

**NEW DELHI MUNICIPAL COUNCIL**  
**PALIKA KENDRA : NEW DELHI.**  
**COUNCIL'S MEETING NO. 14/2012-13 DATED 10.04.2013 AT 3-30 P.M.**

**Arrangement of business**

ITEM NO.	SUBJECT	PAGE	ANNEXURE
01 (C- 39)	Confirmation and signing of the minutes of the Council's Meeting No. 13/2012-13 held on 28.02.2013.	2	03 – 07
02 (I-02)	Modern Data Centre at NDMC	08 – 10	
03 (B-21)	Norms for Annual Maintenance of Various Electrical Services/Work (Review).	11 – 12	13 – 16
04 (B-22)	Providing Electronic Parking Guidance & Management System for Palika Parking.	17 – 20	21 – 28
05 (B-23)	Purchase of 11 KV HT XLPE Cable of size: 400 sq.mm/3C duly ISI marked.	29 – 33	34 – 57
06 (B-24)	Purchase of 11 KV HT XLPE Cable of size: 400 sq.mm/3C duly ISI marked. Qty: 36.5 Km	58 – 60	61 – 81
07 (L-05)	Operation and maintenance of Five Star Hotel Premises at 1, Man Singh Road after the expiry of the extended licence period on 10 <sup>th</sup> October, 2012.	82 – 86	87 – 124 (separate booklet enclosed)
08 (U-08)	Security and Traffic Services/Arrangements at Palika Kendra, NDCC-II and Pragati Bhawan under Group Contract 'A'.	125 – 127	
09 (U-09)	Security and Traffic Services/Arrangements at Palika Bazar, Charak Palika Hospital, Palika Place & other NDMC Premises under Group Contract 'B'.	128 – 130	
10 (D-05)	Re-appropriation of Funds in Revised Estimates 2012-13	131 – 133	134 – 138
11 (C-40)	Action Taken Report on the status of decisions taken by the Council in every quarter. (For information of the Council)	139	140 – 147
12 (C-41)	Contracts/Schemes involving an expenditure of Rs.1 Lac but not exceeding Rs.100 lacs. (For information of the Council)	148	149 – 158

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16 (A-44)	S/R of roads in NDMC area during 2012-13. Sh:- Resurfacing of lanes by lanes in jurisdiction of R-V Division.	233 – 236	
17 (T-01)	Housekeeping Services at NDMC Palika Kendra Building.	237 – 240	241
18 (J-04)	Revision of parking charges/tariff in N.D.M.C.	242 – 244	245 – 255
19 (H-10)	Seeking approval for a proposal to request UPSC to assess the suitability of contractual Doctors working in NDMC for regular appointments.	256 – 257	

**ITEM NO. 01 (C-39)**

Confirmation and signing of the minutes of the Council's Meeting No. 13/2012-13 held on 28.02.2013. (See pages 3- 7 )

**COUNCIL'S DECISION**

Minutes confirmed and signed.

**NEW DELHI MUNICIPAL COUNCIL**  
**PALIKA KENDRA : NEW DELHI**

**DRAFT MINUTES OF THE COUNCIL'S MEETING NO. 13/2012-13 HELD ON 28.02.2013, AT 4-00 P.M. IN THE COUNCIL ROOM, PALIKA KENDRA, NEW DELHI.**

<b>MEETING NO.</b>	<b>:</b>	<b>13/2012-13</b>
<b>DATE</b>	<b>:</b>	<b>28.02.2013</b>
<b>TIME</b>	<b>:</b>	<b>4-00 P.M.</b>
<b>PLACE</b>	<b>:</b>	<b>PALIKA KENDRA, NEW DELHI.</b>

**PRESENT :**

1. **Smt. Sheila Dikshit** - **Presiding Officer**
2. Ms. Archana Arora - Chairperson
3. Smt. Tajdar Babar - Vice Chairperson
4. Sh. Karan Singh Tanwar- Member
5. Sh. Ashok Ahuja - Member
6. Sh. C.K. Khaitan - Member
7. Sh. Dharampal - Member
8. Sh. Santosh D. Vaidya - Member
9. Sh. Vikas Anand - Secretary

<b>ITEM NO.</b>	<b>SUBJECT</b>	<b>DECISION</b>
01 (C-36)	Confirmation and signing of the minutes of the Council's Meeting No. 12/2012-13 held on 31.01.2013.	Minutes confirmed.

02 (H-08)	Appointment of Sh. Vikas Anand, IAS (AGMU: 2002) as Secretary, New Delhi Municipal Council.	Resolved by the Council to approve appointment of Sh. Vikas Anand, IAS (AGMU: 2002) as Secretary, NDMC as per provision Section 33(1) & (2) of the NDMC Act, 1994 and payment of salary and allowances to him as per terms and conditions of deputation, with effect from the date of his joining in NDMC.
03 (D-04)	Enhancement of powers of the Chairperson, NDMC to enter into contracts on behalf of the Council – reg.	Information noted.
04 (B-19)	Purchase of 11 KV HT XLPE Cable of size: 400 sq.mm/3C duly ISI marked.	<p>Council, after discussing the matter at length, observed that cable of similar specifications was purchased in last tender in September, 2011 @ ` 9,02,800/- per km plus other charges extra which is now being quoted by L-1 @ ` 9,62,700/- per km plus other charges extra. The Council therefore, decided that a Committee consisting of FA, and C.E. (E-II) may examine the possibility of negotiating the rates with L-1 bidder for reduction keeping in view the guidelines and codal provisions in this regard, if any.</p> <p>It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.</p>
05 (B-20)	Revised estimate for augmentation of 33KV ESS at Kidwai Nagar (West).	<p>Resolved by the Council to accord administrative approval &amp; expenditure sanction to the revised estimate amounting to `557.17 Lacs (G) and `556.75 Lacs (N) (`392.436 Lacs for electrical works+164.314 Lacs for civil works) for Augmentation of 33KV ESS at Kidwai Nagar (West).</p> <p>It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of</p>

		the Minutes by the Council.
06 (L-04)	Modification/Clarification in Estate Policy approved by the Council vide Reso. No. 9(L-1) dt. 30.9.2004 in respect of charging of security deposit from Govt. Departments	Council after detailed deliberations resolved to defer the agenda.
07 (J-03)	Revision of parking charges/tariff in N.D.M.C. area and decision on Palika Parking.	<p>Council discussed the issues involved in detail and resolved as below : –</p> <p>(i) The proposed amended in terms &amp; conditions for allotment of parking lots, as proposed in para 4 (26) of the agenda is approved.</p> <p>(ii) Parking space at Palika Parking (opposite Palika Bazar) would also be allotted through open tenders.</p> <p>(iii) On the issue of provision and management of CCTV by the contractor, the Enforcement Department was advised to take up the matter with Delhi Police, seeking their acceptance to the proposed arrangement.</p> <p>(iv) It was further approved to extend the term of existing parking contractors by three months, by which time the revised policy is expected to be in place.</p> <p>(v) The decision with regard to revision in parking rates was deferred.</p>
08 (O-05)	Placing of Annual Audit Report for the year ended March 2010 in the Council.	Information noted. The Council further decided that the reply (Action Taken Note) to the paras of the Annual Audit Report should be furnished by all the concerned Departments to the Chief Auditor within six weeks so that the Chief Auditor may place them before the Standing Committee on Audit alongwith her recommendations.

09 (C-37)	Contracts/Schemes involving an expenditure of Rs.1 Lac but not exceeding Rs.100 lacs.	Information noted.
10 (C-38)	Action Taken Report on the status of ongoing schemes/works approved by the Council.	Information noted.
11 (A-41)	S/R of Roads in NDMC area. SH: - Riding Quality Improvement Programme (Phase-IV). Micro surfacing.	<p>Resolved by the Council to accord administrative approval and expenditure sanction to the Preliminary Estimate amounting to `11,58,57,400/- for the work "Strengthening and resurfacing of roads in NDMC area. SH :- Riding Quality Improvement Programme Phase – IV (Micro surfacing).</p> <p>It was also decided that members may forward list of roads, if any, which they feel needs improvement, to C.E. (C-I), who would have the same examined.</p>
12 (A-42)	Redevelopment of Connaught Place – Extension of Agreement & Deferment of two nos. New Subways.	<p>The Council resolved, by majority to :-</p> <ul style="list-style-type: none"> <li>(i) Extend time line for completion of the project upto 30.06.2013.</li> <li>(ii) Not to undertake construction of two new subways at G-block &amp; H-block out of four new subways taken in hand, as per details given in para 14 of the agenda.</li> <li>(iii) Information for Construction of Steel Box Service Ducts at four places across the Outer Circle for completion and connectivity to service corridor was noted by the Council, with the rider that it should be ensured that total expenditure will not exceed Rs.477.02</li> </ul>

		crores as approved by the Council vide Resolution No. 13/A-18 dt. 25.06.12.
13 (H-09)	Denial of exemption u/s 5 of the Payment of Gratuity Act 1972 by the Central Govt.	Council discussed the issue at length and resolved that a Sub-committee be constituted by the Chairperson, NDMC to examine the issue and give its recommendations with one month.
	<b>OTHER ISSUES</b>	
	Reply to one pending question raised by Smt. Tajdar Babar, Vice Chairperson.	Reply placed on table.

Sd/-  
**(VIKAS ANAND)**  
**SECRETARY**

Sd/-  
**(ARCHNA ARORA)**  
**CHAIRPERSON**

Annexure one page

**ITEM NO. 02 (I-02)****1. Name of the Subject/project:**

Modern Data Centre at NDMC

**2. Name of the department / departments concerned:**

Information Technology Department.

**3. Brief history of the subject/project:**

NDMC has its own Data Centre at 7<sup>th</sup> Floor in IT Department for providing the various services to the citizens:

1. Operational Automation System
2. Electricity Water Billing
3. Property Tax
4. NDMC Web Portal
5. Booking of Barat Ghar
6. Birth & Death
7. e-Finance Services

The existing Data Centre was developed in 2000-2001 with only 2 or 3 Servers for providing services with small space at 7<sup>th</sup> floor. Now, NDMC has 16 Blade Servers and also procured 10 more Blade Servers which may need the proper cooling, big space etc. Due to implementation of Operational Automation System, NDMC has requirement of approx. 20 Blade Servers.

Council resolved to accord A/A & E/S vide item no. 24(I-01 dated 26.04.2012) for the estimate amounting to Rs. 2,67,40,936/-(plus taxes extra as applicable) for establishing Modern Data Centre for NDMC with the direction to explore the possibility of using NIC Data Center on rental basis by NDMC for its requirements, the possibility of using NIC Data Center on rental basis was explored and found that it was more expensive as

compared to establishment of its own DC and DR Centre. Accordingly decision was taken to establish its own Data Centre and DR centre.

**4. Detailed proposal on the subject/project:**

Open tenders were invited through e-procurement system as well as wide publicity in the leading newspaper in the first call of tender, out of 2 bidders only one fulfilled the technical criteria. For better competition, it was decided to call fresh tender. Accordingly tender was recalled. In response two bidders submit their proposal; both the bidders i.e. M/s.Trimax IT Infrastructure and Service Limited and M/s.

Sai Infosystem (India) Ltd fulfilled the technical criteria. Hence their financial bid was opened on 07.03.2013. The rates of M/s. Sai Infosystem (India) Ltd emerged as L1 bidder who quoted the rate as ` Rs.2,90,53,585.08 (tax extra) in comparison to the rates of M/s.Trimax IT Infrastructure and Service Ltd who quoted Rs.3,79,26,799.58/-

**5. Financial implications of the proposed/subject:**

Total Commercial implication for establishment of Modern Data Centre shall come to Rs.2,90,53,585/- (Rupees Two Crore Ninety Lacs Fifty Three Thousand Five Hundred Eighty Five) plus Taxes Extra as applicable which is 8.06% above the estimated cost. Further, the rates are within 10% of estimated cost . The sufficient funds are available in IT Head of account 4106008, Scheme Number 4 and Sub Scheme Number 8 in Budget Estimate 2013-14.

**6. Implementation schedule with timeliness for each stage including internal processing:**

The expected time for awarding the work would be **one month** which would include Award of contract, signing of contract and agreement.

The expected time for Establishment of two number of Modern Data Centre (DC + DR) of NDMC would be **4 Months**.

**7. Comments of the Finance deptt. on the subject :**

"M/s. SAI Info. System India Ltd. has emerged L-1 firm with quoted amount as Rs.2,90,53,585/-. The quoted amount of the firm are found 8.6% above the estimated cost put to tender. The deptt., however, has not prepared any justification statement and stated that rates are reasonable and justified as compared to the estimated Cost. We have no objection to the proposal of the deptt. to process the case further for award of work to L-1 firm M/s. SAI Info. System India Ltd. at their quoted amount of Rs.2,90,53,585/- and as per terms, conditions and specification of NIT".

**8. Comments of the Deptt. on comments of Finance Deptt. :**

The certificate is available in the file. The rate is within 10% of the estimated cost.

**9 Legal implication of the subject/project:**

Finance Deptt. vide its Diary No. 422/Finance dated 15.03.13, stated that "As a certificate recorded by the Deptt. that rate received are justified in comparison to estimated cost. As per para 20.4.3.1 of CPWD Works Manual also stipulated that there is no need for preparing justification in case the lowest tender is less than the estimated cost put to tender + 10%. In the instance case the lowest offer is 8.6% above the estimated cost and within 10%. Finance Deptt. has already concurred the proposal at page 57/N, the Deptt. may process the case for seeking the approval of the competent authority.

**10. Comments of the Law deptt. on the subject :**

No legal issue involved.

**11. Comments of the Deptt. on comments of Law Deptt. :**

No Comments.

**12. Certification by the department that All Central Vigilance Commission (CVC) guidelines have been followed while processing the case:-**

It is certified that all CVC guidelines have been followed during tendering process.

**13. Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject :**

**Council Resolution No. 24(I-01) dated 01/05/2012**

**Council Decision:** Resolved by the council to accord Administrative Approval and Expenditure Sanction for the estimate amounting to Rs.2,67,40,936/- (Tax Extra) as applicable for establishing a Modern Data Center for NDMC.

The Council also directed to explore the possibility of using NIC Data Center on rental basis by NDMC for its requirements.

**14. Recommendation:**

The department recommends for establishing a Modern Data Center for NDMC. Accordingly, it is recommended to accept the tender for an amount of Rs.2,90,53,585/- (Tax Extra) and award the work to M/s SAI INFOSYSTEM (INDIA) LIMITED. The tender value is within the allowed 10% variation permissible under CPWD Manual.

**15. Draft Resolution:**

It is resolved to award the work to M/s SAI INFOSYSTEM (INDIA) LIMITED against the tendered value of **Rs. 2,90,53,585/-** (Tax Extra) for establishing a modern Data Centre for NDMC. It is further resolved that the Department may initiate action in anticipation of confirmation of the minutes by the Council.

**COUNCIL'S DECISION**

Resolved by the Council to award the work to M/s SAI INFOSYSTEM (INDIA) LIMITED against the tendered value of ` 2,90,53,585/- (Tax Extra) for establishing a modern Data Centre for NDMC.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**ITEM NO. 03 (B-21)**

1. **Name of project:** Norms for Annual Maintenance of Various Electrical Services/Work (Review).

2. **Name of Department concurred:** ELECTRICITY DEPARTMENT

3. **Brief History of the project:**

Council vide its resolution No. 6(B-3) dated 27.05.2005 had approved norms for annual maintenance of various electrical services/works initially to streamline the sanctioning of maintenance estimates & the same were valid upto 31.03.2008. There were further extended vide Council Resolution No.19 (B-10) dated 18.06.2008 for a period of 3 years i.e. upto 31.03.2010 & lastly extended till 31.03.2013 vide Council Resolution No.15 (B-37) dated 14.1.2011 (**Annexure-A See pages 13 - 15**). As such there are required to be extended further.

4. **Detailed Proposal on the project:**

With the approval of Chairperson a Sub-Committee under the Chairmanship of ACE (E II) was constituted wherein SEE-II, SEE-III, EE (D/N), EE (BM-II), EE (M/S) & A.O (E-I) were the members, to review, suggest and recommend the norms for service/maintenance of various electrical works.

The Sub-Committee met and after in series discussions it has concluded that existing norms do not require any revision considering the fact that Electrical system has recently been augmented / upgraded considerably during recent past, although there is an inflationary trend in the market. In case any change in the norms is felt necessary, the same may be reviewed in the mid term.

The case has been seen by the Finance Department and concurred into the proposal of department to continue the existing norms explained in **Annexure 'B' (See page 16)** table 1 & 2 for annual maintenance of various electrical services/works valid, upto 31.03.2016.

5. **Financial Implications:**

The norms percentage for various electrical services are approved on the basis of capital cost with a limit in percentage variation of capital cost not more than 5% over the preceding year.

6. **Implementation Schedule:**

The norms shall be valid upto 31.03.2016.

- 7. Comments of the Finance Department:** The Deptt. has referred two issues in the Finance for concurrence. One is to extend the existing norms (which are going to expire on 31.03.2013) for further period of three years w.e.f. 01.04.2013 to 31.03.2016 and another is to allow Chief Engineer (E) to approve the A/R & M/O estimates as per the norms and budget provisions. Finance Deptt. has no objection to extend the existing norms for further period of three years w.e.f. 01.04.2013 to 31.03.2016 as proposed by the Deptt. However, power to sanction A/R & M/O estimate vests with E-in-C/Secretary as per delegation of power issued with the approval of Chairperson dated 11/13<sup>th</sup> April, 2012 and to be regulated by it accordingly.

Further, it is mentioned that the Council has only accorded approval in maintenance norms explained in table 17 & 18 of resolution No. 06 (B-03) dated 27.05.2005 and no approval was given to CE(E) to approve the A/R & M/O estimate as being referred by department time and again.

- 8. Comments of the Department on comments of Finance Department:** Needful done as observed by finance.

- 9. Legal Implication on the Subject:**

Nil

- 10. Details of previous Council Resolution:**

Council Resolution No. 6 (B-3) dated 27.05.2005.

Council Resolution No. 19 (B-10) dated 18.06.2008.

Council Resolution No.15 (B-37) dated 14.01.2011 (**Annexure-A See pages 13 - 15**).

- 11. Comments of Law Department:**

It has no legal issue.

- 12. Comments of the Department on comments of Law Department:**

Nil

- 13. Certification by the Department:**

All Central Vigilance Commission (CVC) guidelines have been followed.

- 14. Recommendations of the Department:**

The case may be placed before the council for approval to continue the existing norms (**Annexure 'B' table 1 & 2 See page 16**) for annual maintenance of various electrical

services/works for period upto 31.03.2016 based on which, the annual maintenance estimates shall be approved by the authority competent as per delegation of powers.

**15. Draft Resolution:**

Resolved by the Council that the existing norms for maintenance of Electrical services as explained above in **Annexure 'B' (table 1 & 2 See page 16)** are approved for the period upto 31.03.2016, based on which the annual maintenance estimates shall be approved by the authority competent as per delegation of powers.

**COUNCIL'S DECISION**

Resolved by the Council that the existing norms for maintenance of Electrical Services as explained in Annexure 'B' of the agenda are approved for the period upto 31.03.2016, based on which the annual maintenance estimates shall be approved by the competent authority as per delegation of powers.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.





**ANNEXURE ENDS**

**Table 1**

<b>S.No.</b>	<b>Name of work</b>	<b>Norms percentage of capital cost</b>
1.	Annual maintenance of Central AC Plant in Commercial Complexes office complexes	10.15 9.15
2.	Annual maintenance of Air Conditioners (window type and split units),water coolers	9.90
3.	Annual maintenance of Desert Coolers	14.40
4.	Annual maintenance of D.G.Sets in Commercial Complexes office complexes	11.30 10.30
5.	Annual maintenance of 66/33/11KV incoming feeders	1.50
6.	Annual maintenance of 66/33KV sub-stations	0.85
7.	Annual maintenance of 11KV sub-stations	1.70
8.	Annual maintenance of 11KV Distribution network	2.00
9.	Annual maintenance of LT distribution network	1.40
10.	Annual maintenance of House service meters	0.70
11.	Annual maintenance of road lighting in NDMC area	28%

**Table 2**

<b>S.No.</b>	<b>Variation in capital cost over the preceding year</b>	<b>Percentage variation</b>	<b>Value of capital cost to be taken for calculating norms.</b>
1.	Decrease	No limit	Actual decreased value of capital
2.	Increase	Less than 5%	Actual increased value of capital cost.
3.	Increase	More than 5%	Increased value of capital cost. The increase in capital cost over the preceding year shall be restricted to 5%.



**ITEM NO. 04 (B-22)****1. Name of the Project:**

Providing Electronic Parking Guidance & Management System for Palika Parking.

**2. Name of Department:**

Electricity Department

**3. Brief History of the subject:**

An estimate for providing Electronic Parking Guidance & Management system at Palika Parking amounting `3,11,83,200/- was approved by Council vide Reso. no. 15(A-32) dated 18/6/08. During the course of execution of project certain extra/ additional items were executed within the deviation clause of the agreement, with due approval of competent authority. The total amount of the work executed exceeded the amount of AA & ES even after adding permissible 10% variation in AA & ES. Revised AA & ES is accordingly needed from the Council to regulate the case.

**4. Detailed proposal on the subject:**

The AA & ES of `3,11,83,200/- to Provide Electronic Parking Guidance and Management System for Palika Parking was approved by the Council vide item No.15(A-32) dated 18/06/2008 (**Annexure 'A' See pages 21 - 28**)

The tender was awarded to M/s. Auto Pass India at a cost of `2,58,84,884/-, duly approved by the Council, vide item no.15 (B-31) dated 24/02/2010. During the course of execution of project certain extra/ additional items were executed within the deviation clause of the agreement. Approval of the Chairperson, NDMC for AQS & EIS amounting to `8,86,183/- in r/o this work was also obtained by the department on 26/12/2011. Before that, Civil Engg. Department had obtained "In Principle Approval" from Chairman on 24/12/2010 for executing the similar work at Talkatora Indoor Stadium under the aforesaid running contract of Palika Parking after operating the deviation limit of ( $\pm 50\%$ ). The value of work done in this case is stated to be `82,25,813/- {79.61 lacs + `84,385 (Extra items) + `1,79,536 (substituted items)} as checked by Planning.

The total amount of work done under this contract (including the work done under deviation clause at Talkatora Stadium) is mentioned as under:

**'A'**

i) Work done in <b>Palika Parking</b> including four year AMC	₹	2,51,44,355/-
ii) Additional/ Extra items in Palika Parking (702136 + 184047 + 59791)	₹	9,45,974/-
<b>Total of A</b>	<b>A)</b>	<b>₹ 2,60,90,329/-</b>

**'B'**

i) Work done in <b>Talkatora Stadium</b> Parking (under deviation clause)	₹	79,61,892/-
ii) Extra/ substituted items in this work	₹	2,63,921/-
<b>Total of B</b>	<b>B)</b>	<b>₹ 82,25,813/-</b>

<b>Total value of work at both the locations</b>	<b>(A+B)</b>	<b>₹ 3,43,16,142/-</b>
AA & ES value	=	₹ 3,11,83,200/-
Permissible 10% variation over and above AA & ES value	=	₹ 31,18,320/-
<b>Total value of AA &amp; ES available</b>	=	<b>₹ 3,43,01,520/-</b>

As the total value of work (₹3,43,16,142/-) is exceeding the total amount of AA & ES even after adding permissible 10% variation in AA&ES (₹3,43,01,520/-). The revised AA&ES is required from the council to regulate the case.

**5. Financial Implications:**

₹3,43,16,142/- (including ₹19,20,000/- on account of AMC for four years).

**6. Implementation Schedule:**

Work completed on 01.06.2011.

**7. Comments of Finance Department:**

The case of Providing Parking Guidance System (PGS) at Palika Bazar parking and Talkatora Stadium Parking has come to Finance department in separate files from both the Electricity Department as well as from the civil Engg. Department. Although advise has

been given, it seems there is a deadlock between the two department. On the issue of working out the deviation statements after completion of work and in order to close the contract. In this regard, the brief facts are mentioned as under:

1. The AA & ES of `3,11,83,200/- to Provide Electronic Parking Guidance and Management System for Palika Parking was approved by the Council vide item No.15(A-32) dated 18/06/2008 **(recorded at P-118 of Agreement)**
2. The tender was awarded by Electricity Department at an cost of `2,58,84,884/- duly approved by the Council vide item no.15 (B-31) dated 24/02/2010 **(recorded at P-127 of agreement)**
3. Approval of the Chairperson, NDMC for AQS & EIS amounting to `8,86,183/- in r/o this work was also obtained by the Electricity department on 26/12/2011.
4. Before that, Civil Engg. Department had obtained "In Principle Approval" from Chairman on 24/12/2010 for executing the similar work at Talkatora Indoor Stadium under the aforesaid running contract of Palika Parking after operating the deviation limit of ( $\pm 50\%$ ). The value of work done in this case is stated to be for `82,25,813/- {`79.61 lacs + `84,385 (Extra items) + `1,79,536 (substituted items)} as checked by Planning.
5. The total amount of work done under this contract (including the work done under deviation clause at Talkatora Stadium) is mentioned as under:

i) Work done in Palika Parking	` 2,58,84,884/-	
ii) Addl. Qty & Extra items in Palika Parking	<u>8,86,183/-</u>	
	<b>A) ` 2,67,71,067/-</b>	
i) Work done in Talkatora Stadium Parking (under deviation clause)	` 79,61,892/-	
ii) Extra items and substituted items in this work	<u>2,63,921/-</u>	
	<b>B) ` 82,25,813/-</b>	
<b>Total value of work done at both the locations</b>	<b>(A+B) ` 3,49,96,880/-</b>	
AA & ES value	= ` 3,11,83,200/-	
Permissible 10% variation over and above AA & ES value	= <u>31,18,320/-</u>	
<b>Total value of AA &amp; ES available</b>	<b>= ` 3,43,01,520/-</b>	

6. As the work at Talkatora Stadium Parking under 50% deviation clause of NIT/ contract of Palika Parking was got executed by the Civil Engg. Department, and the value of the work done and also the value of extra items and substituted items have been worked out by the Civil Engg. Department, the Electricity Department may incorporate these statements while working out the overall deviation at both the sites under this contract in terms of Para 24 of CPWD Manual.
7. As the total value of work done (₹3,49,96,880/-) is exceeding the total amount of AA & ES even after adding permissible 10% variation in AA&ES (₹3,43,01,520/-) the Electricity Department needs to seek the revised AA&ES from the council to regulate the case.

#### 8. Comments of the Department on the comments of Finance Department:

With reference to observation of finance appearing on P-32-33/N it is submitted that the amount of work done under this contract has been inadvertently taken as Rs.25884884/-. The actual amount of work done under the contract is detailed as under:

The total amount of work done under this contract (including the work done under deviation clause at Talkatora Stadium) is mentioned as under:

#### 'A'

i) Work done in <b>Palika Parking</b> including four year AMC	₹	2,51,44,355/-
ii) Additional/ Extra items in Palika Parking (702136 + 184047 + 59791)	₹	9,45,974/-
<b>Total of A</b>	<b>A)</b>	<b>₹ 2,60,90,329/-</b>

#### 'B'

i) Work done in <b>Talkatora Stadium</b> Parking (under deviation clause)	₹	79,61,892/-
ii) Extra/ substituted items in this work	₹	2,63,921/-
<b>Total of B</b>	<b>B)</b>	<b>₹ 82,25,813/-</b>

<b>Total value of work at both the locations</b>	<b>(A+B)</b>	<b>₹ 3,43,16,142/-</b>
AA & ES value	=	₹ 3,11,83,200/-
Permissible 10% variation over and above AA & ES value	=	₹ 31,18,320/-
<b>Total value of AA &amp; ES available</b>	=	<b>₹ 3,43,01,520/-</b>

The amount of `2,58,84,884/- has been mentioned for the value of work done in Palika Parking in the observation of Finance department, which actually is the value of tendered amount. The actual amount of work done in Palika Parking along with the value of four year AMC is `2,51,44,355/-. The value of additional/Extra items in Palika Parking has been mentioned as `8,86,183/- in the observation of Finance department whereas the final amount of additional/ extra items is `9,45,974/- (8,86,183/- + 59,791/-).

As the total value of work (`3,43,16,142/-) is exceeding the total amount of AA & ES even after adding permissible 10% variation in AA&ES (`3,43,01,520/-), the revised AA&ES is required from the council to regulate the case.

**9. Final view of Finance Department:**

FA has seen the case with no further comments.

**10. Legal Implication of the subject:**

Nil

**11. Details of previous Council Resolution, existing law of parliament and assembly on the subject:**

Council Resolution no.15 (A-32) dated 18/06/2008

**12. Comments of the department on the comments of Law Deptt:**

Nil

**13. Final view of Law Department (wherever necessary):**

It has no legal issue.

**14. Certified that all CVC's guidelines have been followed while processing the case:**

It is certified that all CVC's guidelines have been followed while processing the case.

**15. Recommendations:**

Approval of revised AA & ES amounting to `3,43,16,142/- (including `19,20,000/- on a/c of AMC for four years) for the work of Providing Electronic Parking Guidance & Management System for Palika Parking, is requested from the Council to regulate the case.

**16. Draft Resolution:**

Resolved by the Council to approve revised AA & ES amounting to `3,43,16,142/- (including `19,20,000/- on a/c of AMC for four years) for the work of Providing Electronic Parking Guidance & Management System for Palika Parking to regulate the case.

**COUNCIL'S DECISION**

Resolved by the Council to approve revised administrative approval and expenditure sanction amounting to `3,43,16,142/- (including `19,20,000/- on a/c of AMC for four years) for the work of Providing Electronic Parking Guidance & Management System for Palika Parking.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

ANNEXURE 8 PAGES













ANNEXURE ENDS

**ITEM NO. 05 (B-23)**

1. **Name of Subject/Project: Purchase of 11 KV HT XLPE Cable of size: 400 sq.mm/3C duly ISI marked.**
2. **Name of the Department : ELECTRICITY DEPARTMENT**
3. **Brief History of the subject/Project:** A case for the procurement of 22.5 Km of **11 KV HT XLPE Cable of size: 400 sq.mm/3C duly ISI marked** was processed against the sanctioned estimates duly approved by Council /CE(E-II) as per "**ANNEXURE"A See pages 34 - 35.**
4. **Detailed Proposal of the Subject/Project:** Tenders were invited in three cover through e-procurement system from the manufacturers for the purchase 22.5 Km of **11 KV HT XLPE Cable of size: 400 sq.mm/3C duly ISI marked** by giving due publicity to the NIT as per the codal provisions. In response to the Tender Enquiry, offers of the following Five firms were received on due date of opening 19.03.2012 on e-portal system.
  1. **M/s Krishna Electrical Industries Ltd.**
  2. **M/s Havells India Ltd.**
  3. **M/s Polycab Wires Pvt. Ltd.**
  4. **M/s Hindusthan Vidyut Products Ltd.**
  5. **M/s KEI Industries Ltd.**

The offers of the above firms were scrutinized and subsequently examined by the planning division, all the firms were found eligible as per NIT requirement.

With the approval of CE(E-II), the price bids of all the eligible firms were opened on 20.06.12. It is submitted that during the evolution of price bid, the L-I Tenderer M/s Krishna Electrical Industries Ltd. had quoted their rates by taking excise duty @ 10.30% or as applicable and based on the comparative computer generated statement of all the bids, the L-I Tenderer M/s Krishna Electrical Industries Ltd. because of it than prevailing rates of ED was emerged lowest. However when the case was to be put up to the Council, it was observed that the rate of excise duty payable to the firm on the date of award was actually has since been increased to 12.36%. on this rate when the bids were re-compared the position changed and M/s

Hindusthan Vidyut Products Ltd. emerged eligible L-I firm. The position of each tendering firm is as under:

Name of the Firm	Rates as per offer of the firm (₹)	Estimated cost put to tender (₹)	Remarks
M/s Krishna Electrical Industries Ltd.	QR- 2,13,12,000.00 CR- 2,48,61,586.46	CR- 2,22,07,500.00	The rate of L-I firm, M/s Hindusthan Vidyut Products Ltd. is 11.39% above than the estimated cost put to tender based on Sanctioned Estimate No. E-19/2011-12/EEP.
M/s Havells India Ltd.	QR- 2,23,87,500.00 CR- 2,57,66,140.95		
M/s Polycab Wires Pvt. Ltd	QR- 2,19,37,500.00 CR- 2,50,98,975.00		
M/s Hindusthan Vidyut Products Ltd.	QR- 2,13,68,250.00 CR- 2,47,37,053.014 ( L-I)		
M/s KEI Industries Ltd.	QR- 2,41,20,000.00 CR- 2,76,13,444.32		

As can be seen from the above table, **M/s Hindusthan Vidyut Products Ltd.** has been emerged as first lowest tendering firm, with their Ex-works rates `9,49,700.00 per km+ ED @ 12.36% or as applicable + CST @ 2% against form 'C'+ Freight & Insurance @ `10,000.00 per Km + Local cartage & Handling @ `1000.00 per Km thus making computed cost to `10,99,424.58 per km length of cable. The total computed cost for the purchase of 22.5 Km 11 KV HT XLPE cable worked out to `2,47,37,053.014 say: `2,47,37,053.00. Justification statement has been prepared based on Current market rate taken from M/s. Paramount Communications Ltd & LPR vide SO. No.22/DP/EE(S-I)/2011-12 dt.20.09.11 and tabulated as under:-

Description	Offer of L-I firm, M/s Hindusthan Vidyut Products Ltd.	Estimated Cost Put to Tender based on Sanctioned Estimate.	As per LPR placed on M/s Hindusthan Vidyut Products Ltd. dt.20.09.11	As per the lowest current market rate taken from M/s. Paramount Communications Ltd dt.26.06.12.	Remarks
1. 11KV HT XLPE Cable of size 400					The Ex-works rate of L-I firm are as under

sq.mm/3C duly ISI marked Qty:- 22.5 Km <b>Ex-works rate</b>	<b>9,49,700.00 per Km</b>	<b>8,56,800 per Km.</b>	<b>9,02,800.00 per Km</b>	<b>11,22,000.00 per Km</b>	<p>1. 10.88% above than the estimated cost based on the S.O. dt. 04/03/2010.</p> <p>2. 5.159% above the the LPR dt. 20/09/2011</p> <p>3. However the quoted rates are 15.36% below than the current market Rates Dt. 26/06/2012.</p>
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The rate of lowest tendering firm, **M/s Hindusthan Vidyut Products Ltd.** is lowest, competitive, reasonable and hence justified.

The case was examined by the Planning and subsequently concurred by Finance vide Dy. No.450 /Finance/R-Electric dated 21.03.2013.

**5. Financial Implications of the proposed subject/Project:**

₹2,47,37,053/- (Rupees Two Crore Fourty Seven Lakh Thirty Seven Thousand and Fifty Three only) inclusive of taxes, duties etc.

**6. Implementation Schedule with timeline for each stage including processing:**

The material shall be supplied within **Two months** from date of issue of supply order.

**7. Comments of the Finance Department on the subject.**

1. The e-tendering system considering the note stated in the schedule of quantity placed in the NIT file at P-31/C that "The L-I position amongst all tendering firms will be based on the total L-I computed cost inclusive of all taxes duties and other charges", generate the financial comparative statement considering the L-I to M/s Krishna Electric Industry Ltd., ignoring the rate of excise duty and proposal of the deptt. was concurred by FD at P-42/N.
2. Since the deptt. has not obtained any letter/consent of M/s Krishna Electrical Industry Ltd. whether they are interested to carry out the work at their quoted rate with 10.36% ED on the other hand, the deptt. had refunded the Earnest Money of M/s Hindusthan Vidyut Ltd., if the revised proposal of the deptt. is considered to award the work to M/s Hindusthan Vidyut Ltd. It might create complication.
3. In view of above circumstances it is advised that to avoid any complication in future in the instance case, the deptt. after revisiting their NIT particularly the note below the schedule of quantity and take the action as per terms & condition strictly stipulated in the NIT.

#### **8. Comments of the Department on the comments of the Finance Deptt.**

1. It is once again clarified during the evaluation of price-bid of the above tender, the L-I tenderer M/s Krishna Electrical Industries Ltd. had quoted their rates by taking excise duty @ 10.30% or as applicable. Accordingly, the comparative computer generated statement of all the bids, the L-I tenderer because of it then prevailing rates of ED was emerged lowest. However when the case was to be put up to the Council, it was observed that the rate of excise duty payable to the firm on the date of award was actually has since been increased to 12.36%. On this rate when the bids were re-compared, the position changed and M/s Hindusthan Vidyut Products emerged eligible L-I firm.

2. The earlier L-I firm M/s Krishna Electrical Industries Ltd. who had quoted their rates as per ED rates of 10.3% have confirmed vide their letter dated 19.01.2013 placed at page 993/C that "We would like to inform you that even the quoted basic prices are not workable on date which hardly covers the cost of raw material, over this absorption of increased excise duty is not acceptable to us. However we may accept the updated prices on increased excise duty @ 12.36% as per the prevalent rate payable as per the terms and conditions of NIT." AO(E)II has also examined the case in r/o to refund of EMD & clarified that there should be no controversy in it if the tender is awarded to the eligible lowest tenderer i.e. M/s Hindusthan Vidyut Products Ltd.

3. Since the validity of the tender is going to expire on 31.03.2013 and the Council meeting is scheduled for 26.03.2013, the case was also discussed informally during the meeting in the Chamber of F.A. on dt.18.03.2013 when CE(E)II, ACE(E)I, SE(E)V, EE(S-I) were

present and advise to the deptt. for re-considering of the case. The present trend of the prices of various cables is on the upward due to increase in prices of raw material.

**9. Final view of the Finance Department:**

The replies furnished by the department have been examined. As per revised comparative statement drawn by the department which was based on correct applicable excise duty, M/s Hindusthan Vidyut Products have emerged L-I firm. We concur in the proposal of the department to place the supply order on M/s Hindusthan Vidyut Products for supply of HT XLPE Cable of size 400 sq.mm/3 core duly ISI marked, quantity 22.5 Kms. at their quoted amount of Rs.9,49,700/- per km + excise duty @ 12.36% or as applicable + CST @ 2% + Freight & Insurance @ Rs.10,000/- per KM + local cartage & Handling Rs.1000 per KM making total computed cost as Rs.2,47,37,053/-and on the terms and conditions of NIT. However the deptt. may bring on the record the background of the case covering the issue of excise duty rate and justify its action to propose the acceptance of tender of M/s Hindusthan Vidyut Products.

**10. Legal Implication of the Subject/Project:** Nil.

**11. Details of previous Council Resolution, existing law of Parliament and Assembly on the Subject:**

**Resolution No. 02(B-01) dated 20.04.2011**

**Resolution No. 03(B-11) dated 13.09.2011**

Placed at **ANNEXURE "B"** (See pages 36 -57).

**12. Comments of department on comments of the Law Department:** NIL

**13. Final view of the Law Department:** It involves no law point.

**14. Certification by the Department:** All Central Vigilance Commission (CVC) guidelines have been followed while processing the case.

**15. Recommendations of the Department:** The case may be placed before the Council for approval for the purchase of 11KV HT XLPE Cable of size: 400 sq.mm/3 C duly ISI marked Qty:22.5Km from the eligible lowest tendering firm, **M/s Hindusthan Vidyut Products Ltd.** with their Ex-works rates `9,49,700.00 per km+ ED @ 12.36% or as applicable + CST @ 2% against form 'C'+ Freight & Insurance @ `10,000.00 per Km + Local cartage & Handling @ `1000.00 per Km thus making computed cost to `10,99,424.58 per km length of cable on the terms, conditions and specification of NIT. The total computed cost for the purchase of 22.5 Km 11 KV HT XLPE cable worked out to `2,47,37,053/- Since the material requirement is of urgent nature, approval may also be accorded to place Supply Order on the firm in anticipation of the confirmation of the minutes of the Council meeting.

**16. Draft Resolution:** Resolved by the Council that the approval is accorded for the purchase of 22.5 Km 11KV HT XLPE Cable of size: 400 sq.mm/3 C duly ISI marked from the eligible lowest tendering firm, **M/s Hindusthan Vidyut Products Ltd.** with their Ex-works rates `9,49,700.00 per km+ ED @ 12.36% or as applicable + CST @ 2% against form 'C'+ Freight & Insurance @ `10,000.00 per Km + Local cartage & Handling @ `1000.00 per Km thus making computed cost to `10,99,424.58 per km length of cable on the terms, conditions and specification of NIT. The total computed cost for the purchase of 22.5 Km 11 KV HT XLPE cable worked out to `2,47,37,053/- . Approval is also accorded to place Supply Order on the firm in anticipation of the confirmation of the minutes of the Council meeting.

#### **COUNCIL'S DECISION**

Resolved by the Council to accord approval for purchase of 22.5 Km 11KV HT XLPE Cable of size: 400 sq.mm/3 C duly ISI marked from the eligible lowest tendering firm, **M/s Hindusthan Vidyut Products Ltd.** with their Ex-works rates `9,49,700.00 per km+ ED @ 12.36% or as applicable + CST @ 2% against form 'C'+ Freight & Insurance @ `10,000.00 per Km + Local cartage & Handling @ `1000.00 per Km thus making computed cost to `10,99,424.58 per km length of

cable on the terms, conditions and specification of NIT. The total computed cost for the purchase of 22.5 Km 11 KV HT XLPE cable works out to `2,47,37,053/-.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**ANNEXURE 'A'**

<b>S. No</b>	<b>Estimate No./ Division</b>	<b>Name of Work</b>	<b>Qty (Mtr)</b>	<b>Sanctioned Amount</b>	<b>A/A &amp; E/S</b>
1.	E-29/2010/EEP C-II	Shifting of Existing sub-station from ground floor to the proposed location in basement of Handloom Complex at Janpath Lane, New Delhi	920	`1,45,85,000/- (Gross)& `1,45,02,500/- (Net)	By Council vide Item No.02 (B-01) dt.20.04.11 placed at CP-16 in the estimate file.
2.	E-37/EE(E)P 11KV/2010 C-III	Installation of 2 x 990 KVA Unitized Sub-station at XY Block, Sarojini Nagar.	5200	`1,82,99,000/-	By Council vide item No.03(B-11) dt.13.09.2011, at CP-28 in the estimate file.
3.	E-45/2010/EEP (Deposit work) C-I	Enhancement of load in M.P.flats/ Bungalows in South Avenue Area.	1550	`1,38,55,500/-	By CEE-II, at CP-38 in the estimate file.
4.	E-3/2011/EEP (Deposit work) C-II	Enhancement of sanctioned load at Udyan Marg CNG Station New Delhi.	815	` 68,74,000/-	By CEE-II, at CP-60 in the estimate file.
5.	C- 794+6/2011/EEP C-II	Providing HT Feed to the proposed 2 x 990 KVA Unitized Sub-station at New Delhi YMCA, Jai Singh Road, New Delhi.	3250	`1,06,96,000/- [`33,10,000/- (Chargeable to NDMC) `73,86,000/- (Chargeable to Consumer)]	By CE(E)II, at CP-76 in the estimate file.
6.	E-12/2011/EEP (Deposit work) C-I	Establishing 11-KV Electric Sub-station at R.P.Lane.	2690	`3,82,03,000/-	By CEE-II, at CP-85 in the estimate file.
7.	E-13/2011/EEP (Deposit work) C-II	Establishing 11-KV Electric Sub-station at Canning Lane.	2628	`3,88,63,000/-	By CEE-II, at CP-94 in the estimate file.

8.	C-2126+18/2011-12/EEP C-II	Sanction of Permanent HT Connection at Indira Paryavaran Bhawan for Ministry of Environment & Forest at Jor Bagh Road, Ali Ganj, New Delhi	1950	`83,18,500/- [`27,60,500/- (Chargeable to NDMC) `55,58,000/- (Chargeable to Consumer)]	Net to	By CEE-II, at CP-103 in the estimate file.
9.	E-20/2011-12/EEP C-II	Providing HT Connection to proposed Electric Sub station at B.D.Marg in respect of 52 Nos. flats for Hon'ble M.P.'s, New Delhi	1720	`69,65,500/- [`25,57,500/- (Chargeable to NDMC) `44,08,000/- (Chargeable to Consumer)]	to &	By CE(E)II at CP-759 in the file.
10	C-821+E-26/2011-12/EEP C-II	Estimate for providing HT connection at proposed sub-station at Mizoram House, Pandit Uma Shankar Dixit Marg, Chankya Puri, New Delhi	2500	`72,01,500/- [`26,02,500/- (Chargeable to NDMC) & `45,99,000/- (Chargeable to Consumer)]		By CE(E)II at CP-769 in the file.

ITEM NO. 02 (B-01) /20.04.2011

(1) **Name of the work :** Shifting of Existing sub-station from ground floor to the proposed location in basement of Handloom Complex at Janpath Lane, New Delhi

(2) **Name of the Department :** Electricity

(3) **Brief History of the case :**

SEE, DCEC VIII, CPWD,IP Bhawan, New Delhi has requested for removal/shifting of 2 nos. transformers and sub-station from Handloom Complex at Janpath Lane, New Delhi for construction of multi- storey building for Handloom Complex. The then C.E.(E) has mentioned on the PUC that they should be asked to keep provision of sub-station in the proposed new building of Handloom House.

Accordingly he was requested to provide sub-station space for shifting of existing sub-station at Janpath Lane. Sr. Architect CPWD submitted two sets of drawings on 16.10.10 in respect of construction of Handloom Marketing complex at Janpath. In this connection a meeting was held in the chamber of Chairman on 08.10.08 with the consumer wherein they agreed to provide space for 33 KV electric sub-station. They have also provided the space for NDMC 11 KV electric sub-station in the area allocated in the basement which is acceptable.

C.E.(E) II has accorded the approval on date 12/07/09 to frame the estimate for shifting of existing sub-station from ground floor to proposed location in the basement of Handloom Complex at Janpath.

(4) **Detailed proposal on the Project :**

**Part 'A'**

1. One no. 1600 KVA dry type transformer in place of 2x1000 KVA oil type transformers at new location is in basement due to space constraint
2. 15 nos. HTVC panel board comprising of 2 nos. in-coming panels 1250 amps capacity.. One no. bus coupler 1250 amps and 12 nos. out-going panels.

3. 3 nos. ACB two-tier LT. Panel board comprising 1 no. 2500 amps + 800 amps(I/C + O/G) and 2 nos. 800amps + 800 amps (O/G + O/G)
4. One no. dry type battery tripping unit.
5. 2X400 mm<sup>2</sup> HT XLPE Cable from proposed 33 KV sub-station for each I/C panel.
6. Existing cables shall be extended and terminated in proposed sub-station.

#### **PART 'B'**

1. 400/3-½ C LT. XLPE Cable and st. th. Joints are taken for extending the cables from existing sub-station to proposed sub-station.
  2. G.S Pillar no. 49,49A & 65 are proposed to be fed through proposed Electric Substation in Handloom Complex.
  3. G.S Pillar no. 37,38,39,64 & 64E are proposed to be fed through proposed big size G.S pillar near proposed unitized sub-station near Scindia House through LT XLPE Cable 400 mm<sup>2</sup>/3-½ C.
  4. New proposed big size GS Pillar near Scindia House to be connected from proposed 2 nos. unitized sub-station Scindia House by 2X400 sq.mm/3-½ C LT XLPE Cable.
- (5) **Financial implications** : Financial implications in the proposal is anticipated to be Rs.1,45,85,000/- (gross) and Rs.1,45,02,500/- (net).
- (6) **Implementation schedule**: Six months
- (7) **Comments of the Finance Deptt. on the subject** :
- Finance Deptt. vide Dy. No. 300/Finance/R-Elect. Dated 21-02-2011 have concurred in the estimate with no further comments.
- (8) **Comments of the Deptt. on the Comments of the Finance Deptt.** : NIL

- (9) **Legal implication of the Project** : - No legal implication is involved.
- (10) **Details of previous Council Resolution** : NIL
- (11) **Comments of Law Deptt.** : NIL
- (12) **Comments of the Deptt. on the comments of Law Deptt.:** NIL
- (13) **Certification by the Deptt. that all Central Vigilance Commission (CVC) guidelines have been followed** : It is certified that all Central Vigilance Commission (CVC) guidelines have been followed in processing the case.
- (14) **Recommendation** : The estimate amounting to Rs.1,45,85,000/- (gross) and Rs.1,45,02,500/-(net) for New proposed HT feeds for Shifting of Existing sub-station from ground floor to the proposed location in basement of Handloom Complex at Janpath Lane, New Delhi may be placed before the Council to accord administrative approval and expenditure sanction.
- (15) **Draft Resolution** : Resolved by the Council that Administrative approval and expenditure sanction is granted to the estimate amounting to Rs.1,45,85,000/- (gross) and Rs.1,45,02,500/-(net) for Shifting of Existing sub-station from ground floor to the proposed location in basement of Handloom Complex at Janpath Lane, New Delhi.

**COUNCIL SECRETARIAT**

Resolved by the Council to accord administrative approval and expenditure sanction to the estimate amounting to Rs.1,45,85,000/- (gross) and Rs.1,45,02,500/- (net) for Shifting of Existing sub-station from ground floor to the proposed location in the basement of Handloom Complex at Janpath Lane, New Delhi.



**ITEM NO. 03 (B-11)/13.09.2011**

1. **Name of the work:** Installation of 2 x 990 KVA Unitized Substation at XY Block, Sarojini Nagar.

2. **Name of the Department:** Electricity

3. **Brief History of the case :**

A meeting was held in the chamber of C.E.(E-II) on dated 21/06/2010 in the presence of S.E.(E-II) , EE(D/S) and EE(P-11KV). It has been proposed to install 2 x 990 KVA Unitized Sub Station for Palika Gram NDMC flats XY Block, Y Block, YZ and Z Block at Sarojini Nagar area, as load demand has increased in these areas. The estimate was sent to Advisor (Electric) who suggested some amendments in the estimates and the same have been incorporated to improve reliability and feasibility.

4. **Detailed Proposal on the project:-**

- i) Existing HT Cable 1 x 400 Sqmm /3C between Sub Station Trauma Centre and Sub Station Nursing Hostel is proposed to LILO at Sub Station Safdarjung Staff Qtrs. No. 2.
- ii) An additional HT cable of 1X400 Sqmm/3C between Sub Station Trauma Centre and Sub Station Safdarjung Staff Quarter No.02 shall be proposed and shall be connected in the same HT panel where existing HT cable 1X400Sqmm/3C between Trauma Centre to Nursing Hostel is proposed to LILO at Sub Station Safdarjang Staff Qtr. No. 02.
- iii) Interconnector between Sub Stations Safdarjung Staff Qtr. No. 01 to Sub Station Safdarjung Staff Qtr. No. 02 is proposed to be augmented from proposed 1 X400Sqmm/3C to 2X400Sqmm/3C and existing interconnector of 1X150Sqmm/3C between two Sub Stations may be utilized for setting up a Unitized Sub Station in this area to meet the future growth of load instead of dismantling the cable as proposed by Advisor(Electric). Separate estimate shall be prepared for unitized Sub Station.
- iv) The proposed 1x 400 Sqmm /3c HT Cable from Sub Station Safdarjung Staff Qtrs. No. 2 to Unitized Sub Station to be installed at Palika Gram NDMC Flats XY Block. This HT feed shall be extended to second Unitized Sub Station 1 x 990 KVA to be installed at YZ Block. This HT feed 1 x 400 Sqmm/3C from second Unitized Sub Station shall be further extended to proposed Sub Station Cross Road No. 2. The positions of two no. Unitized Sub Stations shall be decided with the consent of EE (M/S) and EE (D/S).

- v) Two No. HT panels 400Amp VCB type, O/G and one No. I/c HT panel VCB, 400Amp. shall be installed at Sub Station Safdarjung Staff Qtrs, No. 2.
- vi) 1 No. HT Panel VCB type, O/G shall be installed at Sub Station Cross Road No. 2 for Unitized Sub-station at YZ Block .
- vii) 4 No. G. S. pillars Big size shall be installed in the adjoining areas of XY and YZ blocks having their locations with the consent of EE (D/S) and EE (M/S).

**5. Financial Implications:**

Estimate is anticipated to have financial implication of Rs. 1,82,99,000/-

**6. Implementation schedule :**

Eight months

**7. Comments of the Finance Department on the subject:** Finance Department vide Dy. No. 996/Finance/ R-Elect dt. 14.06.11 have concurred in the estimate with no further comments.

**8. Comments of the Department on the comments of the Finance Department:**

NIL.

**9. Legal Implication of the project:** No legal implication is involved.

**10. Details of previous Council Resolution :** NIL, new case.

**11. Comments of Law Department:** It has no legal issue.

**12. Comments of the Department on the comments of Law Department :** Nil

**13. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed:** It is certified that all Central Vigilance Commission (CVC), guidelines have been followed in processing the case.

**14. Recommendation:** The estimate amounting to Rs. 1,82,99,000/- for installation of 2X990 KVA Unitized Sub Stations at XY- Block, Sarojini Nagar may be placed before the council to

accord Administrative Approval and Expenditure Sanction. Approval may also be accorded to take further action in anticipation to confirmation of the minutes of Council Meeting.

15. **Draft Resolution:** Resolved by the council that Administrative Approval and Expenditure Sanction is granted to the estimate amounting to Rs. 1,82,99,000/- for installation of 2X990 KVA Unitized Sub Stations at XY-Block, Sarojini Nagar. Approval is also accorded to take further action in anticipation of confirmation of the Minutes of the Council Meeting.

### COUNCIL'S DECISION

Resolved by the Council to accord administrative approval and expenditure sanction to the estimate amounting to Rs.1,82,99,000/- for installation of 2X990 KVA Unitized Sub Stations at XY-Block, Sarojini Nagar.

It was also resolved that further action may be taken by the Department in anticipation of confirmation of the minutes by the Council.

ANNEXURE 17 PAGES































ANNEXURE ENDS

**ITEM NO. 06 (B-24)**

1. **Name of Subject/Project: Purchase of 11 KV HT XLPE Cable of size: 400 sq.mm/3C duly ISI marked. Qty: 36.5 Km**
2. **Name of the Department : ELECTRICITY DEPARTMENT**

4. **Brief History of the subject/Project:** The agenda item No. 04(B-xix) of the tender case for the purchase of HT 11KV XLPE cable of size 400 sq. mm/3C duly ISI marked Qty. 36.5 km was brought before the Council meeting No. 12/2012-13 held on 28.2.13 the following Resolution was passed by the Council in this matter.

"Council after discussing the matter at length observed that cable of similar specification was purchased in the last tender in Sept. 2011 @ Rs.9,02,800/- PKM plus other charges extra which is now being quoted by the L<sub>1</sub> @ Rs.9,62,700/- PKM plus other charges etc. The Council, therefore, decided that a Committee consisting of FA and CEE II may examine the possibility of negotiating the rates with the L<sub>1</sub>bidder for reduction keeping in view the guidelines and codal provisions in this regard, if any."

**Detailed Proposal of the Subject/Project:** For this purpose, a meeting was held in the chamber of FA on 18<sup>th</sup> March 2013 at 12 noon when CE(E)II, ACE(E) I, SE(E)V and EE(S-I) participated in the meeting. The recommendation of the sub-committee are as under:-

*1. The agenda item no. 04 (B-xix) of the tender case for purchase of 11 KV HT XLPE cable of size 400 sq. mm / 3 C duly ISI marked was brought before the Council meeting no. 12/2012-13 held on 28.2.2013. The following resolution was passed by the Council in this matter.*

***"Council after discussing the matter at length observed that cable of similar specification was purchased in the last tender in Sept. 2011 @ '9,02,800/- PKM plus other charges extra which is now being quoted by the L<sub>1</sub> @ '9,62,700/- PKM plus other charges etc. The Council, therefore, decided that a Committee consisting of FA and CEE II may examine the possibility of negotiating the rates with the L<sub>1</sub>bidder for reduction keeping in view the guide-lines and codal provisions in this regard, if any."***

*2. For this purpose, a meeting was held in the chamber of FA on 18<sup>th</sup> March 2013 at 12 noon when CEE II, ACE (E) I, SEE V and EE(S) I participated in the meeting. The sub-committee deliberated the CVC guide-lines contained in circular no. 4/3/07 dated 3.3.2007 on the subject of negotiations with L<sub>1</sub>. As per this circular of CVC, there should be no post tender negotiations*

with the L<sub>1</sub> except in certain exceptional situations. Such exceptional situation would include proprietary items, items with limited source of supply and items where there is suspicion of cartel formation. The justification and details of such negotiations should be duly recorded and documented without any loss of time.

3. The sub-committee noted that in this case the estimated cost put to tender was `9,02,800/- per km (Ex-works) which was based upon the last purchase rate (LPR) of September 2011. The tendered rates of L1 firm in the present case are `9, 62,700/- per km (Ex-works) which are 6.63% above the estimated cost put to tender. The department had prepared the justified rate in this case by obtaining the current market rates from M/s Polycab Wires Pvt. Ltd. And M/s Paramount Cables, which has quoted the lowest rate of Rs.11, 88,000/- per km vide notice dated 14.12.2012. The department has also obtained a purchase order placed on the L<sub>1</sub> firm by the M/s. Indian Institute of Science Education & Research, Thiruvanthapuram for the same item and the rate in this order is `10, 25,008/- per km.

4. The Sub-Committee also examined the Rates of same item (i.e. 11 KV HT XLPE cable of 400 sq.mm) in last 3 tenders (including the present one). The comparative statement duly signed by officers of Electric Department is enclosed as **Annexure 'A' See page 61**). In all these three cases spanning from March 2011 to August 2012, there was enough competition of Rates, as four or more than four bidders participated in these tenders. The sub-committee finds that the rate of `9,02,800 per km as quoted by L<sub>1</sub> bidder in the tender opened on 10.3.2011 is almost one and half year old than the rate of `9,62,700 per km quoted by L<sub>1</sub> bidder in the tender opened on 23.8.12 and there seems to be no justification to get the later rate negotiated to bring it at par with the rate of previous tender, particularly in the light of fact that other bidders, who had participated in these tenders had quoted higher rates than these rates.

5. However, it was observed by the sub-committee that in another tender (No. 29 / EE (S-I) / 2011-12) opened on 19.03.12 (mentioned at Sl. No. 2 of the Annexure) the rates of the same bidder i.e. M/s Hindusthan Vidyut Products Ltd. are happened to be the lowest among the 5 bidders. The rate in this case is ` 949700 per KM and although the tender is yet to be approved by the Council, but the rates are valid till 31<sup>st</sup> March, 2013. On the other hand the tender, in question, which was opened on 23.08.12, the lowest rates of ` 962700 per KM also quoted by M/s Hindusthan Vidyut Products Ltd. having the validity of rates up to 31<sup>st</sup> March, 2013. In this situation when the two different rates have been quoted by the L<sub>1</sub> bidder for the same item in two different tenders although within a gap of about 6 months and both of these rates are valid till 31.03.13, there is a justification to negotiate the rate with L<sub>1</sub> to bring the rates of subsequent tender at par with the rates of earlier tender. Therefore the sub-committee recommends to conduct negotiation with L<sub>1</sub> in the tender case of 08/EE (S-I)/2012-13 opened on 23.08.2012 in the spirit of CVC circular no. 4/3/07 dated 3.3.2007 on the following grounds :

- i) *The item in both the tenders is of same specification.*
- ii) *The L<sub>1</sub> in both these tenders happens to be the same bidder.*
- iii) *The validity of the rates of L<sub>1</sub>bidder in the two different tenders is same i.e. 31.3.13.*

The recommendation of the sub-committee was approved by Chairperson to hold negotiations with the lowest bidder M/s Hindustan Vidyut Products Ltd. as per standing orders No. 14/2005-06. The negotiation sub-committee was comprised of the following:-

1. E-in-C/Secretary	Chairman
2. Concerned CEE-II	member
3. ACE(E)-I	member
4. SE(P)/(V)	member
5. SE(E-I)	member
6. EE(S-I)	member
7. AO(E)-I	member

Accordingly, the meeting of the negotiation sub-committee comprising of above members was held in the room of Secretary on 22.3.2013 at 10.30 a.m. with the representative of firm M/s Hindusthan Vidyut Products Ltd. At the onset of the meeting, it was explained that there were two tender cases for the purchase of the same item initiated within the gap of five months and the same firm M/s Hindusthan Vidyut Products Ltd. emerged as the lowest tendering firm but there are rate difference i.e. Rs. 9,49,700/- km (ex-works) against tender No. 27/EE(S-I)/2011-12 opened on 19.3.12 and Rs. 9,62,700/- km (ex works) against tender No. 08/EE(S-I)/2012-13 opened on 23.8.12.

To explore the possibility to reduce the rates upto Rs. 9,49,700/- per km from Rs. 9,62,700/- per km, the firm was persuaded to reduce their rates from Rs. 9,62,700/-to Rs. 9,49,700/- per km.

But the firm showed their inability to reduce their rates keeping in view that raw material prices have gone up. The firm has confirmed the same vide their letter dated 22.3.13. (minutes of the negotiation sub-committee placed at **annexure "X" See pages 62 - 63**).

**5. Financial Implications of the proposed subject/Project:** Rs. 4,06,72,808/- (Rs. Four crores six lakhs seventy two thousand eight hundred eight only) inclusive of taxes , duties etc.

**6. Implementation Schedule with timeline for each stage including processing:**

The material shall be supplied within **Three months** from date of issue of supply order.

7. **Comments of the Finance Department on the subject.** N.A.
8. **Comments of the Department on the comments of the Finance Deptt.** Nil
9. **Final view of the Finance Department:** Nil
10. **Legal Implication of the Subject/Project:** Nil
11. **Details of previous Council Resolution, existing law of Parliament and Assembly on the Subject:** No. 04(B-xix) dated 28.2.13 attached herewith (**Annexure Y See pages 64 - 81**)
12. **Comments of department on comments of the Law Department:** NIL
13. **Final view of the Law Department:** It has no legal issue please.
14. **Certification by the Department:** All Central Vigilance Commission (CVC) guidelines have been followed while processing the case.
15. **Recommendations of the Department:** The case is placed before the Council for further direction and decision in the light of the outcome of the negotiation with the L-I bidder.
16. **Draft Resolution:**

#### COUNCIL'S DECISION

Resolved by the Council to accord approval to purchase of 36.5 Km 11KV HT XLPE Cable of size: 400 sq.mm/3 C duly ISI marked from the eligible lowest tendering firm, **M/s Hindustan Vidyut Products Ltd..** with their **Ex-works rates `9,62,700.00 per Km+ ED @ 12.36% extra or as applicable + CST @ 2% against form 'C'+ Freight & Insurance @ ` 10,000.00 Per Km + Local Cartage & Handling @ ` 1,000.00 per Km thus making computed cost to `11,14,323.51 per**

**Km length of cable. The total computed cost for the purchase of 36.5 KM cable works out to ₹4,06,72,808.00** on the terms, conditions and specifications of the NIT.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

ANNEXURE 21 PAGES







































ANNEXURE ENDS

**ITEM NO. 07 (L-05)****1 Name of the Subject:**

Operation and maintenance of Five Star Hotel Premises at 1, Man Singh Road after the expiry of the extended licence period on 10<sup>th</sup> October, 2012.

**2 Name of the Department:**

Estate-I Department

**3. Brief History of the Subject:**

3 (i) A detailed proposal on the subject based on report of our Consultant for the project i.e. M/s Ernst & Young alongwith opinion of Additional Solicitor General and others was placed before the Council vide item No. 09 (E-03) in the meeting held on 27.09.2012. The Council after carefully considering all the facts placed before it resolved that:

"The Council carefully considered all the facts placed before it in the Agenda Item, including the Annexures, and noted that IHC not only has a clean record in its dealing with the Council, but has also made regular payments of license fee to it till date and that there are no disputes between the Council and the Licensee (IHC Ltd).

After discussing at length the pros and cons of the two options proposed in the Item the Council resolved by majority, to opt for public auction, in a fair and transparent manner, of the NDMC property at 1, Man Singh Road, with first right of refusal to Indian Hotel Company. The recourse to public auction would serve to determine the market price of the license fee that IHC would have to match if they wish to run a hotel at this property. This option, the Council noted would also safeguard its revenue interests.

The Council further resolved by majority to extend the period of license of IHC, on existing terms and conditions, for a further period of one year or till such time a new licensee is chosen through the bidding process, whichever is earlier."

3 (ii) The copy of the aforesaid agenda item 9 (E-03) dt. 27.09.2012 is enclosed as

**Annexure "A" See pages 87 - 119.**

**4. Detailed proposal on the Subject:**

4 (i) M/s Ernst & Young consultant for the project was informed about the decision taken in the aforesaid Council meeting held on 27.09.2012 vide letter No. D/390/PA/DE-I/2012 dt. 05/11/2012 (copy enclosed as **Annexure "B" See page 120**) and advising them to work on the Request for Proposal (RFP) document including Draft Agreement.

4 (ii) The matter was discussed by M/s Ernst & Young before finalizing the document and wherever necessary, the details were provided. Further, the Council had resolved to give first right of refusal to IHC and therefore, our Consultant for the project have sought legal advice from Mr. Gagan Anand, Advocate and Solicitor/Sr. Partner Legally Law Officers as to whether IHC would be required to participate in the bidding process or otherwise, who vide their letter dt. January 31, 2013 (copy enclosed as **Annexure "C" See pages 121 - 124**) have advised as under:

**"In view of the above described legal position, we are of the considered opinion that in order to optimally safeguard the interests of NDMC**

against the underlying legal risks of proceeding ahead with the bidding process on the basis of its decision dt. 27.09.2012 to grant limited preferential treatment to IHC by allowing it an opportunity to match the highest offer, the latest version of RFP document and the Draft License Agreement forwarded to NDMC by E&Y have been legally structured in the best and the safest possible manner.

Further, in our considered opinion, adopting any other method such as addressing a letter to IHC by NDMC thereby calling upon IHC to accept certain terms & conditions shall be neither legally tenable nor required, in view of the legal position that there is no legal right vested with IHC for seeking any special rights/privileges in any bidding process to be conducted by NDMC. The decision under the special circumstances of the case can be implemented most effectively through the provisions of the RFP document and the Draft Licence Deed already submitted to NDMC by E&Y.”

4 (iii) Further, M/s Ernst & Young vide their letter dt. 15.03.2013 have forwarded draft RFP document (**enclosed as separate booklet**). This document is in two parts first being RFP and the second part being Draft Agreement. In brief the broad parameters provided in the document are as below:-

(a) **Eligibility Criteria:**

The bidders should have experience of operation and management of 1000 five star or higher category rooms in India continuously for last 3 years out of which one property should be having not less than 250 rooms and each of the aforesaid 1000 rooms as well as 250 rooms should be in hotel property accredited by MOT, GOI on the date of submission of bid.

(b) **Minimum Guaranteed Licence fee:**

As far as minimum guaranteed licence fee expected from the selected bidder is concerned, the Consultant have proposed to fix the same at ` 36 crores per annum, to be increased to ` 43 crores after 10 years and ` 52 crores after 20 years.

(c) **Annual Licence Fee:**

The selected bidder/licensee shall be required to pay to NDMC the annual licence fee @ percentage of the gross annual revenue for each year as quoted by the selected bidder in its financial bid, subject to minimum guaranteed amount of ` 36 crores per annum to be increased to ` 43 crores after 10 years and ` 52 crores after 20 years. Further, the rate of percentage of annual licence fee bid is proposed to be enhanced by 1% after every 10 years.

(d) **Net financial worth of bidder:**

The eligible bidder should have a minimum net financial worth/capital requirement of ` 500 crores.

(e) **'No dues certificate'** in respect of payment of Income Tax and Municipal taxes is required to be submitted by the bidder.

**5. Financial implication of the proposed Subject:**

The proposed conditions in the RFP document provides that NDMC would continue to get at least the minimum amount it is getting from the present licensee. Further, revenue would depend upon rates received in bidding process.

**6. Implementation schedule with timeliness for each stage including internal processing:**

Immediately on approval of draft RFP Document by the Council, the Consultant would go for press notice.

**7. Comments of the Finance Department on the subject with diary number and date:**

Finance Department vide diary No. 447/Finance dt. 21.03.2013 has observed that: - The RFP documents prepared by the Consultant seems to be in order and Finance Department have no objection to the proposed draft RFP documents prepared for upgradation, operation & maintenance of a 5 star Hotel at 1, Man Singh Road, New Delhi and for placing the same before the Council for approval.

**8. Comments of the Department on comments of Finance Department:**

No Comments.

**9. Final Comments of the Finance Department (If any):**

Finance Department has concurred the proposal of Department.

**10. Legal implication of the subject:**

The document has been vetted by the legal team of the Consultant.

**11. Details of previous Council Resolutions on the subject:**

Copy of Resolution No. 9 (E-03) dt. 27.09.2012 enclosed as **Annexure "A" See pages 87 - 119.**

**12. Comments of the Law Deptt on the Subject:**

Law Department vide diary No. R-7/PS/LA/2013 dt. 21.03.2013 has observed that: - This is to comply with the Resolution of the Council and has no legal issues at this stage.

**13. Comments of the Department on the comments of the Law Deptt:**

No Comments.

**14. Final Comments of Law Department, (If any):**

Law Department has concurred the proposal of Department.

**15. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

N.A.

**16. Recommendations:**

Draft RFP document (two parts) received from M/s Ernst & Young our Consultant for the project and enclosed with the agenda may be approved by the Council and authorize the Consultant to proceed further in the matter.

**17. Draft Resolution:**

The Council having gone through the agenda item, with enclosures resolved to accept the draft RFP document (two parts) prepared by our Consultant. The Council further directed the Consultant (M/s Ernst & Young) to proceed further with the aforesaid RFP Document.

**COUNCIL'S DECISION**

After detailed deliberations, the Council, by majority, decided to await for copy of the orders in the pending Court cases and thereafter the matter would be discussed in a Special meeting of the Council.

ITEM NO. 09 (E-03)/27.09.20121. **Name of the Subject :-**

1.1 Operation and Management of Five Star Hotel Premises at 1, Man Singh Road after the expiry of the extended license period on 10 October 2012.

2. **Name of the Department :**

2.1 Estate-I Department.

3. **Detailed History on the Subject Matter:**

3.1. This proposal was considered by the Council in its meetings held on 07.10.2011 and 25.07.2012. A copy each of these two Agenda Items is at **Annexure-'A' (See pages 109 – 116)** and **Annexure-'B' (See pages 117 – 121)**.

3.2 In these meetings Council decided as under :-

(i) Meeting of 07.10.2011

*a) To accord sanction for extension of existing collaboration project and lease deed for one year up to 10.10.2012, subject to the condition that the Indian Hotel Corporation[IHCL] shall agree to pay license fee as per mutually agreed terms and conditions retrospectively w.e.f.11.10.2011.*

*b) To accord sanction for further review and actions in accordance with the decision of Ministry of Urban Development, the legal advice the Committee's recommendations and Consultant's Reports.*

- c) *The Council also directed that the Department should work out the timelines for completing the above exercise and the Council be informed of the progress.*
- d) *It was also resolved by the Council that further action may be taken by the department in anticipation of confirmation of the minutes by the Council.*

(ii) Meeting of 25.07.2012

- a) *After considering the facts and circumstances of the case, it was resolved by the Council, by majority, that the Council may charge from the Licensee, M/s. IHC Ltd. License fee @ of 17.25% of the Gross turnover or Rs.21 crores a year for the period from 11.10.2011 to 10.10.2011, whichever is higher.*
- b) *The Council further directed that the final report of the Consultant appointed to recommend further course of action be brought before the Council at the earliest.*
- c) *It was also resolved by the Council that further action in the matter be taken by the department in anticipation of confirmation of the Minutes by the Council.*

3.3 The Report of Consultant and the opinion of the Addl. Solicitor General have been received and are being placed before the Council, through this Agenda Item. **The Council is now required to take a decision in the matter.**

3.4 To arrive at a decision in the matter, it appears necessary to place before the Council history of the project and chronology of dates and events.

3.5 In early 1976, a piece of land measuring 3.78 acres at 1, Man Singh Road, along with structures was offered by the then Ministry of Works and Housing to N.D.M.C. to construct a hotel which should be available for the PATA Conference of 1978. The New Delhi Municipal

Committee, as it then was constituted, accepted the offer of allotment of land to construct the Hotel. It appears from the Committee's Agenda Item that a request from Indian Hotels Co. Ltd. was also pending with the Ministry of Works and Housing for allotment of this plot of land to IHCL for construction of a hotel. IHCL approached the New Delhi Municipal Committee to collaborate in construction of the hotel. An extract from the Agenda placed for consideration of the Committee in April, 1976 and its Resolution are extracted as under :- Quote

*"The offer of India Hotels Co. Ltd. appears to be quite favourable if compared with the return that we are getting from ITDC in respect of Akbar Hotel. There is also an advantage that entire initial expenditure of preparation, design and management and supervision of the project would be borne by IHC. Broad terms and conditions of joint participation can be discussed in detail and interest of the Committee can be ensured. It is for consideration and in the interest of the Committee to take the following decisions:-*

- i) Acceptance of the allotment of land by the Ministry of Works and Housing for the construction of a hotel on the terms and conditions as may be offered.*
- ii) Acceptance of the proposals of M/s. The Indian Hotels Co. Ltd. in principle, for participation jointly in the construction and running of the hotel.*
- iii) Discussing further details with M/s. The Indian Hotels Co. Ltd. in order to finalize a draft of the License deed for approval of the Committee.*

**Committee's Resolution / Observation :**

**Resolved that :-**

- (i) The allotment of land by the Ministry of Works & Housing for the construction of a hotel on the terms and conditions as may be offered be accepted.*

- (ii) *Proposals of M/s. The Indian Hotels Co. Ltd. For participation jointly in the construction and running of the hotel be accepted in principle.*
- (iii) *Draft License deed to be executed with M/s. The Indian Hotels Co. Ltd. be discussed and finalized for approval of the Committee". Unquote*

3.6 Copy of letter of allotment of land is Annexure-'I' (See pages 122 – 124).

3.7 A Collaboration Agreement was thereafter entered into between New Delhi Municipal Committee and IHCL. A copy of this agreement is at Annexure-II (See pages 125 – 145). After executing the Collaboration Agreement, a License deed was also drawn between the New Delhi Municipal Committee and IHCL [**Annexure-III See pages 146 - 160**]. IHCL was responsible for construction of the building on the plot of land allotted to the New Delhi Municipal Committee and cost to the extent of Rs. 475 lac was to be provided by the Committee. Through a Supplementary Deed, the cost of the land and building was fixed at Rs. 626 lac. Any expenses in addition to the above were to be met by IHCL.

3.8 Relevant clauses from this License Deed are as under :- Quote

"Clause-I - License

1. *The Licensor has, subject to the provisions of sub-clause1 of Clause-II hereinafter, granted License to the Licensee to enter into and occupy the said hotel from a date to be mutually agreed upon for the purpose of running a hotel of acceptable standards together with all the related facilities and business appurtenant the ratio, for the furtherance and development of tourism in India.*
  
2. *In terms of the Collaboration Agreement entered into between NDMC and the Indian Hotels Company Limited on 18<sup>th</sup> December, 1976 at New Delhi [hereinafter called the Collaboration Agreement], the Licensor hereby agrees and allows the Licensee to commence hotel operations partially by the end of March, 1978 notwithstanding the fact that the hotel building is not completed in all respects in terms of the Collaboration Agreement provided a minimum of 40 guest rooms and one restaurant are ready for use and occupation.*

Clause II – Term

1. *The license hereby granted shall be in force a period of thirty three years commencing from the date of occupation of the hotel by the first paying guest subject to the condition that the Licensee shall be bound by and observe and perform all the terms and conditions contained in this license throughout the period of this license.*
  
2. *On expiry of the period of license of the said hotel building hereby granted, the Licensor shall have the option to grant the license for a further period on such terms and conditions as may be mutually agreed upon between the Licensor and the Licensee. If the Licensee shall be desirous of obtaining a License for a further period after the expiry of the present License, it shall give to the Licensor, a notice in writing of not less than sixty (60) days prior to the date of expiry of the present License for the consideration of the Licensor.*

Clause – III – License Fee and Manner of Payment

1. *In consideration of the Licensor granting to the Licensee, the License in respect of the said hotel building as hereinabove referred to, the Licensee shall pay to the Licensor as and by way of License fee an amount equivalent to 10-1/2 percent (ten and a half percent) of the gross income of the Licensee for every financial year of the Licensee as certified by the statutory auditors of the Licensee or a sum equivalent to 15% (fifteen percent) of the Licensor's investment in the said hotel building, the terms of the Collaboration Agreement, whichever is higher. The liability for the payment of License fee as aforesaid shall commence from the date of commissioning of 300 rooms in the hotel or first day of December, 1978, whichever is earlier. The License fee in respect of the period which is less than a full financial year shall be paid by the Licensee to the Licensor on a prorata basis on the basis of the statement certified by the statutory auditors of the Licensee.*

EXPLANATION : i) *Financial Year: For the purpose of this Clause, the term 'financial year' of the Licensee shall mean the 12 month period commencing from the first day of April of any year and ending on the 31<sup>st</sup> day of March of the following year.*

(ii) *Gross Income :* For the purpose of this Clause, the term 'gross income' of the Licensee for any financial year shall represent the total amount of income derived by the Licensee from the said hotel as certified by the statutory auditors of the Licensee. The gross income shall include receipt of income on account of rooms, restaurants, banquet parties, pool side snack bar, bar-be-que, room service, public rooms, function rooms,

*laundry, shop rentals, entertainment shows, counter spaces, show windows, showcases and barber and beauty shops. The gross income shall not include;*

- a) *Income of the shops, counter spaces and any other area sub-Licensed by the Licensee to other persons or parties from whom the Licensee is only entitled to rental in respect of the area sub-Licensed.*
  - b) *Income from rooms shall be net income after adjusting the commissions or discounts paid or payable to travel agents, tour operators, group leaders or the agencies making the bookings of rooms in the said hotel.*
  - c) *Sales taxes, other taxes pertaining to sales and service charges collected on behalf of the employees.*
2. *Before a financial year comes to an end, the Licensee shall estimate the gross income from the said hotel for the ensuing financial year and accordingly estimate the amount of License fee payable by the Licensee to the Licensor as aforesaid. The License fee so estimated or the minimum annual guaranteed amount, whichever is higher, shall be paid by the Licensee to the Licensor in advance every year in twelve (12) equal monthly installments. The monthly installment will be paid on or before the 10<sup>th</sup> of the month for which it is due and payable.*
  3. *The Licensee shall furnish to the Licensor every year, within a period of thirty(3) days of the date on which the audited accounts of the Licensee are approved and adopted at the Annual General Meeting of the shareholders of the Licensee, a statement duly certified by the statutory auditors of the Licensee appointed in pursuance of the relevant provisions of the Companies Act, 1956 giving break-up of the various items comprising the total income in relation to the business of the Licensee in the said hotel during the preceding financial year.*
  4. *Within thirty(30) days of holding the Annual General Meeting of the shareholders of the Licensee in accordance with the provisions of Company Law at which the annual audited accounts of the Licensee are placed and approved, the Licensee shall pay to the Licensor the License fee falling short of the License fee becoming due and payable on annual audited income basis as certified by the statutory auditors on the basis of the License fee stipulated in sub-clause 1 here above and the estimated License fee paid to the Licensor as stipulated in sub-clause 2 hereinabove. Any amount of License fee paid in excess by the Licensee to the Licensor shall be adjusted from the next installments of License fee as due and payable by the Licensee to the Licensor.*
  5. *Within thirty(30) days from the date of the Licensee commencing operations in the said hotel building, whether partially or fully, the Licensee shall furnish to the Licensor a Bank*

*Guarantee underwritten by anyone of the nationalized banks having a branch in New Delhi equivalent to the amount of 3 months' License fee as estimated by the Licensee, as and by way of security.*

Clause- VI – Possession of Hotel Building

1. *The Licensor and the Licensee shall mutually fix the date on which the possession of the said hotel building shall be handed over to the Licensee for commissioning it as a hotel, whether partially or fully notwithstanding that the construction of the said hotel building in terms of the Collaboration Agreement has not been completed and the Licensor has not given the Completion Certificate in respect of the said hotel building to the Licensee. At the time of handing over possession of the said hotel building as aforesaid the Licensor and the Licensee will jointly make an inventory of the assets being handed over to the Licensee for partial or full commissioning of the hotel and the Licensee shall not contend thereafter that the hotel building or equipment, installations, fittings, fixtures, or any of the other assets listed in the inventory to be prepared as aforesaid are not complete in any respect whatsoever. If any change, addition or alteration be necessary, the Licensee shall do the same at its own cost after obtaining the Licensor's written permission. The Licensor shall have no objection to the Licensee replacing any of the fittings and fixtures such as bath tubs, sanitary ware, lifts, doors etc. at the cost of the Licensee after giving intimation to the Licensor to this effect in writing.*
2. *The ownership of the said hotel [the land on which the said hotel is situated belongs to the Licensor] shall at all times vest in the Licensor, together, with all fittings, fixtures and other installations of immovable type or of the type the removal of which is likely to cause damage to the building. A list of such fittings, fixtures and installations shall be drawn jointly by the representatives of the Licensor and the Licensee before the Licensee takes over the hotel building for the purpose of running a hotel of acceptable standard therein.*
3. *All movable assets in the hotel building referred to in Schedule-III to the Collaboration Agreement as well as all other assets including assets such as air-conditioning compressors, air handling units, fan coil units, pumps, cooling towers, piping conduiting, electrical panels, lighting fixtures, diesel generating sets, water treatment plants, boilers, laundry equipment, kitchen equipment and other hotel equipment which the Licensee pays for an equips and furnishes the hotel building with, shall belong at all times to the Licensee. The Licensee shall be entitled to all rights, title and interest to or in respect of such assets throughout the currency of this agreement as well as upon its termination.*
4. *Upon the termination of this agreement, the Licensor may purchase the Licensee's assets at reasonable prices to be mutually agreed upon between the Licensee and the Licensor.*

Clause- IX – Future Expansion

*During the period of the License hereby granted or the renewed period of the License, should it be necessary or expedient in the interest of furtherance and development of tourism in the Capital City – Delhi to expand or add to the facilities in the said hotel building in terms of additional guest rooms, function rooms, public areas, restaurant and other facilities either in the same premises and/or adjoining property, if and when made available, the Licensor hereby permits the Licensee to carry out such additions or expansion on the terms and conditions to be mutually agreed upon*

Clause- X – Termination

*If the Licensee commits a default in the payment of the License fee in the manner provided in this Deed of License or ceases to do business in the said hotel building or commits breach of any of the terms of this Deed willfully or otherwise, the Licensor may give a notice in writing to Licensee for remedying the breach and if the Licensee fails to do so within a period of thirty (30) days from the date of such notice, the Licensor may terminate the License without giving any further notice.*

Clause- XII – Handing over possession of the Hotel Building to the Licensor

*On the expiry of the License period and in the event of the License having been terminated earlier, the Licensee shall hand over the possession of the hotel building together with fittings and fixtures and all other installations belonging to the Licensor as per the Collaboration Agreement [excluding those items of the Licensor replaced by the Licensee in terms of the Deed of License heretofore] in the same conditions as far as practicable as at the time of taking them from the Licensor alongwith the installations as described in the Deed of License heretofore save normal wear and tear and modifications alongwith the building referred to in this Deed with its fittings and fixtures and all other installations as stipulated in this License heretofore, within thirty(30) days from the expiry of the License period or termination of the License deed as the case may be. The Licensee shall pay such damage charges for Overstayal in the premises from the date of expiry of the License period or from the date the License is terminated at the rate as may be determined by the Licensor from time to time and which shall not be less than the License fee paid immediately before the expiry of the License period and in the event of the License having been terminated earlier, the Licensee shall have the right to take away*

*the Licensee's assets including the assets referred to in Schedule-III to the Collaboration Agreement and all other assets belonging to the Licensee, which Licensee may voluntarily bring into the hotel at its own cost. **Unquote***

3.9 The License commenced from 11.10.1978 and was for a period of 33 years up to 10.10.2011. IHC was to pay a License fee of 15% of cost of 626 lacs or 10.5% of gross income whichever is higher. In addition House Tax of Rs.12 lacs and ground rent of about Rs.23 lacs were also payable on yearly basis.

3.10 IHCL has paid the License fee as per the License deed and minor disputes about charging of the interest during moratorium period and method of calculation of gross income and interest on the additional amount due have also been settled. During these 33 years, as against minimum License fee of less than Rs 3300 lac, IHC have paid License fee of about Rs 26000 lac. IHC have also incurred an expenditure of about Rs 13300 lac in this Hotel Project. (**Annexure-IV** See **page 161 - 162**).

3.11 As per requirement of Clause-II(2) of the License deed, IHC has exercised the option of grant of License for a further period on terms and conditions as may be mutually agreed upon and this option is under consideration of the Council. A copy of option dated 15 February, 2010 is at **Annexure-V** (See **page 163**)

3.12 On the date of completion of 33 years of License, no dues, no disputes or violations of the terms of the License are available on record.

3.13 Prior to establishment of New Delhi Municipal Council through the NDMC Act 1994, the New Delhi Municipal Committee, as it then was, was governed by the Punjab Municipal Act 1911. As per section 416(2)(a) of the NDMC Act, 1994 any License or permission granted under the

Punjab Municipal Act 1911 and in force immediately before the establishment of the Council shall in so far as it is not inconsistent with the provisions of NDMC Act 1994, shall continue in force and deemed to have been made under the provisions of the N.D.M.C. Act 1994 unless and until it is superseded by any License or permission granted under the provisions of the NDMC Act 1994.

3.14 Under the N.D.M.C. Act 1994, Chapter-X relate to "Property and Contracts". Section 141 relates to the disposal of immovable properties. The said section provides that the Chairperson may with the sanction of the Council, lease, sell, let out on hire or otherwise transfer any immovable property belonging to the Council. The consideration for which any immovable property may be sold, leased or otherwise transferred shall not be less than the value at which such immovable property could be sold, leased or otherwise transferred in normal and fair competition. As per sub-section (3) of this section, the sanction of the Council under this section may be given either generally or for any class of cases or specially for any particular case.

3.15 After the coming into force of the N.D.M.C. Act 1994, general guidelines to attend to cases of disposal of immovable property were not available. The Council in its Resolution of 19 March 1999, approved detailed guidelines on the subject. In respect of "special categories of properties" the approved guidelines as contained in clause 9 of the said resolution was that "hotels, cinemas and similar projects etc. may be governed as per mutually agreed terms and conditions as entered into by the Council from time to time".

3.16 The above policy of 19 March 1999 was reconsidered by the Council in its meeting on 30 August 2000. Para 3 and 6(i) of the Agenda Item are relevant and are re-produced hereunder :-

**Quote**

*"3 It has been observed that renewal in case of premises of hotels and the cinema complex is on mutually agreed term. The existing Estate Policy provides for determining terms and conditions as also License fee on mutually agreed terms as approved by N.D.M.C. vide its resolution No. 6 dated 18.3.99. Clause 9 for special categories reads as under :-*

*"Hotels / Cinemas and similar other projects may be governed as mutually agreed terms and conditions as entered into by the Council from time to time."*

*(i) The above decision appears contradictory to section 141(2) of N.D.M.C. Act, which relates to the disposal of immovable property and puts an embargo on transfer of premises on non-competitive terms. The Section reads as under :-*

*"141(2) – The consideration for which any immovable property may be sold, leased or otherwise transferred shall not be less than the value at which such immovable property could be sold, leased or otherwise transferred in normal and fair competition."*

*(ii) Thus, it is obvious from the above Section that its use should be allowed on payment of license fees determined on competitive basis. In case Council goes by the existing policy as stated above, the existing licensee can always involve the Council in unending disputes as it has happened in case of Chanakya Cinema in which the licensee started litigation against N.D.M.C. soon after obtaining the License. Same is the fate of premises licensed for hotel businesses where the licensees stress on irrational terms and drag the Council in various courts.*

***“6. In view of the above position, following proposal is laid before the Council for consideration and approval :-***

***(i) On the expiry of present term of licenses of hotels/cinemas and other similar commercial complexes, the licenses shall not be renewed. The fresh License shall be as per provisions of Section-141(2) of the N.D.M.C. Act, 1994.”***

***Unquote***

3.17 The Council approved the proposal contained in para 6 of the Agenda Item that on the expiry of the term of License of the hotels/ cinemas and other similar commercial complexes, the Licenses shall not be renewed. A fresh License shall be as per provisions of section 141(2) of the N.D.M.C. Act 1994.

3.18 After the above resolution, the claim of further renewal of License of Chanakya Cinema Complex came up for consideration of the Council. In this case the premises were allotted on auction basis on License for a period of 10 years from 01.10.1970. It had a renewal clause for a period of 10 years. The renewed License deed was for a period of 10 years from 01<sup>st</sup> October 1980. It had no clause for further renewal. The New Delhi Municipal Committee, however, offered to the licensee to renew it for further period of 10 years on increased License fee. This was not accepted by the licensee and no License deed was executed and as such, from 01<sup>st</sup> October 1990, M/s. Aggarwal & Modi became unauthorized occupants. Instead of extending the License in 2000, the Council decided to develop Cinema Complex as a Multiplex. M/s. Aggarwal & Modi gave an offer to develop it as a Multiplex. This was not accepted by the New Delhi Municipal Council. Since the License had not been renewed and they were un-authorized occupants in the premises, an effort was made to take a vacant possession of the premises. M/s. Aggarwal & Modi filed a writ petition in the Delhi High court and challenged the Council's Reso. of 30 August 2000 and

claimed that provisions of section 141 are not attracted. The writ petition was dismissed by the Single Judge vide Judgement dt. 08<sup>th</sup> August 2003. However, the Court permitted petitioner to continue to occupy the premises up to 30<sup>th</sup> September 2003. The petitioner filed an LPA against the order of the Single Judge. The DB of the Delhi High Court vide judgement dt. 30 August 2005 dismissed the appeal and imposed a cost of Rs. 25,000/- on the appellant. The Appellants filed a Civil Appeal in the Supreme Court which was dismissed by the Supreme Court on 31<sup>st</sup> August 2007. Para 23 of the Supreme Court judgement is as under :- **Quote**

*“23. Disposal of public property partakes the character of trust and there is distinct demarcated approach for disposal of public property in contradiction to the disposal of private property i.e. it should be for public purpose and in public interest. Invitation for participation in public auction ensures transparency and it would be free from bias or discrimination and beyond reproach.” Unquote*

3.19 Facts of the case Aggarwal and Modi V/s NDMC differs from the case of M/s IHC Ltd. in the following respects

(i) Aggarwal and Modi were un-authorized occupants and were occupying the premises from 01.10.1990 without licence deed. IHCL are in occupation of premises by virtue of a valid licence deed which has been extended upto 10.10.2012

(ii) In case of Chanakya Cinema, the council had decided to convert it into a multiplex for which Aggarwal and Modi had no expertise. In the case of hotel at Man Singh Road, there is no proposal to change the usage of the building. IHCL has expertise to run similar hotel in Delhi and other places.

3.20 As referred to in Para-3.11 above, IHC has exercised option for consideration of Council, as available under Clause-II(2) of License and has sought grant of License for a further period after expiry of the present term of License and this option is for consideration of the Council the Licensor.

3.21 After receipt of the option from IHC, the Chairperson, NDMC on 27.07.2010 constituted a Committee headed by Financial Advisor and included Legal Advisor and Director(Estate-I) to suggest action to be taken on the option exercised by IHC. A copy of the said order is at **Annexure-‘VI’ (See pages 164 – 166)**. The Committee held its meeting from time to time and advised the Estate Department to first obtain legal opinion on the applicability of provision of section-141(2) of the NDMC Act and only if the property is not to be put to auction and is proposed to be given to IHC, would the Committee give its recommendations to grant License for a further period on mutually acceptable terms and conditions.

3.22 The Estate Department suggested to IHC to obtain a legal opinion about applicability of provision of Section-141(2) of the NDMC Act and also sought opinion from Standing Counsel of the Council. The opinion dated 26.11.2010 of Shri Harish Salve as obtained by the IHC is at **Annexure-‘VII’ (See pages 167 – 180)** and the opinion of the Standing Counsel Smt. Madhu Tewatia dated 15 March 2011 is at **Annexure-‘VIII’ (See pages 181 – 186)**. Shri Salve opined as under :- **Quote**

"

Question	Answer
Whether the provisions of Sections141(2) of NDMC Act, 1994 will be attracted/applicable when the renewal/extension of the License of the Taj Mahal Hotel comes up for	Considering the nature of the transaction, the renewal of the License may not be governed by section-141(2) of the Act. Even if it is, the renewal of the License, the consideration of

consideration by NDMC	which is a share of revenue for the hotel property, cannot be considered to be a violation of section-141(2) of the Act.
Whether the resolution dated 30 <sup>th</sup> August, 2000 passed by NDMC apropos the provisions of Section-141(2) shall be applicable to the case of the Taj Mahal Hotel when the License granted by NDMC to IHCL is considered for extension/renewal by NDMC?	The resolution would apply to situations of License simplicitor where property [land and/or buildings] of the NDMC are made available to other agencies for use. It cannot apply to a joint venture in which there is a revenue share arrangements.
Whether the judgement of Delhi High court in the Chanakya case, the appeal against which was also dismissed by the Supreme Court shall be applicable to the case of renewal/extension of License in respect of the Taj Mahal Hotel and if not, the reasons therefore ?	In the negative.

"

**Unquote**

3.23 Smt. Madhu Tewatia, Standing Counsel opined as under :-

1. **Quote** "The Resolution of the Council may not therefore be applicable in terms Stricto Sensu as in the present case, the License term would require to be extended or renewed subject to mutually agreed terms which does not fall in the category of cessation of License and consequent of a fresh lease or License."

**Unquote**

2. **Quote** "The decision of the Supreme Court of India interpreting the provisions of section-141(2) and Resolution dated 30.08.2000 would not prohibit the continuation of the license arrangement of the NDMC with IHCL, the vital and dominant consideration always being maximum consideration for immovable property even in cases governing contractual rights inter-se the parties where the NDMC is to offer state grant. "Further, the Standing Counsel has also mentioned that " NDMC could vary the percentage of revenue sharing based on gross receipts of the hotel, so as to get an amount equivalent to the fair market value."

**Unquote**

3.24 After receipt of the opinion of Shri Salve and Smt. Madhu Tewatia, SC, the Estate Department placed a brief for consideration of the Committee **Annexure-'IX' (See pages 187 – 192)**. The Committee submitted its report on 14.07.2011 and a copy of the same is at **Annexure-'X' (See pages 193 – 200)**. Among other things, the Committee recommended that the License may be extended further for a period of 30 years and License fee, with a minimum as well as percentage of gross income, whichever is higher, may be negotiated. License fee suggested was as under :-

<b>Duration</b>	<b>Minimum Fee</b>	<b>Fee as Percentage of turnover</b>
First ten years	21 crore per annum	17.25% of gross turnover
Second ten years	25 crore per annum	18.25% of gross turnover
Last ten years	30 crore per annum	19.25% of gross turnover

3.25 A copy of letter dated 15.07.2011 from IHC on the subject is at **Annexure-'XI' (See pages 201 – 203)**.

3.26 On 1 August, 2011 in the Ministry of Urban Development, there was a meeting in regard to payment of certain dues in respect of certain hotels. An extract from minutes of this meeting dated 1 August 2011 is as under :- **Quote**

*“The issue of renewal of License of Hotel Taj Man Singh came up for discussion. Chairman, NDMC pointed out that as per the License, the existing operator has to first right of refusal. To maximize revenues, it was felt that NDMC should invite open bids and then ask the existing operator to match the highest bidder to exercise their right of first refusal. In case they are not willing to pay this amount, the bid of the highest bidder may be considered as per rules, after due diligence and following all procedural formalities”. Unquote*

3.27 Pursuant to these minutes, Chairperson, NDMC vide letter dated 14.09.2011 wrote to the Ministry clarifying that:-

- i) The stand of NDMC was not correctly reflected in the minutes.
- ii) The direction on 'Fresh Auction and First right of refusal' may not be implementable and may be reconsidered in view of the provisions of the existing agreement.

3.28 There was another meeting in the Ministry on 14 November 2011 and the relevant minutes of the meeting are as under :-.

**Quote** “The Minutes of the meeting held on 01.08.2011 and 26.08.2011 and the D.O. letter written by Chairperson NDMC in response to the minutes was mentioned. Additional Secretary (UD & DL) and JS (FA) stated that NDMC should strive to get as close to the market rent as possible, even if it has to negotiate with M/s IHC in relation to the said minutes. Secretary NDMC stated that in the Meeting of the Council held on 07.10.2011, the

Council has resolved to accord sanction for extensions of existing collaboration agreement and licence deed with M/s IHC for a period of one year subject to the condition that M/s IHC shall pay licence fee as per mutually agreed term and condition. It was further stated by him that NDMC has also already initiated the process of appointing a Transaction Consultant.

Secretary (UD) noted NDMC's above decision and advised that the Council may take further appropriate steps." **Unquote**

A copy of these minutes is at **Annexure-XII (See pages 204 – 206)**

3.29 While the opinion of Shri Harish Salve, Sr. Advocate, Smt. Madhu Tewatia, Standing Counsel, report of the Committee and minutes of the Ministry of Urban Development were under consideration for being placed before the Council, it was felt that the department may examine other aspects such as recent transactions in DDA, DIAL, DMRC of similar nature and the practices followed in hotel projects in other states where revenue sharing has been the bidding criteria. It was also felt that NDMC may also assess NDMC's and IHC investment in this venture. Accordingly, ITDC was approached to make available their consultancy services and give recommendations in this regard.

3.30 Since the License was up to the period ending 10 October 2011, a proposal was put up to the Council as Item No.2(L-03) in its meeting held on 07.10.2011 for Council's decision for the period after 11.10.2011. Copy of the Agenda Item is at **Annexure-'A' (See pages 109 – 116)**.

Council's decision was as under :- **Quote**

***"(i) To accord sanction for extension of existing collaboration project and lease deed for one year upto 10.10.2012, subject to the condition that the Indian Hotel***

*Corporation[IHCL] shall agree to pay license fee as per mutually agreed terms and conditions retrospectively w.e.f.11.10.2011*

*(ii) To accord sanction for further review and actions in accordance with the decision of Ministry of Urban Development, the legal advice the Committee's recommendations and Consultant's Reports.*

*(iii) Council also directed that the Department should workout the timelines for completing the above exercise and the Council be informed of the progress."*

*Unquote*

3.31 After the receipt of intimation from the ITDC that they were not in a position to take up assignment, RFP was issued on 19 October 2011 and tenders were invited. IDFC was the successful bidder and the work was assigned to them on 3 December 2011. IDFC cited conflict of interest in not taking up this project as a reason and withdrew its proposal **[Annexure-XIII-A & XIII-B See pages 207 - 208 ]**. RFP was again invited and M/s. Ernst & Young were the successful bidder. They were assigned this work.

3.32 Since the report of Consultants was not available and IHC were paying License fee at the old rate of 10.5% of the gross income, an Agenda Item was placed before the Council in its meeting on 25 July 2012 **(Annexure-B, See pages 112 - 121)** and Council decided as under :- **Quote**

*"After considering the facts and circumstances of the case, it was resolved by the Council, by majority, that the Council may charge from the Licensee, M/s. IHC Ltd. License fee @ of 17.25% of the Gross turnover or Rs.21 crores a year for the period from 11.10.2011 to 10.10.2011, whichever is higher.*

*The Council further directed that the final report of the Consultant appointed to recommend further course of action be brought before the Council at the earliest.*

*It was also resolved by the Council that further action in the matter be taken by the department in anticipation of confirmation of the Minutes by the Council.” **Unquote***

3.33 Vide letter dated 17.08.2012, M/s IHC Ltd. have made payment of about Rs. 11.3 Cr for the period 11.10.2011 to 31.08.2012.

#### 4. **Report of the Consultant**

4.1 Report from the Consultants has been received. The report is in two Volumes. Volume-I relates to the analysis and Volume-II, a report of Legacy Law Office giving an overview on the legal aspects concerning Contractual Arrangement between NDMC and IHC pertaining to the Taj Mahal Hotel. A copy of the Volume-I and Volume-II are at **Annexure-XIV- A & Annexure-XIV-B (In separate booklet)**. Letter dated 23.08.2012 received from the Consultant is placed at **Annexure – XIV- C (See pages 209 – 213)**.

4.2 Chapter-5 of Volume-1 relates to comparable analysis. The conclusion arrived at in this chapter are available at Para-5.4 of report and are reproduced as under :- **Quote**

- IHC is one of the largest players in the Indian Hotel Industry, the next biggest player [by revenues], EIH has only 3,721 rooms compared to 13,606 rooms of IHC. Furthermore IHC also has the maximum number of hotels as against its comparables.
- Revenues parameters such as Occupancy ratio, RevPAR and ADR for Taj Mahal Hotel are all higher than the ratios of comparable hotels in the Delhi Lutyens area.
- EBITDA of Taj Mahal Hotel in FY12 [Unaudited] is 39.2%; EBITDA margin [excl Lease payments] for the Taj Mahal Hotel for the FY12 is 53.5%.
- Lease cost of the Taj Mahal Hotel has been – 10.5% of revenues over the last few years.
- IHC [Taj Mahal Hotel] has not defaulted in making lease payments to NDMC.

- Among the 7 Hotel properties leased by NDMC, it receives the largest consideration from Taj Mahal Hotel. **Unquote**

4.3 Chapter-6 of Report relates to "Financial Analysis". While making the financial analysis the objectives was to consider return to NDMC under the following scenarios :-

- The hotel is operated by any Private Sector Partner (PSP)
- Hotel operated by IHC Group
- Hotel operated by NDMC

4.4 The conclusions are available in para-6.4 of the Report and are reproduced as under :- **Quote**

- Present value of cash flows from Taj Mahal Hotel is INR 3,543 million for scenario 1; property is operated by a private sector partner other than IHC.
- Present value of cash flows from Taj Mahal Hotel is INR 6,088 million for scenario 2; property is operated by IHC. The reason for the higher cash flow in scenario 2 is primarily attributed to two reasons :-
  - ❖ High capital expenditure in scenario 1
  - ❖ A construction period of 1.5 years is estimated for scenario 1 when the PSP loses revenue due to restoration activities. Whereas for scenario 2, it is expected that the hotel will continue operations without loss of any revenues.
- Present value of cash flows from Taj Mahal Hotel is Negative INR 2,581 million for scenario 3; property is operated by NDMC. The negative cash flow is attributed to lack of capacity to efficiently handle the property by NDMC. Thus NDMC may choose not to opt for scenario 3.
- Present value of cash flows Taj Mahal Hotel available to firm is highest for scenario 2.

**Unquote**

4.5 Chapter 7 of Report relates to the "Commercial structuring options". The purpose of this chapter was to illustrate various commercial structuring options and valuation of returns to NDMC under each option. The conclusions arrived at are available at para-7.5 of the Report and are reproduced as under: - **Quote**

- **Commercial structuring option** – A revenue share mechanism with guarantee of a minimum payment would ensure that NDMC can benefit from the future upside of the property whilst limiting the downside. The mechanism would also be favourable to a PSP, as unlike an upfront premium mechanism the PSP would not have to incur huge initial capital expenditure.
- Economic return to NDMC is expected to be maximum under scenario 2, where NDMC negotiates and extends the contract with IHC. **Unquote**

4.6 The conclusion of the report are Chapter-8. It has been divided into legal aspects, commercial aspects, qualitative aspects and conclusion. The chapter is reproduced as under :- **Quote**

### **Conclusion**

In order to reach to a conclusion, this report attempts to analyze all possible risks and return to NDMC in the current state of affairs.

The final conclusion is based on detailed analysis of legal, financial and qualitative aspects surrounding the situation.

### **Legal Aspects**

As per the legal opinion given by M/s. Legacy law offices [enclosed a Volume-II of this report], NDMC has the following legally tenable options :-

- NDMC to re-negotiate the financial and other terms and conditions with IHC and thereby extend the lease period
- NDMC to conduct an open competitive bid for selection of a private sector partner.
- NDMC to conduct an open competitive bid for selection of a private sector partner with rights of first refusal to IHC

The detailed legal opinion is presented as Volume-2 of this report

### **Commercial aspects**

Volume-1 of this report discusses in detail the commercial aspects relating to the project. The commercial aspects evaluated have been further segregated under 3 broad topics namely (a) Comparable analysis; (b) financial analysis under various scenarios for NDMC (c) commercial structuring options alongwith risk analysis and impact or financial consideration to NDMC.

### **Topic a [Comparable analysis] – Key findings are as follows :**

#### **Commercial Analysis Topic A**

- IHC is one of the largest players in the Indian Hotel Industry, the next biggest player [by revenues], EIH has only 3,721 rooms compared to 13,606 rooms of IHC. Furthermore IHC also has the maximum number of hotels as against its comparables ;
- Revenues parameters such as Occupancy ratio, RevPAR and ADR for Taj Mahal Hotel are all higher than the ratios of comparable hotels in the Delhi Lutyens area;
- IHC [Taj Mahal Hotel] has not defaulted in making lease payments to NDMC'

- Among the 7 hotel properties leased by NDMC, it receives the largest consideration from Taj Mahal.

**Topic b [Scenario analysis] - The three scenarios considered were**

- Scenario 1 – Taj Mahal hotel is operated by a Private Sector Partner (PSP) selected through an open competitive bid conducted by NDMC (Other than IHC)
- Scenario 2 – Taj Mahal hotel is operated by IHC Group through re-negotiated contract between NDMC and IHC
- Scenario 3 – Taj Mahal hotel is operated by NDMC

Key findings from topic b [financial analysis under various scenarios], are as follows :

- Present value of free cash flows to firm is higher for scenario 2  
When compared to scenario 1. The detailed reasoning is explained in the key takeaways section of chapter 6

**Topic B ( Commercial Analysis)**

- Present value of cash flows from Taj Mahal Hotel is Negative  
INR 2,581 million for scenario 3. The negative cash flow is attributed to lack of capacity to efficiently handle the property  
By NDMC. Thus, NDMC may choose not to opt for scenario 3

**Topic C [commercial structuring options]**

Covers risk analysis and impact of commercial structuring options on financial consideration. Key finds are as follows :

- A revenue share mechanism with guarantee of a minimum

payment would ensure that NDMC can benefit from the future upside of the property whilst limiting the downside. The mechanism would also be favourable to a PSP, as unlike an upfront premium mechanism the PSP would not have to incur huge initial capital expenditure.

- Economic return to NDMC is expected to be maximum under scenario 2, where NDMC negotiates and extends the contract with IHC.

### **Qualitative Aspects**

The key qualitative aspects taken into consideration are as follows :

- The hotel is located within 2 kms of eminent structures such as the Indian Parliament and President's House and security is one of the key concerns.
- The property has been a host to some of the country's most prestigious events such as the BRICS Summit.
- IHC has enormously contributed in creating the brand name of Taj Mahal Hotel, The Tata Group of which IHC is a part of, has every strong corporate governance norms and is among the most trusted brands of India incorporate.
- For NDMC, one of the key decision parameters for selecting a PSP would be high returns from the property. However in our opinion, other factors such as risk of non performance and risk of non-payment by a PSP are equally important. These factors would significantly affect the returns to NDMC.

### **Conclusion**

Therefore, from the above we conclude that NDMC may choose any one of three legal options described above, however from a risk management and commercial consideration perspective NDMC stands to benefit most if the existing contract with IHC is renegotiated and extended. **Unquote** " "

## 5. Legal Opinions

5.1 After the receipt of Report of the Consultant opinion of the Addl. Solicitor General was also sought. His opinion is at **Annexure-XV (See pages 214 – 235)**.

5.2 The legal opinion available in this case are from Shri Harish Salve, Sr Advocate who has given his opinion on request from IHC. A copy of which is at Annexure-VII. The opinion given by Ms. Madhu Tewatia, S.C. of the NDMC as sought by the Estate Department of NDMC and is available at Annexure-VIII. The Consultant has given a report on legal aspects from Shri Gagan Anand, Advocate. Sr. Partner-Corporate Practice Legacy Law Offices. His report is at Annexure-XIV B.

5.3 The opinions are summarized hereunder:-

(i) Legal opinion of Shri Harish Salve, Sr. Advocate is as under:- **Quote**

Query	Opinion
Whether the provisions of Sections141(2) of NDMC Act, 1994 will be attracted/applicable when the renewal/extension of the License of the Taj Mahal Hotel comes up for consideration by NDMC	Considering the nature of the transaction, the renewal of the License may not be governed by section-141(2) of the Act. Even if it is, the renewal of the License, the consideration of which is a share of revenue for the hotel property, cannot be considered to be a violation of section-141(2) of the Act.
Whether the resolution dated 30 <sup>th</sup> August, 2000 passed by NDMC apropos the provisions of Section-141(2) shall be	The resolution would apply to situations of License simplicitor where property [land and/or buildings] of the NDMC are made available to

<p>applicable to the case of the Taj Mahal Hotel when the License granted by NDMC to IHCL is considered for extension/renewal by NDMC?</p>	<p>other agencies for use. It cannot apply to a joint venture in which there is a revenue share arrangements.</p>
<p>Whether the judgement of Delhi High court in the Chanakya case, the appeal against which was also dismissed by the Supreme Court shall be applicable to the case of renewal/extension of License in respect of the Taj Mahal Hotel and if not, the reasons therefore ?</p>	<p>In the negative.</p>

### Unquote

(ii) Legal opinion of Smt. Madhu Tewatia, Standing Counsel is as under :- **Quote**

1. The Resolution of the Council may not therefore be applicable in terms Stricto Sensu as in the present case, the License term would require to be extended or renewed subject to mutually agreed terms which does not fall in the category of cessation of License and consequent of a fresh lease or License.
2. The decision of the Supreme Court of India interpreting the provisions of section-141(2) and Resolution dated 30.08.2000 would not prohibit the continuation of the license arrangement of the NDMC with IHCL, the vital and dominant consideration always being maximum consideration for immovable property even in cases governing contractual rights inter-se the parties where the NDMC is to offer state grant. "Further, the Standing Counsel has also mentioned that " NDMC could vary the percentage of revenue sharing based on gross receipts of the hotel, so as to get an amount equivalent to the fair market value. **Unquote**

- (iii) Legal opinion of Shri Gagan Anand as contained in para-4 of Volume-II of the Consultant Report are as under :- **Quote**

**"4 Legally tenable options for way forward :**

**a) NDMC to re-negotiate the financial and other terms and conditions with IHC**

The New Delhi Municipal Council Act, 1994 [NDMC Act] came into force on the 25<sup>th</sup> day of May, 1994 for the establishment of the New Delhi Municipal Council and for matters connected therewith or incidental thereto. The License Deed was entered into by NDMC and IHC was on 8<sup>th</sup> December, 1976. Therefore, in the absence of a specific provision regarding the retrospective effect of the Act, a view can be taken that the conditions mentioned in the Act would not have any impact with respect to a Contract entered into by the parties prior to the date of coming into force of the Act

Moreover, it would be pertinent to note that relevant negotiation enabling provision of the License Deed, which is as follows :-

"On the expiry of the period of License of the said hotel building hereby granted, the licensor shall have the option to grant the License for a further period on such terms and conditions as may be actually agreed upon between the licensor and the licensee"

Therefore, it is to be understood that there is a negotiation enabling provision in the License Deed so as to facilitate the extension of the License period, in case both the parties mutually agree to the same.

**b) Inviting bids without granting any special rights to IHC**

- i. **Vashisht Kumar jaiswal Vs State of UP And Ors,** The court had opined that, once a public contract has been granted for a specific period then on the expiry of the period there is no question of renewal and there must be public auction/public tender after advertising in well known newspapers having wide circulation, otherwise Article 14 of the Constitution will be violated, and a monopoly may be created.

If it is held that even if the period of the contract has expired there can be extension of the contract then logically it would mean that a contract can go on for term after term and can be extended for 100 years or even more. This would create a monopoly in favour of a party, which would be illegal. It would also be against the interest of the State because in a public auction the State naturally can get higher amount of royalty for grant of the mining lease. In fact granting such extension creates an impression that there is some collusion between the guarantee and the authorities.

- ii. **Nex Tenders (India) Private Limited Vs. Ministry of Commerce and Industry & Ors. -**  
It was held that a public authority even in contractual matters should not have unfettered discretion and in contracts having commercial element even though some extra discretion is to be conceded in such authorities, they are bound to follow the norms recognized by courts while dealing with public property. This requirement is necessary to avoid unreasonable and arbitrary decisions being taken by public authorities whose actions are amenable to judicial review. Therefore, merely because the authority has certain elbow room available for use of discretion in accepting offer in contracts, the same will have to be done within the four corners of the requirements of law especially Article-14 of the Constitution.

- iii. **In Nagar Nigam Vs. Al Faheem Meat Exports(P) Ltd.** - It was held that public auction or tender has to be allowed by Government or any public authority, instead of private negotiation, considering various aspects and also the public interest.

In view of the above described case law, NDMC can exercise the option of inviting fresh bids for operating and maintaining the Hotel in future in public private partnership mode without granting any special rights to IHC.

**c) Inviting bids while granting special rights to IHC.**

There is no legal right vested with IHC for seeking any special rights/privileges in any bidding process to be conducted by NDMC. However, keeping in view the peculiar facts of the case wherein IHC has invested in the fittings, fixtures etc., besides creating goodwill and has been regularly paying good revenue to NDMC, NDMC may consider granting the right of first refusal to IHC in case NDMC decides to invite bids for operating and maintaining the hotel in Public Private Partnership mode. The grant of the right of first refusal to IHC by NDMC due to such justifiable reasons shall be lawful. **Unquote**

- (iv) Legal opinion of the Addl. Solicitor General on the queries made by Director(Estate-I) are as under :- **Quote**

Vide Para-13 of the Statement of facts in view of the above facts, NDMC has sought my opinion on the following issues :-

- (i) whether the decision of the Council taken through the resolution dt. 30<sup>th</sup> August 2000 that fresh licenses shall be as per provisions of section 141(2) of the N.D.M.C. Act 1994 is applicable to the facts of the case where IHCL has exercised option for grant of License for a further period as per Clause II(2) of the License deed;

- (ii) whether the judgement of Delhi High Court in the case of M/s. Aggarwal & Modi of which appeal was dismissed by the Supreme Court shall be applicable to the case of grant of License for a further period as opted by IHCL;
- (iii) whether the provisions of section 141(2) of the N.D.M.C. Act 1994 be attracted / applicable when notice exercising option for grant of License for a further period as per provisions of Clause II (2) of the License deed is under consideration of the Council.
- (iv) whether the option exercised by IHCL as per Clause II(2) of the License deed has to be rejected on the ground that as per provisions of section 141(2) of the N.D.M.C. Act 1994 only option available with the Council is to put the property to auction/ tender to get the best price of License fee with a view to obtain normal and fair competition.

**Opinion of Add. Solicitor General**

**Query No.1 :-**

**Reply :-** As is clear from the facts stated hereinabove the investment in land and building in this case was done by NDMC to the extent of Rs.475 lacs, however, by a Supplementary Lease Deed the said value was fixed at Rs.626 lacs. The additional cost was borne by IHCL. As per the terms of the license clause II (1), the License was for a period of 33 years commencing from the date of occupation by the first guest. This was an admitted case of the parties to the agreement now that the said period of 33 years was over on 11.10.2011. As per clause II(2) of the Terms of Agreement, the expiry of period of License, licensor shall have options to grant License for the further period of such terms and conditions as mutually agreed upon by the licensor and the Licenses. If the licensee shall be desires of obtaining a License for a further period after the expiry of the License, it was obligatory to

give licensor notice in writing of not less than 60 days prior to the date of expiry of the present License for the consideration of licensor. Admittedly, the said notice for consideration of extension of license was given by licensee in the year 2011. Pending consideration of the request of the Licenses, licensor NDMC extended the period of license for one year.

Perusal of the terms of License Deed therefore clearly shows that there was no renewal clause in the license deed, giving right to the licensee to seek the renewal.

As is also clear from the facts narrated above the NDMC Act came into force in the year 1994 and Sec.141 (2) thereof (quoted above) specifically provides that the consideration for which any immovable property may be sold, **leased** or otherwise transferred shall not be less than the value at which such immovable property would be sold, leased or otherwise transferred in normal and fair competition. The language of Sec.141 (2) is clear, unambiguous and mandatory in nature. In view of the clear and unambiguous nature of Sec.141(2) which is a statutory provision, the NDMC has no option but to lease the property now by normal and fair completion process so as to fetch a market value for leasing out the property.

As quoted above in para 8 of the narration of facts, given by the NDMC in view of the provisions of Section 141(2) of the NDMC Act, 1994, NDMC in its meeting held on 30<sup>th</sup> August, 2000 resolved that on the expiry of the terms of the license of the hotels/cinemas and other similar commercial complexes, the licenses shall not be renewed. The fresh licenses shall be as per the provisions of section 141(2) of the NDMC Act, 1994.

The aforesaid resolution of NDMC dated 30<sup>th</sup> August, 2000 came up for consideration of the Delhi High Court and Supreme Court in the case of Aggarwal and Modi Ent. Pvt. Ltd., hereinafter referred to as Chanakya Cinema case. In Chanakya Cinema case, also like in the present case, tenders were invited by NIT for grant of license. M/s. Aggarwal and Modi Ent. Pvt. Ltd. was the successful bidder for cinema hall and this culminated into execution license agreement dated 30<sup>th</sup> October, 1967 with NDMC. The licensee was granted license to use the proposed building housing a cinema for a period of 10 years. The agreement provided renewal clause whether licensee was given an option to get the license renewed for another period of 10 years on the terms and conditions to be mutually agreed between the parties. There was no further extension contemplated in the License deed. Upon the expiry of the renewal period, NDMC refused to renew the license and instead sent cancellation notice dated 14<sup>th</sup> September, 1990 to the licensee. The licensee instituted a suit. However, an out of court settlement was arrived at whereby NDMC agreed for renewal of license for a further period of 10 years from 01.10.1990 to 30.09.2000 by enhancing the license fee over and above the license paid earlier. Clause 7 reads as under:

"7. Next renewal due in the year 2000 will be decided between the licensor and licensees on mutually settled terms and conditions at that time."

However, the settlement failed to take off as the licensee failed to withdraw the pending case and instead filed a writ petition.

In the meantime, NDMC decided to redevelop the site as a multiplex. The licensee submitted a representation seeking right to develop the multiplex and seeking the renewal of the license of the cinema complex. The said

representation was rejected on the ground that the request for redevelopment of multiplex and renewal of license is not in consonance of provision of Section 141(2) of NDMC Act. Another writ petition was filed challenging the said order. The writ petition was heard by the Ld. Single Judge of High Court. The Ld. Single Judge framed the following issue:

"The principal question involved in this writ petition is whether a party who has been issued a license/lease and has consequently enjoyed a long tenure in this complex can insist as a matter of law and legal right that the NDMC should not auction the same but must re-allot it to the petitioner as the petitioner was the original allottee inter alia on its plea that it was entitled to renewal in the year 2000."

The Ld. Single Judge came to the following conclusions:

"(i) Whether the grant was a license or lease had become academic because according to the appellants' own showing the period stipulated originally in the lease/license had come to an end. Even otherwise, the terms of acceptance of the tender in 1967 do not indicate any renewal beyond 2000.

(ii) As per the contractual terms, the appellants had no right to seek any renewal beyond 30th September, 2000 as there was no clause to this effect.

(iii) If a public authority were to allot an estate by inviting public tender then the very fact that more revenue was likely to be generated was clearly indicative of public interest as laid down by the Division Bench of this court in CWP No. 1066/1998 decided on 29th May, 1998.

(iv) Appellants were estopped from pleading discrimination qua hotels at this stage. Even otherwise hotels and cinema complexes, though figuring together in classification, could not be equated for the purpose of Article 14 as inherently the business of hotels and cinemas are different and, therefore, there was no discrimination, hostile or otherwise.

(v) The decision of the NDMC not to renew the lease of hotels/cinemas after present term coming to an end was a policy decision, adopting a uniform yardstick of the expiry of existing leases of hotels/cinemas and was, therefore,

perfectly valid and reasonable. If the NDMC takes recourse to Section 141(2) of the Act for generating higher revenue from its resources such a policy decision cannot be questioned unless it is unconstitutional and it was not for the court to consider where a different policy should have been followed on the ground that other policy would have been fairer or wiser or more scientific or more logical.

(vi) Section 141 of the Act deals with the lease, let out on hire or transfer otherwise of any immovable property belonging to the Council. Section 141(2) clearly indicates that sale, lease or transfer of such property should not be less than the value at which such property could be sold, leased or otherwise transferred in normal and fair competition. Thus, it is evident that the transfers should be at the market rate when any property of the Council is sold, leased or otherwise transferred.

(vii) The impugned action could neither be treated as unreasonable, nor it was against public interest nor could it be termed as irrational, discriminatory or arbitrary to be affected by the judgment of the Supreme Court in *Ramana Dayaram Shetty v. The International Airport Authority of India and Ors.* (AIR 1979 SC 1628)

16. The Writ Court accordingly dismissed the writ petition and granted appellants time to vacate the cinema complex on or before 30th September, 2003 subject to filing of an undertaking to vacate the complex by this date."

The decision of the Ld. Single Bench of the High Court was challenged before the Dn. Bench of the High Court of Delhi by way of a Letters Patent Appeal. The Hon'ble Division Bench framed the following questions for consideration:

"(i) Whether the appellants had any right of renewal or extension of lease under the lease agreement?

(ii) Whether, in the facts and circumstances of the case, Section 141(2) of the Act would apply and it is incumbent upon the NDMC to resort to the procedure laid down in this Section for grant of lease?

(iii) Whether the impugned decision dated 13th November, 2001 rejecting the offer of the appellants for extending the lease beyond 30th September, 2003 and to convert the cinema in a multiplex is arbitrary and/or discriminatory?"

The Hon'ble High Court in para 29 of the judgment summarized the position regarding the License Deed and its covenants as under:

(a) In the public auction held in the year 1965, bid of the appellants was accepted and 10 years' lease was granted i.e. from 1st October, 1970 to 30th September, 1980 (first block). This license deed contained renewal clause as per which one renewal could be allowed.

(b) On the appellants' exercising their option to renew the license/lease agreement dated 23rd September, 1980 was entered into for second block i.e. 1st October, 1980 to 30th September, 1990 by enhancing the license fee and mentioning the same in the said license deed. However, the appellants themselves challenged this license deed on the ground that it was executed under coercion and was not binding by filing Suit No.295/1981.

(c) Even if this license deed dated 23rd September, 1980 is to be treated as binding, fresh renewal could be, as per the license deed, only on both the parties agreeing for renewal and on terms on which renewal is to take place. No such thing happened. No further license deed was executed. Therefore, contract between the parties came to an end.

(d) Offer of further renewal beyond 1st October, 1990 (third block) was initiated vide NDMC's letter dated 2nd December, 1991. Although response dated 5th December, 1991 was given which was not an acceptance in the eyes of law; no further license deed/agreement was executed although offer dated 2nd December, 1991 clearly stipulated that the same was subject to execution of fresh agreement. Moreover, the offer contained in the letter dated 2nd December, 1991 was challenged by the appellants themselves by filing CWP No. 3244/1992 meaning thereby it did not accept the said offer. However, they continued in possession because of stay orders granted in the writ petition. In this manner although without a contract, even the third block contained in the offer dated 2nd December, 1991 expired on 30th September, 2000. Therefore, this 'extension' did not flow from the lease executed in the beginning which had already expired, but was the result of the offer of the NDMC, an offer which did not fructify into a binding contract but the appellants enjoyed the occupation and term of 3rd block completed under the umbrella of court order.

(e) The Council extended the lease for another 3 years i.e. from 1st October, 2000 to 30th September, 2003. Again a unilateral act to validate the possession of the

appellants for this period and to enable it to consider the proposal of the appellants. Otherwise there was no subsisting lease or agreement written or oral which gave any right to the appellants to seek further renewal under the lease.

The Hon'ble High Court in para 30 of its judgment held as under:

"30. It clearly follows from the aforesaid discussion that initial license/lease agreement dated 16th September, 1970 and thereafter second lease deed dated 23rd September, 1980 (even if it is to be treated as binding) came to an end and, therefore, there was no contract between the parties governing contractual relationship. Thus in so far as the appellants are concerned, they could not exercise any right for further extension under any contract/lease in the absence of any agreement in this behalf operating between the parties." (Emphasis Supplied)

In para 32 of the judgement, the Hon'ble Division Bench culled out the law relating to the lease deeds and renewal and extension thereof as under:-

"32.

a) In India, a lease may be in perpetuity and the law, either the Transfer of Property Act or the general law abhors a lease in perpetuity. If there is a covenant for renewal in the lease agreement, lessee can exercise his right unilaterally for extension of lease, for which consent of Lesser is not necessary.

(b) Where the principal lease executed between the parties containing a covenant for renewal, is renewed in accordance with the said covenant, whether the renewed lease shall also contain similar clause for renewal depends on the facts and circumstances of each case, regard being had to the intention of the parties as displayed in the original covenant for renewal and the surrounding circumstances.

(c) There is difference between an extension of lease in accordance with the covenant in that regard contained in the principal lease and renewal of lease. In the case of extension it is not necessary to have a fresh deed of lease executed. However, option for renewal consistently with the covenant for renewal has to be exercised consistently with the terms thereof and, if exercised, a fresh deed of lease shall have to be executed between the parties.

(d) Failing the execution of fresh deed of lease, another lease for a fixed terms shall not come into existence though the principal lease in spite of the expiry of

the term thereof may continue by holding over for year by year or month by month, as the case may be.

(e) If the language in the lease deed is ambiguous, the court would opt for an interpretation negating the plea of the perpetual lease. Where there is a clause for renewal subject to the same terms and conditions, it would be construed as giving a right to renewal for the same period as the period of the original lease, but not a right to second or third renewal and so on unless, of course, the language is clear and unambiguous. While ascertaining the intention of the parties in this behalf, lease deed has to be read as a whole."

The Hon'ble Division Bench in para 33 of its judgment came to the conclusion that there is no right to seek any renewal under the lease (License Deed).

While considering the applicability of section 141(2) of the NDMC Act, the Hon'ble High Court in para 40 of the judgment culled out the principles regarding disposal of the public property as under:

"40.

(a) The demarcated approach for disposal of public property, in contradiction to the disposal of private property is that it should be for public purpose and in public interest.

(b) Disposal of public property partakes the character of a trust.

(c) Public purpose would be served only by getting best price for such property so that larger revenue coming into the coffers of the State administration can be utilized for beneficent activities to sub-serve public purpose, namely, the welfare State.

(d) For getting the best price, the public property should be put to public auction or by inviting tender with open participation i.e. ensure maximum public participation and a reserve price. This also ensures transparency and such an auction would be free from bias or discrimination and thus beyond reproach.

(e) Private negotiations should always be avoided as it cannot withstand public gaze and cast reflection on the Government or its official and is also against social and public interest.

(f) In exceptional cases, the authorities may depart from public auction or tender process and even dispose of the property at lower price than the market price or even for a token price. However, resort to this process can be taken only to achieve some defined constitutionally recognized public purpose, one such being to achieve the goal set out under Part-IV of the Constitution of India.

(g) When the statute provides for several modes for disposal of the property as in the case of *New India Public School* (supra) where Section 15(3) provided for the disposal of the property by public auction, allotment, or otherwise, the court declared that the word 'otherwise' would be construed to be consistent with the public purpose as public authority is discharging its public duty while disposing of the property when it is not resorting to public auction but 'otherwise'. Therefore, the court mandated the necessity of unequal guidelines or rules so that it is not at the whim and fancy of the public authorities or under their garb or cloak for any extraneous consideration. Again it would depend upon the nature of the scheme and object of public purpose sought to be achieved while resorting to this mode. The court thus held that it was necessary to make specific regulations or valid guidelines to exercise."

On the basis of the above principles the Hon'ble High Court regarding applicability of Section 141(2) of the NDMC Act held as under:

"41. This clinching principle for the grant of government property, i.e. normally by public auction and in a given case if that is not possible then by inviting tenders and in no case by private negotiations, is statutorily recognized under Section 141(2) of the Act. In fact the appellants could not dispute this principle enshrined in Section 141(2) of the Act or even inbuilt in Article 14 of the Constitution of India and recognized by the courts de hors Section 141(2) of the Act."

In para 43 of the judgment the Hon'ble Division Bench held that the lease deed having expired, there being no right to seek extension, there being no renewal clause, the requirement of consideration for renewal would be a case of fresh grant on lease. The conclusion in this regard under para 43 reads as under:

"We have already concluded that lease of the appellants had expired long ago. The appellants' right to seek extension of the lease, under the lease agreement, also stood extinguished. If after the lease period is over by efflux of time or otherwise, there is no renewal clause under which right can be exercised to get the lease extended and the lessee has no right to continue in occupation of the premises in question, any 'extension' would be a case of fresh grant only. Therefore, it would be a case of creating lease of an immovable property and once the immovable property is to be 'leased', the NDMC has to resort to provisions of Section 141(2) of the Act. That is the only interpretation which can be given to the provisions of Section 141(2) of the Act, more so when the generally accepted principle of law for disposal of public property, as detailed above, is the public auction where most important consideration is the economics of getting maximum price."

Further, in para 48, the Hon'ble Division Bench held as under:

"Obviously, when the appellants have no contractual right to continue and the complex is to be redeveloped into another project, the NDMC shall have to resort to Section 141(2) of the Act while dealing with disposal of the immovable property for another project/purpose. In that eventuality, it no more remains the case of 'renewal' of the lease because it would be a fresh grant for altogether different purpose and obviously on different terms for which the authorities will apply different parameters. In such a scenario, grant of lease in favor of the appellants, ignoring the provisions of Section 141(2) of the Act, would be contrary to the statutory mandate. [See: MI Builders Pvt. Ltd. v. Radhey Shyam Sahu [(1999) 6 SCC 464]"

While considering the issue of arbitrariness and discrimination in para 60 of the judgment, the Hon'ble Division Bench noticed that in the case of Sun Air Hotel as well as Bharat Hotel, the allotment was after inviting tenders to a successful tenderer.

The judgment of D.B. and Single Judge were challenged by the Aggarwal & Modi in the Hon'ble Supreme Court.

Hon'ble Supreme Court while upholding the view taken by the Learned Single Judge as well as the Division Bench, in para 22 of the judgement held as under:

"22. The mandate of Sec.141(2) is that any immovable property belonging to NDMC is to be sold, leased, licensed or transferred on consideration which is not to be less than the value at which such immovable property could be sold, leased, or transferred in fair competition. The crucial expression is "normal and fair competition". In other words, NDMC is obligated to adopt the procedure by which it can get maximum possible return/consideration for such immovable property. The methodology which can be adopted for receiving maximum consideration in a normal and fair competition would be the public auction which is expected to be fair and transparent. Public auction not only ensures fair price and maximum return it also militates against any allegation of favouritism on the part of the Government authorities while giving grant for disposing of public property. The courts have accepted public auction as a transparent means of disposal of public property. (See State of U.P. v. Shiv Charan Sharma, Ram & Shyam Co. V. State of Haryana , Sterloing Computers Ltd.v.M&N Publications Ltd., Mahesh Chandra v.Regional Manager, U.P. Financial Corporation, Pachaiyappa's Trust v.Official Trustee of Madras, Chariman and MD, Sipcot v.Contromix(P) Ltd., New India Public School v.HUDA, State of Kerala v. M.Bhaskaran Pillai and Haryana Financial Corpn.v.Jagdamba Oil Mills." (Emphasis Supplied)

Further the Hon'ble Supreme Court in para 23 of the said judgement held that invitation for participation in public auction ensures transparency and it would be free from bias or discrimination beyond reproach. Para 23 reads as –

"23. Disposal of public property partakes the character of trust and there is distinct demarcated approach for disposal of public property in contradiction to the disposal of private property i.e. it should be for public purpose and in public interest. Invitation for participation in public auction ensures transparency and it would be free from bias or discrimination and beyond reproach. (Emphasis Supplied)

Under the terms of the License deed clause II (2), the period of the License was 33 years. Licensor could request for consideration for extension for a further period which is to be considered by the licensor on such terms and conditions as may be mutually agreed upon between the licensor and the licensee. A perusal of the

said clauses of the license clearly shows that upon expiry of the term of License, licensor does not have any right to have any further extension, there is no renewal clause under which right can be exercised to get the license extended and the licensor has no right to continue in occupation of premises, any 'extension' would be a case of fresh grant only. There is no compulsion on NDMC as a licensor to renew the License deed. That being the case the provision of Sec. 141(2) as interpreted by Hon'ble Supreme Court in Chanakya Cinema case (supra) will be attracted.

In view of the above, in my opinion, the Council will be bound to lease out property now by invitation by participation in public auction so as to fetch the market value of the property to be licensed/ leased. The query No.1 is answered accordingly.

#### **Query No.2**

#### **Reply:-**

The judgement of the Hon'ble Single Judge as well as the Division Bench of the Delhi High Court in Aggarwal & Modi case was upheld by the Hon'ble Supreme Court. The judgments have been quoted in extensor in response to query no 1 above. The view taken in that case was that the lease/license period having expired, there being no Clause contemplating extension, there being no renewal clause under which right can be exercised to get the lease extended and the lessee has no right to continue in occupation of the premises in question, any "extension" would be a case of fresh grant only. Therefore, in such a case, for creating a lease/license of an immovable property NDMC has to resort to the provisions of Section 141 (2) of the Act. The Hon'ble Supreme Court in the said case has held that immovable property of the NDMC has to be sold, leased, licensed or transferred on a consideration which shall not be the value at which

the immovable property could be sold, leased or transferred in fair competition, is fully applicable to the present case. NDMC is bound to follow the law laid down by the Hon'ble Supreme Court and High Court. It may not be out of place to mention here that in the said judgement the Hon'ble Supreme Court has laid down that NDMC is obligated to adopt the procedure by which it can get maximum possible return/consideration for such immovable property and that the methodology which could be adopted in reaching maximum consideration in a normal and fair competition can be public auction which is expected to be fair and transparent. Hon'ble Court has further laid down that the public auction not only ensured fair price and maximum return it also militates against any allegation of favoritism on the part of the Government authorities while giving grant for disposing of public property.

In my opinion, NDMC is bound to follow the judgement of the Hon'ble Supreme Court in M/s Aggarwal & Modi's case. The query No.2 is answered accordingly.

### **Query No.3**

**Reply :-** The query No.3 is partially answered by answering query No.1 but for the sake of clarity, I may say that the issue was considered by the Hon'ble Supreme Court in para 10 of its judgement in Aggarwal & Modi's case. Para 10 of the judgement reads as follows:

10. In essence, it means that the lease amounts should not be less than the market value. The expression in the renewal clause on which great emphasis is laid speaks of "terms and conditions to be mutually agreed upon". According to the appellants it cannot mean that one of the parties can stipulate unreasonable terms and conditions. In essence, the terms and conditions have to be fair. While determining the fair value the amount is what the existing tenant is required to pay. NDMC itself had required payment of rupees two crores per year. The requirements of Section 141(2) cannot apply to a case of renewal. It is

submitted that the appellants have spent more than rupees three crores after 2000. Though there has been no renewal the High Court noted that discriminatory treatment is being meted out to the appellants and, therefore, it had directed the respondent NDMC to give instances where public auction had been resorted to.

While dealing with the aforesaid contention the Hon'ble Supreme Court came to the conclusion in para 22 and 23 reproduced above while answering query No.1 and held that even in such case, the NDMC will have to follow the methodology of Section 141(2).

In my opinion, the provision of Section 141(2) as interpreted by the Hon'ble Division Bench of the High Court and upheld by the Hon'ble Supreme Court in para 22 and 23 of Aggarwal & Modi's judgement will be attracted/applicable in the present case. The NDMC, therefore, has to follow the procedure laid down by the Hon'ble Supreme Court in para 22 and 23 of Aggarwal & Modi's judgement and grant License by public auction. The query No.3 is answered accordingly.

#### **Query No.4**

**Reply :-**

A detailed discussion in response to query No.1 & 3 hereinabove may also be read as my response to the query No.4. The clause II (2) of the license deed provides that the NDMC has an option to grant a License for a further period on such terms and conditions as may be mutually agreed upon. The licensee can only request the licensor to consider its request for license for a further period. As such the licensee after the lease period is over by efflux of time, there being no renewable clause to seek extension has no right to continue in occupation of premises and any extension would be a case of fresh grant only. In view of the law laid down by the High Court, upheld by the Hon'ble Supreme Court in para 22 and 23 of Aggarwal & Modi's case, the NDMC has no option but to grant

lease/license to the Hotel building by invitation for participation in public auction so as to fetch fair market price and maximum returns as contemplated in Section 141 (2) of the NDMC Act. Query No.4 is answered accordingly. **Unquote**

## **6. Views of the Law Department**

**6.1** In view of the opinions tendered by various legal luminaries as stated above, Law Department has nothing more to add.

## **7. Views of Finance Department**

**7.1** Finance Department is of the view that while taking a decision in this matter, the criteria should be to obtain the maximum revenue with minimum risk involved in the process.

## **8. Final Submission**

**8.1** In Resolution dated 07.10.2011, the Council had decided to accord sanction for further review and actions in accordance with the following parameters.

- a) Decision of Ministry of Urban Development
- b) The legal advise
- c) The Committee's recommendations and
- d) Consultant's Reports.

**8.2** Directions of Council have been complied with as hereinafter.

**8.3** Minutes of Ministry of Urban Development are at para 3.26 and 3.28.

8.4 Legal advice from Shri Harish Salve, Senior Advocate; Smt. Madhu Tewatia, Standing Counsel (NDMC), Consultant's Advocate Shri Gagan Anand, and Shri Rakesh Khanna, Additional Solicitor General are available at para 5 above and Annexures-VII, VIII, XIV B and XV.

8.5 The Committee's Report at Annexure-X.

8.6 Relevant extracts from Consultant's report is at para 4 and full Report is at Annexure-XIV A.

## **9. Decision Required**

9.1 In view of what has been stated above and in the Report of Committee of officers, advice of Ministry of Urban Development, GOI and the Consultant as also the legal opinion tendered by various advocates, standing counsel and the Additional Solicitor General summarized above, the Council may now consider any of the options given below :

- (i) The Council may grant extension for a further period on the terms and conditions as may be mutually agreed upon with IHC, **or**
- (ii) The Council may decide to go for public auction with first right of refusal to IHC.

### **COUNCIL'S DECISION**

The Council carefully considered all the facts placed before it in the Agenda Item, including the Annexures, and noted that IHC not only has a clean record in its dealing with the Council, but has also made regular payments of license fee to it till date and that there are no disputes between the Council and the Licensee (IHC Ltd).

After discussing at length the pros and cons of the two options proposed in the Item the Council resolved by majority, to opt for public auction, in a fair and transparent manner, of the NDMC property at 1, Man Singh Road, with first right of refusal to Indian Hotel Company. The recourse to public auction would serve to determine the market price of the license fee, that IHC would have to match if they wish to run a hotel at this property. This option, the Council noted would also safeguard its revenue interests.

The Council further resolved by majority to extend the period of license of IHC, on existing terms and conditions, for a further period of one year or till such time a new licensee is chosen through the bidding process, whichever is earlier.

That further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

ANNEXURE 5 PAGES







ANNEXURE ENDS

**ITEM NO.08 (U-08)****1. Name of the subject/project**

Security and Traffic Services/Arrangements at Palika Kendra, NDCC-II and Pragati Bhawan under Group Contract 'A'.

**2. Name of the Department/Departments concerned**

Security Department

**3. Brief history of the subject/project**

The Security and Traffic Services at all the Office Premises, Commercial Complexes, Hospitals and Electric Sub Stations owned by the NDMC are being looked after by the Security Department, NDMC. Presently the Security and Traffic Services at most of the NDMC premises are managed by deploying security personnel through private security agencies under various Group Contracts i.e. A to J.

**4. Detailed proposal on the subject/project**

After following all codal formalities tenders for "Security and Traffic Services/Arrangements at Palika Kendra, NDCC-II and Pragati Bhawan under Group Contract 'A' were invited. Following five firms participated through on line e-Tendering:-

<b>S. NO.</b>	<b>NAME OF FIRM/AGENCY</b>
<b>1.</b>	M.S. Vigilant Security, Placement and Detective Services Pvt. Ltd.
<b>2.</b>	Skylark Securitas Pvt. Ltd.
<b>3.</b>	Advance Services Pvt. Ltd.
<b>4.</b>	CIS Bureaus Facility Services Pvt. Ltd.
<b>5.</b>	Swift Securitas Pvt. Ltd.

The report of the Sub-Committee constituted for technical evaluation was submitted to competent authority for information and approval. Thereafter the financial bid of following two eligible bids was opened on 19.03.2013.

<b>S. NO.</b>	<b>NAME OF FIRM/AGENCY</b>
<b>1.</b>	M.S. Vigilant Security, Placement and Detective Services Pvt. Ltd.
<b>2.</b>	Skylark Securitas Pvt. Ltd.

As per on line generated comparative statement the rates quoted by the firms are worked out including quoted Service Charges are as under:-

S. NO.	NAME OF FIRM/AGENCY	Amount
1.	M.S. Vigilant Security, Placement and Detective Services Pvt. Ltd.	1,94,65,995.60
2.	Skylark Securitas Pvt. Ltd.	1,95,56,115.84

M/s M.S. Vigilant Security, Placement & Detective Service Pvt. Ltd. has quoted 8% Service Charges and emerged as the **L1** (lowest one).

The total quoted amount is ` 1,94,65,995.60 per annum making a total of ` 3,89,31,991.20 for two years. The rates quoted are 10% below the Estimated Cost.

The rates quoted by the firm seem to be reasonable and workable. It is therefore proposed that Group Contract 'A' (for Security and Traffic Services/Arrangements at Palika Kendra, NDCC-II and Pragati Bhawan) be awarded to M/s M. S. Vigilant Security, Placement and Detective Services Pvt. Ltd. at their quoted amount of ` 1,94,65,995.60 (Rupees one crore ninety four lakh sixty five thousand nine hundred ninety five and paise sixty only) per annum for a period of two years which comes to a total of ` 3,89,31,991.20 ( Rupees three crore eighty nine lakh thirty one thousand nine hundred ninety one and paise twenty only) as per terms & conditions of NIT.

Further it is pertinent to mention here that vide Council Reso. No. 09 (U-06) dated 30.10.2012 this Group Contract 'A' was given extension up to 31.03.2013. Since fresh award of work and thence deployment of trained guards as per PSAR Act/Rules will take some time, therefore; it is also proposed that the term of present Group Contract A be extended for a further period of three months w.e.f. 01.04.2013 or till the date of deployment under fresh contract; whichever is earlier.

**5. Financial implications of the proposed project/subject**

The financial implication of the proposal works out to ` 3,89,31,991.20 for two years (i.e. ` 1,94,65,995.60 per annum).

**6. Implementation schedule with time limits for each stage including internal processing**

Two years from the date of deployment.

**7. Comments of the finance department on the subject with diary No. & date.**

Finance Department vide Diary No.468/Finance dated 21.03.2013 concurred in above proposals of the Department.

**8. Comments of the department on comments of Finance Department**

No Comments

**9. Final views of Finance Department**

-----

**10. Legal implication of the subject/project**

No legal issue.

**11. Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject.**

Annual Estimate for the year 2012-13 amounting to ` 17,30,77,801.00 was sanctioned by the Council vide Reso.No.06 (U-03) dated 28.08.2012 for Security and Traffic Services/Arrangements at NDMC Premises under Group Contract 'A' to 'J'.

**12. Comments of the Department on the comments of Law Department.**

No comments.

**13. Final view of Law Department (wherever necessary)**

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**14. Certificate by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

It is certified that all requisite guidelines of the CVC have been followed while processing the case.

**15. Recommendation:**

The Group Contract 'A' for Security and Traffic Services/Arrangements at Palika Kendra, NDCC-II and Pragati Bhawan be awarded to M/s M. S. Vigilant Security, Placement and Detective Services Pvt. Ltd. at their quoted amount of `1,94,65,995.60 (Rupees one crore ninety four lakh sixty five thousand nine hundred ninety five and paisa sixty only) per annum for a period of two years which comes to a total of `3,89,31,991.20 ( Rupees three crore eighty nine lakh thirty one thousand nine hundred ninety one and paisa twenty only) as per terms & conditions of NIT.

Moreover; the fresh award of work and thence deployment of trained guards as per PSAR Act / Rules will take some time, hence; it is also proposed that the term of present Group Contract 'A', ending on 31.03.2013 be extended for a period of three months w.e.f. 01.04.2013 or till the date of deployment under fresh contract; whichever is earlier.

Further; department may be allowed to award the tender for Group Contract 'A' in anticipation of confirmation of minutes of the meeting of the Council.

**16. DRAFT RESOLUTION :**

**COUNCIL'S DECISION**

Resolved by the Council that the Group Contract 'A' for Security and Traffic Services/ Arrangements at Palika Kendra, NDCC-II and Pragati Bhawan be awarded to M/s M. S. Vigilant Security, Placement and Detective Services Pvt. Ltd. at their quoted amount of `1,94,65,995.60 per annum for a period of two years which comes to a total of `3,89,31,991.20 as per terms & conditions of NIT.

The Council further resolved that since the fresh award of work and then deployment of trained guards as per PSAR Act / Rules will take some time, the term of present Group Contract 'A', which is ending on 31.03.2013 may be extended for a period of three months w.e.f. 01.04.2013 or till the date of deployment under the fresh contract, whichever is earlier.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**ITEM NO. 09 (U-09)****1. Name of the subject/project**

Security and Traffic Services/Arrangements at Palika Bazar, Charak Palika Hospital, Palika Place & other NDMC Premises under Group Contract 'B'.

**2. Name of the Department/Departments concerned**

Security Department

**3. Brief history of the subject/project**

The Security and Traffic Services at all the Office Premises, Commercial Complexes, Hospitals and Electric Sub Stations owned by the NDMC are being looked after by the Security Department, NDMC. Presently the Security and Traffic Services at most of the NDMC premises are managed by deploying security personnel through private security agencies under various Group Contracts i.e. A to J.

**4. Detailed proposal on the subject/project**

After following all codal formalities tenders for "Security and Traffic Services/Arrangements at Palika Bazar, Charak Palika Hospital, Palika Place & other NDMC Premises under Group Contract 'B' were invited.

Following six firms participated through on line e-Tendering:-

<b>S. NO.</b>	<b>NAME OF FIRM/AGENCY</b>
<b>1.</b>	Good Year Security Service (Regd)
<b>2.</b>	M.S. Vigilant Security, Placement and Detective Services Pvt. Ltd.
<b>3.</b>	Skylark Securitas Pvt. Ltd.
<b>4.</b>	CIS Bureaus Facility Services Pvt. Ltd.
<b>5.</b>	Scientific Securty Management Services Pvt. Ltd.
<b>6.</b>	Swift Securitas Pvt. Ltd.

The report of the Sub-Committee constituted for technical evaluation was submitted to competent authority for information and approval. Thereafter the financial bid of following two eligible firms was opened on 19.03.2013:

<b>S. NO.</b>	<b>NAME OF FIRM/AGENCY</b>
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1.	M.S. Vigilant Security, Placement and Detective Services Pvt. Ltd.
2.	Skylark Securitas Pvt. Ltd.

As per on line generated comparative statement the rates quoted by the firms are worked out including quoted Service Charges which is as under:-

S. NO.	NAME OF FIRM/AGENCY	Amount
1.	M.S. Vigilant Security, Placement and Detective Services Pvt. Ltd.	1,96,05,050.28
2.	Skylark Securitas Pvt. Ltd.	1,98,79,887.36

M/s M.S. Vigilant Security, Placement & Detective Service Pvt. Ltd. has quoted 7% Service Charges and emerged as the **L1** (lowest one).

The total quoted amount is ` 1,96,05,050.28 per annum making a total of ` 3,92,10,100.56 for two years. The rates quoted are 10.83% below the Estimated Cost.

The rates quoted by the firm seem to be reasonable and workable. It is therefore proposed that Group Contract 'B' (for Security and Traffic Services/Arrangements at Palika Bazar, Charak Palika Hospital, Palika Place & other NDMC Premises) be awarded to M/s M. S. Vigilant Security, Placement and Detective Services Pvt. Ltd. at their quoted amount of ` 1,96,05,050.28 (Rupees one crore ninety six lakh five thousand fifty and paisa twenty eight only) per annum for a period of two years which comes to a total of ` 3,92,10,100.56 ( Rupees three crore ninety two lakh ten thousand one hundred and paisa fifty six only) as per terms & conditions of NIT.

Further it is pertinent to mention here that vide Council Reso. No. 07 (U-04) dated 28.08.2012 this Group Contract 'B' was given extension up to 31.03.2013. Since fresh award of work and thence deployment of trained guards as per PSAR Act/Rules will take some time, therefore; it is also proposed that the term of present Group Contract B be extended for a further period of three months w.e.f. 01.04.2013 or till the date of deployment under fresh contract; whichever is earlier.

#### 5. Financial implications of the proposed project/subject

The financial implication of the proposal works out to ` 3,92,10,100.56 for two years (i.e. ` 1,96,05,050.28 per annum).

**6. Implementation schedule with time limits for each stage including internal processing**

Two years from the date of deployment.

**7. Comments of the finance department on the subject with diary No. & date.**

Finance Department vide Diary No.467/Finance dated 21.03.2013 concurred in both proposal of the Department.

**8. Comments of the department on comments of Finance Department**

No Comments

**9. Final views of Finance Department**

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**10. Legal implication of the subject/project**

No legal issue.

**11. Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject.**

Annual Estimate for the year 2012-13 amounting to ` 173077801.00 was sanctioned by the Council vide Reso.No.06 (U-03) dated 28.08.2012 for Security and Traffic Services/Arrangements at NDMC Premises under Group Contract 'A' to 'J'.

**12. Comments of the Department on the comments of Law Department.**

No comments.

**13. Final view of Law Department (wherever necessary)**

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**14. Certificate by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

It is certified that all requisite guidelines of the CVC have been followed while processing the case.

**15. Recommendation:**

The Group Contract 'B' for Security and Traffic Services/Arrangements at Palika Bazar, Charak Palika Hospital, Palika Place & other NDMC Premises be awarded to M/s M. S. Vigilant Security, Placement and Detective Services Pvt. Ltd. at their quoted amount of ` 1,96,05,050.28 (Rupees one crore ninety six lakh five thousand fifty and paisa twenty eight only) per annum for a period of two years which comes to a total of ` 3,92,10,100.56 ( Rupees three crore ninety two lakh ten thousand one hundred and paisa fifty six only) as per terms & conditions of NIT.

Moreover; the fresh award of work and thence deployment of trained guards as per PSAR Act / Rules will take some time, hence; it is also proposed that the term of present Group Contract 'B' ending on 31.3.2013 be extended for a period of three months w.e.f. 01.04.2013 or till the date of deployment under fresh contract; whichever is earlier.

Further; department may be allowed to award the tender for Group Contract 'B' in anticipation of confirmation of minutes of the meeting of the Council.

**16. DRAFT RESOLUTION :**

**COUNCIL'S DECISION**

Resolved by the Council that the Group Contract 'B' for Security and Traffic Services/ Arrangements at Palika Bazar, Charak Palika Hospital, Palika Place & other NDMC Premises be awarded to M/s M. S. Vigilant Security, Placement and Detective Services Pvt. Ltd. at their quoted amount of ` 1,96,05,050.28 per annum for a period of two years which comes to a total of ` 3,92,10,100.56 as per terms & conditions of NIT.

The Council further resolved that since the fresh award of work and then deployment of trained guards as per PSAR Act / Rules will take some time, the term of present Group Contract 'B', which is ending on 31.3.2013 may be extended for a period of three months w.e.f. 01.04.2013 or till the date of deployment under the fresh contract; whichever is earlier.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**ITEM NO. 10 (D-05)****1. Name of the Subject/Project**

Re-appropriation of Funds in Revised Estimates 2012-13

**2. Name of the Department/departments concerned**

Finance (Budget) Department

**3. Brief history of the Subject/Project**

Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010, approved by the Council vide Resolution No. 07 (D-03) dated 27.10.2010 prescribes for re-appropriation of budget allocation as under:

“If at any time during the year, it becomes necessary to increase or reduce Budget Estimates of the current year under one function to another function or from one major head to another major head within the same function, or from one minor head to another minor head within the same major head, and the expenditure for the same cannot wait adoption of Revised Estimates by the Council on the recommendations of the Financial Advisor, the Chairperson, in anticipation of the approval of the Council, may authorize such alteration and place before the Council within one month from the end of the quarter, a report of such alteration and give effect to any order that may be passed by the Council in relation thereto.....”

Further, Section 56 of the NDMC Act,1994, prescribes that the Council may from time to time , during the year, transfer the amount or portion of the amount of the budget grant under any head to any other head.

Sub-section (2) of Section 56 further stipulates that every increase in a budget grant and every additional budget grant made in any year under sub-section (1) shall be deemed to be included in the budget estimates finally adopted for that year.

**4. Detailed proposal on the Subject/Project**

In pursuance of directions as contained in Section 56 of the NDMC Act,1994 & Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010, a report of the re-appropriations in Revised Estimates 2012-13 authorized during 4<sup>th</sup> Quarter of 2012-13 as per details enclosed as **Annexure-I See pages 134 - 138** is placed before the Council for information and approval.

**5. Financial implication of the proposed Project/Subject**

No financial implication is involved.

**6. Implementation schedule with timelines for each stage including internal processing.**

Not applicable

**7. Comments of the Finance Department on the subject**

Not applicable

**8. Comments of the department on comments of Finance Department.**

Not applicable

**9. Final views of Finance Department**

Not applicable

**10. Legal Implication of the Subject/Project**

Not Applicable

**11. Details of previous Council Resolution, existing law of Parliament and Assembly on the subject.**

Council vide its Reso. No. 08 (D-03) dated 30.10.2012 approved re-appropriation of funds authorized up to 30.09.2012.

**12. Comments of the Law Department on the Subject/Project.**

Not applicable

**13. Comments of the Department on the comments of Law Department**

Not applicable

**14. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

Not applicable

**15. Recommendation**

Re-appropriation in Revised Estimates 2012-13 authorized during 4<sup>th</sup> Quarter of 2012-13 as detailed in **Annexure-I (See pages 134 - 138)** be approved by the Council in terms of Section 56 of the NDMC Act,1994, & Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010.

**16. Draft Resolution**

Resolved that the Re-appropriations in Revised Estimates 2012-13 authorized during 4<sup>th</sup> Quarter of 2012-13 as detailed in **Annexure-I (See pages 134 - 138)** are approved in

terms of Section 56 of the NDMC Act,1994, & Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010.

**COUNCIL'S DECISION**

Resolved that the Re-appropriations in Revised Estimates 2012-13 authorized during 4<sup>th</sup> Quarter of 2012-13, as detailed in Annexure-I of the agenda, are approved in terms of Section 56 of the NDMC Act, 1994, & Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010.

**Annexure**

**5 pages**







**Annexure ends**

**ITEM NO. 11 (C-40)**

**ACTION TAKEN REPORT ON THE STATUS OF DECISIONS TAKEN BY THE COUNCIL IN EVERY QUARTER.**

Under Rule 3 (f) of the New Delhi Municipal Council (Power, Duties and Functions of the Secretary, NDMC) Regulation 2007, Secretary is required to submit to the Council Action Taken Reports on the decisions taken by the Council in every quarter.

Action taken reports on the decisions, taken by the Council during the 2<sup>nd</sup> quarter of the financial year 2012-13, i.e. from July, 2012 to September, 2012, was placed before the Council in its meeting held on 27.11.2012.

The said report for the period October, 2012 to December, 2012 is placed before the Council for information. **(See pages 140 - 147 )**.

**COUNCIL'S DECISION**

Information noted.

Annexure 8 pages













Annexure ends

**ITEM NO. 12 (C-41)**

**CONTRACTS/SCHEMES INVOLVING AN EXPENDITURE OF RS. 1 LAC BUT NOT EXCEEDING RS. 100 LACS.**

Section 143 (d) of NDMC Act, 1994 provides that every contract involving an expenditure of Rs.1 lac but not exceeding Rs.100 lacs under clause 143 (c) shall be reported to the Council. In pursuance of these provisions, a list of contracts entered/executed upto February, 2013, have been prepared.

A list of the contracts, entered into for the various schemes, is accordingly laid before the Council for information. **(See pages 149 - 158 ).**

**COUNCIL'S DECISION**

Information noted.

Aannexdure 10 pages

















Annexure ends

**ITEM NO. 13 (C-42)**

**ACTION TAKEN REPORT ON THE STATUS OF ONGOING SCHEMES/WORKS APPROVED BY THE COUNCIL.**

In the Council Meeting held on 28.8.1998, it was decided that the status of execution of all ongoing schemes/works approved by the Council indicating the value of work, date of award/start of work, stipulated date of completion & the present position thereof be placed before the Council for information.

The said report on the status of the ongoing schemes/works upto January, 2013, had already been included in the Agenda for the Council Meeting held on 28.02.2013.

A report on the status of execution of the ongoing schemes/works awarded upto February, 2013, is placed before the Council for information. **(See pages 160 - 192).**

**COUNCIL'S DECISION**

Information noted.

Annexure 160 – 192































































Annexure ends

**ITEM NO. 14 (A-43)****1. Name of the Subject / Project :-**

Construction of Foot Over Bridges, Subways and Underpasses in NDMC area.

**2. Name of the Department :-**

Civil Engineering Department, EE(RIP)

**3. Brief History of the Subject / Project :-**

The proposal for construction of foot over bridge / subway in NDMC area at following locations was approved by the council vide agenda item No. 03 (A-20) dated : 21.05.2008.

**SUBWAY :**

- (i) Shahjahan Road.
- (ii) Mandir Marg.
- (iii) BKS Marg near Hanuman Mandir (vehicular).

**FOOT OVER BRIDGE**

- (i) Africa Avenue
- (ii) Mother Teresa Crescent
- (iii) Park Street

**UNDERPASS**

- (i) Shanti Path

**STATUS**

- (i) M/s. DIMTS was engaged on turnkey agreement basis for design and construction of above listed foot over bridges, subway and underpass in NDMC area vide council agenda item No. 03(A-40) dated : 20.08.08. Out of above foot over bridges at all the

three location and underpass at Shanti Path had been completed by M/s. DIMTS and are in operation since 25.09.2010 and 14.01.2011 respectively.

(ii) **Vehicular Subway at BKS Marg** : The proposal for subway at BKS Marg was kept in abeyance as other works were going on BKS Marg namely Airport Link Metro, Multi level parking etc. Afterwards, the vehicular subway was not found feasible being space constraints and existence of subway at Hanuman Mandir.

(iii) **Pedestrian subway at Shahjahan Road**

The proposal for Shahjahan road as prepared by M/s DIMTS was submitted to UTTIPEC, "The governing body for construction of foot over bridge in Delhi", and subsequently the proposal submitted to committee under the chairmanship of 'Principal Secretary, PWD' for consideration and approval. The proposal submitted was not approved by Principal Secretary PWD since after the site observation, it was decided that the pedestrian subway at Shahjahan Road is not required, keeping in view the traffic intensity and volume of pedestrian crossing the road.

(iv) **Pedestrian Subway at Mandir Marg.**

The concept plans of pedestrian subway at Mandir Marg was approved by empowered committee on 17.04.09. On approval of the concept plan by NDMC, M/s. DIMTS invited the bids for the pedestrian subway Mandir Marg and awarded the contract on 01.10.2009 to M/s. R S Sharma Construction Co. The project report of the subject work submitted by M/s DIMTS was approved by the council vide agenda item No. (A-139) dated : 15.01.2010.

Contractor had mobilized the work by erecting the barricading and deploying the resources after award of work in 2009 and approval of project report.

The work was demobilized on 16.03.2010 as the permission for traffic diversion plan was not granted by Delhi Traffic Police due to CWG-2010 as well as closure of Panchkuian road due to DMRC work in progress.

Delhi Traffic Police has given permission in May, 2012 for the traffic diversion plan and closure of one side of Mandir Marg for construction of pedestrian subway at Mandir Marg and M/s. DIMTS was accordingly informed.

The contractor mobilized the work and erected the barricading in construction zone and made arrangement as per traffic diversion plan by deploying traffic Marshall and signage's to manage the traffic diversion. The contractor carried out the survey of services by making trial pits etc.

RWA's had strongly opposed for the construction of subway and further citing the UTTIPEC Guidelines duly approved by the Hon'ble L.G. in regards the subway (Underpass) for pedestrian crossing. UTTIPEC (Unified Traffic & Transportation Infrastructure Planning & Engineering Centre) and it has been intimated that in 31<sup>st</sup> UTTIPEC Governing Body Meeting held on 10.06.11 under the chairmanship of Hon'ble Lt. Governor of Delhi, the guidelines/checklist in regards the pedestrian crossing was approved in the subject title **"FOB need criteria and design guidelines"** F.2(02)2010/UTTIPEC. The aforesaid minutes of meeting of UTTIPEC of Governing Body was issued vide No.F.1(2)2011/UTTIPEC/31<sup>st</sup>/D-189 dated 6.7.11 and copy is annexed at **Annexure 'A' (See pages 202 - 221)**.

In regards the pedestrian crossing, the three options such as FOB, Underpass (Subway) and at grade crossing were discussed and the following guidelines was approved after the detailed discussion in various working groups of UTTIPEC under the Jt. Commissioner of Police (Traffic), PWD, DIMTS etc.

The FOB needs criteria and design guidelines along with mentioned directions.

- i) FOBs are to be the exception, not the rule. They are to be provided only under circumstances where no at-grade crossings are feasible.
- ii) Underpass not to be provided at all, unless under extreme circumstance where no other solution (including FOBs) are feasible.
- iii) At-grade crossings (raised table-tops or zebra crossings) with pedestrian/pelican signals and adequate signage and traffic calming measures are to be used on all Urban Roads within city limits. Pedestrian Signals (approx.20 Sec.) should be synchronized along with the nearest full-traffic signals along all roads including arterials and sub arterials, for smooth movement of traffic along with safe pedestrian/NMV crossing.

The construction of pedestrian subway not to be taken up as it is being felt that subways are not being used by the public at large due to safety reasons as these become the den of anti social elements and the scheme may be closed.

M/s. DIMTS has been informed vide letter No. D-310/CE(C-I) dated : 07.09.2012 for closing the agreement of construction of subway and exploring the possibility of construction of foot over bridge at Mandir Marg.

As per decision taken in review meeting, M/s. DIMTS informed the contractor to demobilize the work and contractor removed all the barricades, site offices etc. and restore the road for vehicular movements.

M/s. DIMTS informed that the contractor was engaged for the work on 01.10.2009, and had mobilized and demobilized the work twice, the financial implication on this account has to be debited to the NDMC account. M/s. DIMTS were persuaded for early finalization of the financial implication with the contractor on closure of the project vide letter no. D/306/CE(C-I) dt. 10.09.2012 and again vide D.O. no. 1369/CE-R/PS/CP/12 dt. 29.11.2012. In response to referred D.O. letter dt. 29.11.2012, M/s. DIMTS has submitted the net financial implications settled with the contractor on closure of the work of subway at Mandir Marg vide letter no. DIMTS/VPE/NMDC—FOBS/13/2012/218 dt. 17.01.2013 amount to ` 8341118/-.

**4. Detailed proposal on the subject / project.**

NIL

**5. Financial implications of the proposed subject / project.**

The expenditure for the work mobilized and demobilized two times by the contractor engaged on 01.10.2009 has been submitted by M/s. DIMTS after settlement with the contractor. M/s. DIMTS consultant was engaged for the work on turnkey basis. The details of the expenditure provided by M/s. DIMTS are as below:

**A. Payment already made**

- |  |   |               |
|--|---|---------------|
| (a) Payment already made against work done (1 <sup>st</sup> RA Bill) | : | ` 22,04,700/- |
| (b) Mobilization advance   | : | ` 60,00,000/- |

<b>A.1.</b> Payment against work done since previous bill	:	(+) ` 12, 66,897/-
<b>A.2.</b> Payment against accepted claims		
(a) Payment against Cost Escalation for work done during year 2012.	:	(+) ` 5, 55,999/-
(b) Payment against claim for Cost of Idle Manpower/Equipment.	:	(+) ` 49, 81,929/-
(c) Payment against claim for reimbursement of Expenditure incurred for Issuance/Maintenance of Bank Guarantees.	:	(+) ` 11,00,360/-
<b>A.3.</b> Recoveries from the contractor		
(a) Recovery of mobilization Advance	:	(-) ` 60, 00,000/-
(b) Recovery of Interest on Mobilization Advance	:	(-) ` 17, 68,767/-
<b>B.</b> The net financial implication is summarized as under:-		
(a) Payment against work done (A.a+A.1)	:	` 34, 71,597/-
(b) Other claims / recoveries (A.b+A2.a+A2.b+A2.c-A3.a-A3.b).	:	` 48, 69,521/-
Total (a+b)	:	` 83, 41,118/-
(c) Gross Financial implication as under (A.o+A1+A2(a)+A2(b)+A2(c))	:	` 1, 01, 09,855/-

The total amount of `1,01,09,855/- worked out by M/s DIMTS had been accepted by the contractor as final settlement against work agreement with net amount of ` 83, 41,118/- after recovery of interest ` 17, 68,767/- only on mobilization advance of ` 60 Lacs given to the agency as per the terms of the contract. In this regard, it is to submit that as per the

turnkey agreement clause no. 7.1.1(terms of payment), clause no.15.4 and clause no. 23.0(a) with M/s DIMTS which reads as under:-

"In event of non- execution/ deferment/ modification of scheme in full or part of the works planned/ in different stages of planning, the fee as per mutual discussions shall be made to DIMTS. This fee shall be in addition to the prescribed fee for the executed works making part of 'Cost of Project'. In this case, any claim arising out of foreclosing of the activity by the agency (s) shall also be borne by the NDMC in proportion to the work executed or service rendered. DIMTS shall be fully authorized to amicably settle all these claims, the fee for consultants and the specialist and make payment and draw its own fee out of the amount advanced for the Project Expenditure."

In view of above explained facts, since M/s DIMTS is fully authorized to settle all the claims. The claims of the agency finalized by M/s DIMTS for fore closure of work of Mandir Marg subway be accepted.

Further, it is to put on records that the total expenditure estimated amounting to ` 6.04 Crores approx. + escalation of `2.54 = `8.58 Crores as applicable would have incurred if had construction of subway at Mandir Marg under taken and completed apart from the recurring expenditure on maintenance of the subway. It has also been informed by M/s DIMTS that the FOB is not considered as a feasible alternative at this location.

**6. Implementation schedule with timelines for each stage including internal processing.**

NIL

**7. Comments of finance department on the subject.**

The copy of the agreement executed between M/s. DIMTS and the contractor of this work is not made available with the record. However, Clause 13 of the GCC of CPWD provides foreclosure of contract with payments and compensation to contractors on account of Preliminary site work, T&P, repatriation of contractor's site staff and imported labour to the extent necessary etc. This clause inter-alia also stipulates that "the contractor shall, if required by Engineer in charge, furnish to him, books of account wages books, sheet and other relevant documents and evidence as may be necessary to enable him to certify the reasonable amount payable under this condition." The DIMTS while accepting these claims as per letter dated : 17.01.2013 placed at Page 65/C onwards has also submitted the reasons and detailed analysis of the claims accepted by them. The abstract position of financial implication is as under :-

Work Done (1 <sup>st</sup> & 2 <sup>nd</sup> R/A Bill)	:	₹.34,71,597/-
Claim Accepted	:	₹.66,38,288/-
Total Financial Implication	:	₹.1,01,09,855/-
Less interest on Mobilization Advance	:	₹.17,68,767/-
Net amount released / to be released	:	₹.83,41,118/-

The department at para 5 of draft agendum has mentioned turnkey agreement clause No.7.1.1 (terms of payment), clause 15.4 and clause No. 23.0(a). The department has also mentioned the provision of 23.0(a) there under which inter-alia also provide that "**DIMTS shall be fully authorized to amicably settle all the claims, the fee for consultant and the specialist and make payment and draw its own fee out of the amount advanced for the Project Expenditure**"

As per the agreement between NDMC and M/s. DIMTS placed on record, it appears that provision of clause 15.4 which deals with "Termination of agreement" has also implication in this case. This clause provides as under :-

15.4 the termination of this contract shall not relieve either party of their obligation imposed by this contract with respect to services performed by either party prior to such termination and NDMC shall pay to DIMTS for all the scope of services performed by DIMTS under this agreement upto the date of termination such compensation as may be mutually agreed upon and proportionate to the percentage progress of SERVICES as indicated in latest progress report submitted. Further, NDMC shall reimburse DIMTS for such additional expenses which DIMTS may incur for orderly winding up of services.

As the "other claims" of contractor accepted by M/s. DIMTS are based on the site condition and technical issues, the department after considering them in light of above stated position, may placed the case before council while bringing on record (i) the relevant contents of letter dated : 24.01.2013 of M/s. DIMTS placed at page 64/c which informs about cost of development of infrastructure in case it is continued and the findings that FOB is not feasible as an alternate, (ii) the further utilization / fate of physical work done, if any, and (iii) as the proposal on page 20/N also contains closure of turnkey agreement with M/s. DIMTS, financial implications under relevant clauses(s) of agreement with them.

**8. Comments of the department on comments of finance department.**

In regard to the "other claims" of the contractor accepted by the M/s. DIMTS based on the provisions of contract with the contractor and M/s. DIMTS had given the elaborated reasons and analysis in support of the claims acceptance. Hence, it is to submit that the claims settled by M/s. DIMTS may be accepted since the claims made against the cost

escalation of the work done during May to September 2012 as the work was awarded to the contractor in 2009 and for the Idle manpower and equipment deployed by the agency at site of work twice on mobilization of the works i.e. firstly in 2009-10 and again during May.'12 to Sep.'12.

The parawise replies to the points of finance deptt are as under:-

- (i) M/s. DIMTS vide their letter dated : 24.01.2013 had informed that the total financial implication (appx.) in case the work of Mandir marg subway is undertaken and completed now that would be as under :-

- (a) Awarded cost of the work : ₹. 604 Lacs  
(Awarded in Oct.'09)
- (b) Cost escalation as on date : ₹. 254 Lacs  
(Approx 42% on the basis of price indices)

Likely construction cost as on date : ₹. 858 Lacs

Moreover, the M/s. DIMTS has informed that the FOB has not been considered as a feasible alternative at this location.

- (ii) In regard to the further utilization of physical work done, it is to submit that the Physical work carried out at site by contractor were for erecting barricading, on site marking of layout of subway, making of slip carriage way by dismantling central verge etc. & laying of RMC, making trial pits for service demarcation, installing signages of traffic diversion, deployment of marshals to guide the traffic vehicular movement which were removed and

all other dismantled areas were restored in original position on closure of the work and cannot be anymore utilized.

- (iii) In regard to the termination of agreement under provision of claim 15.4, it is submitted that the after approval of the closure of the turnkey agreement with the M/s. DIMTS, obligation with respect to the services performed by the M/s. DIMTS will be settled mutually proportionate to the percentage of the services rendered by the M/s. DIMTS within the scope & provisions of the turnkey agreement with the agency.

**9. Final view of the Finance Department**

The finance has concurred in the proposal to place the case before the council while bringing on record vide Dy. No. 135/Finance/R Civil/dt.11.02.13.

**10. Legal implications of the subject / project**

No legal issues are involved in this project.

**11. Details of previous council resolution / existing law of parliament and assembly on the subject.**

- (a) 11(A-13) dated: 26.08.05.
- (b) 17(A-58) dated : 19.12.07.
- (c) 3(A-20) dated : 21.05.08.
- (d) 03(A-10) dated : 20.08.08.
- (e) 06(A-139) dated : 15.01.10

**12. Comments of Law Department on the subject.**

No comments

**13. Comments of the department on comments of Law Department.**

No comments

**14. Certification by the department that all central vigilance commission (CVC) guidelines have been followed while processing the case.**

Certified that all relevant CVC guidelines would be followed.

**15. Recommendations.**

The case is placed before the council for information of the gross financial implication of `1,01,09,855/- with net financial implication of ` 83, 41,118/- only after adjustment of `17,68,767/- on account of interest on mobilization advance given to the contractor to be borne by NDMC on closure of the proposal to construct the pedestrian subway at Mandir Marg against the turnkey agreement of M/s. DIMTS for the work "Construction of Foot Over Bridges, Subways and Underpasses in NDMC area" as well as accord permission to close the turnkey agreement with M/s DIMTS for the subject work.

**COUNCIL'S DECISION**

Information noted by the Council. Further, the Council accorded permission to close the turnkey agreement with M/s DIMTS for the project in question, with net financial implication of `83,41,118/- and resultantly release the aforesaid amount to M/s DIMTS.



Annexure 20 pages

202 – 221





































Annexure edns

**ITEM NO. 15 (W-01)**

1. **Name of the Subject/Project** :- Development of Multilevel Parking in Khan Market Area.
2. **Name of the Department/Departments concerned** :- Project Department.
3. **Brief History of the Subject/Project** :-

Khan Market is the transferred market from the L&DO and NDMC is managing the lease hold rights in the said market. Whatever revenue is received from the ground rent or the conversion charges is deposited in an account maintained by NDMC and statement for the same has to be sent to the L&DO.

There are 156 shops and 74 flats. Since the owners of large number of residential flats got the lease hold rights converted into free hold and for commercial activity and these flats are being used for commercial activity like running of restaurants and other food joints. The number of vehicles being parked in Khan market area has increased several times. There are vehicles of the shop owners, flat owners and also those of the visitors.

No parking fee was being charged on the open spaces which were vested in the NDMC. Under advise from the EPCA, this was made a paid parking area and 5700 sq.m of land was offered for paid parking. A Contractor offered a fee of `5,34,207/- per month. The Khan Market Traders Association filed a writ petition in the High Court and claimed that the area could not be declared as a paid parking area and they should be allowed to continue as free parking. After detailed arguments, the Court did not agree with the Khan Market Traders Association but offered that the Association can run it on Bhaghidari basis and pay to the NDMC an amount of `5,34,207/- per month and run it as free parking for

the customers. The Traders Association paying this licence fee after collecting the same from the shops/ flat owners.

Looking to the pressure of parking in the area and a proposal to re-develop this market, the NDMC requested the L&DO to make available some suitable plot for parking of the vehicles so that a multi-level car parking could be constructed. Allotment of land also become part of the High Court proceedings and allotment of site for parking is being constantly monitored by the Delhi High Court. The L&DO has now allotted 4972.5 sq.m. of land vide their allotment letter dt. 4<sup>th</sup> March 2013. A copy of the terms of allotment is at **Annexure-I (See pages 226 - 228).**

4. **Detailed proposal on the subject/project :-**

The L&DO has asked for a payment of 28,980 per sq.m. for an area of 4972.5 sq.m. The amount payable comes to `147705656 with 2.5% as ground rent. The Delhi High Court has directed that the amount may be paid and possession of the plot taken within the period of 15 days.

The NDMC has offered three multi-storey parking sites to the concessionaire on PPP Model. The land price being collected by the L&DO from these parking are as under :-

I.	Sarojini Nagar	Area of the land 1.56 acres premium to be paid at `11,000 per acre with 5% as ground rent.
II.	Baba Kharak Singh Marg	Premium paid `10,000 per acre with 5% ground rent. Land with an area of 6095 sq. acre has been allotted to NDMC @`10000 per acre with 5% of the premium as ground rent.

III.	Kasturba Gandhi Marg	The area of the plot is 6143 sq.m. on which 25% can be utilized for commercial activity and charges payable for the same would be `57960 per sq.m. This 2.5% as annual ground rent. The remaining 75% of the plot area of land is to be used for un-remunerative projects and the premium payable is 11,000 per acre plus 5% ground rent.
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Copies of the two allotments letter are enclosed as **Annexure-II & III (See pages 229 - 232)**.

As per allotment letter for the land at Khan Market, minimum FAR has been permitted and the top as payable maintained as green as such, the parking has to be constructed underground only. It is worthwhile mentioning here that no such condition was attached while allotment of land for parking at Baba Kharak Singh Marg, Sarojini Nagar and K.G. Marg.

So far, the parking fee is being paid on the monthly basis by the Khan Market Traders Association through contribution and they are permitted customers to visit the Khan Market without payment of any parking fee. It has to be enquired from the Khan Market Traders Association whether they would like the new parking sites to be developed as a free parking and the Traders Association will pay for the same or it has to be a paid parking.

It is well known that multi level parking is not viable proposition unless it is accompanied by a commercial component. The NDMC has a underground parking at Connaught Place known as Palika Parking in which yearly revenue is `86 lac and expenditure incurred in its maintenance is `3.74 cr. Thus as aforesaid, underground parking is a losing proposition

and unless commercial component is given, it can not be managed without suffering huge losses.

It would be difficult for the NDMC to accept the parking site after paying `14.56 cr. for the land. The cost of construction would be extra.

Normally the covered parking requires 32 sq.m for parking. Thus on plot of about 5000 sq.m. number of parkings per floor would be approx. 156 car parkings. Even if three floors are developed, the number of parkings would hardly be for 450 vehicles. If the land price was demanded is paid and huge cost of construction is incurred, the project will not yield even a 10% return. What to say of cost of its maintenance which would be extra. The proposal is placed before the Council for further directions. The matter would be placed before the High Court on next date of hearing.

5. **Financial implications of the proposed/subject :-**

Cost of Land

At present total financial implication involved is `14,77,05,656/- to be paid to L&DO. The details are as under :-

1.	Premium	`14,77,05,656/-
2.	Ground rent for one <a href="#">year@2.5%</a> PA	` 36,02,576/-
3.	Cost of preparation of agreement for lease	` _____ 30/-
	<b>Total</b>	<b>- `14,77,05,656/-</b>

Cost of construction

To be worked out after project report is prepared by concerned department.

6. **Implementation schedule with timeliness for each stage including internal processing**

:

N.A. at this stage.

7. **The agenda is before the Council whether we should procure the land at cost demanded by L&DO :**

8. **Comments of the Finance department on the subject :**

Finance Department has concurred to the proposal for place the agenda before Council.

9. **Comments of the Department on comments of Finance Department :**

Not required.

10. **Final views of Finance Department :**

Finance Department has concurred to the proposal for place the agenda before Council.

11. **Comments of the Law Department on the subject :**

No legal issues involved.

12. **Comments of the Department on comments of Law Department :**

Not required.

13. **Certification by the department that All Central Vigilance Commission[CVC] guidelines have been followed while processing the case :**

Not applicable.

14. **Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject :**

None.

15. **Recommendations : Council to deliberate and decide next course of action**

Land allotment may be accepted, if land is given on similar terms as those for Sarojini Nagar and Baba Kharak Singh Marg considering the fact that no part use as commercial activities is being allowed to make it a financially viable project. Till commencement of construction, this plot will be used as open paid parking either through contractor or on Bhaghidari basis. Hon'ble High Court shall be informed accordingly.

**COUNCIL'S DECISION**

Resolved by the Council that Land allotment may be accepted only if land is given on similar terms as those for Sarojini Nagar and Baba Kharak Singh Marg Multilevel Parkings, considering the fact that no part of the proposed multilevel parking would be used for commercial activity and therefore to make it a financially viable project, land is required to be accepted by NDMC on aforesaid terms. Further, it was also decided that if land is provided on aforesaid terms, then, till commencement of the construction, this plot will be used as open paid parking either through contractor or on Bhaghidari basis. The Council advised that Hon'ble High Court may be informed accordingly.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

ANNEXURES 7 pages











Annexure ends

**ITEM NO. 16 (A-44)****1. Name of subject/project:-**

Sub:- S/R of roads in NDMC area during 2012-13

Sh:- Resurfacing of lanes by lanes in jurisdiction of R-V Division

**2. Name of the Department**

Civil Engineering Department

**3. Brief History of the Subject.**

(a) There are 22 lanes by lanes in area of R-V Division where last bituminous resurfacing work was carried out during 2006-07 and outlived their life. CRRRI was appointed after approval of Chairperson, NDMC on 25.10.11 for evaluation of 22 lanes of R-V Division to give their recommendation to take up bituminous treatment in each lane. CRRRI has given their recommendation report of 20 lanes out of 22 lanes (due to not clear the site on two lanes) in the Month of August-2012 where 30 to 40mm thick bituminous concrete has been recommended in lanes as per existing condition.

In addition to this, a separate study of lanes of Shaheed Bhagat Singh Market has also been done by CRRRI with their recommendation on 01.10.12 where 25 mm thick bitumen mastic wearing course has been recommended in all lanes.

(b) Following lanes by lanes have been considered in the scheme:-

- i) Dhobhi Ghat no-4 lane
- ii) Dhobhi Ghat No-5 lane
- iii) Dhobhi Ghat No-6 lane
- iv) Mahadev Lane
- v) B.D Lane
- vi) Sharam Shakti Lane
- vii) Aditya Sadan Lane
- viii) Jantar Mantar Lane
- ix) North Avenue back Lane
- x) Punjab National Bank Lane
- xi) Bhai Veer Singh Lane
- xii) Lal Bahadur Sadan Lane
- xiii) Baird Lane

- xiv) R.K.Asram Lane
- xv) Natvar Singh Negi Lane
- xvi) Lane b/w M.S. Flat & block 1-134, Udyan to Mandir Marg
- xvii) G.Point Lane ( From M.Marg to G.Point)
- xviii) Lane Behind Multistorey Apartment at Udyan Marg
- xix) Lane behind 1-13 block b/w Udyan to Mandir Marg
- xx) Kali Bati Lane, entry to G-Point to 1-17 Block
  
- xxi) Shaheed Bhagat Singh Market lanes (Mastic Work)
  
- (c) Some patch work of mastic i.e minor quantity at Mandir Marg near Balamiki Basti has also been included in the estimate.
  
- (d) Preliminary Estimate has been prepared amounting to ` 2,60,74,600/- based on DSR2012/Market rate + 14% Cost Index on DSR items + 3% contingency.

#### 4. Detailed Proposal of the subject/Project

- i) Sealing the cracks by using not rubberized bitumen 80/100
- ii) Providing and applying tack coat using hot straight run Bitumen of grade VG-10.
- iii) Providing and laying bituminous concrete using crushed stone & bitumen of grade VG-30.
- iv) Providing and laying Dense Graded Bituminous Macadam of bitumen of grade VG-30.
- v) Providing and laying bitumen mastic wearing course of bitumen of grade 85/25.
- vi) Providing and applying 2.5mm thick road marking strips of specified shade/colour.

#### 5. Financial Implications of the proposed project:

The financial implications of the proposal works out to ` 2,60,74,600/-.

#### 6. Implementation schedule with timelines for each stage including internal proceedings:

Preliminary Estimate	-	April-2013
DE & NIT	-	April-2013
Tender	-	May-2013
Approval of tender	-	June-2013
Work will be awarded	-	Aug-2013
Scheduled time of completion	-	Four Months

**7. Comments of the Finance Department on the subject with dairy no. and date:**

Finance has seen the case and raised observation vide dairy no. 232/Finance/ R-  
Civil dt. 21.02.13.

- i) It appears from record that Project Report has not been prepared properly in accordance with the standing order dt. 07.06.2005 and is on the prescribed proforma for approval of Chairperson for works over `50 lacs. As such, department needs to prepare the Detailed Project report in terms of standing order vide dt. 07.06.2005. Also HOA may be mentioned in the project report as per the new chart of account.
- ii) Record shows that CRRRI has done evaluation of 22 roads in the R-V division, but it is not clear from the estimate that how many roads have been considered in the estimate. If any roads have not been taken or added in the PE, reason for the same may be brought on record.
- iii) The names of the roads need to be mentioned in the Detailed Project Report where resurfacing has been proposed.
- iv) In the Project report, estimate has been proposed for ` 2,59,70,300/- whereas the department has submitted an estimate for ` 2,60,74,600/-, reasons for such difference in the estimate may be brought on record.
- v) Certify that estimate has been prepared according to the recommendations of the CRRRI and technical feasibility has been ensured.
- vi) Certify that proposed roads have outlived their prescribed life.

**8. Comments of the department on comments of Finance Department.**

- i) The modified project report has been prepared and enclosed as per standing order dt. 07.06.05. Expenditure to be charged as per chart of account vide no. 21/412/40/0/35/02/108 at page-326 of Budget Book of coming financial year 2013-14 where budget provision is zero, so required budget shall be reappropriate from saving of any scheme or will be sought in RE 2013-14.

- ii) The CRR I has done evaluation of 20 roads against the 21 roads as out of 22 roads recommended by CRR I, two roads i.e one lane leading to Harizan Basti Mandir Marg ( Sr.No -20) and lane from R.K. Ashram Marg to 85 Block ( Sr. No 14) are not included in the estimate due to CPWD has constructed flat in the lane and lane leading to Harijan Basti Marg has been rehabilitated with cement concrete work and same has been dropped from the study. A separate study at Shaheed Bhagat Singh Market area has already been done by CRR I vide letter dated 1<sup>st</sup> Oct 2012 the same has been included in the estimate. Some patch work of mastic i.e minor quantity Mandir Marg near Balamiki Basti i.e 367.00 sqm has also been included in the estimate.
- iii) The names have been mentioned in the detailed project report.
- iv) Firstly the estimate was prepared for ` 2,59,65,500/- by including cost index @ 8% on DSR items and add 5% Contingencies. But the same was cancelled and again an estimate by considering cost index 14% plus 3% contingencies with a total cost of ` 2,60,74,600/- placed at page No-9/C. The preliminary estimate amounting to `2,60,74,600/- has also been checked by the Planning Department.
- v) It is certified that estimate has been prepared according to the recommendation of the CRR I and the estimate is technically feasible.
- vi) It is certified that proposed roads have outlived their prescribed life.

#### **9. Final view of Finance Department:**

Finance has seen the case vide dairy no. 384/Finance/R-Civil dt. 25.03.13 that Finance Department has no objection to the proposed estimate amounting to `2,60,74,600/- as checked by planning against HOA : 21/412/40/0135/02/108 at page-326. However, department may ensure:

- (i) Availability of funds before incurring any liabilities and
- (ii) Repair of Mandir Marg road near Balmiki Basti is not covered under defect liability of the agency.

In this regard, it is assured that:

- (i) Necessary clarification has already been given in para-8(i)
- (ii) Repair of Mandir Marg road near Balmiki Basti is not covered under defect liability of the agency.

**10. Legal implication of the subject/project.**

**11. Details of previous council Resolutions, existing Law of Parliament and Assembly on the subject:**

NA

**12. Comments of the Law Department on the subject.**

N.A.

**13. Comments of the department on the comments of the Law Department.**

N.A.

**14. Certification by the department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

All the Central Vigilance Commission's guidelines have been followed.

**15. Recommendations:**

The case is placed before the Council for consideration and accordingly:

- (a) Administrative Approval and Expenditure Sanctioned of ` 2,60,74,600/- for the work "Resurfacing of lanes by lanes in jurisdiction of R-V Division".

- (b) Further action in the matter be taken in anticipation of confirmation of minutes of the Council.

**16. Draft Resolution:**

Resolved by the Council to accord:-

- (a) Administrative Approval and Expenditure Sanctioned of ` 2,60,74,600/- for the work "Resurfacing of lanes by lanes in jurisdiction of R-V Division".
- (b) Further action in the matter be taken in anticipation of confirmation of minutes of the Council.

**COUNCIL'S DECISION**

Resolved by the Council to accord administrative approval and expenditure sanction amounting to ` 2,60,74,600/- for the work "Resurfacing of lanes by lanes in jurisdiction of R-V Division".

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**ITEM NO. 17 (T-01)****1. Name of the Subject/Project**

Housekeeping Services at NDMC Palika Kendra Building.

**2. Name of the Department/departments concerned**

General Administration Department.

**3. Brief History of the Subject/Project.**

This case relates to award of work of Housekeeping Services at Palika Kendra Building. Presently the work is awarded to M/s. ACME Enterprises for a period of one year w.e.f.01.06.2011 to 31.05.2012 and extended w.e.f.01.06.2012 to 31.01.2013 on the existing terms, conditions & rates or till a new tender is finalized and awarded whichever is earlier.

The quality of work of the existing contract has not been found upto the mark for various reasons and therefore, it was decided to revisit the requirements and tender conditions. Accordingly, fresh NIT for housekeeping services of Palika Kendra has been drafted on the basis of tender documents obtained from the office of the Comptroller and Auditor General of India and one framed for maintenance and upkeep of our Barat Ghars and has been duly concurred by the Finance & Law Department. There are 298 Rooms, 80 toilets and two level basement in Palika Kendra building. The details of the area of this building is given below:-

**AREA COVERED**

<b>Sl. No.</b>	<b>Description</b>	<b>Area in Sq. mtr.</b>
1.	Open Area (outside the building within the compound wall)	8368.00 m <sup>2</sup>
2.	Floor Area (Covered Area) <b>Ground floor to 21<sup>st</sup> floor including two mezzanine floors and 298 Rooms &amp; 80 Nos. of toilets</b> (Gents = 26 Nos.) (Ladies = 25 Nos.) (VIP = 29 Nos.)	12699.00 m <sup>2</sup>

3.	Two Staircases	916.00 m <sup>2</sup>
4.	Two Basements (lower and upper)	6068.00 m <sup>2</sup>

**4. Detailed Proposal on the Subject/Project.**

Considering the aforesaid facts the requirement of staff, material, terms & conditions of tender have been revisited. Necessary estimate from two vendors have been obtained based on which estimate has been prepared, according to which the manpower requirement has been projected as 65 (including supervisory staff) against 50 provided in existing contract. Similarly, branded cleaning material and wherever possible mechanized cleaning has been insisted. Further, keeping in view the nature of job and its continuity the new tender proposes to award this work for two years with one year extension clause. In case of any complaints etc. penalty provisions have been provided. Accordingly, the estimated expenditure on account of this housekeeping work for two years with material works out to `2,09,02,395/- Taxes as applicable.

The details of estimate are given in **annexure 'A' (See page 241)** enclosed.

**5 Financial Implications of the proposed project/subject.**

The estimated expenditure has been worked out as `2,09,02,395.00 (Rupees Two Crore Nine Lakh Two Thousand Three Hundred Ninety Five) + Taxes for two years.

**6. Implementation schedule with timelines for each stage including internal processing.**

Two months from the date of administrative approval and expenditure sanction.

**7. Comments of the Finance Department on the subject with diary No. & date.**

- i. The Department has taken into account the machines rental and AMC as separate item as part of the estimate for an amount of ` 75,812/- & `33,250/- per month respectively which appears to be overlapping. This may be checked keeping in view the need of such machines listed in annexure-III enclosed with the quotation by M/s BVG India Ltd. As it seems that there is no need of road sweeper for cleaning work of Palika Kendra Building. Similarly, requirement of other machines be also rechecked considering the available open space/area of the building. Moreover, possibility be explored for having such type of machines/owned by the firm should be incorporated in the NIT resulting thereby no need of rental and AMC.

- ii. It appears that no supporting documents with regard to taking estimation of minimum wages of Safai Karamchari, Supervisor and Site Incharge are placed on record. The basis/break-up (including all facilities as per statutory norms) for taking the above said estimation be brought on record as per prevalent rates of minimum wages.
- iii. The rate list for estimated cost of `1,25,000/- have not been enclosed with the quotation submitted by M/s BVG.
- iv. The administrative charges @ 5% be excluded from the estimate as there is already an element of contractor profit in the said estimate.
- v. Considering all the above aspects, the Department may also obtain one or two more quotation for preparing the estimate on realistic basis so that comparison could be possible at the later stage.
- vi. The Budget head of account to which the proposed expenditure shall be charged be mentioned along with availability of funds therein.
- vii. The status regarding making separate arrangements for disposal of garbage be also brought on record as the same was not considered in the earlier work for the year 2011.
- viii. A draft tender/NIT be prepared specifying the selection criteria and methodology. (Dairy No.-1594/Finance dated 27-07-2012)

#### **8. Comments of the Department on comments of Finance Department**

- i. Rental and AMC are two different components of equipments. The charges of rentals are derived from CPWD pattern (like in Rastrapati Bhawan etc.) in which BVG India Ltd. take machine rental @3.75% per month of the total value of equipments for the period of three years. For the benefit of the Department they have worked out the entire costing on 03 years pattern hence the incorporation of AMC of equipments becomes necessary because OEM's only give one year as warranty thereafter equipments has to be brought under AMC, and if they consider the amortization of equipments for the period of just one year then we get benefit of AMC but the rental value will increase to 05% per month i.e. the sole reason of separating rental value and AMC for more clarity, if the tender is for more than a year then there will be no any charges for first year of AMC. Further road Sweeper a small walk behind machine which runs on the push mechanism by the cleaner and it does not run on any kind of power or fuel yet cleans faster and does positive cleaning without spreading dust in the environment.
- ii. Necessary supporting documents and revised minimum wages has been taken on the basis of orders issued by the NCT of Delhi vide Office Order No.F-

12(142)/11/M.W./LAB/279 dated 20.04.2012 and adopted by the NDMC vide its order No.D-1422/2012/LWD/12 dated 13.07.2012 (copy at page-39/C). The bifurcations of rates of minimum wages are reproduced in the note after point No.8.

- iii. The rate list for estimated cost of sanitation material of `1,25,000/- has been given by M/s. BVG India Ltd. (page-52/C).
- iv. The administrative charge @5% has been excluded from the estimate, as the same has been withdrawn by M/s. BVG India Ltd.
- v. Necessary quotations from other firms i.e. M/s. Swastik Electrotech Pvt. Ltd. have been obtained and the same is placed in the file (pages 53-55/C).
- vi. Budget provision exists under the Head Account of 220-11-04 (Sanitation).
- vii. The separate arrangements for disposal of garbage have been made and the work has been awarded to M/s. Ramender Nath for a period of one year.
- viii. The draft NIT has also been prepared and placed below in the link file.

#### **9. Final views of Finance Department**

In view of the replies submitted by the Department and details provided, Finance Department concur the estimate of `2,09,02,395/- (Rupees Two Crore Nine Lakh Two Thousand Three Hundred Ninety Five Only) + Service Tax for the work "Mechanized House Keeping Services at NDMC, Palika Kendra" for a period of two year.

#### **10. Legal observations on the subject/project.**

The Department is advised to place on record earlier NIT, if any, executed on the issue involved. Further, new amendments made in the NIT may be highlighted so that the matter can be examined in its right perspective.

#### **11. Comments of the Department on the comments of Law Department.**

As advised, earlier NIT is attached with the file. Further, regarding new amendment in the NIT, it is stated that the proposed NIT is totally new than the earlier format. The proposed NIT is drafted on the basis of work awarded for NDCC-II and tender documents obtained from Comptroller Auditor General of India.

**12. Final view of Law Department**

We have gone through the NIT and necessary corrections have been made as per legal point of view. The Department is advised to incorporate the arbitration clause mentioning therein that the dispute touching this agreement will be decided by the sole Arbitrator to be appointed by the Chairperson, NDMC, as per Arbitration and Conciliation Act 1996. Only the court of Delhi will have jurisdiction.

However, the department is to ensure that the facts and figures mentioned in the NIT are correct and are as per approval of the competent authority and the department has also seen from their technical point of view.

**13. Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject.**

Nil

**14. Certificate that all Central Vigilance Commission's guidelines have been followed while processing the Case.**

The estimation has been made on the basis of requirements & following prescribed procedure.

**15. Recommendations**

Administrative approval & expenditure sanction for ` 2,09,02,395.00 for housekeeping/cleaning work of Palika Kendra for a period of two years on revised terms & conditions worked out by the department. The work will be awarded through open tendering/e-tendering. It is further proposed that further action may be taken by the department in anticipation of confirmation of the Minutes by the Council.

**16. Draft Resolution**

Considering the facts as brought-out in the agenda council resolved to accord administrative approval and expenditure sanction for ` 2,09,02,395.00 (Rupees Two Crore Nine Lakh Two Thousand Three Hundred Ninety Five) + Taxes for housekeeping/cleaning work of Palika Kendra Building for a period of two years. The work will be awarded through open tendering/ e-tendering.

It was further also resolved that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**COUNCIL'S DECISION**

Resolved by the Council to accord administrative approval and expenditure sanction for `2,09,02,395.00 plus Taxes for housekeeping/ cleaning work of Palika Kendra Building for a period of two years. The work will be awarded through open tendering/ e-tendering.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

Annexure-'A'Break-up of wages / material/ equipments etc taken for estimate prepared for housekeeping/cleaning services of Palika Kendra for two years

Category of Labour/Worker	Rates of wages per month (in `)	EPF @13.61% subject to maximum on `6500/- (in `)	ESI @4.75% (in `)	Total Amount payable (per month per worker)
Safaikaramchari	7020/-	884.65	333.45	8238.10
Supervisor	7748/-	884.65	368.03	9000.68
Site Incharge	9282/-	884.65	440.89	10607.54

Amount payable for 60 Housekeeping persons/Safaikaramcharies	@8238.10x60X24 months=1,18,62,864.00
Amount payable for 04 Supervisors	@9000.68X4X24 months=8,64,065.28
Amount payable for 01 Site Incharge	@10607.54X1X24 months=2,54,580.96
<b>Total (for two years)</b>	<b>`1,29,81,510.24 or say `1,29,81,510.00</b>

Cost of material `1,25,000.00X24 months= ` 30,00,000.00

Monthly rental on machines `74,812X24 M.= ` 17,95,488.00

Machine and other consumables including machine AMC

`33,250X12 months= 3,99,000.00

(no charges for 1<sup>st</sup> year of AMC)

Total cost ` 1,81,75,998.00

Contract Contribution @15% ` 27,26,400.00

**Grand Total** **` 2,09,02,395.00**



**ITEM NO. 18 (J-04)**

<b>1</b>	<b>Name of the Subject/Project</b>	<b>Revision of parking charges/tariff in N.D.M.C.</b>
<b>2.</b>	<b>Name of the Department</b>	<b>Enforcement Department</b>
<b>3.</b>	<b>Brief History of the Subject</b>	<p><b>The parking proposal was earlier submitted before the Council meeting on 28.02.2013 and the decision with regard to revision in parking rates was deferred.</b></p> <p>The proposal is for surface parking and underground Palika Parking. There are 54 parking lots in entire N.D.M.C. area out of which 13 parking lots were allotted on Bhagidari Basis to the various institutions/Govt. Offices and associations etc. Remaining 41 parking lots were divided in 5 parking groups, which have been allotted on tender basis for the period ending 31.03.2013. The policy and the rate of parking charges, as proposed in the agenda item, were lastly approved by the Council in the meeting dated 26.07.2004. The rates approved by the Council were slightly modified in the meeting taken by the then Chairperson, N.D.M.C., with the Council Members on 05.08.2004. From that, no parking charges were revised till date <b>(Annexure-A See pages 245 - 255)</b></p>
<b>4</b>	<b>Detailed proposal on the subject/project :-</b>	

**4.1** At present the NDMC is following parking charges rates applicable to parking places in NDMC area since 2004. The existing parking tariff is as under:-

<b>Period</b>	<b>NDMC existing rates (In Rs.)</b>
0-30	10
0-1	10
0-2	10
0-3	20
3-4	30
4-5	40

5-6	50
6-7	60
7-8	70
8-9	80
9-10	90

**4.2** Now, Special Task Force on traffic issues in Delhi constituted by the GNCTD under the Chairmanship of Chief Secretary in pursuance of the orders dated 10.02.2010 of Hon'ble Delhi High Court has inter-alia recommended enhancement of the quantum of the parking charges in its meeting dated 25.06.2012.

The recommendation made in this regard has been considered by the Government of Delhi and Hon'ble Lt. Governor, Delhi has approved the decision to levy the following parking charges (conveyed by Special Commissioner (Transport) vide letter No. F.3(9/2)/Proj./Tpt/2010/66 dated 21.02.2013), as under:-

(i)	Upto 30 minutes	-	Rs.10/-
(ii)	Upto 1 hours	-	Rs.20/-
(iii)	Upto 3 hours	-	Rs.50/-
(iv)	Every additional hour or part thereof beyond 3 hours	-	Rs.20/-

It was also decided that for the parking during peak hours, the charges would be additional 50% of above charges. In case of the Two Wheelers, the parking charges were proposed to be levied at rates 50% of those proposed for four wheelers with the condition that parking charges would not exceed Rs.50/- for upto 9 hours. In the letter, it has been requested to take necessary action for implementation of the above decision regarding enhancement of parking charges in the NCT of Delhi.

**4.3.** Vide proposal dated 28.02.2013, the NDMC has proposed following parking rates:-

<b>Period</b>	<b>NDMC Proposed rates (in Rs.)</b>
0-30	20
0-1	20
0-2	40

0-3	60
3-4	80
4-5	100
5-6	100
6-7	100
7-8	100
8-9	100
9-10	100

**5. Comments of the Finance Department on the Subject**

Finance Department vide their note dated 11.02.2013 on page 38/N has opined as *“Finance Department has no objection to the proposal of the Department. The Department may ensure that the issues discussed in the meeting held with Chairperson, N.D.M.C., and recorded on page 35/N and 36/N have been complied with and duly incorporated in the proposal. Further, the Department is also advised to submit the Draft Agendum in the prescribed laid-down format”*.

**6. Comments of the Department on comments of Finance Department**

*It is ensured that the issues discussed in the meeting held with Chairperson, N.D.M.C., and recorded on page 35/N and 36/N have been complied with and duly incorporated in the proposal*

**7. Final views of Finance Department**

As per Para No.5

**8. Legal implication of the subject/project**

This is a case of revision in rate of parking and has no legal issue.

**9. Details of previous Council Resolution, existing law of Parliament and Assembly on the subject.**

The policy and the rate of parking charges, as proposed in the agenda item, were lastly approved by the Council in the meeting dated 26.08.2004 vide Item No. 3(J-2). The rates approved by the Council were slightly modified in the meeting taken by the then Chairperson, N.D.M.C., with the Council Members on 05.08.2004.

**10. Comments of the Department on the comments of the Law Department**

No comments

**11. Final view of Law Department (wherever necessary)**

N.A.

**12. Certificate that all Central Vigilance Commission's guidelines have been followed while processing the case**

Not applicable

**13. Recommendations**

In view of above facts, it is placed before the Council to decide the parking rates in NDMC area.

**14. Draft Resolution**

**COUNCIL'S DECISION**

The Council, by majority, resolved to approve the policy amendments proposed and revision of Parking charges / tariff for different types of vehicles in NDMC area, as proposed by the Department.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**ANNEXURE 11 PAGES**



















ANNEXRE ENDS

**ITEM NO. 19 (H-10)****1. Name of the subject:**

Seeking approval for a proposal to request UPSC to assess the suitability of contractual Doctors working in NDMC for regular appointments.

**2. Name of the Department**

Personnel Department

**3. Brief History of the subject/project:**

There is acute shortage of doctors in various health care facilities in NDMC. Personnel Department has been regularly requesting UPSC to sponsor candidates for filling up vacant posts of doctors in the NDMC but the process of recruitment by UPSC is time-consuming. To meet the obligatory function of providing healthcare facilities to the people of Delhi in general and of NDMC in particular, NDMC has been from time to time engaging both GDMOs and Specialist doctors on contract. All Contractual Doctors working in NDMC are getting all the benefits given to regular doctors except Annual Increment, LTC, Medical Facility, Maternity Leave, Paternity Leave and Municipal Accommodation. Most of these doctors are now past the maximum qualifying age for applying for job elsewhere. It is, therefore, considered prudent to request UPSC to assess the suitability of doctors working on contract in NDMC on the basis of personal interview only by granting them relaxation in age for such number of years as they have worked in NDMC on contract, other things mentioned in RRs, such as educational qualification and experience, if any, required for a post, would need to be met by the contractual doctors who wishes to get himself assessed by UPSC. UPSC has recently carried out a similar exercise for doctors working on contract in Govt. of NCT of Delhi, Department of Health & Family Welfare. A draft agenda on the subject with details was placed before the Council in its meeting held on 31.1.2013 and the same was deferred for want of certain information/clarification from GNCT of Delhi. The information has been sought from the GNCT of Delhi.

**4. Financial implications of the proposed project/subject:**

There are no additional financial implications.

**5. Implementation schedule with timeliness for each stage including internal proceedings"**

N.A.

**6. Comments of the Finance Department on the subject:**

As the council approved is being sought to approach UPSC to consider existing contractual doctors while selecting regular doctors for NDMC, it is in the larger interest of NDMC to perform its obligatory function, Finance has no objection to it.

**7. Comment of the Department on comments of Finance Department:**

No comments

**8. Legal Implications of the subject:**

**9. Details of previous Council Resolutions, exiting law of Parliament and Assembly on the subject:**

Nil

**10. Comment of the Law Deptt. on the subject:-**

Council has to be guided by NDMC Act. However, NDMC can bring to the notice of UPSC the procedure followed by UPSC for Delhi Govt.

**11. Comments of the Department on the comments of Law Department**

No comments

**12. Certification by the department that all the Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

Till date there are no specific guidelines of the Central Vigilance Commission in this case.

**13. Recommendation:**

In view of that has been stated in the preceding paragraphs the matter is placed before the Council for approval that the proposal be sent to UPSC to assess the suitability of the contractual Doctors working in NDMC on or before 1.4.2006 i.e. the date of orders of the Hon'ble Supreme Court of India in the case of Uma Devi's dt. 1.4.2006, and the Council framed policy regarding consideration of the issue of regularisation etc. considering it as a cut-off date.

**14. Draft Resolution:**

To be decided by the Council

**COUNCIL'S DECISION**

The Council deliberated the issue at length and resolved to give its in principle approval to send the proposal to the UPSC. It was further resolved that the department, before moving in the matter would consider the method adopted by GNCTD & MCD, subject to availability of vacancies.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**(VIKAS ANAND)**  
**SECRETARY**

**(ARCHNA ARORA)**  
**PRESIDING OFFICER**