and Sport), Home Affairs Bureau, advised that the Government's Operations Consultant had consulted the Hong Kong Paralympic Committee & Sports Association for the Physically Disabled, the Joint Council for the Physically and Mentally Disabled, Hong Kong Council of Social Service, Rehabilitation Advisory Committee, etc. on the facilities of the Sports Park. Moreover, the Task Force on the Kai Tak Sports Park under the Sports Commission also provided its suggestions and views on the project. The Government would consider proactively the feasibility of providing unisex toilets and changing facilities in the park. On noise mitigation, the Main Stadium would be equipped with acoustic features, including the installation of a retractable acoustic roof, the attachment of acoustic panels underneath its fixed portion of roof and the provision of double acoustic doors at its entrances.

45. Mr HO Kai-ming enquired whether the design of the Sports Park included a cycle track which would connect to the park in future. C for S/HAB replied that the Civil Engineering and Development

Department and the Energizing Kowloon East Office were responsible for coordinating the development of the cycle track network connecting the Sports Park, and the relevant preparation work was underway.

46. Mr LEUNG Kwok-hung held that the funding for constructing the Main Stadium of the Sports Park should instead be spent on providing sports facilities in various district across the territory so as to solve the problem of the lack of local sports facilities (e.g. football pitches, badminton courts). Mr Nathan LAW expressed similar views. He commented that the Administration should consider abandoning the retractable roof of the Main Stadium of the Sports Park and re-deploy the funding so saved to support local sports development. Mr LAW further enquired whether the Administration had worked out the estimated construction cost of the roof.

47. C for S/HAB advised that in addition to noise insulation, the retractable roof of the Main Stadium could function as a cover during inclement weather so that ball games could continue to take place inside. It was estimated that the construction works of the retractable roof would cost about hundred millions of dollars. As the tendering exercise of the Sports Park project had yet to commence, it was inappropriate to disclose detailed information on the construction cost.

Contract terms

48. Mr LEUNG Che-cheung said that as local consortia might not have the experience of operating major sports facilities, he expected that the Sports Park project would attract more overseas operators to submit tenders. He asked whether the Administration would require overseas tenderers to partner with the local business sector to operate the sports and commercial facilities in the Sports Park, or stipulate that the commercial facilities in the Sports Park must be operated by local companies.

49. PSHA replied that as Hong Kong was a signatory to the Government Procurement Agreement of the World Trade Organization, the tendering of public works projects must be conducted in accordance with the provisions of the agreement. The Government could not include any clauses in the tender document which accorded priority to local companies.

50. Mr HO Kai-ming enquired about the penalty to be imposed in case the Contracted Party of the Sports Park failed to complete the project on schedule. Mr Nathan LAW considered that the Administration should spell out in the contract the penalty for project cost overrun and works delay. C for S/HAB responded that the Contracted Party should provide the project estimate and implementation timetable of the construction works of the Sports Park in its

tender submission. In the event that the Contracted Party failed to complete the construction works on schedule as specified in the contract, it would be subject to the penalty imposed by the Government. C for S/HAB undertook to provide supplementary information on the penalty concerned after the meeting.

(Post meeting note: The supplementary information provided by the Administration was issued to members vide [LC Paper No. PWSC182/16-17\(01\)](#) on 29 May 2017.)

Amendments to the Administration's funding proposals

51. Mr CHU Hoi-dick asked if an FC member specified the terms and conditions in relation to the funding proposal of the Sports Park project pursuant to paragraph 29 of the FC Procedure, and the proposal was approved by FC, how the Administration would deal with the situation, say, whether the funding proposal concerned would be withdrawn immediately.

52. Deputy Secretary for Financial Services and the Treasury (Treasury)³ responded that according to Chapter 2A of the Public Finance Ordinance, "the Financial Secretary may expend moneys from the Fund for in accordance with such conditions, exceptions and limitations as may be specified by the Finance Committee". If FC approved the specified terms and conditions in relation to the funding provision of the Sports Park project, the Government must comply with such specified terms and conditions in using the funding provision.

[At 11:03 am, the Chairman announced temporary suspension of the meeting until 11:15 am for members to take a short break. The meeting resumed at 11:15 am.]

53. At 11:19 am, the Chairman said that at the meetings held to discuss PWSC(2017-18)2, 31 members had raised questions on the funding proposal and spoken for 121 times in total, without including the number of times members spoke in relation to the motions on adjournment of further proceedings of the Subcommittee and the motions on adjournment of discussion of PWSC(2017-18)2. After members who were waiting for their turns to speak had spoken, he would "draw a line" to end the "question time". Then the Subcommittee would proceed to deal with the motions proposed by members under paragraph 32A of the PWSC Procedure. The Chairman read out the names of the members who were waiting for their turns to speak: Mr CHU Hoi-dick, Mr LEUNG Kwok-hung, Mr HO Kai-ming, Mr Nathan LAW, Dr CHIANG Lai-wan, Dr Fernando CHEUNG and Dr KWOK Ka-ki. Mr Nathan LAW requested for a speaking time limit of

three minutes. The Chairman said that according to the practice of the Subcommittee, the speaking time limit of members was determined by the number of times they had spoken. Should any members who had not raised any questions on the item ask to speak after "a line had been drawn", he would allow the members concerned to speak for four minutes (including the reply of the Government's representative(s)).

Motion on adjournment of further proceedings of the Subcommittee

54. At 11:37 am, when speaking on the item, Mr LEUNG Kwok-hung moved a motion pursuant to paragraph 33 of the PWSC Procedure to adjourn further proceedings of the Subcommittee.

55. The Chairman said that the Subcommittee would proceed forthwith to deal with Mr LEUNG Kwok-hung's motion. Each member could speak once on the motion, and the speaking time should not be more than three minutes.

56. Mr LEUNG Kwok-hung said that he opposed to the "DBO" procurement model for the development of the Sports Park and expressed grave concern about the high estimated construction cost (\$8,876.5 million) of the Main Stadium. He considered sports development an excuse for the Administration to build a stadium which would actually benefit the entertainment business.

57. Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chun-yu, Mr CHAN Chi-chuen, Ms Claudia MO, Mr Nathan LAW, Mr CHU Hoi-dick, Mr HUI chi-fung and Dr LAU Siu-lai spoke in support of Mr LEUNG Kwok-hung's motion. Mr WU Chi-wai found it regrettable for PSHA to criticize LCSD staff for being good for nothing. He held that LCSD was capable of managing the Indoor Sports Centre and Public Sports Ground of the Sports Park. Mr LAU Kwok-fan and Mr KWOK Wai-keung spoke against the motion.

58. Responding to the motion, PSHA said that the Government had undertaken to seriously consider members' views and she did not want to have further proceedings of the Subcommittee adjourned. She disagreed with Mr WU Chi-wai's comment on her criticism of LCSD staff. She said that while having the expertise in managing sports facilities, LCSD certainly lacked the experience in operating commercial facilities, marketing and attracting mega events. Besides, LCSD was also subject to the Government's general procurement and tendering procedures and conditions.

59. The Chairman put to vote the question that further proceedings of the Subcommittee be then adjourned. At the request of Mr LAU Kwok-fan, the Chairman ordered a division and the division bell was rung for five minutes. Fifteen members voted for, 16 voted against the motion and no one abstained. The votes of individual members were as follows:

For:

Mr LEUNG Kwok-hung
Mr WU Chi-wai
Dr KWOK Ka-ki
Mr Alvin YEUNG
Mr CHU Hoi-dick
Mr HUI Chi-fung
Mr Nathan LAW
Dr LAU Siu-lai
(15 members)

Ms Claudia MO
Mr CHAN Chi-chuen
Dr Fernando CHEUNG
Mr Andrew WAN
Ms Tanya CHAN
Mr KWONG Chun-yu
Dr YIU Chung-yim

Against:

Mr Abraham SHEK
Mr WONG Kwok-kin
Mr Frankie YICK
Mr MA Fung-kwok
Ms Alice MAK
Mr HO Kai-ming
Mr Wilson OR
Mr CHEUNG Kwok-kwan
(16 members)

Mr Tommy CHEUNG
Mr Steven HO
Mr YIU Si-wing
Mr LEUNG Che-cheung
Mr KWOK Wai-keung
Mr Holden CHOW
Mr CHAN Chun-ying
Mr LAU Kwok-fan

Abstain:

(0 member)

60. The Chairman declared that the motion was negatived. The Subcommittee resumed discussion on PWSC(2017-18)2.

61. Dr KWOK Ka-ki said that given the great controversy involved in the Administration's proposal to adopt the "DBO" model in the development of the Sports Park, this model should not be further pursued. PSHA advised that according to the financial analysis of the procurement and financing options of the Sports Park submitted to the Panel on Home Affairs by the Government in 2014 ([LC Paper No. CB\(2\)841/13-14\(03\)](#)), the consultancy study recommended that taking an integrated DBO approach for the procurement of the project would be preferable to having separate consortia design, build and operate the Sports Park.

Motions proposed under paragraph 32A of the Public Works Subcommittee Procedure

62. At 12:28 pm, the Chairman said that the Subcommittee would proceed forthwith to deal with the motions proposed by members. Among them, the motions numbered 001 to 004 were proposed by Mr CHU Hoi-dick, the motions numbered 005 to 012 and 023 by Dr Fernando CHEUNG, the motions numbered 013 to 017 by Mr CHAN Chi-chuen, the motions numbered 018 to 022 by Dr KWOK Ka-ki. The Chairman considered that among the aforesaid 23 proposed motions, the proposed motion numbered 002 was not directly related to the agenda item, the proposed motions numbered 019 to 021 should be consolidated into one motion while the remaining 19 motions were directly related to the agenda item.

Proposed motion numbered 001

63. The Chairman put the question on proceeding forthwith to deal with the proposed motion numbered 001 to vote. At Mr CHU Hoi-dick's request, the Chairman ordered a division. The division bell was rung for five minutes. The question was negated by a majority of members.

Motions proposed under paragraph 40A of the Public Works Subcommittee Procedure

64. At 12:34 pm, Mr LAU Kwok-fan moved that in the event of further divisions being claimed in respect of any motions or questions under the same agenda item, the Subcommittee would proceed to each of such divisions immediately after the division bell had been rung for one minute.

65. The Chairman said that the Subcommittee would proceed forthwith to deal with Mr LAU Kwok-fan's motion. Each member could speak once on the motion, and the speaking time should not be more than one minute.

66. Mr LEUNG Kwok-hung, Mr CHAN Chi-chuen, Mr WU Chi-wai, Dr LAU Siu-lai, Dr Fernando CHEUNG, and Dr KWOK Ka-ki spoke against Mr LAU Kwok-fan's motion.

67. The Chairman put Mr LAU Kwok-fan's motion to vote. At the request of Mr CHAN Chi-chuen, the Chairman ordered a division and the division bell was rung for five minutes. Eighteen members voted for, 15 voted against the motion and no one abstained. The votes of individual members were as follows:

For:

Mr Abraham SHEK
Dr Priscilla LEUNG
Mr Steven HO
Mr YIU Si-wing
Mr CHAN Han-pan
Ms Alice MAK
Mr HO Kai-ming
Mr Wilson OR
Mr CHEUNG Kwok-kwan
(18 members)

Mr Tommy CHEUNG
Mr WONG Kwok-kin
Mr Frankie YICK
Mr MA Fung-kwok
Mr LEUNG Che-cheung
Mr KWOK Wai-keung
Mr Holden CHOW
Mr CHAN Chun-ying
Mr LAU Kwok-fan

Against:

Mr LEUNG Kwok-hung
Mr WU Chi-wai
Dr KWOK Ka-ki
Mr Alvin YEUNG
Mr CHU Hoi-dick
Mr HUI Chi-fung
Mr Nathan LAW
Dr LAU Siu-lai
(15 members)

Ms Claudia MO
Mr CHAN Chi-chuen
Dr Fernando CHEUNG
Mr Andrew WAN
Ms Tanya CHAN
Mr KWONG Chun-yu
Dr YIU Chung-yim

Abstain:

(0 member)

68. The Chairman declared that Mr LAU Kwok-fan's motion was carried.

Proposed motions numbered 003 to 005

69. The Chairman put the question on proceeding forthwith to deal with the proposed motions numbered [003](#), [004](#) and [005](#) to vote. At members' request, the Chairman ordered a division and the division bell was rung for one minute. The aforesaid three questions were all negatived by a majority of members.

Extension of meeting time

70. At 12:52 pm, the Chairman asked members if they agreed to extend the meeting for 15 minutes up to 1:15 pm.

71. At the request of Mr LEUNG Kwok-hung, the Chairman ordered a division for the question on extending the meeting for 15 minutes. The division bell was rung for one minute. Seventeen members voted for,

14 voted against the motion and no one abstained. The votes of individual members were as follows:

For:

Mr Tommy CHEUNG
Mr WONG Kwok-kin
Mr Frankie YICK
Mr MA Fung-kwok
Mr LEUNG Che-cheung
Mr KWOK Wai-keung
Mr Holden CHOW
Mr CHAN Chun-ying
Mr LAU Kwok-fan
(17 members)

Dr Priscilla LEUNG
Mr Steven HO
Mr YIU Si-wing
Mr CHAN Han-pan
Ms Alice MAK
Mr HO Kai-ming
Mr Wilson OR
Mr CHEUNG Kwok-kwan

Against:

Mr LEUNG Kwok-hung
Mr CHAN Chi-chuen
Dr Fernando CHEUNG
Mr Andrew WAN
Ms Tanya CHAN
Mr KWONG Chun-yu
Dr YIU Chung-yim
(14 members)

Ms Claudia MO
Dr KWOK Ka-ki
Mr Alvin YEUNG
Mr CHU Hoi-dick
Mr HUI Chi-fung
Mr Nathan LAW
Dr LAU Siu-lai

Abstain:

(0 member)

72. The Chairman declared that the question was carried and the meeting would be extended to 1:15 pm.

73. The Chairman put to vote, one by one, the questions that proposed motions numbered [006 to 012](#), [013 to 017](#) and [018](#) be proceeded forthwith. At members' request, the Chairman ordered a division. The division bell was rung for one minute before members' voting on individual questions.. The aforesaid 13 questions were all negatived by a majority of members.

(Post meeting note: After the Subcommittee had voted on the question that the proposed motion numbered 014 be proceeded forthwith, Mr LEUNG Kwok-hung said that he was unable to press the "yes" button on the voting panel. The Chairman directed that the voting result should be corrected as 14 members voted for the motion while the number of votes against the motion remained the same at 17.)

74. At 1:11 pm, the Chairman said that due to time constraint, the Subcommittee would consider whether the remaining proposed motions should be proceeded forthwith at the next meeting.

75. The Chairman advised that members who intended to propose motions on PWSC(2017-18)2 pursuant to paragraph 32A of the PWSC Procedure should forward their proposed motions to the Secretariat by 5:00 pm on 26 May 2017.

76. The meeting ended at 1:14 pm.

Council Business Division 1
Legislative Council Secretariat
12 June 2017