

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Municipal Administration and Urban Development Department – Termination of Concession Agreement with M/s.Maytas Metro Limited for implementation of Hyderabad Metro Rail (HMR) Project on Develop, Build, Finance, Operate and Transfer basis in PPP mode – Orders – Issued.

MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (H1) DEPARTMENT

G.O.Ms.No. 430

Dated the 7th July, 2009.

Read the following:-

- 1) G.O.Ms.No.557, MA&UD (H1) Department, dated 8.8.2008.
- 2) Concession Agreement executed by M/s.Maytas Metro Limited with Government of Andhra Pradesh, dated 19.9.2008.
- 3) From the Director, M/s. Maytas Metro Limited, Letter No.MML/HMRL/077, dated 16.3.2009.
- 4) From the Director, M/s. Maytas Metro Limited, Letter No.MML/HMRL/079, dated 15.4.2009.

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ORDER:

In the reference 1st read above, Government have approved the proposal of Concession Agreement and Selection of the Developer and Concessionaire for implementation of Hyderabad Metro Rail (HMR) Project on Develop, Build, Finance, Operate and Transfer basis in PPP mode duly authorizing the Ex-Officio Principal Secretary to Government, MA&UD Department to take further action on the said approval by the Government and to issue Letter of Award (LoA) to a consortium consisting of M/s.Nava Bharat Ventures Limited, M/s. Maytas Infra Limited, M/s. Italian-Thai Development PLC and M/s. IL&FS for executing the Concession Agreement on behalf of the Government. Accordingly, the E.O.Principal Secretary to Government, MA&UD Department and Chairman, Hyderabad Metro Rail Limited issued a Letter of Award (LOA) vide Letter No.131/MD/HMR/2008, dated 8.8.2008 with the condition that, the Concessionaire shall pay the premium as agreed upon. The Consortium have incorporated M/s.Maytas Metro Limited (MML) as the Special Purpose Vehicle (SPV) to undertake and perform the obligations and exercise the rights of the Consortium and to undertake the development of Hyderabad Metro Rail Project. Accordingly, the Concession Agreement was entered into between Government of Andhra Pradesh and M/s.Maytas Metro Limited on Sept 19, 2008.

2. Article 9.1 of the said Concession Agreement provides that, the Concessionaire was under obligation to furnish Performance Security for an amount of Rs.240 crore in the form of a Bank Guarantee within 180 days from the date of Concession Agreement i.e., by March 17, 2009. Further according to Article 24.1.1 of the Concession Agreement, the Concessionaire was obligated to achieve Financial Closure within 180 days of the Concession Agreement.

3. The Concessionaire failed to furnish the Performance Security of Rs.240 crore (Rupees two hundred and forty crore only) and also failed to achieve Financial Closure by the stipulated date ending on 17th March, 2009.

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4. In the reference 3rd read above, M/s.Maytas Metro Limited (the Concessionaire) instead of fulfilling the obligations which are statutory and binding have requested the Government for extension of time for further period of 6 months to furnish Performance Security and for achieving Financial Closure.

5. Government after careful examination of the matter consider that Metro Rail Project is important for the twin cities, delay cannot be afforded in implementation of the project despite ample time given, the concessionaire failed to fulfill the contractual obligations and therefore decided to terminate the agreement with the Concessionaire (M/s.Maytas Metro Limited). Government further decided to forfeit the Bid Security amount of Rs.60 crore (Rupees sixty crore only) as per article 24.2.2 of the Agreement as mutually agreed genuine pre-estimated compensation/damages to the Authority in accordance with Article 2.20.6 and 2.20.7 of the Request For Proposal for Hyderabad Metro Rail (MRTS) project for the failure of the Concessionaire (MML) to furnish the Performance Security within the stipulated time period of 180 days prescribed in the Concession Agreement, together with the amount of Rs.11 crore (Rupees eleven crore only) paid by M/s.Maytas Metro Limited at the time of signing the Concession Agreement as a part of the Bid offer.

6. Accordingly, Government hereby terminate the Concession Agreement entered with M/s.Maytas Metro Limited for implementation of Hyderabad Metro Rail Project on Develop, Build, Finance, Operate and Transfer basis in PPP mode and also forfeit the Bid Security amount of Rs.60 crore (Rupees sixty crore only) and Bid offer amount of Rs.11 crore (Rupees eleven crore only) paid by M/s.Maytas Metro Limited with immediate effect.

7. The Managing Director, Hyderabad Metro Rail Limited shall take immediate necessary alternate steps for grounding the Hyderabad Metro Rail Project and submit proposals to the Government.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**Dr.C.V.S.K.SARMA,
PRINCIPAL SECRETARY TO GOVERNMENT.**

To

The Director, M/s. Maytas Metro Limited, Hyderabad through the Managing Director,
Hyderabad Metro Rail Limited.
The Managing Director, Hyderabad Metro Rail Limited.

Copy to:

The Special Secretary to Chief Minister.

The Advisor to Government, Municipal Administration and Urban Development
Department.

The Private Secretary to Chief Secretary to Government.

The Private Secretary to Minister (MA&UD).

The Private Secretary to Principal Secretary to Government, MA&UD Dept.,

The Private Secretary to E.O.Principal Secretary to Government, MA&UD Dept.,

The Private Secretary to Secretary to Government, MA&UD Department.

The Private Secretary to Secretary to Government, (LA), Law Department.

Sf/Sc.

//FORWARDED::BY ORDER//

SECTION OFFICER