

SUBJECT NO: 10

Sub: Engg. - VUDA – Construction of Housing Project (Harita) Ph-I (Ac.20.17 Cts.) at Madhurawada, Visakhapatnam – Status of the project and legal course of action taken – Board subject placed before VUDA Board – For Perusal – Reg.

AGENDA NOTE :-

After completion of 24.60% of the project work, the contractual agency M/s. Jurong abandoned the work abruptly by demanding enhancement of the contract price. So the contract was terminated during the month October, 2011 in accordance with the terms and conditions of the agreement. Immediately M/s. Jurong Infrastructure Pvt., Ltd., has filed a court in Principal District Judges Court, Visakhapatnam against VUDA praying to grant an injunction on termination, not to grant permission to VUDA to take up the work through 3rd party and not to allow for invoking Bank Guarantees issued on the work. The Court Case was disposed in favour of VUDA by the Hon'ble Principal District Judges Court, Visakhapatnam in June-2012 by dismissing all the petitions filed by the contractual agency.

Later permission was obtained from Government to take up the balance work of Harita Housing Project, Phase-I at Madhurawada by splitting into different packages for construction of residential flats category / block wise and infrastructure development works item-wise separately for speedy execution and early completion of the project so as to handover the flats to the allottees at the earliest.

The building works taken up in 10 different packages are in brisk progress and the present status of building works block wise of the project is as noted below:

Sl. No	Name of work	L.S.Agt. No.	ECV (Rs. Lakhs)	Probable date of completion	Stage of construction
1	Construction of HIG Block-I, 50 units (Balance work)	12/2013-14 / EE-VII/ VUDA, Dt.25-9-2013	890.40	30-06-14	Slabs completed, Masonry works nearing completion, Plastering, Flooring, internal water supply and sanitary arrangements and other finishes are in progress

Sl. No	Name of work	L.S.Agt. No.	ECV (Rs. Lakhs)	Probable date of completion	Stage of construction
2	Construction of HIG Block-2, 50 units (Balance work)	13/2013-14 / EE-VII /VUDA, Dt.25-9-2013	877.63	30-06-14	Slabs completed, Masonry works nearing completion, Plastering, Flooring, internal water supply and sanitary arrangements and other finishes are in progress
3	Construction of MIG-IA Block-1, 80 units (Balance work)	9/2013-14/ EE-V / VUDA, Dt.27-8-2013	814.75	08-08-14	Slabs completed, Masonry works nearing completion, Plastering, Flooring, internal water supply and sanitary arrangements and other finishes are in progress
4	Construction of MIG-IA Block-2, 80 units (Balance work)	4/2013-14/ EE-V/ VUDA, Dt.27-7-2013	871.76	17-07-14	Slabs completed, Masonry works nearing completion, Plastering, Flooring, internal water supply and sanitary arrangements and other finishes are in progress
5	Construction of MIG-IB Block-1, 60 units (Balance work)	5/2013-14/ EE-V / VUDA, Dt.27-7-2013	670.56	17-07-14	Slabs completed. Masonry works, Plastering, Flooring, internal water supply and sanitary arrangements and other finishes are in progress
6	Construction of MIG-IB Block-2, 60 units (Balance work)	2/2013-14/ EE-V/ VUDA, Dt.22-6-2013	736.80	21-06-14	Slabs completed. Masonry works nearing completion, Plastering, Flooring, internal water supply and sanitary arrangements and other finishes are in progress.
7	Construction of MIG-II Block-1, 70 units (Balance work)	6/2013-14/ EE-V/ VUDA, Dt.27-7-2013	564.10	17-04-14	Slabs completed, Masonry works nearing completion, Plastering, Flooring, internal water supply and sanitary arrangements and other finishes are in progress
8	Construction of MIG-II Block-2, 70 units (Balance work)	7/2013-14/ EE-V / VUDA, Dt.27-7-2013	732.15	17-07-14	Slabs completed, Masonry works nearing completion, Plastering, Flooring, internal water supply and sanitary arrangements and other finishes are in progress
9	Construction of MIG-II Block-3, 70 units (Balance work)	8/2013-14/ EE-V / VUDA, Dt.27-7-2013	585.13	17-04-14	Slabs completed. Masonry works nearing completion, Plastering, Flooring, internal water supply and sanitary arrangements and other finishes are in progress.
10	Construction of LIG Blocks-1&2, 120 units (Balance work)	7/2013-14/ EE-VII/ VUDA, Dt.29-7-2013	969.57	17-07-14	Slabs completed. Masonry works, Plastering, Flooring, internal water supply and sanitary arrangements and other finishes are in progress

Apart from the above infrastructure development works were also taken up and the present stage is as noted below.

I. Works completed:

Sl. No	Name of work	L.S.Agt. No.	ECV (Rs. Lakhs)	Date of completion	Remarks
1	Sub Base Formation of Internal Roads	4/2013 -14/EE-VII / VUDA, Dt.06-06-2013	26.51	-	Work completed
2	Drilling of Bore wells	10/2013-14/EE-VII / VUDA, Dt.27-8-2013	4.77	-	Work completed
3	Construction of Balance Portions for VRCC Retaining walls	16/2013-14/EE-VII /VUDA Dt 19-12-2013	30.92	—	Work completed

II. Works for which Tenders finalized & Work Orders issued with the details of date of completion:

Sl. No	Name of work	L.S.Agt. No.	ECV (Rs. Lakhs)	Date of completion	Remarks
1	Construction of Retaining walls around apartment blocks	11/2013-14/EE-VII / VUDA, Dt.5-8-2013	56.21	31-05-2014	Work is nearing completion
2	Construction of Retaining wall along South peripheral area	17/2013-14/EE-VII /VUDA, Dt.08-01-2014	51.95	07.06.2014	Work is in progress

III. Works for which Tenders Floated & Under Finalization with expected date of completion:

Sl. No	Name of work	File Rc.No.	ECV (Rs. Lakhs)	Expected Date of completion	Remarks
1	Construction of Community Centre (Balance works)	226 (G)/2013-14 / EE-VII / VUDA	136.01	August - 2014	Tendering process of these works is at various stages. The Election Commission has been addressed for necessary
2	Construction of Shopping Centre (Balance works)	226 (H)/2013-14 / EE-VII / VUDA	65.40	July - 2014	
3	Construction of VUDA HOSPITAL / HEALTH CENTRE (Balance works)	226 (I)/2013-14 / EE-VII / VUDA	130.65	August - 2014	

Sl. No	Name of work	File Rc.No.	ECV (Rs. Lakhs)	Expected Date of completion	Remarks
4	Construction of Entrance Arch Security Room and peripheral Compound wall	226 (J)/2013-14 / EE-VII / VUDA	69.15	August - 2014	clearances to complete the tendering process. In response, it was informed to take up new works only after completion of polling for General Elections 2014
5	Providing Kerb walls and cable trench walls on both sides of internal roads	226 (K) /2013-14 / EE-VII/VUDA	42.80	July - 2014	
6	Providing foot paths with designer paver blocks on both sides of internal roads	226 (L) /2013-14 / EE-VII / VUDA	48.85	July - 2014	
7	Providing Underground Sewerage and Storm Water Pipes and Construction of RCC Manhole Chambers.	226 (M) /2013-14 / EE-VII / VUDA	71.92	July - 2014	
8	Providing of 8 Passengers 6 stops Lifts (Total 24Nos.) to all Apartment Blocks of HIG, MIG-1A, MIG-1B, MIG-II & LIG categories	226 (N) /2013-14 / EE-VII/VUDA	178.80	September - 2014	
9	Providing Hydro Pneumatic Pumping arrangements from Common Sump to Roof top tanks of Apartment blocks)	226(O) /2013-14 / EE-VII/VUDA	81.57	July - 2014	
10	Providing Hydro Pneumatic Pumping arrangements for GVMC water from Common Sump to Kitchens of all blocks	226(P) /2013-14 / EE-VII/VUDA	57.29	July - 2014	
11	Providing External Electrification works with PSCC Poles and 11KV lines.	226(D) /2013-14 / EE-VII/VUDA	16.01	May -2014	
12	Providing and Laying Under Ground Cables from Transformers to Meter Panel Boards of Apartment Blocks	226 (D1) /2013-14 / EE-VII /VUDA	42.09	June - 2014	

Sl. No	Name of work	File Rc.No.	ECV (Rs. Lakhs)	Expected Date of completion	Remarks
13	Supply and Erection of Meter Panel Boards for fixing of 3 ph LT services to the Apartment blocks	226(D2) /2013-14 / EE-VII /VUDA	43.73	June -2014	

IV. Works for which Tenders yet to be Floated with the expected date of completion:

Sl. No	Name of work	File Rc.No.	ECV (Rs. Lakhs)	Expected Date of completion	Remarks
1	Construction of VRCC Tanks for STP	226(Q)/2013-14 /EE-VII/VUDA	26.82	Mid June - 2014	Tenders will be invited after complete of Election process as per the guidelines issued by the Election Commission
2	Sectioning and Providing GSB, WMM and BT Layers for internal roads	226(R)/2013-14 /EE-VII/VUDA	149.96	July - 2014	
3	Supply and fixing of 0.5 MLD STP	—	60.00	July - 2014	
4	Supply and fixing of Pump sets to bore wells and laying of pumping main	—	20.00	June - 2014	
5	Providing and laying reticulated GAS pipe lines	—	150.00	August- 2014	
6	Supply and fixing of Solar fencing around periphery	—	15.00	August- 2014	
7	Landscaping and gardening works	—	60.00	July - 2014	

Presently, the construction works in all blocks and certain infrastructure works are in brisk progress and necessary steps are being taken from time to time to complete the project work in all respects so that allotment of flats to the respective Allottees can be taken up from September, 2014 onwards.

Further necessary care has been taken to carry out the construction works as per standards prescribed duly adopting required quality control measures without any compromise on quality. In addition to VUDA in-house Quality Control Check up, the 3rd Party Quality Control Agency has been setup by engaging the services of Andhra University Development Centre (AUDC), headed by Professor of Civil Engineering, AUCE, Visakhapatnam for

providing 3rd Party Quality Assurance and Quality Control Check for construction works taken up under this project.

The 3rd Party Quality Control Agency is regularly collecting and testing the samples of various construction materials and items of works and communicating the Test Results from time to time to VUDA at both pre construction and post construction stages. The 3rd party Quality Control Agency(AUDC) is monitoring the work stage wise and issuing suggestions / advice wherever necessary to maintain better quality in construction of buildings and infrastructure development works.

Legal course of action taken by VUDA against M/s. Jurong:

As the contractual agency M/s. JIPL has failed to fulfil the contractual obligations under the agreement concluded in respect of Harita Housing Project, the contract was terminated during the month of October, 2011. Aggrieved on termination of the contract, M/s. JIPL has filed the case against VUDA vide AOP No.1354/2011 in Principal District Judge Court, Visakhapatnam during the month of October, 2011 praying to grant an injunction on termination, not to grant permission to VUDA to take up the work through 3rd party and not to allow for invoking Bank Guarantees issued on the work.

In reply, counter petition was filed by VUDA during the month of October, 2011 praying not to grant any statusquo as the contractual agency is abandoned the work all of a sudden and construction of 710 residential plots were held up for which provisional allotment was already made. As the case is under trail, Bank Guarantees furnished by M/s. JIPL towards Performance Guarantee and Mobilisation Advance paid for Rs.11.90 Crores were invoked and encashed to VUDA.

Finally, after completion of hearings and arguments of both the parties, the case was disposed in favour of VUDA by dismissing all the petitions filed by M/s. JIPL and the judgment was pronounced during the month of July, 2012. Immediately 6 Nos. of caveats petitions were filed in the Hon'ble High Court to restrain contractual agency from obtaining status quo orders

preventing to proceed VUDA with the balance work as per the directions of Sr. Advocate.

Subsequently, during the month of August, 2012, M/s. JIPL has sent a legal notice through M/s. Tatva Legal Advocates stating that M/s. JIPL hereby accepted repudiation of the agreement by VUDA, thereby, putting an end to the agreement with immediate effect. However, M/s. JIPL reserves all its rights and remedies against VUDA including but not limited to its right to claim for all its loss damages costs and expenses on account and in consequence of the defaults /breach by VUDA.

Upon the above, a legal opinion was sought from Sri S. Ravi Sr. Advocate who defended the case for VUDA to give suitable reply and to take further action for filing damage suit and recovery of losses from the contractual agency to protect the interests of VUDA and public. Then Sri S. Ravi, Advocate furnished his opinion - *VUDA must at once retender to save itself from further losses and also successfully seek reimbursement of losses and under the contract signed with Jurong VUDA has to go through the process of appointment of certain committee as the precursor to the arbitration proceedings. It is also suggested to complete this process at the earliest so that arbitration proceedings can thereafter be set in motion. Needless to say that VUDA has to respond to the notice issued by M/s. JIPL.*

While the matter is subjudice, before the Hon'ble District Court Sri M.N. Kumar (Retired Chief Engineer, Visakhapatnam Port Trust was nominated as member Dispute Adjudication Board from VUDA side as per the request made by M/s. JIPL during December, 2011. It is also requested to indicate the name of the person to be nominated from Jurong side without prejudice to VUDA right under the agreement and keeping in view of the Allottees interests to be protected. Then M/s. JIPL replied that Sri K. Sanjeeva Rao Naidu Retired District Judge, was nominated to act as a member of Dispute Adjudication Board from their side.

Later, a reply legal notice was sent during May, 2013 to M/s. JIPL through our Senior Advocate Sri S.Ravi stating that.

- None of the claims of Jurong are tenable. Proposed legal action will of course be successfully defended by VUDA at the risk and cost of M/s. JIPL.
- With regard to the constitution of Dispute Adjudication Board, VUDA has already suggested its member and no communication has received from M/s. JIPL till date.
- The purpose of Dispute Adjudication Board does not solve the disputes as the Dispute Adjudication Board is not binding on the parties as M/s. JIPL abandonment of work had caused much damages to VUDA.

It is suggested to proceed with Arbitration by overwriting to constitute and adjudication by Dispute Adjudication Board in the best interest of speedy adjudication and requested to communicate the acceptance of the above proposals at the earliest.

Thereon M/s Tatva Legal, Advocates for M/s. Jurong has sent a reply notice during the month of June, 2013 stating that M/s. Jurong is not in a position and in any case, not willing to override the process of constitution of, and adjudication by, the Dispute Adjudication Board of the disputes by such Dispute Adjudication Board as proposed by VUDA. M/s. JIPL is of the view that proceeding with Arbitration by overriding the above process is not permitted by the agreement and M/s. Jurong does not accept the proposal of VUDA.

It is also informed that M/s. Jurong is looking forward for constitution of Dispute Adjudication Board as contemplated by the parties in the agreement since Sri K. Sanjeeva Rao Naidu, Retired District Judge was already nominated as member of Dispute Adjudication Board by M/s. JIPL. As regards appointment of Chairman of Dispute Adjudication Board, the names of suitable persons will be suggested in due course.

Thereafter the matter was pending and VUDA has taken up the balance work of Harita Housing project in accordance with the permission obtained from the Government during the month of June, 2013. VUDA made all possible efforts to complete the project as early as possible and to handover the plots to the Allottees by the end of July, 2014.

Even though, allottees of Harita Housing Scheme approached Human Rights Commission and filing cases in various legal forums for the delay caused, hike in construction cost and financial loss occurred to them. As it is becoming burden to VUDA to bear the additional cost involved due to increase in cost of construction for completion of housing scheme and to defend the interests of VUDA, a damage suit has to be filed against M/s. JIPL for their default claiming the losses occurred to VUDA at the earliest.

In the above circumstances, a legal opinion was sought from Sri S. Ravi, Sr. Advocate, Hyderabad on the following aspects and to take further steps on *whether independently VUDA can file the suit of claiming of damages against M/s. JIPL pending the process of constitution of Dispute Adjudication Board or Arbitration proceedings as per the notice given by M/s. JIPL recently, or as per the right course of action to be planned by VUDA?*

In response, Sri S. Ravi, Sr. Advocate furnished his opinion as noted below:

Under the provision of the Arbitration and Conciliation Act, 1996 hereinafter referred to as the Act, once an agreement between the parties exists for referring the parties to arbitration, a suit is not maintainable. Even if you file a suit, Jurong could file an application under section 8 of the Act, and then the court in which the suit has been filed would be bound to refer the parties to arbitration. Filing a suit is therefore a futile exercise, ill-advised and should be avoided.

The reply notice Dt.10-6-2013 from Tatva Legal calls upon VUDA to constitute the Dispute Adjudication Board. It is better that you go through the process of dispute adjudication which in any event does not result in any binding decision by such board. In order to avoid legal hurdles for the arbitration proceedings. In the interest of expediting the legal proceedings, by way of arbitration, it is best that you commence this process at the earliest.

It is evident from the above that the process of constitution of Dispute Adjudication Board has to be followed as per the agreement. As such, it is felt that it is desirable to address M/s. JIPL once again to take necessary steps to initiate the process. Accordingly, a letter was addressed to M/s. JIPL by Chief Engineer, VUDA to direct their member nominated for Dispute Adjudication Board for appointment of Chairman of Dispute Adjudication Board and to proceed further in the matter as there is no response till now, though VUDA's member Sri M.N. Kumar, Retired Chief Engineer, VPT addressed a letter to Sri K. Sanjeeva Rao Naidu, Retired District Judge, Member of Dispute Adjudication Board for M/s. JIPL duly suggesting the names of two Justices long ago.

Hence, the matter placed before VUDA Board for kind perusal.

Sl. No.	Subject No.	Subject	Resolutions
11	10	Engg. - VUDA - Construction of Housing Project (Harita) Ph-I (Ac.20.17 Cts.) at Madhurawada, Visakhapatnam - Status of the project and legal course of action taken - Board subject placed before VUDA Board - For Perusal - Reg	<ul style="list-style-type: none"> • Status of Project work is perused and no more extension is allowable beyond September 2014. Contractors should be informed accordingly and strict action should be taken on concerned EEs and default Contractors. • Issue relating to the issuance of legal notice by erstwhile Contractor Agency is perused and CE is directed to take further action including filing of damage suits to protect the organizational interest.
12	11	Works - Engg - VUDA - Proposals for Construction of Indoor Stadium at Chinimusidiwada - Draft subject placed before VUDA Board for approval - Reg.	Deferred; Bring to next board meeting for a decision.
13	12	Engg. - VUDA - Formation of 80' wide Master Plan Road from Arasavalli Jn., to Collector office in Srikakulam - Amount of Rs.15,13,073/- released towards structural compensation to Srikakulam Municipality - Request of Commissioner, Srikakulam Municipality not to insist for repayment - Draft subject placed before VUDA Board for perusal and to take a decision - Reg.	Reviewed the earlier decision and ratified the action of VC, VUDA in releasing the structural compensation.


