

HON. GABRIEL H. BORDADO, JR.
City Vice Mayor & Presiding Officer

- City Councilors -

HON. CECILIA VELUZ-DE ASIS	HON. JOAQUIN F. PEREZ, JR.
HON. NELSON S. LEGACION	HON. RAOUL T. ROSALES
HON. ESTEBAN R. ABONAL	HON. ALEX C. NERO
HON. DAVID CASPER NATHAN A. SERGIO	HON. DAN PAOLO R. MORALES
HON. RAY-AN CYDRICK G. RENTOY	HON. MARIA ELIZABETH Q. LAVADIA-Absent
HON. JOSE A. TUASON	

RESOLUTION NO. 2012-219
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RESOLUTION AUTHORIZING HIS HONOR, THE CITY MAYOR TO REPRESENT THE CITY OF NAGA TO ENTER INTO A CONTRACT OF LOAN WITH THE DEVELOPMENT BANK OF THE PHILIPPINES (DBP) IN THE PRINCIPAL AMOUNT OF TWENTY EIGHT MILLION EIGHT HUNDRED SEVENTY ONE THOUSAND FIVE HUNDRED EIGHTY FIVE & 95/100 (P28,871,585.95) PESOS FOR THE PURPOSE/S STATED HEREIN AND TO SIGN THE LOAN AGREEMENT, DEED OF ASSIGNMENT, THE PROMISSORY NOTE AND OTHER DOCUMENTS RELATED THERETO, PROVIDED THAT SUCH PAYMENT SHALL BE UNDER PROTEST PENDING DECISION OF CASES FILED BEFORE BRANCH 62 OF THE REGIONAL TRIAL COURT, AND FOR THE CITY LEGAL OFFICER TO BRING BEFORE THE COURT THE ISSUE AS TO WHETHER OR NOT THE CITY GOVERNMENT IS ENTITLED TO THE DISCOUNT IT HAS BEEN CLAIMING PURSUANT TO THE 1983 STREETLIGHT AGREEMENT:-

On joint and collective motion

WHEREAS, brought in open session for appropriate action of the Sangguniang Panlungsod the request for the passage of a resolution authorizing His Honor, the City Mayor to enter into a Contract of Loan with the DBP in the principal amount of Twenty Eight Million Eight Hundred Seventy One Thousand Five Hundred Eighty Five & 95/100 (P28,871,585.95) Pesos to settle the city's obligation on power bills with the CASURECO II;

WHEREAS, on March 27, 2012, the Sangguniang Panlungsod adopted Resolution No. 2012-196, adopting the decision of the City Development Council (CDC) to settle the payables of the Naga City Government with the Camarines Sur II Electric Cooperative (CASURECO II) on power bills, subject to the condition that the same shall be used in acquiring the 20-mva substation equipment in Naga through open bidding, and without prejudice to the outcome of the case pending before Branch 62 of the Regional Trial Court (RTC) insofar as city streetlight accounts are concerned;

WHEREAS, upon determination of the payable amount, Resolution No. 2011-204 was adopted by the Sangguniang Panlungsod on July 12, 2011, authorizing His Honor, the City Mayor to tap its credit line with the Development Bank of the Philippines to cover the payment of P29,754,401.64 to CASURECO II;

WHEREAS, records will show that out of city's power bill amounting to P113,700,000.00, the CASURECO II also has a payable to the city government amounting to P46,558,596.59, representing franchise and business taxes leaving P67,128,416.79 as the net payable amount to CASURECO II;

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WHEREAS, to facilitate matters, CASURECO II did away with the P825,769.25 difference between its and the city government's computations, yielding a reconciled net collectible of P67,128,416.79, of which P29,754,221.64 was already paid by the city in December 2011, leaving a balance of P28,871,585.95 after deducting unposted payments of the city government amounting to P8.5 Million;

WHEREAS, since January 2011 up to the present, the city has been promptly paying in full its power bill with CASURECO II but such payments are under protest pending decision of cases filed before Branch 62 of the Regional Trial Court;

WHEREAS, it is imperative for the City Legal Officer to bring before the court the issue whether or not the city government is entitled to the discount it has been claiming pursuant to the 1983 Streetlight Agreement as modified by a subsequent MOA wherein the city is claiming about 25% discount;

WHEREAS, in case the court resolves on the affirmative, the city shall pay no additional amount to the CASURECO II otherwise, the city will be entitled of such discount, and there should be a corresponding reimbursement from the CASURECO II;

WHEREAS, finding the said Contract of Loan with the Development Bank of the Philippines (DBP) to be in order and necessary for the city government to settle its obligation on power bills with the CASURECO II;

NOW, THEREFORE, on joint and collective motion of the Members of the 10th Sangguniang Panlungsod of the City of Naga;

BE IT RESOLVED, as it is hereby resolved to authorize His Honor, the City Mayor to represent the City of Naga to enter into a Contract of Loan with the Development Bank of the Philippines (DBP) in the principal amount of Twenty Eight Million Eight Hundred Seventy One Thousand Five Hundred Eighty Five & 95/100 (P 28,871,585.95) Pesos for the purpose/s stated herein and to sign the Loan Agreement, Deed of Assignment, the Promissory Note and other documents related thereto, provided that such payment shall be under protest pending decision of cases filed before Branch 62 of the Regional Trial Court, and for the City Legal Officer to bring before the court the issue as to whether or not the city government is entitled to the discount it has been claiming pursuant to the 1983 streetlight agreement.

BE IT RESOLVED FURTHER, as it is hereby further resolved, that the City Mayor whose name and signature appear hereunder be authorized to negotiate and conclude such loan, to sign, execute and deliver loan and collateral agreements, promissory notes and such other pertinent papers, instruments, and documents and to do all acts and things necessary, proper and convenient under the premises for and in behalf of the City:

NAME

SIGNATURE

BE IT RESOLVED FURTHERMORE, as it is hereby furthermore resolved, to authorize the City to do, undertake, execute and perform the following acts:

1. The continuing assignment of the City's applicable portion of the Internal Revenue Allotment (IRA), realty taxes and other taxes and other revenues, in favour of DBP with hold-out provision to cover a minimum amount equivalent to three (3) monthly amortizations (principal and interest);
2. The LGU to execute the Loan Agreement, the notes, and other documents relating thereto, and specifically stating that the obligation of the LGU thereunder, as well as the terms and conditions thereof shall be valid and binding on the LGU and shall not be subject to recall by the Sanggunian for the whole term of the loan, regardless of any charge in its composition;
3. The issuance of an authorization/instruction letter to the Department of Budget and Management (DBM) to remit all or a portion of the City's share of the IRA directly to DBP for deposit to the City's deposit account thereat;
4. The undertaking not to cause the transfer of the remittance of IRA or any portion thereof by the DMP from DBP to any other bank without the DBP's prior written consent until the loan and other charges shall have been fully paid;
5. The designation of the DBP as one of its major depository banks and the opening and maintenance of a deposit account (the "Deposit Account") with DBP where the City's share in IRA or a portion thereof shall be deposited during the term of the loan and payment of its loan obligations shall be debited;
6. The issuance of authority for DBP to automatically debit the LGU's IRA deposit account to cover payment of its loan obligation with the Bank until the loan is fully paid;
7. The assignment of the appropriate portion of the City's other revenues with undertaking to remit the same to DBP in case the IRA, realty tax collection, project revenues are insufficient to service the loan amortization;
8. The undertaking of the City to include in its annual budget the required amortizations to service its loan obligations with DBP;

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9. The undertaking of the City that it will not incur additional obligation/indebtedness without the prior written consent of DBP which consent will not be unreasonably withheld;
10. That the aforesaid obligation of the LGU, as well as the terms and conditions of the Loan Agreement, the notes and other documents relating thereof shall be valid and binding on the LGU and shall not be subject to recall by the Sanggunian for the entire term of the Loan, regardless of any charge in its composition;
11. That once approved and executed, this Agreement shall be valid and effective until the Loan with DBP has been fully settled and paid.

LET COPIES of this resolution be furnished His Honor, the City Mayor for his information, the City Treasurer, the City Legal Officer, the Commission on Audit, the Naga City Development Council and the Development Bank of the Philippines for their information and guidance.

UNANIMOUSLY APPROVED

Adopted: April 10, 2012

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WE HEREBY CERTIFY to the correctness of the foregoing resolution.

GIL A. DE LA TORRE
Secretary to the
Sangguniang Panlungsod

GABRIEL H. BORDADO, JR.
City Vice Mayor &
Presiding Officer