

SUBJECT NO : 123

**Sub : VUDA -VSP- Projects - Divestment of M/s. L&T Infocity Ltd. stake
in Vizag IT Park Ltd. - Reg.**

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AGENDA NOTE:-

It is submitted that the Secretary to Government, Information Technology & Communications Dept. while enclosing a copy of letter dated; 20-1-12 of L & T Infocity Ltd. requested to offer remarks on the proposed action of L&T Infocity Limited to divert its equity holding in Vizag IT Park Ltd.

In this connection, it is submitted that an Agreement was concluded on 17.7.2003 between APIIC, VUDA, L&T Infocity Ltd., Saranam Investments and Pragnya Investments for development of IT park in TS No.85/1A of Waltair Ward, Visakhapatnam, with the SPV in "Vizag IT Park Ltd". which completed the development of IT park and since its commencement it is occupied by HSBC Electronic Data Processing India Pvt. Ltd. (HSBC) on initial lease of 9 years which was extended for further the period of 9 years ie. upto February, 2022.

It is submitted that as per agreement, the following are the important terms and conditions of the agreement concluded in between the parties in the Joint Venture i.e. (1) APIIC (2) VUDA (3) L&T Infocity Ltd., (4) Saranam Investments (5) Pragnya Investments.

PROMOTERS :

APIIC, VUDA, LTIL, SAI & Pragnya shall be the promoters of the proposed JVC and LTIL shall be the leader of the consortium for implementing the said Project.

FINANCIAL PARTICIPATION:

It is agreed between the Parties that the Financial Participation among APIIC, VUDA, LTIL, Sai and Pragnya for the Project shall be :

APIIC	- 0.49%
VUDA	- 21.51%
LTIL	- 26.00%
SAI	- 26.00%
Pragnya	- 26.00%

All the members shall bring in the agreed Equity in cash, except VUDA, who will bring in its equity contribution in the form of encumbrance free land of an extent of 2 Acres (at the rate of Rs. 2000/- per sq.yard), more fully described in the Schedule-1

It is agreed between all the promoters that the life of the JV Company could be predetermined for 20 years and during which the equity structure could be kept undistributed. The model similar to that of HITEC City in Hyderabad may be taken as reference for adoption.

FORMATION OF JOINT VENTURE COMPANY

APIIC, VUDA, LTIL, SAI & Pragnya shall take steps as expeditiously as possible to get necessary approvals, clearances and comply with all statutory requirements and produce the relevant information and documents for the purpose of incorporation of JVC within 7 days from the date of this Agreement. Best of efforts would be made from APIIC and VUDA with the GOAP and GOAP would be requested to provide necessary state and other required support and to notify the Project as "Infrastructure Project under Schedule III of the A.P. Infrastructure Development Enabling Act, 2001 (Act.No. 36/2001), hereinafter referred to as " APIDEA" to enable JVC to avail the said benefit.

BOARD OF DIRECTORS

The JVC shall be managed and controlled by the Board of Directors. The Board shall consist of not less than 3 Directors and not more than 12 Directors. Upon the completion of the Equity contributions by the respective Parties, the Board shall consist of 5 Directors and such Directors shall be appointed in the following numbers :

- (a) One Director by APIIC.
- (b) One Director by VUDA.
- (c) One Director by LTIL.
- (d) One Director by SAI
- (e) One Director by PRAGNYA

On successful completion of the Project in such phases as may be mutually decided by the parties hereto, the JVC or its nominated agency shall run and operate the various services and facilities in the Project on a commercial basis so as to ensure highest quality and reliability at reasonable cost.

TERMINATION :

APIIC & VUDA shall have the right to terminate this agreement in the event of the JVC failing to take steps to commence the Project within three months from the date of signing of this agreement or willfully causes delay or if the JVC fails without reasonable excuse to take up development of subsequent phases even when it has firmly booked 95% of the previous phases. Such termination shall not be effective until 30 days written notice thereof is given to LTIL / SAI and Pragnya.

Notwithstanding the termination the parties shall be liable for all antecedent liabilities properly incurred. Party in breach shall be liable for compensating the other party.

AMENDMENTS :

The terms of this agreement shall not be amended or varied or modified except by an instrument in writing and signed by all the parties.

WAIVER :

If at any time either party hereto shall waive its rights accruing to it due to breach of any of the provisions of this agreement, such waiver shall not be construed as a continuing waiver of other breaches of the same kind or other provisions of this agreement. None of the terms of this agreement shall be deemed to have been waived or altered, unless, such waiver or alteration is in writing and is signed by the parties hereto.

The JVC shall also dispose of all its balance assets in the best manner and shall share profits / losses if any, in proportion to the financial commitment / equity contribution.

ASSIGNMENT :

This agreement shall be binding upon the parties hereto, their successors and assigns, but shall not be assigned by either party without the prior written consent of the other parties.

DIVESTMENT OF EQUITY :

All of the JV partners shall have a right to divest either wholly or part of the equity held by them at any point of time after one year of signing the JV agreement. In such a case, the right of first refusal to pick up the divested equity will be given to the other JV partners of the JVC and the valuation of such equity shall be on an agreeable basis to all parties or done through an independent consultant. However, this is subject to para 5 of clause 3.0 contained herein above.

The VUDA has received an amount of Rs. 1.51.00,220/- towards dividend on share from 2007-2008 to till to date.

The L&T Infocity Limited in their letter has stated that as the operations of Vizag IT Park Ltd are stabilized, the management of L&T Infocity Ltd. is of the opinion that it has no effective role to play in Vizag IT Park Limited and its expertise services are no longer required. Accordingly, L&T Infocity limited has decided to divest its equity holding in "Vizag IT Park Ltd. and offer the same to existing Shareholders of Vizag IT Park Limited for purchase. If the existing share holders are not interested to purchase its equity holding, the same would be offered to the outsiders.

It is submitted that the VUDA is not interested to purchase any share holding of other co-members and do not go into the field of competitive purchase, since sufficient funds are not available with VUDA.

It is further submitted that as per the agreement concluded on 17-7-2003 between APIIC, VUDA, M/s. L&T Infocity, Saranam Invests and Pragnya Invests with certain conditions, vide Agreement Para 5 of clause 3.0 "It is agreed between all the promoters that the life of the JV company could be predetermined for 20 years and during which the equity structure could

be kept undistributed. The model similar to that effect of HI-Tec City in Hyderabad may be taken as reference for adoption".

Further under clause 29.0 "Divestment of equity". All the JV Partners shall have a right to divest either wholly or part of the equity held by them at any point of time after one year of signing the JV Agreement. In such a case, the right of first refusal to pick up the divested equity will be given to the other JV Partners of the JVC and valuation of such equity shall be once agreeable basis to all parties or done through an independent consultant. However this is subject to para 5 of clause 3.0 contained herein above".

Hence, if the divestment is taken place as per the request of the LTIIL is lead member going out from Joint venture and in his place a thirty party occupied position. At times this may adverse effect it interest of VUDA. Besides the lead member who is responsible for the coming up the project and also responsible for successful operation of the project disappearing from the project adversely effect the maintenance of the project on coming of the thirty party in its place, since the departure by one of the leading partner from the venture which is having 26% of the share may cause adverse effect of the other co-members. This plugs the organization in to a purely commercial management which is not desirable for the interest of the organization like VUDA. As the VUDA is under the control of the Government the decision has to be taken by the Government for all the practical purpose. To identify the value of share of VUDA in the escalation of the land price it is very difficult and combersum.

Under the circumstances stated above, the subject matter is placed before the VUDA Board for kind perusal and to permit VUDA to inform the Government in MA & UD Department to take decision on the request of the L&T Infocity limited, which was communicated through letter No. 1692/IT & C/ 2004, dt. 17-2-2012 of the I.T. & C Department,


VICE CHAIRMAN


CHAIRMAN

VUDA RESOLUTION NO. 123, DT. 15-12-2012

The Board discussed the matter and resolved to refer the matter to the Government.


CHAIRMAN