



**EXECUTIVE ORDER NO. 2019-032**  
**VVVVVVVVVVVVVVVVVVVVVVVVVVVVVV**

**DECLARING EXCESS OR SURPLUS SOIL FROM GOVERNMENT PROJECTS IN NAGA CITY AS PUBLIC PROPERTY AND LIMITING ITS HAULING AND USE FOR PUBLIC PURPOSE**

**WHEREAS**, certain projects of the city government and of national government agencies (eg. Department of Public Works and Highways), such as drainages and road works, require excavations or surface correction which generate large volume of excess or surplus soil that can be used as earthfills;

**WHEREAS**, some of these excess or surplus soil cause inconvenience, heavy traffic to motorists and even accidents, in exceptional cases;

**WHEREAS**, the city government has the duty of ensuring safe and convenient passable roads;

**WHEREAS**, excess or surplus soils comes from the right-of-way of government projects and are, therefore, public in nature to be utilized exclusively for public purposes;

**WHEREAS**, the city government requires large volumes of earthfill in its projects, such as the sanitary landfill, garbage site closure, and site development areas, to meet required surface gradients or as part of design standards;

**WHEREAS**, earthfill costs city taxpayers millions of pesos and accounts for a huge part of the total cost of city government projects, particularly those located in low lying areas;

**WHEREAS**, excess or surplus earthfills will save Naguenos millions of pesos if they are turned over to the city government;

**WHEREAS**, the city government has an obligation to advance the general welfare of its people in the most efficient and cost-effective way;

**NOW, THEREFORE, I, NELSON S. LEGACION**, Mayor of the City of Naga, by virtue of the powers vested in me by law, do hereby order the following:

**SECTION 1. SCOPE.** This executive order covers all government projects in Naga City, whether implemented by the city government or by national government agencies.



**SECTION 2. EXCESS OR SURPLUS SOIL AS PUBLIC PROPERTY.**

Excess or surplus soil from government projects in Naga City are herein declared as public property which can only be used for public purpose.

For purposes of this Executive Order, "Excess or Surplus Soil" shall be understood as all excess or surplus soil generated by excavation and/or surface correction or adjustment pursuant to government projects in Naga City from within the City's right-of-way or easement. It shall also include excess or surplus in purchased soil, intended for dumping or other purposes, by the government for government projects in Naga City.

**SECTION 3. EXCESS OR SURPLUS SOIL IN CITY GOVERNMENT PROJECTS.** The program of work of city government projects which will require excavation and/or surface correction and which will result in excess or surplus soil material, to include rocks and boulders found in the soil, shall provide for a cost item to cover hauling of the excess or surplus soil materials to designated projects, facilities, or collection areas of the city government.

The City Engineer shall estimate the probable volume of excess or surplus soil and designate in advance the project, facility, or collection area where the excess or surplus soil shall be delivered to enable a fair estimate of the cost of hauling that should be included in the program of work.

**SECTION 4. EXCESS OR SURPLUS SOIL IN NATIONAL GOVERNMENT PROJECTS.** The City Engineer shall ensure that national government projects in Naga City will observe the policy laid out in this Executive Order and, for this purpose, shall coordinate with the Department of Public Works and Highways or with other national agencies implementing civil work projects in the city.

Further, for national government projects, the City Engineer shall coordinate with the concerned national government agency to determine the probable excess or surplus soil that may be generated by the project, or if information is unavailable, compute such excess or surplus soil from the actual project site.

**SECTION 5. RECORDS TO BE MAINTAINED BY THE CITY ENGINEER.** The following records shall be maintained by the City Engineer: (a) a record of the volume of soil taken from each project, and (b) a record of the volume of soil delivered to a particular project, facility of collection area and any withdrawal therefrom. It shall be in such detail and format as to facilitate the tracking of excess or surplus soil coming from each project, deliveries to the city government, and withdrawals by the city government in case of collection areas.



In case of withdrawals from collection areas, the record shall show where it was delivered and used.

**SECTION 6. EXCESS OR SURPLUS SOIL IN CASE OF LACK OF PROVISION FOR ITS HAULING WAS PROVIDED.** In the event that no provision for hauling excess or surplus soil material has been provided in a project's cost estimate, the contractor shall inform the City Engineer's Office at least one week in advance of the date of excavation and of the probable volume of excess materials per day to enable CEO to prepare manpower and equipment to undertake the hauling of the excess materials.

**SECTION 7. NOTICE TO CONTRACTORS ON ESTIMATE OF PROBABLE VOLUME OF EXCESS OR SURPLUS SOIL.** The Contractor concerned shall be furnished by the City Engineer with a copy of the estimate of the probable volume of excess or surplus soil. Upon receipt thereof, the contractor has five (5) days from said receipt within which to make his objections or suggestions to the estimate of probable volume of excess or surplus soil prepared by the City Engineer. Such objections or suggestions together with its respective evidentiary attachments, if any, shall be addressed to the City Engineer, copy furnished the Office of the City Mayor.

The City Engineer, upon careful consideration of the objections or suggestions raised, shall, within three (3) days from receipt of such objection or suggestion, issue its final findings with copies thereof furnished to the contractor concerned and the Office of the City Mayor.

**SECTION 8. AUTOMATIC PROVISION IN CONTRACTS.** All contracts entered into by the City Government of Naga with Contractors for Government Projects necessitating excavation and/or surface correction must contain a provision that all excess or surplus soil generated therefrom (excavations and/or surface corrections) must be surrendered by the contractors in favor of the City Government of Naga.

**SECTION 9. HAULING OF EXCESS OR SURPLUS SOIL.** Excess or surplus soil generated by government projects necessitating excavations and/or surface corrections shall be hauled immediately, especially in government projects by the road side, to prevent huge buildup of soil that may obstruct traffic and to lessen the volume of soil that may be lost due to uncontrolled factors such as the weather. Contractors and/or national government agencies concerned shall notify the City Engineer of their schedule for hauling.

**SECTION 10. CONTRACTOR'S LIABILITY.** The contractor concerned shall be held accountable: (a) for any excess or surplus soil which are appropriated for private use or (b) for significant variances from the computed



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volume of excess or surplus soil. The City Legal Office shall then file the appropriate legal action in court. The City Engineer shall assist the City Legal Officer by providing documentations and proof of such misappropriation or significant variances in the volume of excess or surplus soil delivered to the city government. Alternatively, the contractor may settle by completing deliveries within a fixed time or by compensating the city government for the foregone deliveries computed at current market price of earthfill.

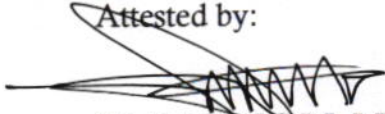
**SECTION 11. EFFECTIVITY CLAUSE.** This Executive Order shall take effect immediately.

**SECTION 12. REPEALING CLAUSE.** All issuances and orders inconsistent with this Executive Order are hereby repealed, amended, and/or modified accordingly.

Issued this 29<sup>th</sup> day of July, Two Thousand Nineteen in the City of Naga, Philippines.

  
**NELSON S. LEGACION**  
City Mayor

Attested by:

  
**FRANCISCO M. MENDOZA**  
Acting City Administrator