

# **立法會**

## ***Legislative Council***

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### **Bills Committee on Tung Chung Cable Car Bill**

#### **Background Brief**

#### **Purpose**

This paper sets out the background of the Tung Chung Cable Car Bill (the Bill), and summarizes the legislative proposal therein and views of Members expressed when the Tung Chung Cable Car project was deliberated at the meetings of the Panel on Economic Services held on 26 February 2001, 3 July 2002, 29 July 2002 and 25 November 2002.

#### **Background**

2. In 1998, the Financial Secretary announced Government's decision to proceed with the construction of a cable car project (the Project) linking Tung Chung and Ngong Ping on Lantau Island as a tourist attraction. The Government subsequently tasked the Mass Transit Railway Corporation (MTRC) to undertake a feasibility study on the development of the proposal.

3. The MTRC Study concluded that the Project was feasible in both technical and financial terms and would bring about socio-economic benefits to Hong Kong, including additional tourist visitation to attractions on Lantau Island, serving as another tourist attraction to enhance visitors' experience in Hong Kong, etc. The Government invited in February 2000 expressions of interest and preliminary proposals on the basis of the alignment as recommended in the MTRC Study.

4. In April 2001, the Executive Council approved the framework for implementing the Project (at Annex A), and on this basis, the Government issued a Project Brief to invite detailed proposals for the finance, design, construction, operation and maintenance of the cable car system. The Government received three proposals upon close of submission in July 2001. The Government short-listed two proponents, including MTR Corporation Limited (MTRCL), for further negotiations in January 2002.

5. In June 2002, the Executive Council approved the selection of MTRCL as the successful proponent to take forward the Project in accordance with the agreed framework for implementing the Project.

6. In July 2002, the Government entered into a Provisional Agreement with MTRCL. Under the framework approved for implementing the Project, the Provisional Agreement provides the basis for MTRCL to commence work on the Project before the Government grants a 30-year franchise to the Company. This includes developing a suitable design for the Tung Chung cable car system and its ancillary developments, carrying out requisite environmental and technical studies, and completing the necessary statutory procedures.

### **Major proposals in the Bill**

7. The purpose of the Bill is to provide the legal framework for the grant of a franchise for the operation of a cable car system linking Tung Chung and Ngong Ping on Lantau Island on a "Build-Operate-Transfer" (BOT) basis. It also sets out the rights and obligations of the franchisee during the franchise period.

8. The detailed provisions relating to the construction and operation of the cable car system will be governed by a Project Agreement to be entered into between the franchisee and the Government. The Buildings Ordinance (Cap. 123) and the Aerial Ropeways (Safety) Ordinance (Cap. 211) will also apply to the system. Any resumption of land required for the system will be deemed to be resumption for a public purpose within the meaning of section 2 of the Lands Resumption Ordinance (Cap. 124) and such resumption may thereby be ordered under that Ordinance.

9. The Bill if enacted will grant to the Company designated by the Secretary for Economic Development and Labour (the Secretary) for the purposes of this Ordinance, or to a wholly-owned subsidiary of the Company, a 30-year franchise to design, construct, operate and maintain the cable car system.

10. Upon commencement of the franchise period, the Company will be free to determine and collect fares for the use of the cable car system, and to license commercial operations at each of the terminals. A royalty of \$1 per journey for each fare-paying passenger will be payable by the Company to the Government.

11. The Bill provides for the grant to the Company of wayleaves over unleased land and of easements over leased land needed for the operation of the cable car system. It also provides for entry on land in an emergency and for the payment of compensation for leased land affected by the construction and

operation of the system.

12. The Bill provides for the imposition of financial penalties on the Company in the event of persistent breaches of its obligations under the Ordinance or the Project Agreement. A more serious sanction is the service of a default notice, failure to comply with which can lead to a revocation of the franchise by the Chief Executive in Council. Disputes about factual matters, if not resolved by mutual agreement or mediation, are to be resolved by arbitration.

13. At the conclusion of the franchise period, or on the earlier termination of the franchise, the cable car system will become the property of the Government. Provision is made for the reimbursement by the Company of the cost of repairs specified by the Secretary and for the reimbursement by the Government to the Company of the residual value of the assets which revert to the Government.

14. The Bill also empowers the Company to make bylaws needed for the safe and efficient operation of the cable car system. It also contains ancillary provisions relating to financial records, installation of utilities, limitation of liability, etc., similar to provisions in other Ordinances relating to BOT projects.

### **Public consultation**

15. According to the Administration, it consulted the Islands District Council (IDC), the Advisory Council on the Environment and the Country and Marine Park Board on the Project, and received general public support to bring it forward. Since the Bill is an integral part of the package to implement the Project, the Administration did not consult these parties separately on the Bill. In the course of the statutory and other related procedures required to implement various supporting infrastructure and complementary facilities, consultations with the relevant statutory authorities, the IDC and other stakeholders like Po Lin Monastery will continue. The Administration has consulted MTRCL on the draft Bill. The Airport Authority is aware of the proposal for deeming resumption of land for the Project as being for a public purpose.

### **Consultation with the Panel**

16. The Panel on Economic Services was consulted on 26 February 2001 on the Administration's proposal for the development of a cable car system linking Tung Chung and Ngong Ping on Lantau Island. On 3 July 2002 and 29 July 2002, the Administration briefed the Panel on the outcome of the operator

selection exercise and the way forward for the Project. The Panel discussed the main features of the Bill at a subsequent meeting on 25 November 2002.

### **Members' views/concerns raised at previous Panel meetings**

17. During previous consultations, members of the panel have expressed concerns over a wide range of issues. Their major views/concerns raised at the previous Panel meetings are as follows:

- (a) the franchise terms granted to MTRCL for the construction and operation of the cable car system and the calculation of land premium for granting the franchisee a statutory right to occupy the land, to use and grant licences for the use of the commercial gross floor area at the Tung Chung Terminal and the Ngong Ping Terminal;
- (b) the fare levels and fare regulation of the cable car system;
- (c) the financial arrangement and financial viability of the cable car system, the Government's financial obligation in relation to the Project and the likelihood of requiring cross-subsidy from MTRCL's rail operations for the cable car operations;
- (d) the safety and maintenance of the cable car system including system design, cable car selection and alignment options;
- (e) the environmental and sustainability assessment of the cable car system;
- (f) the coordination of public transport services upon commissioning of the cable car system to facilitate local residents and visitors travelling between Ngong Ping and other parts of Lantau; and
- (g) the complementary development at Ngong Ping to tie in with the development of the cable car system and the objection raised by the Po Lin Monastery regarding the draft Ngong Ping Outline Zoning Plan and the land administration and management of the proposed piazza in front of the Monastery, access to the Monastery and the proposed emergency vehicular access.

## **Tung Chung Cable Car Project Framework for Implementation**

### **I. Franchise**

- (i) A franchise of 30 years for the finance, design, construction, operation and maintenance of the cable car system on a Build-Operate-Transfer basis will be granted. The franchisee will be obliged to transfer the ownership of the cable car system to government upon expiry of the franchise period.
- (ii) The franchise will include the right to collect fees over the franchise period. No control of fees will be imposed as the cable car is not an essential transport facility.
- (iii) The franchisee will pay royalty to government. Bidders will be invited to propose in what form and size the royalty will be paid.
- (iv) Financial guarantee to Government will be required to ensure timely completion of the construction of the system and the continual operation of the system, to indemnify Government for any costs incurred in the case of revocation of the franchise, etc.
- (v) The franchisee will be responsible for completing necessary statutory procedures including environmental impact assessment, submissions to the Town Planning Board, etc.

## II. Land

- (i) Government will provide land for the termini at Tung Chung and Ngong Ping, the intermediate station on the Airport Island and any angle station(s), and sites for the pylons. The enabling legislation will create a statutory easement for the franchisee to construct and maintain the cables of the cable car system.
- (ii) The proposed Tung Chung Terminal Building will take up both the site earmarked for the terminal and TCTL 35. The terminal building will combine the functional requirements of the terminal and the commercial space originally planned for TCTL 35.
- (iii) The franchisee will be granted under the enabling legislation the right to use and/or to let out the commercial space at the termini including the fee-paying car park at the proposed Tung Chung Terminal. The franchisee will be required to pay to Government upfront a lump sum payment at full market value for any such right.
- (iv) There has been consultation with the Airport Authority (AA) on the location of the intermediate station on the Airport Island. The exact location and area of the station will be subject to detailed study by the franchisee in consultation with the AA. There would need to be further consultation with AA on the means for making available the site. This could be achieved either through the surrender of the site required for the construction of the intermediate station by AA or through resumption.
- (v) The Ngong Ping Terminal will not include the integrated developments as proposed in the MTRC Study. Nevertheless, we do not rule out the possibility that the franchisee may, on their own, arrange to acquire private land required for such purposes to enhance the overall attractiveness of the area to visitors.

### III. Legislation

- (i) New enabling legislation and a project agreement will provide a legal framework for the grant of the franchise and the construction, operation and maintenance of the cable car system. The enabling legislation will confer on the franchisee a statutory right to occupy land to be provided by the Government, and a statutory easement to construct and maintain the cables of the cable car system. It will also provide for the resumption of land, if necessary, and will provide for the right to use commercial space at the termini.
- (ii) The Aerial Ropeways (Safety) Ordinance (Cap. 211) and its subsidiary legislation apply to mono-cable ropeways with detachable grips (e.g. the aerial ropeways installed in the Ocean Park). Since it is anticipated that a different type of aerial ropeway may be chosen for the Project, the existing legislation needs to be amended to cover also the design, installation, operation, maintenance and safety requirements of the new cable car system.

### IV. Tender

- (i) We propose to invite open tender for the franchise.
- (ii) Assessment criteria will include bidders' technical expertise in construction, experience in operating a transport system, merits in the design concept for and the safety standard of the cable car system, environmental performance, ability to meet Government's target completion date (including the proposed schedule for compliance with various statutory procedures), financial strength and financing package for the Project, including the proposed level of royalty payment and government support required, if any. Technical and financial evaluation will be done separately.

- (iii) The successful bidder will be identified before the enabling legislation is enacted. There will be a provisional agreement between Government and the successful bidder such that the successful bidder could carry on detailed design and studies, and take forward all the necessary statutory procedures. The project agreement would be executed after the enactment of the enabling legislation.

19 March 2001