



Sangguniang Panglungsod

RESOLUTION NO. 06-221

A RESOLUTION AUTHORIZING THE CITY MAYOR HON. ATTY. JAIME R. FRESNEDI TO PARTICIPATE IN THE MONETIZATION OF INTERNAL REVENUE ALLOTMENT (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 IRA FOR THE YEARS 2000 AND 2001 IN THE AMOUNT APPEARING IN THE NOTICE OF PAYMENT SCHEDULE.

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- Sponsored by:
- Hon. Atty. Raul R. Corro
  - Hon. Lucio B. Constantino
  - Hon. Atty. Icasiano M. dela Rea
  - Hon. Engr. Mamerto T. Sevilla, Jr.
  - Hon. Melchor R. Teves
  - Hon. Christian Glenn D. Lorica
  - Hon. Ma. Luisa Babaran-Echavez, M.D.
  - Hon. Allen F. Ampaya
  - Hon. Francis Ian T. Bagatsing
  - Hon. Marissa Cole-Rongavilla
  - Hon. Mario E. Bulay, Jr.
  - Hon. Artemio A. Simundac

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**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 Section 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 General Appropriations Acts for the Years 2000 and 2001, the aggregate amount of Php 20 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**, 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;



Sangguniang Panglungsod

Page 2  
Resolution No. 06-221

**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 the 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 capability 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 a monetization program (the MIRACLE Program);

**WHEREAS**, EO 494 declares that the MIRACLE Program 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 their letter of confirmation of the National Government that the IRA Balance constitutes an obligation of the Republic of the Philippines (the Republic);



Sangguniang Panglungsod

Page 3  
Resolution No. 06-221

**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 MIRACLE 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 MoU;

**WHEREAS**, the participating LGU/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 without recourse the assignment, transfer, and conveyance of the NPS of the Participating LGU and the Acceding LGUs, and consequently jointly issue in scripless form investment certificates (the MIRACLE Investment Certificate) 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;

**WHEREAS**, pursuant to the MIRACLE Program, the LGUs participating in MIRACLE Program will establish 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 issue investment certificates (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;

**WHEREAS**, in furtherance of the MIRACLE Program, the Trustees, have solidarity agreed to act as joint Trustees and each open for the collective benefits 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;

*[Handwritten notes and signatures on the left margin]*

*[Handwritten signatures and notes on the top right margin]*

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Sangguniang Panglungsod

Page 4

Resolution No. 06-221

**NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED,** by the Sangguniang Panlungsod that the City of Muntinlupa confirms, accedes to, and *ratifies in toto* the IRA Memorandum of Understanding executed by the LGU Leagues on 22 November 2005.

**RESOLVED,** that the City of Muntinlupa 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 City of Muntinlupa authorizes the Hon. City Mayor Atty. Jaime R. Fresnedi, 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 City of Muntinlupa the Trust Agreement with the Trustee, the necessary Accession Agreement to the program, through which the City of Muntinlupa:

- I. Unconditionally and irrevocably agrees to sign, 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 Php52,645,315.00 as covered by the NPS issued to it by the DBM dated January 26, 2006, and further agrees to the securitization and monetization of its aggregate share in the IRA Balance.
- II. Accept, and expresses its unconditional and irrevocable conformity to the terms and conditions of the pro forma Trust Agreement (Trust Agreement) between the participating LGU and the Trustees.
- III. Authorizes the Trustees to enter into other agreement 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 or Development 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 DOF and the NPS issued by the DBM;



Sangguniang Panglungsod

Page 5  
Resolution No. 06-221

- V. Instructs the trustee named in the immediately preceding paragraph to remit to its bank account in Muntinlupa Branch, Land Bank of the Philippines with account number 0392-1020-94 (Gen. Fund) 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. Warrant 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;
- VIII. Represents and warrants the actions taken under this resolution as well as all agreements contemplated hereby and thereby constitutes 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 Underwriter 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 City of Muntinlupa authorizes, as it is hereby authorizes the Honorable City Mayor Atty. Jaime R. Fresnedi, 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. City Mayor Atty. Jaime R. Fresnedi, is authorized to cause his substitution by the Hon. Atty. Raul R. Corro.



Sangguniang Panglungsod

Page 6  
Resolution No. 06-221

**RESOLVED FINALLY**, that the City of Muntinlupa of 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. Mayor Atty. Jaime R. Fresnedi (or his substitute) without need for another resolution to this effect.

*The specimen signatures of the authorized signatures are as follows:*

NAME: **ATTY. JAIME R. FRESNEDI**  
DESIGNATION: City Mayor  
SIGNATURE: \_\_\_\_\_

NAME: **NELIA A. BARLIS**  
DESIGNATION: City Treasurer  
SIGNATURE: \_\_\_\_\_

**APPROVED**, by the *Fourth (4<sup>th</sup>) Sangguniang Panlungsod of Muntinlupa* this 9<sup>th</sup> day of *March, 2006*, on its 71<sup>st</sup> Regular Session.

**CONCURRED:**

**ATTY. RAUL R. CORRO**  
Councillor

**FRANCIS IAN T. BAGATSING**  
Councillor

**MA. LUISA BABARAN-ECHAVEZ, M.D.**  
Councillor

**MARISSA COLE-RONGAVILLA**  
Councillor

**MELCHOR R. TEVES**  
Councillor

**LUCTO B. CONSTANTINO**  
Councillor

**ALLEN F. AMPAYA**  
Councillor

**MAMERTO T. SEVILLA JR.**  
Councillor

**ATTY. ICASIANO M. DELA REA**  
Councillor

**MARIO E. BULAY, JR.**  
Councillor



Sangguniang Panglungsod

Page 7  
Resolution No. 06-221

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

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

**ABSENT:**

**BAL NIEFES**  
Councillor

**RENE CARL S. CAYETANO**  
Councillor

**ALLAN REY A. CAMILON**  
Councillor

**ELMER S. ESPELETA**  
Councillor

**KEVIN B. DELGADO**  
Councillor

**JOSELITO V. AREVALO**  
Councillor

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

**CECILIA C. LAZARTE**  
Secretary  
Sangguniang Panlungsod

**ATTESTED:**

**ALDRIN L. SAN PEDRO**  
City Vice Mayor/Presiding Officer

**APPROVED:**

**ATTY. JAIME R. FRESNEDI**  
City Mayor

Date: \_\_\_\_\_

PBS, JR.