



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



ORDINANCE NO. 2020 –189

A MUNTINLUPA CODE PURSUING A PUBLIC-PRIVATE PARTNERSHIP FOR THE PEOPLE (P4) APPROACH TOWARDS DEVELOPMENT, PROVIDING FOR THE PROCEDURE FOR SELECTING THE PRIVATE SECTOR PROPONENT, ADOPTING A CONTRACT MANAGEMENT FRAMEWORK, AND PROVIDING APPROPRIATIONS AND FOR OTHER PURPOSES

\*\*\*\*\*

**Sponsored by:** Hon. Coun. Mark Lester M. Baes  
Hon. Coun. Atty. Raul R. Corro  
Hon. Coun. Alexson V. Diaz  
Hon. Coun. Paty Katy C. Boncayao  
Hon. Coun. Louisito A. Arciaga  
Hon. Coun. Allan Rey A. Camilon  
Hon. Coun. Ting Niefes  
Hon. Coun. Ivey Rhia A. Tadeffa  
Hon. Coun. Engr. Marissa C. Rongavilla  
Hon. Coun. Francis Ian T. Bagatsing  
Hon. Coun. Engr. Mamerto T. Sevilla, Jr.  
Hon. Coun. Engr. Arlene D. Hilapo  
Hon. Coun. Cornelio M. Martinez  
Hon. Coun. Walter A. Arcilla  
Hon. Coun. Kenichi D. Takagi, Jr.

\*\*\*\*\*

**WHEREAS**, under Section 20, Article II of the 1987 Constitution, the "State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments";

**WHEREAS**, the private sector participates in infrastructure, development and social service-related projects of the State and local government units (LGUs) through what is popularly known as Public-Private Partnerships (PPPs);

**WHEREAS**, the Department of Interior and Local Government (DILG) Legal Opinion No. 8, S. 2014 declared that "there is no specific statute on PPP nor guidelines on joint ventures for local governments" and that a "duly enacted local legislation (PPP Code) must be complied with in undertaking (its) PPP projects."

**WHEREAS**, according to the Department of Justice (DOJ) Opinion No. 18, S. 2012, "xxx local governments may enact their own Public-Private Partnership (PPP) Code or omnibus ordinance outlining, among others, all applicable modalities. xxx A local government, through an enabling ordinance, is free to act to address local concerns, even without an enabling ordinance, provided no statute will be infringed";



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 2  
Ordinance No. 2020-189

**WHEREAS**, In Legal Opinion No. 10, S. 2014, the DILG affirmed the above-quoted DOJ Opinion and further said that, "the LGUs' discretion xxx is consistent with the state policy of local autonomy and is in line with the operative principle of decentralization and the national goal of propelling social and economic growth and development through the active participation of the private sector";

**WHEREAS**, in furtherance of and consistent with local autonomy, fiscal autonomy, the principle of subsidiarity, public good and welfare, general welfare, and full autonomy over proprietary powers, Muntinlupa is free, provided no statute is violated, to adopt its definition of a P4 undertaking and prescribe the requirements, procedures and conditions for Muntinlupa P4, and incorporate these in an operative framework; and

**WHEREAS**, having a framework in ordinance form will ensure and facilitate consistency, integrity, reliability, sustainability, accountability and transparency, and enforceability;

**NOW THEREFORE, BE IT ENACTED**, by the 9<sup>th</sup> Sangguniang Panglungsod in session assembled that:

CHAPTER 1  
POLICY, BASIC PRINCIPLES AND DEFINITIONS

**SECTION 1. Short Title.** – This Ordinance shall be known as the "Muntinlupa P4 Code."

**SECTION 2. Declaration of Policy.** – (a) It is hereby declared as a policy that the City of Muntinlupa shall advance the public good and general welfare, and promote the interest of the community and the City of Muntinlupa within the framework of sustainable and integrated development, and effective constructive engagement and meaningful people's participation in local governance.

(b) P4 shall be pursued by the City of Muntinlupa consistent with and in furtherance of the vision and mission of the City of Muntinlupa which state that:

VISION:

We envision *Muntinlupa* City as one of the leading investment hubs in the country, with educated, healthy and God-loving people living peacefully and securely in a climate change-adaptive and disaster-resilient community, under the rule of transparent, caring and accountable leadership.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 3  
Ordinance No. 2020-189

**MISSION:**

1. To promote a broad-based economic growth and business-friendly environment for sustainable development;
2. To protect every person from natural and man-made hazards by ensuring strict enforcement of necessary safety measures;
3. To provide quality social services that include education, health care, livelihood and employment, socialized housing, and social assistance, among others; and
4. To institutionalize community participation in local governance, environmental protection, and economic development.

**SECTION 3. Operative Principles.** – The accomplishment of the stated policy shall be guided by the following principles:

- (a) The City of Muntinlupa, pursuant to Sections 1, 2 and 5, Article X of the 1987 Constitution, is a territorial and political subdivision, which enjoys local autonomy and fiscal autonomy. Under Section 3, Article X of the 1987 Constitution, local autonomy means a more responsive and accountable local government structure instituted through a system of decentralization. Fiscal autonomy means that local governments have the power to create their own sources of revenue in addition to their equitable share in the national taxes released by the national government, as well as the power to allocate their resources in accordance with their own priorities.
- (b) The general welfare and the public good shall always be promoted and that transparency, public accountability and social accountability mechanisms and approaches shall be integrated in P4 from inception to implementation.
- (c) The City of Muntinlupa exists and operates in its governmental and proprietary capacities thereby making the City of Muntinlupa an agent of, and is therefore accountable to, the State and its community. The role of the City of Muntinlupa both as a regulator of a business and as implementer of a proprietary undertaking must be clearly delineated.
- (d) The City of Muntinlupa must develop into a self-reliant community, and as such, is in a better position to address and resolve matters that are local in scope. The City of Muntinlupa is under the supervision of the President and under the qualified control of Congress.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 4

Ordinance No. 2020-189

- (e) Under Section 18 of the of Republic Act No. 7160 of the Local Government Code of 1991 (1991 LGC), the City of Muntinlupa may acquire, develop, lease, encumber, alienate, or otherwise dispose of real or personal property held by them in their proprietary capacity and to apply their resources and assets for productive, developmental, or welfare purposes.]<sup>1</sup>
- (f) Under Sections 22(a)(5) and 22(a)(6) of the 1991 LGC, every LGU, as a corporation, has the power to enter into contracts, among others, subject to limitations under the law.
- (g) Under Section 22 (c) of the 1991 LGC, no contract may be entered into by the City Mayor on behalf of the City of Muntinlupa without prior authorization by the Sanggunian Panlungsod. The participation of the Sanggunian is indispensable in the adoption and implementation of a P4 arrangement.
- (h) Under Section 22 (d) of the 1991 LGC, the City of Muntinlupa enjoys full autonomy in the exercise of its proprietary functions and shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, those not otherwise prohibited by law and those which are essential to the promotion of the general welfare.
- (i) Under Section 25 (b) of the 1991 LGC, the City of Muntinlupa may collaborate or cooperate with other local governments, national government agencies, government-owned and controlled corporations, government instrumentalities and government corporate entities for the implementation of local projects.
- (j) Under Sections 16, 17, 19 and 129 of 1991 LGC and other statutes, the City of Muntinlupa has been given the responsibility and mandate to exercise devolved and delegated powers.
- (k) The City of Muntinlupa, under Section 106 of 1991 LGC, is mandated to draw up and implement a comprehensive multi-sectoral development plan.
- (l) P4 shall be pursued by the City of Muntinlupa consistent with its infrastructure, development, investment, environmental and governance framework embodied in relevant policies, plans, ordinances and codes.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 5  
Ordinance No. 2020-189

- (m) The City of Muntinlupa, as a partner in a P4 arrangement, may contribute equity, subsidy, guaranty, money/capital, services, assets (including equipment, land, intellectual property or anything of value), or a combination of any or all of the foregoing, and the usage thereof for a P4 project shall be considered for public use and purpose.
- (n) Under Sections 34, 35 and 36 of the 1991 LGC and in the exercise of its powers, the City of Muntinlupa may enter into joint ventures and such other cooperative arrangements with people's and non-governmental organizations (POs and NGOs) to engage in the delivery of certain basic services, capability-building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversity agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people; provide assistance, financial or otherwise, to such POs and NGOs for economic, socially-oriented, environmental, or cultural projects to be implemented within its territorial jurisdiction.
- (o) The City of Muntinlupa, under Section 3 (l) of the 1991 LGC, is duty-bound to ensure the active participation of the private sector in local governance.
- (p) The right of the people to information on matters of public concern is guaranteed under Section 7, Article III of the 1987 Constitution. Furthermore, it is the policy of the State to allow full public disclosure of all its transactions involving public interest such as P4 under Section 28, Article II of the 1987 Constitution.
- (q) The people's right to effective and reasonable participation and public trust provision under Section 16, Article XIII and Section 1, Article XI, respectively, of the 1987 Constitution guarantee and empower civil society organizations (CSOs) to have effective and meaningful participation in the regulation and management of P4 projects.

**SECTION 4. Rationale for P4.** – P4 shall be promoted to provide more, better, affordable and timely services to the community. In pursuing P4, the City of Muntinlupa shall be guided by the following reasons and drivers:

- (a) P4 shall be undertaken in furtherance of the Muntinlupa development and physical framework plan.
- (b) P4 is an essential part of the overall infrastructure reform policy of the City of Muntinlupa. By encouraging performance-based management of the delivery of public services applying commercial principles and incentives whenever possible, by introducing competition in and for the market, and by involving users and stakeholders in the decision-making process, infrastructure and regulatory reform shall be achieved.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 6  
Ordinance No. 2020-189

- (c) P4 should be adopted to address a pressing and urgent or critical public need. Under the principle of "Additionality," the increased economic benefits to consumer welfare of having needed public services and infrastructure accessible now because of the P4, rather than having to wait until the City of Muntinlupa could provide the public services much later. P4 would also encourage the accelerated implementation of local projects.
- (d) P4 can be adopted to avoid costs and public borrowing. By contracting with the private sector to undertake a new infrastructure project, scarce Muntinlupa capital budgets can be directed to other priority sectors such as social services, education, and health care.
- (e) P4 allows for technology transfer, and improved efficiency and quality of service. These could be valuable contribution of the private sector in local governance.
- (f) P4 should be feasible and affordable, demonstrating the need for the project, broad level project costs estimation, and indicative commercial viability. The assessment of affordability shall be the cornerstone for all P4 projects, both to the City of Muntinlupa and the general public.
- (g) P4 Projects should be bankable. High participation costs, unreasonable risk transfer or lengthy and complex contract negotiations must be avoided. A cost recovery pricing policy attractive to the private sector must be in place provided that the same will not be disadvantageous to government and public interest.
- (h) P4 Projects should provide value-for-money and good economic value as far as practicable, including allocation of risks to the party best able to control, manage, mitigate or insure these risks, and maximization of the benefits of private sector efficiency, expertise, flexibility and innovation.
- (i) P4 Projects must provide economic and social benefits and should be evaluated on this basis rather than on purely financial considerations. The City of Muntinlupa remains responsible for services provided to the public, without necessarily being responsible for corresponding investment.
- (j) P4 Projects must give consideration for empowerment of Filipino citizens as a strategy for economic growth and sustainability and must thus provide for the participation of local investors to the furthest extent practicable given the nature of the project. The City of Muntinlupa shall also ensure the hiring and employment of local labor in the P4 venture.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 7

Ordinance No. 2020-189

- (k) Procurement of P4 Projects must be competitive and must be undertaken through open competitive bidding. Competition must be legitimate, fair and honest. In the field of government contract law, competition requires, not only bidding upon a common standard, a common basis, upon the same thing, the same subject matter, the same undertaking, but also that it be legitimate, fair and honest and not designed to injure or defraud the government. Where competitive bidding cannot be applied, a competitive process ensuring both transparency and economically efficient outcome must be employed.
- (l) The regulation of the P4 shall be pursuant to the P4 contract and exercised by the appropriate regulatory authority. A duly executed and legal P4 Contract shall be respected and not impaired, and shall be binding on the successor administration pursuant to the provision on corporate succession. Procedures, activities and steps duly undertaken by the City Mayor, Sanggunian Panlungsod, Barangay Chairperson pursuant to this Ordinance shall be continued by the successor Administration. Any amendment or revision to this Ordinance by the next Administration shall not in any way prejudice vested and contractual rights of the City of Muntinlupa and the PSPs as to the substance of agreements signed, certifications issued, resolutions issued and procedures undertaken.
- (m) To provide efficient public service, the City of Muntinlupa must ensure, through stronger performance management and guidance, proper implementation of P4 contracts that will result in value for money, on-time delivery of quality services to the public, achievement of government policy goals, all within sustainable and integrated development.

**SECTION 5. Definition of Terms.** – As used in this Code, the following terms shall mean:

- (a) **Build-Operate-Transfer Law Scheme** - Under Republic Act No. 6957 as amended by RA No. 7718 (BOT Law), the following are the BOT Law variants:
- (i) **Build-and-Transfer (BT)** - A contractual arrangement whereby the Private Sector Proponent (PSP) undertakes the financing and construction of a given infrastructure or development facility, and after its completion, turns it over to the City of Muntinlupa, which shall pay the PSP, on an agreed schedule, its total investment expended on the project, plus a Reasonable Rate of Return thereon.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 8

Ordinance No. 2020-189

- (ii) **Build-Lease-and-Transfer (BLT)** - A contractual arrangement whereby a PSP is authorized to finance and construct an infrastructure or development facility and upon its completion, turns it over to the City of Muntinlupa on a lease arrangement for a fixed period, after which ownership of the facility is automatically transferred to the City of Muntinlupa.
- (iii) **Build-Operate-and-Transfer (BOT)** - A contractual arrangement whereby the PSP undertakes the construction, including financing, of a given infrastructure facility, and the operation and maintenance thereof. The PSP operates the facility over a fixed term, during which it is allowed to charge facility users appropriate tolls, fees, rentals, and charges not exceeding those proposed in its bid, or as negotiated and incorporated in the contract, to enable the PSP to recover its investment, and its operating and maintenance expenses in the project. The PSP transfers the facility to the City of Muntinlupa at the end of the fixed term which shall not exceed fifty (50) years. This build, operate and transfer contractual arrangement shall include a supply-and-operate scheme, which is a contractual arrangement whereby the supplier of equipment and machinery for a given infrastructure facility, if the interest of the City of Muntinlupa so requires, operates the facility, providing, in the process, technology transfer and training to Filipino nationals.
- (iv) **Build-Own-and-Operate (BOO)** - A contractual arrangement whereby a PSP is authorized to finance, construct, own, operate and maintain an infrastructure or development facility from which the PSP is allowed to recover its total investment, operating and maintenance costs plus a reasonable return thereon by collecting tolls, fees, rentals or other charges from facility users. Under this project, the proponent who owns the assets of the facility may assign its operation and maintenance to a facility operator. The divestiture or disposition of the asset or facility shall be subject to relevant rules of the Commission on Audit (COA).
- (v) **Build-Transfer-and-Operate (BTO)** - A contractual arrangement whereby the City of Muntinlupa contracts out the construction of an infrastructure facility to a PSP such that the contractor builds the facility on a turnkey basis, assuming cost overruns, delays, and specified performance risks. Once the facility is commissioned satisfactorily, title is transferred to the City of Muntinlupa. The PSP, however, operates the facility on behalf of the City of Muntinlupa under an agreement.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 9

Ordinance No. 2020-189

- (vi) **Contract-Add-and-Operate (CAO)** - A contractual arrangement whereby the PSP adds to an existing infrastructure facility which it is renting from the City of Muntinlupa and operates the expanded project over an agreed franchise period. There may or may not be a transfer arrangement with regard to the added facility provided by the PSP.
- (vii) **Develop-Operate-and-Transfer (DOT)** - A contractual arrangement whereby favorable conditions external to a new infrastructure project to be built by a PSP are integrated into the arrangement by giving that entity the right to develop adjoining property, and thus, enjoy some of the benefits the investment creates, such as higher property or rent values.
- (viii) **Rehabilitate-Operate-and-Transfer (ROT)** - A contractual arrangement whereby an existing facility is turned over to the PSP to refurbish, operate and maintain for a franchise period, at the expiry of which the legal title to the facility is turned over to the City of Muntinlupa.
- (ix) **Rehabilitate-Own-and-Operate (ROO)** - A contractual arrangement whereby an existing facility is turned over to the PSP to refurbish and operate, with no time limitation imposed on ownership. As long as the operator is not in violation of its franchise, it can continue to operate the facility in perpetuity.
- (b) **Competitive Challenge or Swiss Challenge** - An alternative selection process wherein third parties or challengers shall be invited to submit comparative proposals to an unsolicited proposal. Accordingly, the PSP who submitted the unsolicited proposal, or the original proponent, is accorded the opportunity to match any superior offers given by a comparative PSP.
- (c) **Competitive Negotiations** - Refers to a process where the City of Muntinlupa negotiates with eligible and qualified PSPs and awards the project to that PSP which offers the best combination of quality and price.
- (d) **Competitive Selection or Bidding or Open Competition** - Refers to a method of selection or procurement initiated and solicited by the City of Muntinlupa, based on a transparent criterion, which is open to participation by any interested party.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 10  
Ordinance No. 2020-189

- (e) **Concession** - A contractual arrangement whereby the financing and construction of a new facility and/ or rehabilitation of an existing facility is undertaken by the PSP after turnover thereof to it, and includes the operation, maintenance, management and improvement, if any, of the facility for a fixed term during which the PSP generally provides service directly to facility users and is allowed to charge and collect the approved tolls, fees, tariffs, rentals or charges from them. The City of Muntinlupa may receive a concession or franchise fee during the term of the contract and/ or other consideration for the transfer, operation or use of any facility. There may be a transfer of ownership of the asset or facility after the concession period has ended subject to rules of the COA.
- (f) **Corporatization** - Refers to transformation of a wholly- or majority-owned subsidiary of or quasi-municipal corporation established by the City of Muntinlupa into one that has the structure and attributes of a private corporation, such as a board of directors, officers, and shareholders, and having it registered with the Securities and Exchange Commission as a stock corporation. The process involves the establishment of a distinct legal identity for the company under which the City of Muntinlupa's role is clearly identified as owner; segregation of the company's assets, finances, and operations from other Muntinlupa operations; and development of a commercial orientation and managerial independence while remaining accountable to the government or electorate.
- (g) **Cost Sharing** - This shall refer to the City of Muntinlupa portion of capital expenses associated with the establishment of an infrastructure development facility such as the provision of access infrastructure, right-of-way, and any partial financing of the project.
- (h) **Credit Enhancement** - This shall refer to direct and indirect support to a development facility by the PSP and/or City of Muntinlupa, the provision of which is contingent upon the occurrence of certain events and/or risks, as stipulated in the P4 contract. Credit enhancements are allocated to the party that is best able to manage and assume the consequences of the risk involved. Credit enhancements may include but are not limited to government guarantees on the performance or the obligation of the City of Muntinlupa under its contract with the PSP, subject to existing laws on indirect guarantees. Indirect Guarantees shall refer to an agreement whereby the City of Muntinlupa assumes full or partial responsibility for or assists in maintaining the financial standing of the PSP or project company in order that the PSP/ project company avoids defaulting on the project loans, subject to fulfillment of the PSP/ project company of its undertakings and obligations under the P4 contract.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



- (i) **Developmental Projects** – Muntinlupa Projects normally financed and operated by the City of Muntinlupa, but which will now be wholly or partly financed, constructed and/ or operated by the PSP; projects that will advance and promote the general welfare and public good; projects and activities that will be responsive to the needs of the communities; projects that will raise revenues for the City of Muntinlupa; projects in furtherance of devolution, deconcentration and decentralization; and other infrastructure, social-related and developmental projects as may be authorized by the City of Muntinlupa.
- (j) **Direct Muntinlupa Equity** - Refers to the subscription by the City of Muntinlupa of shares of stock or other securities convertible to shares of stock of the special purpose vehicle or single-purpose project company, whether such subscription will be paid by money or assets.
- (k) **Direct Muntinlupa Guarantee** - Refers to an agreement whereby the City of Muntinlupa guarantees to assume responsibility for the repayment of debt directly incurred by the PSP in implementing the project in case of a loan default.
- (l) **Direct Muntinlupa Subsidy** - Refers to an agreement whereby the City of Muntinlupa shall: (a) defray, pay or shoulder a portion of the P4 project cost or the expenses and costs in operating and maintaining the project; (b) condone or postpone any payments due from the PSP; (c) contribute any property or assets to the project; (d) waive or grant special rates on real property taxes on the project during the term of the contractual arrangement; and/ or (e) waive charges or fees relative to the business permits or licenses that are to be obtained for the construction of the project, all without receiving payment or value from the PSP or operator for such payment, contribution or support.
- (m) **Divestment or Disposition** - Refers to the manner or scheme of taking away, depriving, withdrawing of title to a property owned by the City of Muntinlupa and vesting ownership thereof to a PSP.
- (n) **Feasibility or Project Study (FS)** - A study, full or pre-feasibility study or business case prepared by the City of Muntinlupa in a competitive selection or a PSP when submitting an unsolicited proposal, containing or indicating a needs analysis, affordability assessment, value for money assessment, preliminary risk assessment, stakeholder assessment, human resource assessment, bankability assessment, legal viability assessment, P4 mode selection, market testing if relevant, indicative transaction implementation plan, and draft P4 contract. The study may be supported by the results of the appropriate "willingness-and-ability-to-pay" survey. The Project Study can be a feasibility study, pre-feasibility study or business case.
- (o) **Franchise** - Refers to the right or privilege affected with public interest which is conferred upon a PSP, under such terms and conditions as the City of Muntinlupa may impose, in the interest of public welfare, security and safety.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 12  
Ordinance No. 2020-189

- (p) **Gratuitous Donation** - A donation made by a PSP to a City of Muntinlupa whose cause is pure liberality on the part of the former and does not require from the latter any additional action other than utilizing the thing donated for the purpose agreed upon, or impose any obligation, burden, charge or future services, benefits, or concessions, or other form of grant, in order to be valid.
- (q) **Joint Venture (JV)** - A contractual arrangement whereby a PSP or a group of PSPs on one hand, and the City of Muntinlupa on the other hand, contribute money/ capital, services, assets (including equipment, land, intellectual property or anything of value), or a combination of any or all of the foregoing. It involves a community or pooling of interests in the performance of an investment activity and each party shall have the right to direct and govern the policies in connection therewith with the intention of sharing both profits and risks and losses, subject to agreement by the parties.
- (r) **Lease or Afterimage** - A contractual arrangement providing for operation, maintenance, and management services by the PSP, including working capital and/ or improvements to an existing infrastructure or development facility leased by the PSP from the City of Muntinlupa for a fixed term. Under a lease, the PSP retains revenue collected from customers and makes a specified lease payment to the City of Muntinlupa. Under an afterimage, the parties share revenue from customers wherein the PSP pays the contracting authority an afterimage fee, which varies according to demand and customer tariffs, and retains the remaining revenue. The City of Muntinlupa may provide a purchase option at the end of the lease period subject to rules of the COA.
- (s) **Limited Negotiations** - Refers to a process whereby the City of Muntinlupa negotiates with the PSP in instances when there is only one eligible and qualified PSP in a competitive selection process, under Stage 2 of the competitive challenge process, or when there is a prior completed competitive process.
- (t) **Management Contract** - A contractual arrangement involving the management or provision by the PSP of operation and maintenance or related services to an existing infrastructure or development facility owned or operated by the City of Muntinlupa. The PSP may be compensated by the City of Muntinlupa using the funds of the latter; or the PSP may collect tolls/ fees/ rentals and charges which shall be turned over to the City of Muntinlupa and shall be compensated in the form of a fixed fee, a share in the revenues and/ or performance based management or service fee during the contract term.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 13  
Ordinance No. 2020-189

(u) **Negotiated Projects** - Refer to instances where the desired project is the result of an unsolicited proposal from a PSP or, where the City of Muntinlupa has failed to identify an eligible PSP for a desired P4 activity when there is only one qualified bidder after subjecting the same to a competitive selection or bidding.

(v) **New Technology** - Refers to having at least one of the following attributes:

- A recognized process, design, methodology or engineering concept which has demonstrated its ability to significantly reduce implementation of construction costs, accelerate project execution, improve safety, enhance project performance, extend economic life, reduce costs of facility maintenance and operations, or reduce negative environmental impact or social/ economic disturbances or disruptions during either the project implementation/ construction phase or the operation phase; or
- A process for which the project proponent or any member of the proponent joint venture/ consortium possesses exclusive rights, either world-wide or regionally; or
- A design, methodology or engineering concept for which the proponent or a member of the proponent consortium or association possesses intellectual property rights.

(w) **Onerous Donation** – A donation made by a PSP to a City of Muntinlupa which subjects the latter to obligations, burdens, charges or future services, benefits, or concessions, or other form of grant, equal or greater in value than that of the thing donated by the donor-PSP.

(x) **Private Sector Proponent (PSP)** – Refers to the private sector entity which shall have contractual responsibility for the project and which shall have an adequate track record in the concerned industry, as well as technical capability and financial base consisting of equity and firm commitments from reputable financial institutions, to provide, upon award, sufficient credit lines to cover the total estimated cost of the project to implement the said project.

(y) **Public-Private Partnerships for the People (P4)** – At the policy level, a P4 is a developmental, innovative, change and partnership strategy aimed at promoting the general welfare, inclusive growth and better quality of life of Filipinos.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 14

Ordinance No. 2020-189

At a project level, a P4 is a legally enforceable contract where each party assumes specified functions, bears certain risks, provides contribution or renders some obligation, and earns benefits and revenues from the P4 arrangement. Specifically, it is a form of legally enforceable contract between the City of Muntinlupa and a PSP, and in certain cases, with the requiring new investments from the PSP and transferring key risks to the PSP in which payments are made in exchange for performance, for the purpose of delivering a service provided or intended to be provided by the City of Muntinlupa. P4 shall also include dispositions of an asset, facility, project owned, or entity created by the City of Muntinlupa to a PSP; procurement of a service; donations to the City of Muntinlupa; incorporation of a subsidiary with PSP equity; assumption by a PSP of a proprietary function of the City of Muntinlupa; grant of a concession or franchise to a PSP by the City of Muntinlupa; or usage by the PSP of public property owned or possessed by the City of Muntinlupa.

- (z) **P4 Contract** - Refers to the agreement between the City of Muntinlupa and a PSP that govern a P4 project.
- (aa) **Reasonable Rate of Return (RROR)** - Refers to the rate of return that a PSP shall be entitled to, as determined by the P4 Regulatory Authority taking into account, among others, the prevailing cost of capital (equity and borrowings) in the domestic and international markets, risks being assumed by the PSP and the level of Muntinlupa undertakings and contributions extended for the project.
- (bb) **Rehabilitate-Lease-and-Transfer (RLT)** - A contractual arrangement whereby an existing facility is turned over to the PSP to refurbish and operate, and upon its completion, turns it over to the City of Muntinlupa on a lease arrangement for a fixed period, after which ownership of the facility is automatically transferred to the City of Muntinlupa.
- (cc) **Rehabilitate-and-Transfer (RT)** - A contractual arrangement whereby an existing facility is turned over to the PSP to refurbish and operate, and after its completion, turns it over to the City of Muntinlupa, which shall pay the PSP, on an agreed schedule, its total investment expended on the project, plus a reasonable rate of return thereon.
- (dd) **Rehabilitate-Transfer-and-Operate (RTO)** - A contractual arrangement whereby an existing facility is turned over to the PSP to refurbish and operate. Once the facility is commissioned satisfactorily, title is transferred to the City of Muntinlupa. The PSP, however, operates the facility on behalf of the City of Muntinlupa under an agreement.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 15

Ordinance No. 2020-189

- (ee) **Service Contract** - A contractual arrangement whereby the PSP shall provide a particular service to the City of Muntinlupa involving the City of Muntinlupa's proprietary authority or to entities or corporation created by the City of Muntinlupa. The PSP shall be entitled to be paid a fee per unit of work done during the term of the contract; or compensated by the City of Muntinlupa using the funds of the latter; or the PSP may collect tolls/ fees/ rentals and charges which shall be turned over to the City of Muntinlupa and shall be compensated in the form of a share in the revenues.
- (ff) **Subsidiary with PSP Equity** - A corporation or quasi-municipal corporation incorporated by a City of Muntinlupa and registered as a stock corporation under the Corporation Code where majority of the shares are held by a City of Muntinlupa and where a PSP is a or PSPs are minority shareholder(s) which acquire their shares through an initial public offering or other competitive means.
- (gg) **Unsolicited Proposal** - Refers to project proposals submitted by a PSP to the City of Muntinlupa to undertake Developmental Projects without a formal solicitation issued by the City of Muntinlupa whereby the negotiated terms shall be subjected to comparative proposals.
- (hh) **Value for Money (VfM)** - Refers to the concept that over the whole-life of a project finance- P4 project, government's total expenditures (i.e., its payments to the PSP), adjusted for the risks that have been transferred to the PSP, will be less, on a Net Present Value (NPV) basis, than if the government will perform the services itself. VfM considers monetary and non-monetary factors such as: (i) risk transfer; (ii) reduced whole life costs; (iii) speed of implementation; and (iv) quality and reliability of service.
- (ii) **Viability Gap Funding (VGF)** - Refers to an explicit subsidy that is performance-driven (i.e., based on private party achieving measurable outputs) and targeted to socio-economically disadvantaged users or groups of users; or any financial support in the form of grants or assistance, one time or deferred, to infrastructure projects undertaken through P4 with a view to make them commercially viable.

**SECTION 6. Rules of Interpretation.** – This Code and the provisions hereof shall be liberally interpreted to accomplish the policy and objectives set forth in Sections 2, 3 and 4 hereof.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 16  
Ordinance No. 2020-189

**SECTION 7. Authorities.** – (a) This Code is being adopted pursuant to the City of Muntinlupa's constitutional and statutory authorities enumerated under Section 3 hereof; and when not inconsistent with the relevant laws aforementioned, shall govern the adoption and implementation of the P4 Modalities.

(b) In pursuing BOT Law variants, the City of Muntinlupa shall comply with BOT Law and its Implementing Rules and Regulations.

(c) In entering into Management and Service Contracts where Muntinlupa funds are used, the City of Muntinlupa shall comply with Republic Act 9184 or the Government Procurement Reform Act (GPRA) and its Implementing Rules and Regulations.

(d) For Dispositions, COA Circular No. 89-296 (January 27, 1989) shall govern.

(e) For Corporatization, the incorporation of the corporation must be done in accordance with the Corporation Code of the Philippines.

(f) For Local Concessions, Leases and Affermage, Rehabilitate-and-Transfer, Rehabilitate-Lease-and-Transfer, and Rehabilitate-Transfer-and-Operate, Management and Service Contracts where Muntinlupa funds are not used to procure the services of the PSP, and donations, the Muntinlupa ordinances policies or ordinances will be the governing instrument.

(g) For Joint Ventures, Section 35 of the 1991 LGC and Article 62 of the Implementing Rules and Regulations of the 1991 LGC shall be the governing law, and the Law on Partnerships of the Civil Code of the Philippines shall apply supplementarily.

(h) For Leases and Affermage, and Donations, the Law on Leases of the Civil Code of Philippines may be referred to.

CHAPTER 2  
P4 PROJECTS AND MODALITIES

**SECTION 8. P4 Projects.** – (a) The City of Muntinlupa, through the appropriate and viable P4 mode, may undertake Developmental Projects, including but not limited to, singly or with other related components, energy and power, renewable energy, waste-to-energy, roads, bridges, causeways, waterways, highways, ports, wharfs, terminals, airports, community airports, canals, dams, desilting, dredging, mining and exploration, hydropower projects, water supply and distribution, sewerage, irrigation, drainage, water conservation such as impoundment areas and rainwater harvesting, telecommunications, railroad and railways, short-haul transit services such as monorail, guided bus, bus services and trams, intermodal and multi-modal transit systems, transport systems, traffic control and management, parking facilities, reclamation projects, platform settlements, industrial estates or townships, central business and industrial park development, hotels



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 17  
Ordinance No. 2020-189

and resorts, socialized housing, non-conventional low-cost housing, settlement/ resettlement and relocation facilities, residential subdivisions, parks and open space development/ redevelopment, pocket parks, public art, libraries, heritage conservation, government buildings, sustainable/ green public buildings, sports facilities, wellness establishments, tourism such eco-tourism, wellness tourism and agri/agro-tourism, public markets, commercial buildings, slaughterhouses, storage buildings, warehouses, cold storage, solid waste management, sanitary landfills, meeting and convention canters, information technology networks and database infrastructure, education-related, classrooms, health facilities, hospitals, social services-related, prisons, agriculture-related, post-harvest facilities, environmental management and protection, climate change adaption, disaster risk reduction, among other developmental projects.

(b) The determination of the appropriateness and viability of the P4 mode shall be specified, explained and justified in the feasibility or project study weighing all the relevant value drivers and reasons for pursuing a P4 project.

(c) Parties to P4 arrangement shall undertake an activity in order to accomplish either an integrated or multi-use arrangement or specific goal or purpose with the end view of serving the public good or generating revenues.

(d) No P4 Project shall bear the name of any past or incumbent local official.

**SECTION 9. List of P4 Priority Projects.** – The City of Muntinlupa shall identify specific priority developmental projects that may be undertaken under any of the P4 Modalities defined under SECTION 10 hereof.

**SECTION 10. P4 Modalities.** – In undertaking a specific P4 Project, the City of Muntinlupa may adopt and pursue any of the following P4 Modalities and provide for other modalities not inconsistent with law:

1. Build-and-Transfer (BT);
2. Build-Lease-and-Transfer (BLT);
3. Build-Operate-and-Transfer (BOT);
4. Build-Own-and-Operate (BOO);
5. Build-Transfer-and-Operate (BTO);
6. Contract-Add-and-Operate (CAO);
7. Develop-Operate-and-Transfer (DOT);
8. Rehabilitate-Operate-and-Transfer (ROT);
9. Rehabilitate-Own-and-Operate (ROO);
10. Rehabilitate-Lease-and-Transfer (RLT);
11. Rehabilitate-and-Transfer (RT);
12. Rehabilitate-Transfer-and-Operate (RTO);
13. Concession Arrangement;
14. Joint Venture (JV);



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 18  
Ordinance No. 2020-189

15. Lease or Affermage;
16. Management Contract using Provincial/ City/ Municipal Funds;
17. Management Contract without using Provincial/ City/ Municipal Funds;
18. Service Contract using Provincial/ City/ Municipal Funds;
19. Service Contract without using Provincial/ City/ Municipal Funds;
20. Divestment or Disposition;
21. Corporatization;
22. Incorporation of a Subsidiary with PSP equity;
23. Onerous Donations;
24. Gratuitous Donations; and
25. Any other modality akin to any of the above or features thereof which falls under the alternative definition of a P4 under Section 5 (u) hereof.

**SECTION 11. General Requirements.** – These are the general requirements for the City of Muntinlupa in entering into P4:

- a. Undertaking a P4 for a Development Project must be premised on any or all of the reasons and drivers mentioned in Section 4 hereof.
- b. The list of projects to be implemented by the City of Muntinlupa under any of the BOT Law variants shall be submitted for confirmation to the Muntinlupa Development Council for projects costing above Twenty up to Fifty Million Pesos; above Fifty Million up to Two Hundred Million Pesos to the regional development councils; and those above Two Hundred Million Pesos to the Investment Coordination Committee of the National Economic and Development Authority (NEDA).
- c. Projects included in the List of Priority Projects shall not be eligible for unsolicited proposals under any of the BOT Law variants, unless involving a new concept or technology; provided, that for any of the other P4 Modalities, unsolicited proposals may be accepted even if the project is included in the List of Priority Projects or whether the same features a new concept or technology or not.
- d. The prohibition for extending Direct Muntinlupa Guarantee, Direct Muntinlupa Subsidy and Direct Muntinlupa Equity only applies to unsolicited proposals for BOT Law variants under the BOT Law.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 19

Ordinance No. 2020-189

- e. For BOT Law variants that will be subjected to bidding, Concession Arrangements, Leases or Affermage, Management and Service Contracts, and Joint Ventures, the City of Muntinlupa may provide Direct Muntinlupa Guarantee, Direct Muntinlupa Subsidy, Direct Muntinlupa Equity, or Viability Gap Funding; provided, that the City of Muntinlupa can use a portion of its general fund, its development fund comprising its annual share in the Internal Revenue Allotment, and/ or its equitable share in the proceeds of the utilization and development of the national wealth found within its territory for this purpose; provided further, that any amount used for subsidy or equity for a P4 project shall be deemed for development purposes and for the direct benefits of the inhabitants [pursuant to Sections 287 and 294 of the 1991 LGC respectively].
- f. For all P4 Modalities, the City of Muntinlupa may provide Credit Enhancements and Cost-Sharing schemes.
- g. Official Development Assistance (ODA) as defined in R.A. 8182, otherwise known as the ODA Act of 1996, as amended by R.A. 8555, may be availed of for P4 projects where there is difficulty in sourcing funds; provided, that ODA financing shall not exceed 50% of the project cost, with the balance to be provided by the PSP.
- h. Any subsidy to the constituents that will be extended by the City of Muntinlupa must be targeted, transparent and efficiently administered.
- i. Each P4 Modality adopted for a specific P4 project must specifically provide and adopt a tariff-mechanism such as but not limited to cash-needs, price cap, revenue cap, rate of return, hybrid of the foregoing, or any other appropriate scheme.
- j. For negotiated contracts for BOT Law variants for public utility projects which are monopolies, the rate of return on rate base shall be determined by existing laws, which in no case shall exceed twelve per centum [12%].



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 20

Ordinance No. 2020-189

- k. In case of a project requiring a franchise or license to operate, the winning PSP shall automatically be granted by the City of Muntinlupa the franchise or license or permit to operate and maintain the facility, including the collection of tolls, fees, rentals, and other charges in accordance with the schedules stipulated in the approved P4 contract. In case a JV Company is formed, the franchise, concession or license shall be automatically granted to the JV Company. Upon the signing of the JV Agreement by the City Mayor pursuant to the authority given by the Sangguniang Panlungsod, the franchise, concession or license is deemed awarded to the winning PSP, in case of a contractual JV, or the JV company. The original franchise period as stipulated in the contract agreement may be extended, as may be authorized by the City of Muntinlupa, provided that the total franchise period shall not exceed fifty (50) years.
- l. The City of Muntinlupa shall have the option to form or allow the formation of a special purpose vehicle or single-purpose project company to implement the P4 project as may be appropriate under the chosen P4 Modality.
- m. In participating in P4, the City of Muntinlupa may, subject to Sections 16, 17, 18, 19 and 20 of the 1991 LGC, exercise police power, perform devolved powers, power to apply and generate resources, expropriate and reclassify and enact or integrate zoning ordinances.
- n. The City of Muntinlupa shall prescribe and impose Procurement Ethics to be followed by the City of Muntinlupa and all bidders based on the principles of honesty, integrity, probity, diligence, fairness, trust, respect and consistency for all PSPs and bidders.
- o. In a JV or appropriate modality, the co-venturers or parties to a JV shall contribute money, capital, services, personnel, assets including equipment, land, intellectual property or anything of value, or a combination of any or all of the foregoing to the JV arrangement. The contribution of the City of Muntinlupa shall be subject to third party independent valuation. Further:
- (i) The City of Muntinlupa may allocate a portion of its Internal Revenue Allotment, real property tax, development fund, regular funds, proceeds from the utilization and development of its national wealth, Special Education Fund when the JV project is education-related, Calamity Fund when the JV project is calamity- or reconstruction-related, and special funds, if appropriate, as its contribution or share in the JV activity. These may be the actual or current funds, or future or monetized value of these funds of the City of Muntinlupa.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 21  
Ordinance No. 2020-189

- (ii) The City of Muntinlupa may contract a loan, avail of Official Development Assistance, secure grants, issue bonds, debentures, securities, collaterals, and notes the proceeds of which can be earmarked for the JV activity.
- (iii) On the part of the City of Muntinlupa, in addition to the foregoing contributions, it may extend goodwill, free carry, grant a franchise, concession, usufruct, right-of-way, equity, subsidy or guarantee, provide cost-sharing and credit enhancement mechanisms, exercise police power, give tax incentives or tax holidays, perform devolved powers, expropriate and reclassify and enact or integrate zoning ordinances.
- (iv) The City of Muntinlupa shall be a minority equity or shareholder while the PSP shall be majority equity or shareholder, except in the case where fifty percent (50%) of the outstanding capital stock or contribution is owned or made by the City of Muntinlupa. A reasonable percentage of the equity to be provided by the PSP should come from its own resources and not borrowed.
- (v) Notwithstanding having only, a minority share or equity, the written consent of the City of Muntinlupa may be obtained, based on the JVA, prior to any divestment of any asset or facility, dissolution, transfer or sale of share or equity on the part of the PSP, purchases or transactions beyond prescribed thresholds, or other activities which may affect the rights and stake in the Project of the City of Muntinlupa.
- (vi) Any cost avoidance or substantial savings that will be made by the City of Muntinlupa because of and directly attributable to the JV activity may be factored in the computation of the respective shares of the City of Muntinlupa and the PSP.
- (vii) For the utilization and development of natural resources located within its jurisdiction, the City of Muntinlupa shall be entitled to an equitable share which may come in the form of a portion of the benefits, revenues and profits thereof.
- (viii) The share of each JV party shall be set as fixed or determinable percentages or values either based on an overall or across-the-board assignment of contributions, revenues, profits, losses, risks and functions; or on specific assignment of contributions and functions to each JV party, provided that, the agreed percentage share is maintained and that joint governance is ensured where the City of Muntinlupa shall have representation in the governing structure based on in proportionate share at the minimum.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 22  
Ordinance No. 2020-189

- (ix) Subject to the terms of the competitive selection process and agreement of the parties, the City of Muntinlupa may be entitled to a share greater than its contribution or equity.
- (x) Each party shall be entitled to dividends, profits, income and revenues and will bear the corresponding risks, losses and obligations in proportion to its share, either based on gross or net revenues or income, unless the parties agree that the City of Muntinlupa will have a greater share in the dividends, profits, income and revenues and/ or bear lower risk and percentage loss than what it contributes to the JV arrangement.
- (xi) For as long as the City of Muntinlupa is involved in the JV undertaking, the PSP shall not sell/transfer its interest in the JV Company without the express written consent of the City of Muntinlupa.
- (xii) The share or equity of the City of Muntinlupa in the JV arrangement may be advanced, in full or in part, by the PSP where the PSP shall be paid from the future revenues due the City of Muntinlupa either by set-off or actual payment.
- (xiii) The JV activity may, subject to the terms of the competitive selection process, include the divestment, disposition or transfer of ownership of the JV activity, equity, asset or project to the PSP or JV partner. The divestment or disposition may take place at the end of the JV period or before the term ends.

(p) Procurement made by the City of Muntinlupa using public funds shall be subject to the GPRA and its Revised Implementing Rules and Regulations. Procurement made by the PSP using private funds shall not be covered by said statute.

(g) The revenues, funds, expenditures and contributions of the City of Muntinlupa shall be subject to the audit examination by the COA. Revenues, funds, expenditures and contributions of the PSP shall be subject to audit by a private auditing firm.

(h) Any subsidy, guarantee, equity or contingent liability assumed or given by the City of Muntinlupa must be reflected, disclosed and recognized in the annual appropriations of the City of Muntinlupa.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 23  
Ordinance No. 2020-189

**SECTION 12. Government-to-Government Joint P4 Undertakings.** – The City of Muntinlupa by mutual agreement in a Government-to-Government arrangement with other local governments, national government agencies, government-owned and -controlled corporations, government instrumentalities and government corporate entities, may implement P4 Projects for projects located within the City of Muntinlupa's territory or those projects that will benefit the City of Muntinlupa and its community even if the project site is outside the City of Muntinlupa's territory; provided, that the collaborating or partner government entity jointly undertakes with the City of Muntinlupa the selection of the PSP using the appropriate P4 Modality.

CHAPTER 3  
SELECTION PROCEDURES

RULE 1  
P4 PROCEDURES

**SECTION 13. P4 Procedures.** – The following procedures shall apply:

- (a) For BOT Law variants, the City of Muntinlupa must comply with the procedure set forth in the BOT Law and its Implementing Rules and Regulations.
- (b) For Management and Service Contracts where Muntinlupa funds will be used, the City of Muntinlupa shall comply with Republic Act No. 9184 or the Government Procurement Reform Act and its Implementing Rules and Regulations.
- (c) For Concessions, Leases or Affermage, and Management and Service Contracts where public funds are not used to procure the services of the PSP, competitive selection, limited negotiations, competitive negotiations or competitive challenge as defined herein may be utilized to select the PSP.
- (d) For onerous donations, competitive negotiations or competitive challenge as defined herein may be utilized to select the PSP. For gratuitous donations, the competitive processes mentioned herein need not be followed. However, the deed of donation must be made known to the public.
- (e) For Joint Ventures, Rehabilitate-Transfer, Rehabilitate-Lease-and-Transfer and Rehabilitate-Transfer-and-Operate, competitive selection, limited negotiations or competitive challenge as defined herein may be utilized to select the PSP/ JV partner.
- (f) For Divestment or Disposition of a property, COA Circular No. 89-296 (January 27, 1989) shall be applicable.
- (g) For the incorporation of a subsidiary with equity from the PSP, the Corporation Code shall be followed.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 24  
Ordinance No. 2020-189

(h) For the Divestiture of a subsidiary or corporation incorporated by the City of Muntinlupa under Corporatization, the sale may be pursued via a public offering or through a public auction or other relevant schemes under COA Circular No. 89-296 (January 27, 1989).

(i) If the City of Muntinlupa opts to select a PSP using either Competitive Selection or Competitive Challenge, the City of Muntinlupa in the Competitive Selection and Competitive Negotiations, and the PSP in the Competitive Challenge approach must prepare and submit a Feasibility or Project Study. The costs of preparing the Feasibility or Project Study may be reimbursed by the winning PSP to the City of Muntinlupa under the Competitive Selection mode.

(j) All recommendations of the P4 Selection Committee (P4-SC) shall be submitted to the City Mayor for consideration and approval.

(k) All P4 contracts must be signed by the City Mayor with prior authorization by the Sanggunian Panglungsod through a resolution. The terms and provisions of the P4 contract must be approved or confirmed by the Sanggunian Panglungsod through an ordinance.

(l) During the consideration of the draft P4 Contract by the Sanggunian Panglungsod, a public consultation/ hearing shall be conducted explaining the P4 Project, P4 Contract, accountability mechanisms built into the P4 arrangement, the benefits and costs of the P4 Project, among other relevant matters.

(m) After the signing of the P4 Contract by the City Mayor, the P4-SC shall issue the Notice of Award to the PSP. After the required condition precedents are complied with by the winning PSP, the City Mayor, upon the recommendation of the P4-SC, shall issue the Notice to Proceed.

(n) While the P4 Contract is already valid, perfected and enforceable, it may be submitted for judicial, executive or administrative confirmation from the courts or appropriate government institutions.

RULE 2  
SELECTION COMMITTEE

**SECTION 14. P4 Selection Committee.** – There is hereby created the City of Muntinlupa P4-SC for purposes of selecting a PSP for a specific P4 project. The P4-SC, to be constituted and convened by the Local Chief Executive, shall be composed of the following voting members:



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



**Page 25**  
**Ordinance No. 2020-189**

- (a) Chairperson – the Administrator of the City of Muntinlupa;
- (b) The City of Muntinlupa Treasurer;
- (c) The City of Muntinlupa Planning and Development Coordinator;
- (d) The City of Muntinlupa legal officer, as applicable;
- (e) One (1) representative from and selected by the City of Muntinlupa *Sanggunian* designated in an appropriate resolution; and
- (f) Two (2) representatives from and chosen by the accredited CSOs, POs, and NGOs who are members of the City of Muntinlupa local development council.

In the case of LGUs that do not have legal officers, item (d) will not apply. However, the municipality may seek legal advice from either an external legal advisor or the provincial legal officer to assist the P4-SC.

A quorum of the P4-SC shall be composed of a simple majority of all voting members. The Chairperson shall vote only in case of a tie.

The P4-SC shall be assisted by a Secretariat to be headed by the City of Muntinlupa Planning and Development Coordinator.

The P4-SC, with the approval of the Local Chief Executive, may invite the following to observe on a non-voting capacity in its proceedings:

- (a) One (1) technical officer knowledgeable with aspects of requirements of the project from a concerned regulatory body, who is to be invited by the City of Muntinlupa on a project-to-project basis;
- (b) One (1) representative from the Commission on Audit;
- (c) One (1) representative from the DILG regional office or field units;
- (d) One (1) representative from the National Economic and Development Authority (NEDA) regional office;
- (e) One (1) representative from the PPP Center; and
- (f) Two (2) representatives from the private sector.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 25  
Ordinance No. 2020-189

The P4-SC may, with the approval of the Local Chief Executive, form a support staff composed of employees and staff of the City of Muntinlupa.

The P4-SC shall be responsible for all aspects of the pre-selection and selection process, including, among others:

- (a) the preparation of the feasibility or project study and selection/tender documents;
- (b) determination of the minimum designs, performance standards/specifications, economic parameters, and reasonable rate of return or tariff-setting mechanism appropriate to the P4 project;
- (c) drafting or evaluation of the P4 contract;
- (d) publication of the invitation to apply for eligibility and submission of proposals or comparative proposals;
- (e) defining the eligibility requirements, appropriate form and amount of proposal securities, and schedules of the selection and challenge processes;
- (f) pre-qualification of prospective PSPs, bidders, or challengers;
- (g) conduct of pre-selection conferences and issuance of supplemental notices;
- (h) interpretation of the rules regarding the selection process;
- (i) conduct of the selection or challenge process;
- (j) evaluation of the legal, financial and technical aspects of the proposals;
- (k) resolution of disputes between PSPs and challengers;
- (l) defining the appeals mechanisms; and
- (m) recommendation for the acceptance of the proposal and/ or for the award of the contract.

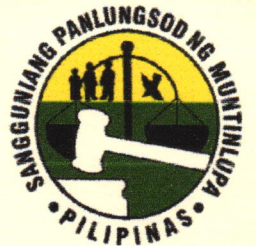
RULE 3  
SOLICITED P4 PROJECTS

Article 1  
Selection/Tender Documents



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 27  
Ordinance No. 2020-189

**SECTION 15. Selection/Tender Documents.** – The City of Muntinlupa P4-SC shall prepare the selection/tender documents which shall include the following:

- (a) Instructions to PSPs;
- (b) Minimum design, performance standards/specifications, key performance indicators, and other financial and economic parameters, where applicable, among others;
- (c) Feasibility study or a business case/pre-feasibility study of the project, which, at the minimum, shall contain the following: (i) market study; (ii) technical analysis; (iii) legal analysis; (iv) environmental impact assessment; (v) social impact assessment; (vi) project costs (investment costs, operation and maintenance expenses); (vii) economic analysis; (viii) financial analysis; (ix) implementation plan; and (x) risk analysis (identification and mitigating measures);
- (d) Draft contract reflecting the terms and conditions in undertaking the P4, including, among others, the contractual obligations of the contracting parties and the ownership of the P4 project or property after the termination of the P4 agreement and other provisions as provided in Section 14 herein;
- (e) Selection form reflecting the required information to properly evaluate the technical and financial proposal;
- (f) Forms of technical and financial proposals and performance securities; and
- (g) Other documents as may be required by the City of Muntinlupa and other requirements of concerned regulatory agencies as may be pertinent or applicable to the P4.

**SECTION 16. Instructions to PSPs.** – The instructions to PSPs, which establish the rules of the selection process, shall be clear, comprehensive, and fair to all PSPs, and shall, as far as necessary and practicable, include the following information:

- (a) General description and objectives of the P4 project;
- (b) Proposal submission procedures and requirements, which shall include information on the manner of proposal submission, the number of copies of the technical and financial proposal to be submitted, where the proposals are to be submitted, the deadline for the submission of proposals, and permissible mode of transmission of technical and financial proposals, etc.;
- (c) Cost of eligibility and bidding documents;



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 28  
Ordinance No. 2020-189

- (d) Amount and form of proposal security and proposal security validity period;
- (e) Milestones;
- (f) Method, parameters, and criteria for the evaluation of the proposals;
- (g) Minimum amount of equity of the PSP;
- (h) Requirements of concerned regulatory bodies/agencies as may be pertinent or applicable to the P4 project;
- (i) Revenue sharing arrangement, if any; and
- (j) Nationality and ownership requirements as required by law.

**SECTION 17. Minimum Designs, Performance Standards/Specifications and Economic Parameters.** – Minimum design and performance standards/specifications, including key performance indicators and appropriate environmental standards by the Department of Environment and Natural Resources (DENR), and standards by the concerned regulatory agencies as may be pertinent or applicable to the P4 project, shall be clearly defined and shall refer to the desired quantity and quality of the outputs of the P4 project and should state that non-conformity with any of these minimum requirements shall render the proposals as non-responsive.

Likewise, for the purposes of evaluating proposals, the following economic parameters, among others, and where applicable, shall be prescribed:

- (a) Discount rate, foreign exchange rate, and inflation factor;
- (b) Maximum period of project construction;
- (c) Fixed term and price indices to be used in the adjustments of tolls/fees/rentals/charges, if applicable; and
- (d) Minimum period of repayment, if applicable.

**SECTION 18. Draft Contract.** – The draft contract should clearly define the basic and legal relationship between the parties and their rights and responsibilities including specific government undertakings to be provided by the City of Muntinlupa relative to the P4 project, if any. Specifically, the draft contract shall also contain provisions on the following matters:

- (a) The date on which the agreement is established, executed, and considered effective;



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 29  
Ordinance No. 2020-189

- (b) The names, addresses, and identification of the parties, including the type of business of each party to the P4;
- (c) The name under which the P4 company, if any, will do business;
- (d) The principal place of business of the P4 company, if any;
- (e) Clearly defined purpose and objective/s, contractual/agreement mode (whether P4 company/corporate P4 or contractual P4), term and scope of the P4 contract;
- (f) Estimated cost of the P4 project, project specifications, and features;
- (g) Minimum designs, performance standards/specifications, key performance indicators, and other financial and economic parameters, where applicable;
- (h) The relationship between the parties, management roles of each party in the P4 project, and a statement that the parties are actually co-venturers for the project, whether or not the contract is in the name of all members;
- (i) The establishment of a fund by the parties to finance the work, together with the amount, type (cash, assets, etc.), and valuation of committed contributions of each party and when such contributions will be made, with the fund being deposited in a special bank account under dual control and all progress payments and other revenues being deposited in such account. If the equity/contribution of the PSP is to be borrowed, a statement that there shall be no government guarantee for said loan;
- (j) Procedure for additional capital infusions, if required, and a statement that there shall be no government guarantee for loans to be incurred by the PSP in case the additional contribution of the PSP is to be borrowed;
- (k) In contractual P4s, a declaration of the participation of the parties and percentage in which profits and losses are shared, which can be increased or decreased, depending on the agreement of the parties;
- (l) Specified termination/liquidation of the P4 company, buy-out provisions, and details on the transfer of ownership of the P4 facility, including provisions on what happens to the P4's assets after the expiration of the P4 agreement or end of the P4 period. If equity other than cash is to be contributed, a statement as to how the property will be valued and the ownership of the property during and after the effectivity of the P4 agreement;



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 30  
Ordinance No. 2020-189

- (m) Designation of one of the parties as general manager of the project, with authority to bind the P4 company/partnership/parties, or, in the alternative, the constitution of a management committee, with a provision for remuneration. Management duties, other duties of the co-venturers, and procedures to be followed in dealing with unusual situations or problems that may develop, should be specified;
- (n) Implementation milestones, regular meeting schedules, financial and periodic P4, and progress reporting procedure;
- (o) Establishment of a P4 bank account, and the appointment of a certified public accountant and lawyer;
- (p) Provide for the acquisition of licenses in the name of the P4 or each co-venturer, as required;
- (q) Type of insurance carried by the P4 and clearly defined liabilities to be insured against by each participant;
- (r) Definition of items which are to be considered as costs to the P4 for the purpose of determining profit or loss, and a description of items which are not reimbursable to members of the P4 and specified division of the profits and, risks and losses;
- (s) Confidentiality of trade information passed between the co-venturers;
- (t) Ownership or retention of patents, technology, and consultant reports;
- (u) Performance security requirements of the project and the bonding obligations of the co-venturers;
- (v) Undivided pro-rata interests held by the co-venturers on all assets of the P4;
- (w) Restriction regarding assignment of PSP's undivided pro-rata interests in assets of the P4;
- (x) Cost recovery scheme, including payment to the government of royalties/rights, the form/description and amount of earnings (cash, asset, etc.), whether it is in absolute amounts or variable, and the period and timing such earnings or payment shall be received. In case of non-cash payment or payment in form of asset, a statement/provision on how it will be valued, the minimum value of the asset, and the determination/selection of asset such as how and who will determine/select the asset;



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



**Page 31**  
**Ordinance No. 2020-189**

- (y) Indemnification and liquidated damages;
- (z) Performance and warranty bonds;
- (aa) Minimum insurance coverage;
- (bb) Acceptance tests and procedures;
- (cc) Validity of the performance security, warranty period, and procedures;
- (dd) Grounds for and effects of contract termination/default including modes for settling disputes, procedure for handling guarantees, defects and insurance after termination, and threshold (in terms of amount, time/period, or both) for which non- payment or delay in payment and delay in starting the project/s shall be grounds for termination/rescission of the P4 contract/agreement;
- (ee) The manner and procedures for the resolution of warranty against corruption;
- (ff) Compliance with all other laws, rules and regulations, including those related to social and environmental safeguards;
- (gg) Procedure and/or period for withdrawal by the City of Muntinlupa of its contribution to the P4, or exit divestment by the City of Muntinlupa of its interest in the P4, and substitution or addition of parties;
- (hh) Payout of funds;
- (ii) Alternative dispute resolution (ADR) mechanisms, pursuant to EO No. 78 dated 04 July 2012, to avoid management impasses that may produce deadlock or litigation;
- (jj) Provision defining how user fees, quality of public service, and other matters affecting public interest shall be regulated;
- (kk) Creation of a Contract Management Unit (CMU);
- (ll) Procedures for monitoring the P4 project; and
- (mm) Procedures for amendments to the P4 agreement.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 32  
Ordinance No. 2020-189

Article 2  
Invitation to Apply for Eligibility  
and Submission of Proposals

**SECTION 19. Publication of Invitation to Apply for Eligibility and to Submit a Proposal (IAESP).** –Prior to issuance/publication of the IAESP, the City of Muntinlupa shall submit a copy of the draft P4 agreement, instructions to PSP, and minimum designs, performance standards/ specifications and economic parameters to the City of Sanggunian Panlungsod of Muntinlupa and the PPP Center, for information.

The IAESPs shall be advertised once in a newspaper of general nationwide circulation, and posted continuously for a period of seven (7) calendar days, starting on date of advertisement, at the following:

- (a) Website of the City of Muntinlupa, if available; and
- (b) Website of the City of Muntinlupa's service provider, if any; and
- (c) Any conspicuous place within the premises of the City of Muntinlupa's procuring entity.

PSPs shall be given at least thirty (30) calendar days from the last date of publication of the IAESP to apply for eligibility and to submit a proposal. Notwithstanding, the City of Muntinlupa may adjust said period as may be appropriate for the nature, scope, size, and complexity of the P4 project, provided that the principles of transparency, competition, and accountability are observed.

Article 3  
Qualification of PSPs

**SECTION 20. Who may participate.** – Any individual, partnership, corporation or firm, or consortium, whether local or foreign, may participate, subject to the requirements set below.

**SECTION 21. Eligibility Requirements. –**

- (a) **Legal Requirements.** – If the P4 requires a public utility franchise, the PSP must be duly registered with the SEC and be at least sixty percent (60%) Filipino-owned. For projects other than these, PSPs shall comply with nationality and ownership requirements under the Constitution and other applicable laws and issuances.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 33  
Ordinance No. 2020-189

For P4 activities to be operated by the PSP or a facility operator where operation of the facility does not require a public utility franchise, the PSP or facility operator or concessionaire may be Filipino or foreign-owned, as maybe allowed under applicable laws, rules, and regulations.

- (b) **Technical Requirements.** – The PSP must have completed a project similar or related to the P4 whose value, adjusted to current prices using the Philippine Statistics Agency (PSA) Consumer Price Index (CPI), must be at least fifty percent (50%) of the cost of the P4 subject of the selection process within the relevant period as determined by the City of Muntinlupa. The PSP shall submit a statement of all its ongoing and completed government and private contracts similar or related to the P4 subject of the selection process, including contracts awarded but not yet started, if any. For clarity, one project is sufficient to meet this requirement.
- (c) **Financial Capability.** – The City of Muntinlupa shall determine, before evaluation of eligibility, the minimum amount of equity needed for the P4. For this purpose, the following documents shall be submitted by the PSP:
- (i) Audited financial statements for the past three (3) calendar years. If the PSP is Filipino, the audited financial statements to be submitted must be stamped “received” by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions; and
  - (ii) Latest tax returns, if the PSP is Filipino.

Financial capability shall be measured in terms of:

- (i) proof of ability of the PSP to provide a minimum amount of equity to the P4, measured in terms of the net worth of the company, or a deposit equivalent to the minimum equity required set aside or ear-marked for the P4 project; and
  - (ii) a letter from a domestic universal/commercial bank, or an international bank with a subsidiary/branch in the Philippines, or any international bank recognized by the Bangko Sentral ng Pilipinas (BSP), attesting that the PSP is one of its current clients, and is in good financial standing.
- (d) In case of consortia, all member-entities of the PSP shall also submit the above legal, technical, and financial eligibility requirements to determine the overall capability of the consortia for the P4 undertaking.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 34

Ordinance No. 2020-189

(e) *Acceptance of Criteria and Waiver of Rights to Enjoin P4.* – In addition to the above, all PSPs shall be required to submit, as part of their qualification documents, a statement stipulating that the PSP:

- (i) has accepted the qualification criteria established by the City of Muntinlupa P4-SC; and
- (ii) waives any right it may have to seek and obtain a writ of injunction or prohibition or restraining order against the City of Muntinlupa or its P4-SC to prevent or restrain the qualification proceedings related thereto, the award of the contract to a successful PSP, and the carrying out of the awarded contract. However, such waiver shall be without prejudice to the right of a disqualified or losing PSP to question the lawfulness of its disqualification or the rejection of its proposal by appropriate administrative or judicial processes not involving the issuance of a writ of injunction or prohibition or restraining order.

The City of Muntinlupa may require the PSP to submit additional documents or information necessary as required under existing laws, rules, and regulations.

**SECTION 22. Eligible and Ineligible.** – The City of Muntinlupa, through its P4-SC, shall within a period of fifteen (15) calendar days after the deadline set for the submission of the eligibility documents, complete the evaluation of the eligibility documents of the PSP, and determine which among them are “eligible” and “ineligible.” Accordingly, the P4-SC shall duly inform the eligible PSPs within seven (7) calendar days after approval thereof. Ineligible PSPs shall be similarly given notice of such ineligibility, stating therein the grounds for ineligibility within the same period.

**SECTION 23. Issuance of Tender Documents.** – The City of Muntinlupa shall make available the related competitive selection documents to all eligible PSPs as soon as practicable to provide respective PSPs ample time to examine the same and to prepare their respective proposals prior to the date of opening of the proposals. The time period from the last day of the issuance of tender documents to the date of opening of the proposal shall not exceed sixty (60) calendar days for P4 facility/project costing Five Hundred Million Pesos (PhP 500 Million) and above, and thirty (30) calendar days for P4 facility/project costing less than Five Hundred Million Pesos (PhP 500 Million).

The proposal parameters for the P4 project should be transparent and fair. It should not, in any way, be tailor-made for or meant to favor or give advantage to a particular PSP.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 35  
Ordinance No. 2020-189

Article 4  
Supplemental Competitive Selection Bulletins  
and Pre-Selection Conferences

**SECTION 24. Responsibility of the PSP.** – The PSP shall be solely responsible for having taken all the necessary steps to carefully examine and acquaint himself with the requirements and terms and conditions of the selection documents with respect to the cost, duration, and execution/operation of the project as it affects the preparation and submission of its proposal. The City of Muntinlupa shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective PSP out of data furnished or indicated in the competitive selection documents.

**SECTION 25. Supplemental Notices.** – A PSP may submit a written request to the City of Muntinlupa on or before the pre-selection conference as to the meaning of any data or requirements or any part of the selection documents. Any substantive interpretation given by the City of Muntinlupa shall be issued in the form of a Supplemental Notice, and furnished to all PSPs. The City of Muntinlupa may also issue Supplemental Notices to all PSPs at any time for purposes of clarifying any provisions of the selection documents, provided that the same are issued within a reasonable period to allow all PSPs to consider the same in the preparation of their proposals. Receipt of all Supplemental Notices shall be duly acknowledged by each PSP prior to the submission of his proposal and shall be so indicated in the proposal.

**SECTION 26. Pre-Selection Conference.** – For P4 activities with facility/project cost amounting to less than Five Hundred Million Pesos (PhP 500 Million), a pre-selection conference shall be conducted by the City of Muntinlupa P4-SC at least fifteen (15) calendar days before the deadline for the submission of proposals. For P4 activities with facility/project cost amounting to Five Hundred Million Pesos (PhP 500 Million) and above, the pre-selection conference shall be conducted at least thirty (30) calendar days before the deadline for the submission of proposals. Notwithstanding, the City of Muntinlupa P4-SC may adjust said period as may be appropriate for the nature, scope, size, and complexity of the proposed P4; Provided, That the principles of transparency, competition, and accountability are observed.

Article 5  
Submission and Receipt of Proposals

**SECTION 27. Requirements for Submission of Proposals.** – PSPs shall be required to submit their proposals on or before the deadline stipulated in the "Instructions to PSPs." For eligible PSPs, proposals shall be submitted in two (2) separate sealed envelopes, the first being the technical proposal and the second the financial proposal.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 36  
Ordinance No. 2020-189

The technical proposal shall contain the following, as applicable:

- (a) Compliance statements with regard to the technical parameters as stated in the tender documents;
- (b) Operational feasibility;
- (c) Technical soundness, including proposed project timeline;
- (d) Preliminary environmental assessment;
- (e) Cost of the P4 project;
- (f) Proposal security in the form as required by the City of Muntinlupa which may be in cash, certified check, manager's check, letter of credit, or bank draft/guarantee issued by a reputable local/foreign bank, or a surety bond callable on demand issued by the Government Service Insurance System (GSIS) or an entity duly registered and recognized by the Office of the Insurance Commissioner, or any combination thereof payable to the City of Muntinlupa concerned in accordance with the following schedule:

Total Contribution of the PSP As Estimated by the LGU	Required Proposal Security
Less than PhP 5.0 Billion	2.0% of the PSP's contribution as estimated by the City of Muntinlupa
PhP 5.0 Billion to less than PhP 10.0 Billion	1.5% of the PSP's contribution as estimated by the City of Muntinlupa
PhP 10.0 Billion and more	1.0% of the PSP's contribution as estimated by the City of Muntinlupa

- (g) Other documents to support the PSP's technical proposal, as may be required by the City of Muntinlupa.

The financial proposal shall contain the following, as the case may be:

- (a) Compliance statements with regard to the financial parameters stated in the tender documents;



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 37

Ordinance No. 2020-189

- (b) Proposed cost of the P4, operation and maintenance cost, the amount of equity to be infused and debt to be obtained for the project, sources of financing, and all other related costs; and
- (c) Financial proposal corresponding to the parameters set by the City of Muntinlupa.

The City of Muntinlupa is not precluded from specifying other requirements for the technical and financial proposals that are best suited for the specific P4.

**SECTION 28. Submission of Late Proposals.** – Proposals submitted after the deadline for submission prescribed in the "Instructions to PSPs" shall be considered late and shall be returned unopened.

**Article 6**  
**Opening and Evaluation of Proposals**

**SECTION 29. Opening of the Envelope for the Technical Proposal.** – At the date and time of the proposal opening stipulated in the "Instructions to PSPs," the City of Muntinlupa P4-SC shall open only the first envelope containing technical proposal and ascertain the following:

- (a) whether the same is complete in terms of the data/information required under Section 23 above; and
- (b) whether the same is accompanied by the required proposal security in the prescribed form, amount, and period of validity.

All PSPs, or their representatives, present at the opening of the envelopes containing the technical proposal shall sign a register of the proposal opening.

**SECTION 30. Evaluation of the Technical Proposal.** – The evaluation of the first envelope containing the technical proposal shall involve the assessment of the technical, operational, environmental, and financing viability of the proposal, vis-à-vis the prescribed requirements and criteria/minimum standards, and basic parameters prescribed in the competitive selection documents.

The City of Muntinlupa P4-SC shall complete the evaluation of the technical proposal within thirty (30) calendar days from the date the proposals are opened. Only those proposals that have been determined to have positively passed the evaluation of the technical proposal shall be qualified and considered for the evaluation of the financial proposal.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 38  
Ordinance No. 2020-189

**SECTION 31. Opening of the Envelope for the Financial Proposal.** – Only the financial proposals of PSPs who passed the evaluation described in this Code, shall be opened for further evaluation. The financial proposals tendered by PSPs who failed the technical proposal evaluation under Section 26 of this Code, shall not be considered further, and shall be returned unopened, together with a notice stating the reasons for disqualification from further consideration.

The City of Muntinlupa P4-SC shall notify the PSPs qualifying for the second stage of evaluation of the date, time, and place of the opening of the envelopes for the financial proposal. The opening thereof shall follow the same procedure prescribed for the opening of the envelopes containing technical proposals.

**SECTION 32. Evaluation of the Financial Proposal.** – The evaluation of the financial proposal shall involve the assessment and comparison of the financial proposals against the financial parameters stated in the tender documents and proposal parameters set by the City of Muntinlupa P4-SC. The proposed financing plan must show that the same adequately meets the costs relative to the P4. The evaluation of financial proposals shall be completed by the P4-SC within fifteen (15) calendar days.

**SECTION 33. Simultaneous Evaluation of the Technical and Financial Proposals.** – In cases where the nature of the P4 project shall warrant the appreciation of both the technical and financial proposals as a whole in order to determine the best proposal, simultaneous evaluation of the technical and financial proposals may be resorted to; Provided, That said evaluation procedure is subject to the determination of the Local Chief Executive and is explicitly stated in the proposal documents. Simultaneous evaluation of the technical and financial proposals shall be completed within thirty (30) calendar days from the date the proposals are opened.

**SECTION 34. Prescriptive periods.** – The periods stated for the evaluation of the technical and financial proposals are prescriptive. The City of Muntinlupa P4-SC may adjust said periods as may be appropriate for the nature, scope, size, and complexity of the proposed P4, provided that the principles of transparency, competition, and accountability are observed.

**SECTION 35. Rejection of proposals.** – Non-compliance to the information required on either the first or second envelope shall be grounds for rejection of proposals.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 39  
Ordinance No. 2020-189

**SECTION 32. *Withdrawal and/or modification of proposals.*** – Withdrawal and/or modification of proposals may be allowed upon written notice by the PSP concerned, to the City of Muntinlupa prior to the time and date set for the opening of the envelope containing the technical proposal as specified in the "Instructions to PSPs." No proposals shall thereafter be modified or withdrawn. Proposal modifications received after said period shall be considered late and will be returned unopened. Withdrawal of proposals after the proposal opening date shall cause the forfeiture of the PSP's proposal security.

**SECTION 36. *Right to reject all proposals.*** – The City of Muntinlupa reserves the right to reject any or all proposals, waive any minor defects therein and accept the offer it deems most advantageous to the government.

**SECTION 37. *Breaking tie bids.*** – In case tie bids occur under competitive selection or competitive challenge, the procedure for breaking tie bids shall be done through drawing of lots or similar methods that are non-discretionary and non-discriminatory such that it is based on sheer luck or chance.

**SECTION 38. *Simultaneous or Single-stage Qualification and Bidding.*** – In the exigency of service, the City of Muntinlupa may opt to do a simultaneous qualification instead of a pre-qualification of proponents. In case of simultaneous qualification, the publication of the invitation, following the requirements in Articles 2, 3, and 4 of Rule 2 hereof, shall be for the submission of qualification requirements and bid proposals. The bidders shall be asked to submit their proposal in three (3) envelopes; the first envelope - the qualification documents corresponding to the requirements so stated in Section 17 herein; the second envelope - the technical proposal; and the third envelope - the financial proposal. The requirements for bid submission are covered under Article 5 of Rule 2 hereof. The period for the preparation of the qualification documents shall be subsumed under the time allotted for bid preparation.

**Article 7  
Award and Approval of Contract**

**SECTION 39. *Recommendation to Award.*** – Within seven (7) calendar days from the date the evaluation procedure adopted is completed, the City of Muntinlupa P4-SC shall submit the recommendation of award to the Local Chief Executive. The P4-SC shall include as part of its recommendation, a detailed evaluation/assessment report on its decision regarding the evaluation of the proposals, and explain in clear terms the basis of its recommendations.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 40  
Ordinance No. 2020-189

**SECTION 40. Decision to Award.** – Within seven (7) calendar days from the submission by City of Muntinlupa P4-SC of the recommendation to award, the Local Chief Executive shall approve or reject the same. The approval shall be manifested by signing and issuing the “Notice of Award” to the winning PSP within seven (7) calendar days from approval thereof.

All participating PSPs shall be informed of the award in writing. Such decision shall be made available to the public upon request.

**SECTION 41. Notice of Award.** – The “Notice of Award” to be issued by the Local Chief Executive shall contain, among others, an instruction to the winning PSP to comply with conditions precedent for the execution of the P4 agreement and to submit compliance statements with regard thereto, within thirty (30) calendar days from receipt of the “Notice of Award”, unless otherwise specified or extended by the Local Chief Executive.

Conditions precedent for the execution of the contract shall include, among others, the posting of a performance security in favor of the City of Muntinlupa, proof of commitment of the required equity contribution, and proof of firm commitments from reputable financial institution to provide sufficient credit lines to cover the total estimated cost of the project. The City of Muntinlupa shall determine which form of performance security it will require, which may be in the form of cash, bank draft, or guarantee confirmed by a local bank (in the case of foreign bidders bonded by a foreign bank), letter of credit issued by a reputable bank, surety bond callable on demand issued by Government Service Insurance System (GSIS), or by a surety or insurance companies duly accredited by the Office of the Insurance Commissioner, or a combination thereof, in accordance with the following schedules:

- Cash, manager's check, irrevocable letter of credit, bank draft – a minimum of two percent (2%) of the PSP's contribution to the P4.
- Bank Guarantee – a minimum of five percent (5%) of the PSP's contribution to the P4.
- Surety Bond – a minimum of ten percent (10%) of the PSP's contribution to the P4.

Failure to comply with the conditions precedent for the execution of the contract within the prescribed thirty (30)-calendar day period or as specified or extended by the Local Chief Executive will result in confiscation of the proposal security. Within seven (7) calendar days from receipt of the compliance statements from the winning PSP, the Local Chief Executive shall determine the sufficiency of the same and notify the winning PSP accordingly.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 41  
Ordinance No. 2020-189

**SECTION 42. Validity and Return of Proposal and Performance Securities. –**

The execution of the P4 agreement shall be made within the period of the validity of the proposal security. The required proposal security shall be valid for a reasonable period, but in no case beyond one hundred eighty (180) calendar days following the opening of the proposals. Proposal securities shall be returned to the winning PSP and unsuccessful PSPs upon signing of the P4 agreement by the winning PSP.

The performance security shall be valid within the period of one (1) year after the expiration of the P4 agreement or end of the P4 period, or as may be stipulated in the P4 agreement. Upon certification by the Local Chief Executive that there are no claims filed against the winning PSP after the expiration of the P4 agreement or end of the P4 period, the performance security shall be released by the former. As may be agreed upon in the P4 agreement, a portion of the performance security shall be released upon compliance with corresponding milestones.

**SECTION 43. Extension of Validity of Proposals. –** When an extension of validity of proposals is considered necessary, those who submitted proposals shall be requested in writing, to extend the validity of their proposals before the expiration date of the same. However, PSPs shall not be allowed to modify or revise the price or other substantial aspect of their proposals.

PSPs shall have the right to refuse such an extension without forfeiting their proposal security. As a condition of the extension of the validity of their proposals, participating PSPs must correspondingly extend the validity of their proposal security.

**SECTION 44. Single Responsive Bid. –** A single and responsive bid shall be considered for award if it falls under any of the following circumstances:

- If after advertisement, only a single PSP submits eligibility documents within the deadline stipulated in the IAESP, and it meets the eligibility requirements, after which it submits a bid which is responsive to the technical and financial requirements;
- If after advertisement, more than one PSP submits eligibility documents in accordance with the Rule 2, Article 3 of this Ordinance, but only one PSP meets the eligibility requirements, after which it submits a bid which is responsive to the technical and financial requirements;
- If after the eligibility check, more than one PSP meets the eligibility requirements but only one PSP submits a bid, and its bid is found to be responsive to the technical and financial requirements; or



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 42

Ordinance No. 2020-189

- (d) If after qualification/evaluation of proposals, only one PSP meets the technical requirements but is not able to comply with financial requirements, after which a negotiation on the financial terms/proposal in accordance with Section 43 hereof is conducted and is successful.

**SECTION 45. Prospective Bidder/s Compliant with the Technical Requirements.** – In case of a single technically qualified PSP but is not able to comply with financial requirements or, in case of technically qualified PSPs but are not able to comply with financial requirements, the City of Muntinlupa may conduct negotiation on the financial terms/proposal in accordance with the next Section.

**SECTION 46. Negotiation on the Financial Terms/Proposal under the Competitive Selection Process.** – In case the PSPs, whose technical proposals are rated "passed", are not able to comply with the financial requirements, the City of Muntinlupa P4-SC shall request said PSPs to submit their new financial proposals. Thereafter, the City of Muntinlupa shall notify and negotiate with the PSP on the financial proposal/terms with the most advantageous financial proposal. The technical proposal shall remain valid and binding. In the event the City of Muntinlupa fails to successfully negotiate with said PSP within thirty (30) calendar days reckoned from the date of notification, the City of Muntinlupa shall negotiate with the next ranked most advantageous financial proposal, and so on and so forth, until a successful negotiation has been concluded.

In case of a single technically qualified PSP, the City of Muntinlupa may conduct negotiation on the financial terms or on the financial proposal and shall conclude said negotiation within thirty (30) calendar days. The technical proposal shall remain valid and binding.

In the event that there is no successful negotiation, the City of Muntinlupa shall conduct another competitive selection.

**SECTION 47. Failure of Competitive Selection.** – There shall be a failure of competitive selection in any of the following instances:

- (a) No prospective PSP/s is/are eligible;  
(b) No bids or proposals are received;  
(c) No prospective PSP/s is/are able to comply with technical requirements; or  
(d) No successful negotiation on the financial terms/proposal, as provided under Section 43 hereof.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 24  
Ordinance No. 2020-189

In the event of a failed competitive selection brought about by instances stipulated above, the City of Muntinlupa shall review the Terms of Reference (TOR)/bidding documents and conduct another competitive selection.

**SECTION 48. Execution/Approval of the P4 Agreement.** – The authorized signatory/ies of the winning PSP and the City of Muntinlupa, shall execute and sign the P4 agreement, within seven (7) calendar days after the Local Chief Executive notifies the winning PSP of its compliance to the conditions or requirements precedent to the execution of the contract.

Consistent with Article 1159 of the New Civil Code, said P4 agreement is considered the law between the parties, and the parties shall perform their respective representations, obligations, and undertakings thereunder with utmost good faith, with a view to attaining the objective thereof.

In the event of refusal, inability, or failure of the winning PSP to enter into contract with the City of Muntinlupa within the time provided therefore, the City of Muntinlupa shall forfeit its proposal security. In such event, the City of Muntinlupa shall consider the PSP with the next-ranked complying proposal as the winning PSP, and notify said PSP accordingly. If the next ranked complying PSP shall likewise refuse or fail to enter into contract with the City of Muntinlupa, its proposal security shall likewise be forfeited and the City of Muntinlupa shall consider the next ranked complying proposal, and so on, until a contract shall have been entered into. In the event that the City of Muntinlupa is unable to execute the contract with any of the complying PSPs, a failure of competitive selection will be declared and the P4 may be subjected to a competitive selection again.

**SECTION 49. Other Approvals for Contract.** – The entity tasked under the P4 agreement shall, as may be required under existing laws, rules, and regulations, secure any and all other approvals for the contract, or the implementation thereof, from government agencies or bodies including the regulator, in the case of public utility projects. This includes securing the necessary and appropriate environmental clearances from the DENR prior to actual project implementation. The DENR shall act on the environmental clearance of the P4 within the timeframe prescribed and following the guidelines of the DENR Administrative Order No. 96-37 and subsequent guidelines as may be issued from time to time. The City of Muntinlupa may provide the necessary assistance to its P4 partner in securing all the required clearances. The contract shall provide milestones in securing such other approvals required for the implementation of the contract.

Prior to the execution of the P4 agreement, the local legal office, as the chief legal counsel of City of Muntinlupa, shall issue the corresponding counsel's opinion. In case the City of Muntinlupa does not have its own counsel, it may seek legal opinion from the legal counsel of the provincial government.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 44

Ordinance No. 2020-189

**SECTION 50. Presidential Approval, When Required.** – Subject to the charter of the City of Muntinlupa, no further higher approval is necessary, unless the same is required by law to be acted upon by the President of the Philippines. In which case, as deemed applicable, the provisions of existing laws, guidelines, rules and regulations shall be followed and adhered to by the City of Muntinlupa.

**RULE 3**  
**UNSOLICITED P4 PROJECTS**

**Article 1**  
**Receipt and Initial Evaluation**  
**of the Unsolicited Proposal**

**SECTION 51. Submission of Complete Unsolicited P4 Proposal.** – A PSP submits an unsolicited proposal accompanied by a Feasibility or Project Study and draft P4 contract to the City of Muntinlupa for a projected P4 project.

**SECTION 52. Receipt and Evaluation of the Unsolicited P4 Proposal.** – If there is more than one unsolicited proposal submitted for the same project, the City of Muntinlupa, upon recommendation of its P4-SC, may reject all proposals and pursue competitive selection, or accept the unsolicited proposal that is complete and provides greater advantage and benefits to the community and revenues to the City of Muntinlupa.

The P4-SC shall make an initial evaluation to determine the completeness of the unsolicited proposal, the eligibility of the PSP pursuant to Section 17, the necessity for the proposed project, the consistency of the terms of the draft P4 contract with the City of Muntinlupa PPP Code, and the appropriateness of the project under a P4 modality. The initial evaluation shall be completed within thirty (30) calendar days upon submission of the documents by the PSP including the eligibility requirements; Provided, that a longer period may be allowed as determined by the City of Muntinlupa considering the complexity of the project but shall in no case exceed sixty (60) calendar days.

Upon completion of the initial evaluation, the Head of the City of Muntinlupa shall issue either a letter of acceptance or non-acceptance of the proposal. An acceptance shall not bind the City of Muntinlupa to enter into the P4 activity, but shall mean that authorization is given to proceed with detailed negotiations on the terms and conditions of the P4 activity. In case of non-acceptance, the private sector entity shall be informed of the reasons/grounds for non-acceptance.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 45  
Ordinance No. 2020-189

Article 2  
Detailed Negotiation

**SECTION 53. Negotiation with the PSP.** – The City of Muntinlupa and the PSP (Parties, for brevity) shall negotiate and agree on the terms and conditions of the project as well as all of its legal, technical, and financial aspects. The negotiation shall be completed within thirty (30) calendar days upon acceptance by the City of Muntinlupa of the proposal; **Provided**, that a longer period may be allowed as determined by the City of Muntinlupa considering the complexity of the project but shall in no case exceed ninety (90) calendar days.

Within seven (7) days after the successful negotiation, the P4-SC shall submit the negotiated contract to the City of Muntinlupa *Sanggunian* for approval. Such approval shall be issued in the form of a resolution which also authorizes the Local Chief Executive to enter into the P4 contract on behalf of the City of Muntinlupa. Once approval has been obtained, the Head of the City of Muntinlupa and the authorized representative of the private sector entity shall issue a signed certification providing that:

- (a) An agreement has been reached by both parties and that both agree to submit the proposal to competitive challenge;
- (b) The City of Muntinlupa has found the PSP and the technical and financial aspects of the project, as agreed upon, eligible; and
- (c) The City of Muntinlupa confers to the PSP the original proponent (OP) status.

The issuance of the certification commences the activities for the solicitation for comparative proposals.

However, should negotiations not result to an agreement acceptable to both parties, the City of Muntinlupa shall have the option to reject the proposal by informing the PSP, in writing, the grounds for rejection. Thereafter, the City of Muntinlupa may accept other proposals from PSPs or decide to pursue the proposed activity through other means of procurement.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 46  
Ordinance No. 2020-189

Article 3  
Competitive or Swiss Challenge Proper

**SECTION 54. Tender Documents.** – The P4-SC shall prepare the tender documents. The eligibility criteria used in determining the eligibility of the PSP shall be the same as those stated in the tender documents. Proprietary information shall, however, be respected and protected, and treated with confidentiality. As such, it shall not form part of the tender and related documents.

The Local Chief Executive shall approve all tender documents including the draft contract before the publication of the invitation for comparative proposals.

**SECTION 55. Invitation for Comparative Proposals.** – The P4-SC shall publish the invitation for comparative proposals.

Prospective comparative PSPs or challengers shall be given at least one hundred twenty (120) calendar days from the issuance of tender/bidding documents to develop and submit comparative proposals. If no comparative proposal is received by the City of Muntinlupa, the P4 project shall be immediately awarded to the OP.

**SECTION 56. Evaluation of Comparative Proposals.** – The procedure for the determination of eligibility of comparative proponents/PSPs, issuance of supplemental competitive selection bulletins and pre-selection conferences, submission and receipt of proposals, opening and evaluation of proposals shall follow the procedure stipulated under Rule 2.

If another qualified comparative PSP submits a superior counter-financial proposal, and it is accepted by the P4-SC, both the OP and the best-ranked comparative proponent shall be required to offer their best and final financial bid using the same bid parameter within a period not exceeding thirty (30) calendar days from the receipt of notice. Both bids shall be opened at the same time and neither of them shall have information on the bid of the other. The winning bid shall be determined based on the best financial proposal submitted.

Within seven (7) calendar days from the date of completion of the competitive challenge, the P4-SC shall submit the recommendation of award to the Local Chief Executive. Succeeding activities shall be in accordance with appropriate sections of Rule 2.

**SECTION 57. Posting of Bid Bond by the OP.** – The OP shall post the proposal security at the date of the first day of the publication of the invitation for comparative proposals in the amount and form stated in the tender documents.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 47  
Ordinance No. 2020-189

CHAPTER 4  
APPEALS MECHANISM

**SECTION 58. Appeals During the Pre-Qualification Stage.** – PSPs found ineligible by the P4-SC during the pre-qualification stage may appeal their ineligibility to the Local Chief Executive or his authorized representative, within seven (7) calendar days from receipt of the notice of ineligibility. The selection process will be suspended for a maximum period of thirty (30) calendar days while the appeal is being evaluated. The Local Chief Executive or his authorized representative shall act on the appeal within the thirty (30) calendar-day period of suspension of the selection process. The decision of the Local Chief Executive, or his authorized representative, on the appeal shall be final and immediately executory. If the appeal is not resolved within said period, the appeal is deemed denied, and the selection process will proceed.

**SECTION 59. Appeals After the Competitive Selection Process.** – Decisions of the P4-SC with respect to conduct of the competitive selection process may be appealed in writing to the Local Chief Executive concerned: Provided, however, That a prior motion for reconsideration should have been filed by the party concerned seven (7) days from notice of the P4-SC recommendation, and the same has been resolved by the P4-SC within fifteen (15) days from the filing of the same. The appeal must be filed within seven (7) calendar days from receipt by the party concerned of the resolution of the P4-SC denying its motion for reconsideration. The Local Chief Executive shall resolve the appeal within fifteen (15) days from receipt thereof. An appeal may be made by filing a verified position paper with the Local Chief Executive concerned, accompanied by the payment of a non-refundable appeal fee. The non-refundable appeal fee shall be in an amount equivalent to no less than one-half (1/2) of one percent (1%) of the project cost.

CHAPTER 5  
REGULATION AND CONTRACT MANAGEMENT

**SECTION 60. Regulation of Tolls/Fees/Rentals/Charges.** – Pursuant to Section 154 and 155 of the LGC, the City of Muntinlupa Sanggunian shall prescribe the terms and conditions and fix the rates for the imposition of tolls/fees/rentals/charges. Such regulation shall be in consultation with the concerned stakeholders.

**SECTION 61. Contract Management Unit (CMU).** – The CMU created under this Code shall ensure the successful implementation of the P4 project. It shall likewise perform the following functions:

- (a) Develop the contract management manual as contemplated in Section 62 hereof;
- (b) Manage the day-to-day implementation of the P4 contract pursuant to the contract management manual;



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 48  
Ordinance No. 2020-189

- (c) Monitor and measure performance of the P4 partner against the contract's key performance indicators;
- (d) Report issues encountered during implementation of the contract to the Local Chief Executives and City of Muntinlupa *Sanggunian*;
- (e) Act as the administrator of documents and correspondence relating to the P4 project and P4 contract;
- (f) Evaluate requests for amendment/s to the P4 contract; and
- (g) Such other functions as may be necessary for the successful implementation of the P4 project.

For purposes of executing this Code, the CMU may be formed by the Local Chief Executive through an Executive Order composed of the following qualified employees of the City of Muntinlupa:

- (a) Project team leader, who holds a permanent position in the City of Muntinlupa;
- (b) Technical representative;
- (c) Financial representative;
- (d) Legal representative; and
- (e) Other relevant personnel as may be assigned by the Local Chief Executive.

The City of Muntinlupa may supplement the CMU with external consultants who shall assist the CMU in the performance of their duties.

The CMU may seek the assistance of the PPP Center for guidance on the performance of its functions under this Code.

**SECTION 62. Contract Management Manual.** – The CMU shall prepare a contract management manual for each executed P4 contract. The contract management manual is a tool that will be used by the CMU to plan the accomplishment of each and every obligation under the P4 contract. At the minimum, this manual shall identify the following:

- (a) A description of the P4 project and its history;
- (b) The CMU and their roles in the execution of the manual;



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 49  
Ordinance No. 2020-189

- (c) The obligations of the parties as provided in the P4 contract, including the responsible person/s for each obligation;
- (d) The targeted due dates for the accomplishment of each obligation;
- (e) The optimal sequencing of the accomplishments of the obligations (e.g., Gantt chart, PERT-CPM);
- (f) The assessment of the risk of not meeting each obligation and the risk mitigating measure/s;
- (g) The protocols for reporting and monitoring of the accomplishment of each obligation, performance against KPIs, and of contingent liabilities;
- (h) The protocols for resolving issues and disputes that may arise during project implementation; and
- (i) The documents and correspondences that must be retained by the City of Muntinlupa, including the protocols for storage, logging, accountability, disclosure, and access by the parties and the public.

In drafting the contract management manual, the CMU may seek the assistance of external experts such as contract management specialists and the PPP Center.

The contract management manual shall be submitted to the Local Chief Executive for approval within thirty (30) calendar days from the execution of a P4 contract; **Provided**, that for outstanding P4 contracts executed prior to the effectivity of this Code, the contract management manual shall be submitted to the Local Chief Executive within one hundred and twenty days (120) days from the effectivity of this Code and the provisions of this Code shall apply *mutatis mutandis*.

The CMU may propose the revision of the contract management manual at any time during the life of the P4 project, subject to the approval of the Local Chief Executive.

**SECTION 63. Post-Award Conference.** – Immediately after the P4 contract is awarded, the Local Chief Executive shall convene a post-award conference to ensure that the City of Muntinlupa and P4 partner have a clear and mutual understanding of the terms and conditions of the P4 contract and to determine the responsibilities of parties. Notice of the post-award conference shall be sent by the LCE at least five (5) working days before the scheduled date thereof.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 50  
Ordinance No. 2020-189

The post-award conference shall be attended by the members of the City Council of Muntinlupa, the CMU, and key personnel of the P4 partner. The Local Chief Executive may also invite other concerned parties such as DILG regional offices or field units and the PPP Center to attend the conference.

**SECTION 64. Post-Contract Review.** – A post-contract review shall be conducted at the end of a contract period, which shall include a post-contract analysis, evaluation and reporting of the P4 project, the P4 partner's performance, and the City of Muntinlupa's contract management system. The post-contract review shall likewise include a financial audit of the entire P4 project and determination of good practices and lessons learned. City of Muntinlupa policies and procedures shall be updated where required. Notwithstanding the requirement herein, if the P4 contract is subject to renewal or extension, the post-contract review shall be conducted within a reasonable time before the deadline for such renewal or extension.

**SECTION 65. Amendments to the P4 agreement.** – Any amendment to a P4 Agreement after award and signing of contract may be allowed by the Local Chief Executive; Provided, That:

- (a) There is no impact on the basic parameters, terms and conditions as approved by the City of Muntinlupa *Sanggunian*; or
- (b) There is no increase in the agreed fees, tolls and charges or a decrease in the City of Muntinlupa's revenue or profit share derived from the project, except as may be allowed under a parametric formula in the contract itself; or
- (c) There is no reduction in the scope of works or performance standards, or fundamental change in the contractual arrangement nor extension in the contract term, except in cases of breach on the part of the City of Muntinlupa obligations under the contract; or
- (d) There is no additional government undertaking, or increase in the financial exposure of the City of Muntinlupa under the project.

Upon due diligence and recommendation of the Local Chief Executive, amendments to the P4 agreement not covered by the above instances shall undergo approval by the City Council of Muntinlupa in terms of the impacts on the financial exposure of the City of Muntinlupa, performance standards, and service charges.

Failure to secure clearance/approval of the Local Chief Executive or the City of Muntinlupa as provided in this Section shall render the contract amendment void. The City of Muntinlupa shall report to the City Council of Muntinlupa and the PPP Center on any contract amendments, including those approved by the Local Chief Executive.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 51  
Ordinance No. 2020-189

**SECTION 66. Alternative Dispute Resolution (ADR).** – All P4 contracts of the City of Muntinlupa shall include a provision on the use of ADR mechanisms in resolving disputes arising from the P4 contract. ADR mechanisms may include mediation, conciliation, and the establishment of a Project Dispute Resolution Board.

CHAPTER 6  
ACCOUNTABILITY, INFORMATION, EDUCATION AND MONITORING

**SECTION 67. Code of Conduct.** – Members of the P4-SC and CMU and the contract manager, in the performance of their duties, shall act at all times in accordance with R.A. No. 6713 or the "Code of Conduct and Ethical Standards for Public Officials and Employees" and other related laws, rules, and regulations;

**SECTION 68. Disciplinary Action.** – Violation of this Code and the Code of Conduct insofar as the City of Muntinlupa's elective officials are concerned shall constitute a ground for disciplinary action or amount to loss of confidence under the 1991 LGC and relevant laws, and with regards local appointive officials, such violation shall render them administratively liable. Officials may also be rendered criminally liable under applicable laws and ordinances. Representatives of the PSP shall be held liable for damages, offenses, and crimes depending on the nature of their participation and involvement in the unlawful act or omission.

**SECTION 69. Liability.** – The City of Muntinlupa and its officials, in undertaking a P4 project, selecting a P4 partner and implementing a P4 contract, shall not be exempt from liability for death or injury to persons or damage to property. Failure to respect a duly-executed P4 Contract by successor officials shall render them liable without prejudice to the application of Alternative Dispute Resolution mechanisms under Section 66 hereof.

**SECTION 70. Social Accountability.** – The City of Muntinlupa shall ensure, promote, and eliminate all obstacles to social accountability and allow and enhance constructive engagement between citizens' groups, academe, consumers, rate-payers, general public, City of Muntinlupa, national government agencies, regulatory agencies, and P4 partner.

**SECTION 71. Transparency and Right to Information.** – The P4 Contract, feasibility or project studies, bidding documents, terms of reference, results of the PSP selection process, Code of Conduct, contract management manual, minutes of the post-award conference, and other relevant documents and instruments shall be posted in two conspicuous places of the City of Muntinlupa and uploaded in a dedicated website of the City of Muntinlupa which can be freely accessed by the public. The City of Muntinlupa shall also implement a strategic communication plan addressed to all stakeholders.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 52  
Ordinance No. 2020-189

**SECTION 72. Capability-Building Program.** – The City of Muntinlupa shall design and implement a continuing education and capacity-building program on P4 for its officials and the members of the P4-SC and CMU.

The City of Muntinlupa shall also undertake a comprehensive and sustained education and governance campaign aimed at informing all stakeholders and CSOs, POs, and NGOs about P4 projects of the City of Muntinlupa and allowing them to participate in the overall P4 program of the City of Muntinlupa. The program shall include strategic and annual evaluation and planning sessions, workshops, seminars, focus-group discussions on P4, market opportunities, projects, management of contracts and regulation of P4, and other P4-related topics.

The City of Muntinlupa may tap consultants to assist them in implementing P4 and in building capability for P4.

**SECTION 73. Monitoring and Governance Audit Program.** – The City of Muntinlupa, in order to ensure transparency and accountability, shall encourage CSOs, POs, NGOs, and civic aggrupation's to establish a P4 monitoring, evaluation, and governance audit body functionally and fiscally independent from the City of Muntinlupa and other government institutions.

**SECTION 74. Technical and Financial Assistance.** – The Department of Finance, Department of Budget and Management, NEDA, Office of the Solicitor General, and the PPP Center may extend technical and financial assistance to the City of Muntinlupa and such assistance may be embodied in a memorandum of understanding or agreement. The DILG may also provide trainings and capacity-building activities to the City of Muntinlupa.

- (a) A performance review and corrective actions system that apply to non-compliance or breach of contract, and penalties for non-performance and bonuses for good performance.

CHAPTER 7  
FINAL PROVISIONS

**SECTION 75. Appropriations.** – To carry out the provisions of this Code, the amount of (amount in pesos) shall be appropriated. Thereafter, such sums as may be necessary for the continuous implementation of this Code shall be included in the annual budget of the City of Muntinlupa.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 53

Ordinance No. 2020-189

**SECTION 76. Implementing Rules.** – While this Code and the provisions hereof are already operative upon the Code's effectivity, the Local Chief Executive may issue the appropriate and relevant rules and regulation for the proper implementation of the Code or its provisions, including the issuance of relevant mechanisms to insure competition, manuals, guidelines, sample contracts and bid documents, P4 indexes and comparators, and performance scorecards.

**SECTION 77. Confirmation of Executed P4 Contracts** – P4 contracts entered into prior to the enactment of this P4 Code in strict compliance with the provisions hereof are hereby confirmed. P4 contracts entered into prior to the enactment of this P4 Code without strictly complying with the applicable procedures set forth herein for the selection of the PSP shall be considered as negotiated agreements this Code which must be subjected to competitive challenge; Provided, That after publication and no expression of interest is submitted by an interested qualified party at the designated time, the subject P4 contract shall be deemed perfected, and vested and contractual rights shall continue to subsist and operate.

**SECTION 78. Amendments to Executed P4 Contracts** - P4 contracts entered into prior to the enactment of this P4 Code may be amended; Provided, That the terms of the original P4 contract allow for amendments, or the amendments do not tend to increase the financial exposure, liabilities, and risks of the City of Muntinlupa or any other factors that would cause disadvantage to City of Muntinlupa and any deviation that will cause prejudice to losing PSPs; Provided further, That the amendments are approved by the Local Chief Executive with prior authorization from the City Council of Muntinlupa, and the revised terms are approved or confirmed by the City Council through the enactment of an ordinance.

**SECTION 79.** Procedures and steps commenced and undertaken for the selection of, and statuses and rights conferred on a PSP prior to the effectivity of this Ordinance shall be operative, confirmed, and recognized, and shall henceforth be continued under this Ordinance.

**SECTION 80. Application of Other PPP/ P4 Laws and Regulations.** – Whenever relevant and appropriate as determined by the Local Chief Executive, upon recommendation of the P4-SC, and in the absence of a specific provision to the contrary, other relevant laws and guidelines may apply in a suppletory manner.

**SECTION 81. Separability Clause.** – If, for any reason, any section or provision of this Code or any part thereof, or the application of such section, provision or portion is declared invalid or unconstitutional, the remainder thereof shall not be affected by such declaration.



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 54  
Ordinance No. 2020-189

**SECTION 82. Repealing Clause.** – All ordinances and resolutions or parts thereof inconsistent with the provisions of this Code are hereby repealed or modified accordingly.

**SECTION 83. Effectivity.** – This Code shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation.

**ENACTED**, by the 9<sup>th</sup> **Sangguniang Panlungsod** this 21<sup>st</sup> day of **December 2020**, on its 76<sup>th</sup> Regular Session.

CONCURRED:

DISTRICT 1:

COUN. ATTY. RAUL R. CORRO  
Member

COUN. ALEXSON V. DIAZ  
Member

COUN. PATY KATY C. BONCAYAO  
Member

COUN. LOUISITO A. ARCIAGA  
Member

COUN. ALLAN REY A. CAMILON  
Member

COUN. TING NIEFES  
Member

(ABSENT)  
COUN. STEPHANIE G. TEVES  
Member

COUN. IVEE RHIA A. TADEFA  
Member

DISTRICT 2:

COUN. ENGR. MARISSA C. RONGAVILLA  
Member

COUN. FRANCIS IAN T. BAGATSING  
Member

COUN. MARK LESTER M. BAES  
Member

(MATERNITY LEAVE)  
COUN. MA. DHESIREE G. AREVALO  
Member

COUN. ENGR. MAMERTO T. SEVILLA, JR.  
Member



REPUBLIKA NG PILIPINAS  
PAMAHALAAN LUNGSOD NG MUNTINLUPA  
KALAKHANG MAYNILA

Telephone no. 861-0181/Fax: 862-6473  
Email address: sangguniangpanlungsod2k19@gmail.com



Page 55  
Ordinance No. 2020-189

COUN. ENGR. ARLENE D. HILAPO  
Member

COUN. CORNELIO M. MARTINEZ  
Member

COUN. WALTER A. ARCILLA  
President  
Sectoral Representative  
Association of Barangay Chairman

COUN. KENICHI D. TAKAGI, JR.  
President  
Sectoral Representative  
Federation of Sangguniang Kabataan

I HEREBY CERTIFY, as to the correctness of the foregoing Ordinance.

CECILIA C. LAZARTE  
Secretary to the Sanggunian

ATTESTED:

ARTEMIO A. SIMUNDAC  
City Vice-Mayor/Presiding Officer

APPROVED:

ATTY. JAIME R. FRESNEDI  
City Mayor

Date: 05 JAN 2021

Norie/9<sup>th</sup> SP