



Republic of the Philippines
Tanggapan ng Sangguniang Panlungsod
City of Naga



ORDINANCE NO. 2001-074

AN ORDINANCE ADOPTING A BUILD-AND-TRANSFER SCHEME AUTHORIZING THE CITY GOVERNMENT TO CONSTRUCT AND FINANCE ITS INFRASTRUCTURE PROJECTS BY THE PRIVATE SECTOR:-

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Be it ordained by the Sangguniang Panlungsod of the City of Naga, that:

SECTION 1. - TITLE. - This Ordinance shall be known as “An Ordinance Adopting a Build-and-Transfer Scheme Authorizing the City Government to Construct and Finance its Infrastructure Projects by the Private Sector”.

SECTION 2. - SCOPE. - this ordinance shall cover all City Government Infrastructure Projects especially those critical projects that need immediate implementation but which cannot be financed by the City’s limited funds and can better be completed by investments from the Private Sector.

SECTION 3. - LEGAL BASIS. - This ordinance derives its legal basis from Section 302 of R.A. 7160, otherwise known as the Local Government Code of 1991, which provides on how local governments can enter into contracts with private contractors to finance its priority infrastructure projects.

It also derives its authority under R.A. 6957 passed on July 9, 1990 which provided a more detailed guidelines on how such local governments can avail of the scheme of Build-and-Transfer by private investors.

SECTION 4. - PURPOSES AND OBJECTIVES. -

1. This ordinance primarily intends to avail of the indispensable role of the private sector in assisting the local government in its efforts toward national growth and development especially if given appropriate and favorable incentives to do so;
2. To fast track implementation and completion of all essential infrastructure projects of the City which could not otherwise be achieved without private sector participation especially with the onset of economic depression and the continuing trend of lowering national government assistance thru the Internal Revenue Allotment (IRA); and
3. To actualize the principle of close cooperation and partnership of government and private capital in the pursuit of sustainable development, and effectively modeling the same in the City of Naga.

SECTION 5. - DEFINITION OF TERMS. -

1. **BUILD-AND-TRANSFER SCHEME** - A contractual arrangement whereby the contractor undertakes the construction, including financing of a given infrastructure facility, and its turnover after completion to the government agency or local government unit concerned which shall pay the contractor its total investment expended in the project plus a reasonable rate of return thereof. This arrangement may be employed in the construction of any infrastructure project including critical facilities which, for security or strategic reasons must be operated directly by the government (Adopted from RA 6957);
2. **CONTRACTOR** - shall be taken here to mean any duly licensed individual, partnership or corporation duly prequalified as infrastructure contractors capable of financing a given project of the local government;
3. **LOCAL GOVERNMENT** - shall be the City of Naga represented by the City Mayor upon authority of the Sangguniang Panlungsod;
4. **INFRASTRUCTURE PROJECTS** - shall refer to all priority projects programmed by the city especially those concerning critical needs of the City such as in the development of environment, sports and allied concerns.

SECTION 6. - RULES AND PROCEDURES. - The process of entering into a Contract under this ordinance including the process of bidding, the repayment scheme, contract termination and adjustment, project supervision and allied processes shall follow strictly the provisions of Republic Act 6957 which are specifically and clearly provided therein and are being totally adopted by this ordinance.

In the suppletory manner, all rules and procedures not otherwise provided under R.A. 6957 as referred to herein shall be taken from the procedural rules establish under Section 302 of R.A. 7160, otherwise known as the Local Government Code of 1991, which rules and procedures are likewise adopted by this ordinance in a suppletory manner.

SECTION 7. - LOCAL REGULATORY BOARD. - For the purpose of management and control of the project to be implemented under this ordinance, a Local Regulatory Board shall be created thru an Executive Order of the City Mayor constituting such Board who shall conduct preliminary procedures, prepare the Contract and see to the effective implementation of the Contract in close coordination with the winning Contractor.

Upon completion and turnover of the project by the Contractor, the Local Regulatory Board herein created shall assume responsibility in its upkeep and maintenance.

This Regulatory Board shall be composed in essence by the following:

Chairman	- Representative from the City Mayor's Office
1 st Vice Chairman	- Representative from the City Engineer's Office
2 nd Vice Chairman	- SP Member of the Local PBAC
Member	- Representative from the City Treasurer's Office
Member	- Representative from the City Planning & Development Office

SECTION 8. - IMPLEMENTING RULES AND REGULATIONS. - Within ten (10) days from the approval of this ordinance, the Local Regulatory Board herein created shall prepare a

more detailed and comprehensive Implementing Rules and Regulations derived and consistent with the above-mentioned laws cited herein, R.A. 7160 and R.A. 6957.

These IRR shall be subject to the ratification of the Sangguniang Panlungsod and shall be immediately executory after ratification thereof.

SECTION 9. - SEPARABILITY CLAUSE. - If any of the provisions of this ordinance is held invalid or unconstitutional, the other provisions not so affected thereby shall remain valid and continue to be operational.

SECTION 10. - EFFECTIVITY. - This ordinance shall take effect immediately after approval and publication thereof at least once in a newspaper of local circulation.

ENACTED: October 3, 2001.

WE HEREBY CERTIFY to the correctness of the foregoing ordinance.

ESTEBAN R. ABONAL
City Vice Mayor & Presiding Officer

GIL A. DE LA TORRE
Board Secretary II
& Secretary Designate

APPROVED:

JESSE M. ROBREDO
City Mayor