



Legislation Text

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THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1930

Resolution approving an Amended Authorizing Resolution pursuant to Section 363 of the Charter of the City of New York, authorizing the 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. (L.U. No. 763-A; 20005409 GFM)

New matter is underlined. Matter to be deleted is [bracketed].

By Council Members Eisland and McCaffrey (by request of the Mayor);

WHEREAS, by Executive Order 25, dated August 23, 1995, the Mayor has designated the 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 granted to the New York State Urban Development Corporation ("UDC"), a public benefit corporation, the 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", ("Roosevelt Island Aerial Tramway" or "Tramway"); and

WHEREAS, in 1984 the Legislature of the State of New York created the Roosevelt Island Operating Corporation ("RIOC") (Chapter 899, Laws of the State of New York, 1984) and granted the Corporation 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 granted RIOC interim operating authority (the "Interim Authority") to continue to maintain and operate the tramway which was amended and approved by resolution dated May 13, 1992, which was adopted by the 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, pursuant to Sections 363 and 378 of Chapter 14 of the New York City Charter ("the Charter"), the Commissioner of Transportation ("Commissioner") has made the determination of the need for a franchise for the Roosevelt Island Aerial Tramway; and

WHEREAS, the City 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 the franchise for the provision of aerial tramway service between Manhattan and Roosevelt Island over the East River 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 prior to the granting of such franchise, an environmental review, if necessary, shall be conducted in accordance with City Environmental Quality Review; and

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

THIRD, 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 the 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

FOURTH, that the franchisee shall pay to the city a franchise fee of not more than one-half of one percent (1/2%) of the franchisee's gross receipts, which franchise fee shall be set forth in the franchise contract; and

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

(1) the term of the franchise shall not exceed 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 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 system 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 as shall be 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 system 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 any tram shall be sufficiently lighted, heated, and properly ventilated to assure the safety and comfort of the public;

(8) 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;

(9) 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;

(10) 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 American National Standards Institute, Inc. (ANSI), an examination and inspection to be made of the structures, equipment, appliances and mechanical operation of said tramway system and filing with DOT a report documenting the conditions of the tramway system as observed during such inspection and examination;

(11) 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 agreement;

(12) advertising upon the interior portions of the stations and the tramway shall not be permitted; provided, however, that advertising which is false or misleading, which promotes unlawful or illegal goods, services or activities, or which is otherwise unlawful or obscene as determined by the Department, 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 tobacco products shall also be prohibited. Advertising shall be prohibited upon the exterior of the stations, [and] the exterior of the tramway cars, the tramway and its appurtenances, and any related structure.

(13) the right of the City to perform public works or improvements in and around those areas subject to the franchise shall be preserved;

(14) the extent to which the public use of the streets of the City is disrupted in connection with the operation, maintenance, and repair of the tramway shall be minimized;

(15) the franchise is subject to whatever right, interest or privilege others may have in the use and occupation of affected streets and waterways;

(16) the franchisee shall, in constructing, reconstructing, maintaining, operating or dismantling said aerial tramway system, comply with the requirements of all applicable laws, ordinances, codes, charters or regulations of Federal, State, and City authorities having jurisdiction of the matter now in force or hereafter enacted;

(17) there shall be adequate insurance and/or indemnification requirements to protect the interests of the public and the City;

(18) 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;

(19) unless otherwise provided by an act of the state legislature, or except in the case where there is an assignment to the Metropolitan Transportation Authority 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;

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

(21) the franchisee shall at all times keep complete and accurate books of account and records of said aerial tramway system in accordance with Generally Accepted Accounting Principles ("GAAP") and with any and all specific requirements for record keeping as shall be required by DOT. Such books and records shall be made available on demand to the City for inspection;

(22) the franchisee shall comply with all applicable federal, state and local laws, including those relating to accessibility for persons with disabilities;

(23) 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;

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

(25) 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;

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 agreement for the franchise granted pursuant to this Resolution; a copy of any subsequent modification thereof or amendment thereto, and

(2) on or before September 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, }

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on May 23, 2001, on file in this office.

City Clerk, Clerk of Council
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