



Legislation Text

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THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1349

Resolution pursuant to Section 363 of the New York City Charter, authorizing the New York City Department of Transportation to grant a franchise for the provision of aerial tramway service over the East River between Manhattan and Roosevelt Island to the Roosevelt Island Operating Corporation.

By Council Members Greenfield, Richards and Kallos (by request of the Mayor)

WHEREAS, by Executive Order 25, dated August 23, 1995, the Mayor designated the New York City Department of Transportation (DOT) as the responsible agency for the granting of franchises for tramways; and

WHEREAS, by contract dated February 19, 1974, the City of New York (City) granted to the New York State Urban Development Corporation (UDC), a public benefit corporation, the franchise and right to "...construct, maintain and use an aerial tramway from Roosevelt Island over the East River to the west side of Second Avenue between 59th and 60th Streets, Borough of Manhattan" (hereinafter referred to as the "Roosevelt Island Aerial Tramway" or "Tramway"); and

WHEREAS, in 1984 the Legislature of the State of New York created the Roosevelt Island Operating Corporation (hereinafter referred to as "RIOC" or the "franchisee") (Chapter 899, Laws of the State of New York, 1984) and granted it the power to "...assume and perform the obligations and responsibilities of the UDC under the ... tramway franchise ... and exercise all of the rights ... with respect thereto ..."; and

WHEREAS, on June 29, 1990, the Board of Estimate of the City of New York (Board of Estimate) granted RIOC interim operating authority to continue to maintain and operate the Tramway which was amended and approved by resolution dated May 13, 1992, linking the Tramway fare to one continuous trip on a New York City Transit Authority (NYCTA) subway or local bus, which was adopted by the New York City Franchise and Concession Review Committee (FCRC); and

WHEREAS, on August 9, 1996, the United States Coast Guard issued Bridge Permit Amendment 46-74a-1, stating that "the existing aerial tramway shall be removed in its entirety no later than 90 days after it ceases to operate for the purpose for which it was permitted or by the year 2068, whichever occurs first"; and

WHEREAS, RIOC has continued to operate the Tramway and to pay the City the franchise fee of one half of one percent (.5%) of gross receipts as required pursuant to the June 29, 1990 Board of Estimate resolution; and

WHEREAS, RIOC entered into a reimbursement agreement with the Metropolitan Transportation Authority (MTA) in 2004 whereby the Tramway was accepted as part of the NYCTA's Metrocard system and the MTA installed Metrocard fare box turnstiles at the Tramway's two (2) stations and agreed to reimburse RIOC for the Metrocard fares, including transfers, collected from Tramway riders; and

WHEREAS, RIOC and the State of New York together have invested approximately \$25 million in the refurbishment of the Tramway so that it may have a useful life of an additional thirty (30) years; and

WHEREAS, pursuant to Section 363 of Chapter 14 of the New York City Charter (Charter), the Commissioner of DOT has made the initial determination of the need for a Tramway; and

WHEREAS, the Council has determined that the granting of such a franchise will promote the public interest by enhancing the health, welfare, and convenience of the public;

NOW, THEREFORE BE IT RESOLVED,

That the Council hereby authorizes DOT to grant a franchise for the Roosevelt Island Aerial Tramway to RIOC, provided that such franchise shall be subject to the approval of the FCRC and the separate and additional approval of the Mayor. The authorization to grant a franchise pursuant to this Resolution shall expire on the fifth anniversary of the date on which this Resolution is adopted by the Council (Expiration Date). No franchise shall be granted pursuant to this Resolution by DOT, nor approved by the FCRC or the Mayor after the Expiration Date.

AND BE IT FURTHER RESOLVED,

FIRST, that the franchisee shall pay to the City a franchise fee of one-half of one percent (.5%) of the franchisee's gross receipts which franchise fee shall be set forth in the franchise agreement; and

SECOND, that prior to the granting of such franchise, an environmental review, if necessary, shall be conducted in accordance with City Environmental Quality Review; and

THIRD, that no franchise granted pursuant to this Resolution may receive direct financial assistance from the City; and

FOURTH, that any agreement authorized pursuant to this Resolution shall state the maximum fare to be charged passengers for services and shall also state that upon request of the franchisee, DOT may, subsequently at any time, petition the FCRC for a modification of the maximum fare, and that upon the approval of the FCRC of any such proposed change, the franchise agreement shall be deemed to be modified to provide for the revised maximum fare; and

FIFTH, that the franchise granted pursuant to this Resolution shall be by written agreement that shall without limitation provide that:

- (1) the term of the franchise shall not exceed twenty-five (25) years, with the right to renew, at the option of the City, for a period not to exceed (a) the maximum period allowed under the Charter at the end of the term, or (b) the term of the United States Coast Guard issued Bridge Permit Amendment 46-74a-1, whichever is less;
- (2) the franchisee shall assume all the costs and expenses for the maintenance and operation of the Tramway (for purposes of maintenance and operation, Tramway shall be deemed to include all stations used for embarking and disembarking the aerial tramway), and obtain all necessary licenses, permits, and consents therefor from governmental agencies having jurisdiction of the matter;
- (3) the franchisee shall provide adequate service to the public at all times during operational hours in

- accordance with schedules published by the franchisee from time to time;
- (4) there shall be provisions in the franchise agreement which establish standards of performance and reporting mechanisms related to the operation and maintenance of the Tramway;
 - (5) the franchisee shall at all times maintain the Tramway in good repair and safe condition;
 - (6) the Tramway shall be adequately illuminated between dusk and daylight of each day or whenever artificial lighting is required for the safety and welfare of the public;
 - (7) the enclosed portions of the Tramway shall be sufficiently lighted, heated, and properly ventilated to assure the safety and comfort of the public;
 - (8) the Tramway shall be constructed and operated in such a manner as to prevent water, oil, grease, dirt or other substances from falling to the surface of the street or waterway;
 - (9) the franchisee shall, at its sole cost and expense, retain an independent licensed and qualified engineer for the purpose of conducting, on an annual basis, unless more frequently required by the New York State Department of Labor and/or the American National Standards Institute, inspections and examinations of the structures, equipment, appliances and mechanical operation of the Tramway and filing with DOT a report documenting the outcome of all inspections and examinations;
 - (10) the City shall have the right at all times to inspect the facilities, service and equipment used by the franchisee and to order the franchisee to comply with operational requirements and performance standards set forth in the franchise agreement;
 - (11) the right of the City to perform public works or improvements in and around those areas subject to the franchise shall be preserved;
 - (12) the extent to which public use of the streets of the City is disrupted in connection with the operation, maintenance and repair of the Tramway shall be minimized;
 - (13) the franchise is subject to whatever right, interest or privilege others may have in the use and occupation of affected streets and waterways;
 - (14) the franchisee shall, in constructing, reconstructing, maintaining, operating or dismantling the Tramway, comply with all applicable federal, state and local laws, rules and regulations now in force or hereafter enacted, including those relating to accessibility for persons with disabilities;
 - (15) there shall be adequate insurance and/or indemnification requirements to protect the interests of the public and the City;
 - (16) unless otherwise provided by an act of the New York State legislature, or except in the case where there is an assignment to the MTA or any other public benefit corporation, there shall be provisions to restrict the assignment or other transfer of the franchise or portions thereof without the prior written consent of the City and provisions to restrict changes in control of the franchisee without the prior written consent of the City;

(17) there shall be provisions to allow the franchisee, with the approval of the Commissioner of DOT, to enter into an agreement with another entity to perform maintenance services on the Tramway or to operate the Tramway;

(18) the franchisee shall at all times keep complete and accurate books of account and records of the Tramway with Generally Accepted Accounting Principles and with any and all specific requirements for record keeping as shall be required by DOT and such books and records shall be made available on demand to the City for inspection;

(19) there shall be remedies to protect the City's interests in the event of the franchisee's failure to comply with the terms and conditions of the franchise agreement;

(20) the payment of compensation shall not be considered in any manner to be in the nature of a tax, but shall be in addition to any and all taxes of whatsoever kind or description now or hereafter required to be paid under any local law of the City of New York or by any law of the State of New York, or of the federal government, or pursuant to any contract, lease or agreement;

(21) the franchisee shall at all times maintain on file with DOT a complete, accurate, and current normal schedule of service and fares, which may be amended from time to time, constituting an appendix to the agreement and fully part of the agreement.;

(22) the franchise may be terminated or canceled by the Commissioner of DOT in the event of the franchisee's failure to comply with the material terms and conditions of the agreement;

(23) there shall be provisions containing the agreements required pursuant to paragraph 6 of subdivision (h) of Section 363 of the Charter, relating to collective bargaining and other matters; and

(24) the franchisee may place advertising in the interior of the Tramway stations and cars only. Advertisements shall not be permitted on the exterior portions of the Tramway stations or Tramway cars. Advertising which is false or misleading, which promotes unlawful or illegal goods, services or activities, or which is otherwise unlawful, including but not limited to advertising that constitutes the public display of offensive sexual material in violation of Penal Law Section 245.11, shall be prohibited. Advertising related to alcohol, tobacco products and electronic cigarettes shall also be prohibited.

AND BE IT FURTHER RESOLVED,

That DOT shall file with the Council the following documents:

- (1) within fifteen (15) days of approval by the Mayor, a copy of the franchise agreement for the franchise granted pursuant to this Resolution; a copy of any subsequent modification thereof or amendment thereto, and
- (2) on or before July 1 of each year, for the preceding calendar year, a report detailing the revenues received by the City from the franchise granted pursuant to this Resolution.

Adopted.

Office of the City Clerk,
The City of New York,) ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by the Council of The City of New York on January 18, 2017, on file in this office.

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City Clerk, Clerk of the Council