

ITEM NO.17 (W-03)

1. Name of the Subject/Project:

Administrative approval and expenditure sanction for Rs.3,10,07,600/- (Rs. Three Crores Ten Lakh Seven Thousand Six Hundred only) for registration of New Delhi Municipal Council Smart City Limited (a wholly owned Public Limited Company of the New Delhi Municipal Council) under the Companies Act, 2013.

2. Name of the Department:

Project Department, New Delhi Municipal Council.

3. Brief history of the subject:

New Delhi Municipal Council (NDMC) has been selected as one of the 20 Cities by the Ministry of Urban Development (MoUD) under City Challenge Round 1 of the Smart Cities Mission of the Government of India (GOI) on 28th January, 2016.

MoUD vide letter No. K-15016/61/2015-SC-I dated 28.1.2016 (Annexure- 1 See page 193) had invited the attention to the Smart Cities Mission Guidelines for creation of City Level Special Purpose Vehicle (SPV) as a limited company incorporated under the Companies Act, 2013. The affairs of the company will be regulated by an Article of Association (AoA), which shall include structure and functions of the SPV.

The Council vide resolution No. 07(W-02) dated 26.4.2016 approved the following with respect to establishment of Special Purpose Vehicle (a Public Limited Company wholly owned by NDMC) to be named as "New Delhi Municipal Council Smart City Limited" under the provisions of section 12(z) of the New Delhi Municipal Council Act, 1994:

- (i) Establishing a SPV (a Public Limited Company) 100%/wholly owned by the NDMC under the provisions of section 12(z) of the NDMC Act,1994;
- (ii) Article of Association for SPV;
- (iii) Memorandum of Association for SPV;
- (iv) Authorizing Chairperson, NDMC to select persons as nominee of and as trustee for NDMC.
- (v) Appointment of a Chartered Accountant/ Consultant Firm on nomination basis by the Chairperson to assist NDMC in establishment, including registration, of SPV and to handle matters associated thereof, considering the urgency of the matter;
- (vi) Transfer of funds of Rs.500 crore from NDMC to the proposed SPV, as and when required; and
- (vii) Authorizing NDMC to request MoUD to allocate the funds to the proposed SPV in terms of the Smart Cities Missions Guidelines.

Subsequently the matter was placed before the State Level High Powered Steering Committee (HPSC), which in its meeting held on 12.5.2016 approved the proposal for formation of SPV named as "New Delhi Municipal Council Smart City Limited" with authorized capital of Rs.500 crores and initial paid up capital of Rs.250 crores. The minutes of the HPSC meeting dated 12.5.2016 are placed as Annexure 2 See pages 194 - 196.

Further, the Ministry of Home Affairs, Government of India has been informed by NDMC vide letter dated 28.4.2016 about the decision of the Council for establishment of Special Purpose Vehicle (SPV), which is a requirement to be eligible for receipt of central assistance of Rs.500 crores under the Smart Cities Mission. NDMC sought concurrence of the Ministry of Home Affairs to establish

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SPV for managing the affairs of Smart City Projects. The copy of the letter dated 28.04.2016 is annexed as Annexure 3 See pages 197 -198.

The Ministry of Home Affairs has concurred with the proposal of NDMC for establishment of SPV vide letter No. 14011/10/2016-Delhi-II dated 08th June 2016, subject to the following observations:

- i) The definition of the Central Government in Article of Association would be Ministry of Urban Development since Smart City Mission is steered by Ministry of Urban Development.
- ii) The Chief Executive Officer (CEO) of the proposed company to be appointed by Ministry of Home Affairs, being the Cadre Controlling Authority, in consultation with Lt. Governor, Delhi from among the available IAS Officers in Delhi segment of AGMUT Cadre.
- iii) The role of Central Government i.e. Ministry of Home Affairs should be limited to as defined in the NDMC Act, 1994.

The referred letter dated 08.06.2016 of Ministry of Home Affairs is annexed as Annexure 4 See page 199.

4. Detailed proposal on the subject:

- 4.1 As mentioned above, the Council has already approved the creation of SPV which has been duly recommended by HPSC and also approved by the Ministry of Home Affairs, Government of India vide letter No. 14011/10/2016-Delhi-II dated 08th June 2016.

The proposed SPV is to be registered with Registrar of Companies, Ministry of Corporate Affairs under the provisions of the Company Act, 2013 for its establishment. Early establishment of the proposed SPV will enable NDMC to obtain the first installment from MoUD for the SPV. The registration fee including stamp duty is expected to be around Rs.3,10,07,600/- (Rs. Three Crores Ten Lakh Seven Thousand Six Hundred only), which has been calculated on the basis of Authorized Capital of Rs. 500 crores.

The administrative approval and expenditure sanction for the said amount of Rs.3,10,07,600/- (Rs. Three Crores Ten Lakh Seven Thousand Six Hundred only) is required from the Council.

4.2 Incorporation of observations of MHA in the Article of Association for the SPV

The observation of the Ministry of Home Affairs, communicated vide letter No. 14011/10/2016-Delhi-II dated 08th June 2016, has been duly incorporated by making following modifications in the Article of Association:

- (i) with respect to the definition of Central Government, clause 1(i) of the Article of Association of the SPV has been amended as follows:
"The Central Government means Ministry of Urban Development, Government of India."
- (ii) with respect to the second observation regarding appointment of the CEO of the proposed SPV, clause 12.10 (A)(i) of the Article of Association of the SPV has been amended as follows:
"Chief Executive Officer of the Company will be appointed by Ministry of Home Affairs, Government of India in consultation with Lieutenant Governor, Delhi from amongst the available IAS Officers in Delhi segment of AGMUT Cadre."

- (iii) with respect to the 3rd observation regarding role of MHA in the proposed SPV, the following clause has been added in the Article of Association:
"3.2 The role of Ministry of Home Affairs, Government of India with respect to SPV shall be limited to as defined in the Municipal Act."

A copy of the modified Article of Association is placed as **Annexure 5 See pages 200 - 244.**

4.3 Share-holders of the Company

The following officers are proposed to be the share-holders of the Company for the purpose of registration, with respect to shares derived from the paid-up capital of Rs.250 crores:

1. Sh. Naresh Kumar, Chairman
2. Ms. Chanchal Yadav, Secretary
3. Ms. Geetali Tare, Financial Advisor
4. Sh. Virender Singh, Director (Personnel)
5. Sh. A. A. Tazir, Director (Power)
6. Dr. P. K. Sharma, MOH
7. Sh. Murari Lal Sharma, Director (Vigilance)

The names of officers from Sr. No. 4 to 7 have been proposed on the basis of the fact that they will be serving in NDMC for around 3 years. One share one person (except the Secretary, who will hold all shares minus six shares, on behalf of the NDMC) will be in the name of these officers.

5. Financial Implications

The registration fee and related expenses of Rs.3,10,07,600/- (Rs. Three Crores Ten Lakh Seven Thousand Six Hundred only) is required to be paid as stamp duty for registration and other ancillary/allied activities. The same shall be charged from the funds of Smart City under the Head of 11. 412. 40.00-City and Town planning CWIP under the Scheme No 20(2)- Smart City Mission having provision of Rs. 76 crores for the year 2016-17 (BE).

The break-up of Rs.3,10,07,600/- is as under:

- (a) Rs.2,75,07,600/- upfront payment for registration via online payment
- (b) Rs.25,00,000/- Stamp duty
- (c) Rs.10,00,000/- administrative and contingent expenses

6. Comments of Finance Department:

The registration of SPV is a mandatory requirement under the provisions of the Company Act, 2013. Finance Department of NDMC has examined the proposal and approved the same vide note dated 15.6.2016 (Annexure 6 See page 245).

7. Comments of the Department on comments of Finance Department:

No comments.

8. Legal Implication on the subject/project:

The registration of SPV is a mandatory requirement under the provisions of the Company Act, 2013. Legal Department has also concurred with the creation of SPV.

9. Details of previous Council Resolution, existing law of Parliament and Assembly on the subject:

Council's Resolution No. 07(W-02) dated 26.4.2016. The registration of SPV Company is mandatory under the provisions of Company Act 2013.

10. Comments of the Law Department on the subject/project:

Not applicable as registration of company is mandatory requirement under the Company's Act and hence no legal examination is required. The legal Department has already concurred the proposal for formation of SPV subject to legal opinion which was affirmative for the formation of SPV under the existing provisions of NDMC Act, 1994.

11. **Comments of the Department on the comments of Law Department:**
Same as at para 10 above.
12. **Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case:**

Not applicable.
13. **Recommendation:**
As the New Delhi Municipal Council (NDMC) has been selected as one of the smart city under the Smart Cities Mission of the Government of India, MoUD on 28th January 2016, approval of the Council is sought for incurring expenditure approximately Rs.3,10,07,600/- (Rs. Three Crores Ten Lakh Seven Thousand Six Hundred only) towards registration of Special Purpose Vehicle named as "New Delhi Municipal Council Smart City Limited" and to meet the other related administrative expenses relating to registration process. Further, the approval is also sought for nomination of the NDMC officers mentioned at Para 4.3 above
14. **Draft resolution:**
The Council resolves to accord the approval for:
i) Administrative approval for registration of SPV namely "New Delhi Municipal Council Smart City Limited" and expenditure sanction for Rs.3,10,07,600/- (Rs. Three Crores Ten Lakh Seven Thousand Six Hundred only) towards registration of SPV namely "New Delhi Municipal Council Smart City Limited" and to meet the other allied expenses;
ii) Nomination of officers of NDMC as mentioned at para 4.3 to be the share – holders of the company.

It is further resolved that the Department may initiate immediate action in anticipation of confirmation of the minutes by the Council.

COUNCIL'S DECISION

Resolved by the Council to accord Administrative approval for registration of SPV namely "New Delhi Municipal Council Smart City Limited" and expenditure sanction for Rs.3,10,07,600/- (Rs. Three Crores Ten Lakh Seven Thousand Six Hundred only) towards registration of SPV namely "New Delhi Municipal Council Smart City Limited" and to meet the other allied expenses.

Resolved by the Council to approve the nomination of officers of NDMC as mentioned at para 4.3 of the preamble, to be the share –holders of the company.

It was further resolved by the Council that the department may initiate further necessary action in anticipation of confirmation of the minutes of the Council.



DEEPAK KUMAR
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