

For consideration on
25 November 2002

Legislative Council Panel on Economic Services
Meeting on 25 November 2002
TUNG CHUNG CABLE CAR BILL

INTRODUCTION

This paper sets out for members' consideration the main features of the Tung Chung Cable Car Bill.

BACKGROUND

2. The Government plans to grant a 30-year franchise for the finance, design, construction, operation and maintenance of the Tung Chung Cable Car System ("the System") on a Build-Operate-Transfer basis. We previously briefed the Panel in March 2000 and July 2002 on this project.

3. In July 2002, the Government entered into a Provisional Agreement with MTR Corporation Limited ("MTRCL") in accordance with the agreed implementation framework (copy at Annex A). The Provisional Agreement provides the basis for MTRCL to commence work on the project before the grant of the franchise. This includes developing a sufficient design for the System and its ancillary developments, carrying out requisite environmental and technical studies, and completing the necessary statutory procedures.

4. In parallel, the Government will seek the enactment of the enabling legislation for the franchise. We will also work with MTRCL to prepare a Project Agreement, which will contain details of the financial guarantee arrangements, design, construction, installation, testing, commissioning, operation, management, maintenance and other requirements for the System during the franchise period.

THE PROPOSED LEGISLATION

5. The proposed legislation will provide a legal framework for the grant of the franchise. It will also define the respective rights and obligations of the Government and the franchisee under the franchise. Major provisions of the proposed legislation are set out in the following paragraphs.

(a) The Franchise

6. The Bill will provide for the grant of a 30-year franchise for the design, construction, operation and maintenance of the System, including a right for the franchisee to collect fares for use by the public of the cable car service; the obligation for the franchisee to pay to the Government a royalty for the franchise; and provisions dealing with any default on the part of the franchisee and revocation of the franchise.

(b) Land Matters

7. Under the implementation framework, the franchisee will not be given land title to the land provided by the Government for the development of the terminals and turning stations, and for the construction of pylons. The Bill will provide for the grant to the franchisee of 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, and to levy and collect licence fees for such commercial gross floor area. The franchisee will be required to pay a Land Premium to the Government at current full market value. The Buildings Ordinance (Cap.123), which does not apply to Government land, will apply to the project. There will also be a provision deeming the resumption of private land for the construction of the System to be for a public purpose within the meaning of the Lands Resumption Ordinance (Cap.124).

(c) Easements and Rights over Land

8. To facilitate the development of the System, the Bill will provide for the creation of statutory easements, with the mechanism for payment of compensation to enable the franchisee to construct and maintain the aerial ropeways over private land. The Bill will also grant to the franchisee wayleaves and other rights over Government land for the development of the

System. It will also grant rights of emergency access over land for the purposes of carrying out repairs or preventing accidents in connection with the System, with consequential arrangements for compensation.

Project Timetable

9. To ensure the early completion of the Cable Car Project, the Government has taken a number of initiatives to accelerate the implementation programme for the Project, with a target date for completion in August 2005. In order to meet this tight programme, we hope to complete the legislative procedures and to execute the Project Agreement before July 2003 to enable the franchise to take effect.

Legislative Timetable

10. Subject to Members' advice, the Administration plans to introduce the Bill into the Legislative Council in February 2003.

CONCLUSION

11. Members are invited to comment on the proposals as set out at paragraphs 5 to 8.

Tourism Commission
Economic Development and Labour Bureau
15 November 2002

**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.

March 2001