



Sangguniang Panglungsod

RESOLUTION NO. 06-234
SERIES OF 2006

Resolution Confirming Resolution No. 006 Series of 2006
Passed by the Sanggunian of the
Barangay of Ayala Alabang
City of Muntinlupa
Authorizing the Local Government Unit (the "LGU" or the "Acceding LGU")
To Participate in the Monetization of IRA Collectibles For Local Empowerment Program
Jointly Managed By The
Land Bank Of The Philippines And
The Development Bank Of The Philippines
("Miracle Program")
With Respect To Its Share In The Php17.5 Billion
Unreleased Internal Revenue Allotment
For The Years 2000 And 2001
In The Amount Appearing In The Notice Of Payment Schedule
And Further Confirming The Miracle Program Documents
Submitted By The LGU For The Foregoing Purpose

WHEREAS, Section 6 of Article X of the Constitution of the Philippines guarantees that Local Government Units ("LGUs") shall have a just share, as determined by law, in the national taxes which shall be automatically released to them;

WHEREAS, Section 18, in relation to Sections 284 and 286 of the Local Government Code of 1991, provides that LGUs shall have the power and authority to have a just share in national taxes which shall be automatically and directly released to them without need of any further action;

WHEREAS, pursuant to the General Appropriations Acts for the Years 2000 and 2001, the aggregate amount of Php20 Billion worth of Internal Revenue Allotments ("IRA") of the LGUs were set apart and placed under an Unprogrammed Fund;

WHEREAS, in the case of *Alternative Center for Organizational Reforms and Development, Inc. v. Zamora* 459 SCRA 578 (2005), the Supreme Court ruled that the setting aside of a portion of the IRA by the executive or the legislative departments of government to form part of the Unprogrammed Fund is unconstitutional;

WHEREAS, of the amount of Php20 Billion set aside under the Unprogrammed Fund, Php2.5 Billion has been disbursed to the affected LGUs, leaving the balance of Php17.5 Billion (the "IRA Balance") unreleased;

WHEREAS, the Secretary of Justice, in Opinion No 50 (series of 2005), clarified that, in view of the above Supreme Court decision declaring the unconstitutionality of the classification of a portion of the IRA as Unprogrammed Funds, the remaining IRA balance of Php17.5 Billion should be released to the LGUs concerned without need of any further or new appropriation(s);

WHEREAS, on 22 November 2005, The League of Provinces of the Philippines, The League of Cities of the Philippines, The League of Municipalities of the Philippines, and The Liga ng mga Barangay (collectively, the "LGU Leagues") executed a Memorandum of Understanding ("IRA Memorandum of Understanding") whereby they each bound themselves that (a) the IRA Memorandum of Understanding was their united and common position respecting the payment of the IRA Balance; (b) the National Government does not have the capacity to pay the IRA Balance immediately and in one lump sum;
(c) they confirm that their position is to be paid according to the schedule of payments to be issued by the Department of Budget and Management ("DBM") pursuant to a Notice of Payment Schedule ("NPS") to be issued by the DBM to each affected LGU; and (d) each of the LGU Leagues seek to be paid their share in the IRA Balance in seven equal annual installments;

WHEREAS, on 18 January 2006, the President of the Philippines issued Executive Order No. 494 ("EO 494") thereby agreeing to release to the affected LGUs the share in the IRA Balance on installment basis for a period of seven years commencing in 2007 up to 2013 or avail in advance of their respective shares in the IRA Balance through an IRA monetization program;



Sangguniang Panglungsod

Page 2
Resolution No. 06-234

WHEREAS, EO 494 declares that the monetization program for the IRA Balance is a scheme initiated by the LGU Leagues which will give LGUs joining the program the option to collect in advance from a trustee bank their respective shares from the IRA Balance at a discounted value, net of interest and other charges, by means of the issuance by the trustee bank of investment certificates having as underlying assets the NPS, which NPS constitutes the unconditional obligation of the Republic of the Philippines as confirmed by the Department of Finance ("DoF"), and the subsequent payment to the participating LGUs of the proceeds from the sale, at a discount, of such investment certificates:

WHEREAS, the President of the Philippines, by virtue of EO 494, directed (a) the DBM to determine the share of each LGU in the IRA Balance on the basis of the formula prescribed in the Local Government Code and issue the corresponding NPS to the affected LGUs indicating therein their share in the IRA Balance and the schedule of payments of such shares; and (b) the DOF to, among others, provide the letter of confirmation of the National Government that the IRA Balance constitutes an obligation of the Republic of the Philippines (the "Republic");

WHEREAS, on 14 February 2006, the DOF issued in favor of all LGUs in the Philippines a Letter of Confirmation in connection with the NPS issued by DBM pursuant to EO 494 in order to provide the LGUs the assurance for purposes of participation in the monetization program for the IRA Balance under EO 494 that the National Government will perform its commitments to pay and honor all its payment obligations for the IRA Balance in accordance with the schedule set forth in the NPS and further declaring that the obligation of the National Government to pay the IRA Balance constitutes a direct, absolute, and unconditional obligation for the payment of money on the part of the Republic;

WHEREAS, the Land Bank of the Philippines and the Development Bank of the Philippines have jointly established the Monetization of IRA Collectibles for Local Empowerment Program ("MIRACLE Program") to implement the benefits intended under EO 494 and the IRA Memorandum of Understanding;

WHEREAS, the Acceding LGU, as the case may be, desires to participate in the MIRACLE Program to be jointly managed and underwritten by the Land Bank of the Philippines and the Development Bank of the Philippines by ceding, transferring, and conveying to the relevant Trustee on a without recourse basis, the NPS issued in its favor and by agreeing to accede to the Terms and Conditions of the Trust Agreement dated 28 February 2006 by and among The City of Calbayog, Samar (the "Participating LGU"), the Land Bank of the Philippines-Trust Banking Group, and the Development Bank of the Philippines (the "Trust Agreement");

WHEREAS, the Acceding LGU, as the case may be, desires to establish/participate in a Special Purpose Trust with either of the Trustees, who will each open for the collective benefit of the Participating LGU and other acceding LGUs (the "Acceding LGUs") for the purpose of receiving and the Acceding LGUs, and consequently jointly issue in scripless form investment certificates (the "MIRACLE Investment Certificates") in the aggregate principal amount corresponding to the total amount of NPS assigned to the Special Purpose Trusts with respective maturity dates corresponding to the release of the IRA Balance;

WHEREAS, pursuant to the MIRACLE Program, the Participating LGU and Acceding LGUs will establish, participate, and create with either Land Bank of the Philippines or the Development Bank of the Philippines (the "Trustees") a Special Purpose Trust by virtue of which the Trustees will jointly the MIRACLE Investment Certificates in the aggregate principal amount corresponding to the total amount of NPS assigned to the Special Purpose Trust with respective maturity dates corresponding to the release of the IRA Balance;

WHEREAS, in furtherance of the MIRACLE Program, the Trustees, have solidarily agreed to act as joint Trustees and each open for the collective benefit of the Participating LGU and the Acceding LGUs, Special Purpose Trusts for the purpose of receiving as assignee and transferee, without recourse, the respective NPS of the Participating LGU and the Acceding LGUs;

WHEREAS, the undersigned LGU desires to participate in the MIRACLE Program.

NOW THEREFORE, FOR AND IN CONSIDERATION OF THE FOREGOING PREMISES, at a session duly called and assembled, at least a majority of all of the duly elected and qualified members of the Sanggunian, after due discussions and deliberations, and upon motion of **Hon. Atty. RAUL R. CORRO** duly seconded by **Hon. MELCHOR R. TEVES** hereby approves and confirms the following resolutions:



Sangguniang Panglungsod

Page 3

Resolution No. 06-230

RESOLVED, that the LGU confirms, accedes to, and ratifies *in toto* the IRA Memorandum of Understanding executed by the LGU Leagues on 22 November 2005;

RESOLVED, that the LGU approves, confirms, and ratifies Resolution No. 006 Series of 2006 passed on March 24, 2006 by its Sanggunian, authorizing the local government unit to participate in the monetization of its IRA Receivables;

RESOLVED, that the LGU agrees, and is hereby authorized to participate in the MIRACLE Program and all transactions necessary and relevant to fully implement all the acts contemplated under EO 494, the IRA Memorandum of Understanding, and the MIRACLE Program;

RESOLVED, that the LGU authorizes, as it hereby authorizes the Honorable RAFAEL T. SEVILLA, to negotiate and conclude any and all transactions relevant to EO 494, the IRA Memorandum of understanding, and the MIRACLE Program, and is further authorized to sign, execute, and deliver, for and on behalf of the LGU, the Trust Agreement with the Trustees, the necessary Accession Agreements to the Program, through which the LGU:

(i) unconditionally and irrevocably agrees to assign, transfer, and convey, on a without recourse basis, as it hereby assigns, transfers, and conveys, on a without recourse basis, in favor of the trustees its share in the IRA Balance amounting to Php1,564,049.00 as covered by the NPS issued to it by the DBM dated February 10, 2006, and further agrees to the securitization and monetization of its aggregate share in the IRA Balance.

(ii) accepts, and expresses its unconditional and irrevocable conformity to the terms and conditions of the Trust Agreement between the participating LGU and the Trustees.

(iii) authorizes the Trustees to enter into other agreements or transactions, and to sign, on its behalf, all agreements and contracts which may be necessary for the implementation of the MIRACLE Program and the securitization and monetization of its share in the IRA Balance;

(iv) agrees to cede, transfer and convey absolutely and on a without recourse basis, as it hereby cedes transfers, and conveys, absolutely and on a without recourse basis, in favor of:

Land Bank of the Philippines

all its rights, interests, and participation in and to all its share in the IRA Balance as acknowledged by the National Government through the Letter of Confirmation issued by the DBM;

(v) instructs the Trustee named in the immediately preceding paragraph to remit to its bank account in

Muntinlupa Branch of:

Land Bank of the Philippines

with account number 0392-1015-43

the net proceeds of the securitization and monetization of its NPS.

(vi) authorizes the DBM to remit on the appropriate dates to the account of the Trustee named in paragraph (iv) hereof the amount corresponding to the NPS issued in its favor;

(vii) warrants that it has the power and authority, has taken all actions and obtained all approvals necessary, to pass this Resolution, execute the documents and agreements required to be executed and delivered by it to fully implement all the acts contemplated under EO 494, the IRA Memorandum of Understanding, the Trust Agreement, the Accession Agreement, and the MIRACLE Program, and to perform all its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby;

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Sangguniang Panglungsod

Page 4

Resolution No. 06-230

- (viii) represents and warrants that the actions taken under this resolution as well as all agreements contemplated hereby and thereby constitute its legal, valid, and binding obligations, and the performance and compliance by it of its obligations contemplated herein and therein shall not conflict with, nor constitute a breach or default of, its charter, or any ordinance or resolution of its Sanggunian, or any contract or other instrument by which it is bound, or any law, regulation, judgment, or order of any office, agency, or instrumentality applicable to it;
- (ix) confirms and ratifies its concurrence with, and accession to all agreements entered into by the Trustees designated under the Trust Agreement pursuant to and in furtherance of the implementation of EO 494, the IRA Memorandum of Understanding, and the MIRACLE Program including, but not limited to, the appointment of the Land Bank of the Philippines and the Development Bank of the Philippines as Underwriters and Issue Managers, and the engagement of the law firm of Romulo, Mabanta, Buenaventura, Sayoc & de los Angeles as MIRACLE Program Legal Counsel.

RESOLVED, that the LGU authorizes, as it is hereby authorizes the Honorable RAFAEL T. SEVILLA, to do any act, enter into any agreement, and sign and deliver on its behalf, any document, certification, or agreement pursuant to and in furtherance of the implementation of the MIRACLE Program; provided that the Hon. RAFAEL T. SEVILLA, is authorized to cause his substitution by the Hon. _____

RESOLVED FINALLY, that the LGU hereby approves, confirms, and ratifies the foregoing Resolutions as well as such agreements and acts necessary and desirable pursuant to and in furtherance of the implementation of EO 494, the IRA Memorandum of Understanding, and the MIRACLE Program to be performed and executed by the Hon. RAFAEL T. SEVILLA (or his substitute) without need for another resolution to this effect.

The specimen signatures of the authorized signatures are as follows:

NAME: RAFAEL T. SEVILLA
 DESIGNATION: CHAIRMAN, BARANGAY TUNASAN
 SIGNATURE: _____

NAME: REDANTE N. LORENA
 DESIGNATION: BARANGAY TREASURER
 SIGNATURE: _____

APPROVED and CONFIRMED.

I HEREBY CERTIFY the correctness of the above resolution duly approved by the Sangguniang Panglungsod of Muntinlupa City on April 6, 2006

CECILIA C. LAZARTE

Secretary of the Sangguniang Panglungsod



Sangguniang Panglungsod

Page 5
Resolution No. 06-_____

ATTESTED:

NAME: HON. ATTY. RAUL R. CORRO
Acting Presiding Officer / Majority Floor Leader

Approved and signed by the majority of all the duly elected and qualified Members of the 4th Sangguniang Panglungsod of Muntinlupa on 27 April, 2006.

BAL NIEFES
Councilor

RENE CARL S. CAYETANO
Councilor

ALLAN REY A. CAMLON
Councilor

ELMER S. ESPELETA
Councilor

MECLHOR R. TEVES
Councilor

FRANCIS IAN T. BAGATSING
Councilor

ALLEN F. AMPAYA
Councilor

LUCIO B. CONSTANTINO
Councilor

KEVIN B. DELGADO
Councilor

MARIO E. BULAY, JR.
Councilor

ICASIANO M. DELA REA
Councilor

MAMERTO T. SEVILLA JR.
Councilor

CHRISTIAN GLENN D. LORICA
Sectoral Representative
President, Federation of
Sangguniang Kabataan

ARTEMIO A. SIMUNDAC
Sectoral Representative
President, Association of
Barangay Captains

ABSENT:

MA. LUISA BABARAN-ECHAVEZ, MD
Councilor

MARISSA COLE-RONGAVILLA
Councilor

JOSELITO V. AREVALO
Councilor



Sangguniang Panglungsod

Page 6
Resolution No. 06-234

Certified by:

Signature of the Local Chief Executive

Name: HON. ATTY. JAIME R. FRESNEDI