



Republic of the Philippines
Province of Cebu
SANGGUNIANG PANLUNGSOD
City of Naga



Atong Garbo
50th Session

EXCERPT FROM THE MINUTES OF THE 48TH REGULAR SESSION OF THE 5TH SANGGUNIANG PANLUNGSOD (SP) HELD AT THE SP SESSION HALL, LEGISLATIVE BUILDING, EAST POBLACION, CITY OF NAGA, CEBU ON JUNE 20, 2023.

PRESENT:

HON. VIRGILIO M. CHIONG	- Vice Mayor/Presiding Officer
HON. CLINT ISIDRO A. CHIONG	- Presiding Officer Pro Tempore
HON. SCOTT JUVENAL A. CHIONG	- Assistant Majority Floor Leader/Liga ng mga Barangay President
HON. ALEXANDER R. LARA	- Sangguniang Panlungsod Member
HON. AURELIO B. ALINSONORIN	- Sangguniang Panlungsod Member
HON. CHARMAINE R. NAVARRO	- Sangguniang Panlungsod Member
HON. RAY A. MANABAT	- Sangguniang Panlungsod Member
HON. LUZMINDA R. LAPITAN	- Sangguniang Panlungsod Member
HON. JUSTINO L. DAKAY	- Sangguniang Panlungsod Member
HON. DOMINADOR A. LIBOR	- Sangguniang Panlungsod Member
HON. LETECIA F. ABANGAN	- Sangguniang Panlungsod Member
HON. KERSY C. BAFLOR	- SK Federation President

ON OFFICIAL BUSINESS:

HON. CARMELINO N. CRUZ, JR.	- Majority Floor Leader
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ORDINANCE NO. 2023-17

Hon. Letecia F. Abangan - Sponsor

Chairperson, Committee Finance, Budget and Ways and Means

AN ORDINANCE CREDITING THE AMOUNT OF ₱16,411,938.55, WHICH THERMA POWER VISAYAS INCORPORATED (TPVI) PAID TO THE CITY GOVERNMENT OF NAGA, CEBU FOR THE REAL PROPERTY TAX (RPT) ON THE SEVEN (7) UNUSED PROPERTIES FOR THE YEAR 2020 TO 2022, AND THE PENALTIES IMPOSED ON LATE PAYMENT OF RPTs ON NINE (9) REAL PROPERTIES FOR THE PERIOD BEGINNING 3RD QUARTER OF 2018 UP TO 4TH QUARTER OF 2019, AS PAYMENT TO THE RPT DUE FROM TPVI FOR THE YEAR 2023 AND THE NEXT SUCCEEDING YEARS UNTIL FULLY COVERED

EXPLANATORY NOTE

By virtue of Republic Act 9136, or the Electric Power Industry Reform Act (EPIRA) of 2001, the Power Sector Assets & Liabilities Management Corporation (PSALM) was created to manage the orderly sale, disposition, and privatization of the generation assets, real estate and other disposable assets of National Power Corporation (NPC);

PSALM conducted a bidding for the sale of the Naga Power Plant Complex (NPPC) consisting of a Diesel Power Plant, Cebu Thermal Power Plant (CTPP) I and CTPP II; and the lease of the land;

These properties were previously declared as exempt from real property taxes (RPT), considering that NPC is a government-owned and controlled corporation, enjoying RPT exemptions as provided under Republic Act 7160, otherwise known as the Local Government Code of 1991;

On April 30, 2014, PSALM issued a Notice of Award (NOA) to Therma Power-Visayas Inc. (TPVI), as the winning bidder for the sale of the NPPC;

By virtue of the said bidding/sale, ownership of the properties passed from NPC to TPVI, a private corporation, which is not entitled to RPT exemption, hence, the Office of the City Assessor issued tax declarations, declaring the previously tax-exempt properties as taxable, and subject to RPT;

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TPVI received on June 3, 2020 the NOA from the PSALM and the Tax Bill from the City Government of Naga (LGU-Naga) for the abovementioned properties;

On June 30, 2020, TPVI paid within the reglementary period to the LGU-Naga the RPT due in the amount of Twenty Three Million Seven Hundred Thirty Four Thousand Seven Hundred Sixteen Pesos & 27/100 (Php23,734,716.27) covering its RPT starting the 3rd quarter of 2018 up to the 2nd quarter of 2020, on 9 real properties declared in the name of NPC as follows: Tax Declaration No. 46947, 46948, 46949, 46950, 46951, 46952, 46953, 46954, 46955, for the 3rd quarter of 2018;

On July 6, 2020 the Energy Regulatory Commission issued to TPVI a Provisional Authority to Operate the Diesel Plant for a period of six (6) months from July 6, 2020 to January 5, 2021;

On July 30, 2020, TPVI paid the amount of Three Million Nine Hundred Seventy Thousand Four Hundred Ninety One Pesos & 57/100 2/F City Hall, East Poblacion, City of Naga, Cebu Tel No: (032) 2726655 loc. 149 cosnagacebu@gmail.com (Php3,970,491.57) for the RPT on the abovementioned properties for the 3rd quarter and 4th quarter of year 2020;

On July 30, 2020, TPVI filed a protest stating that the company paid the aforementioned RPTs only as a sign of good faith and support to the LGU-Naga; notwithstanding the fact that at the time the RPT were imposed and collected, the said properties were not yet used for business/industrial purposes, and are therefore not yet subject to tax;

TPVI commenced on 7 August 2020 the operations of the Diesel Power Plant; while the Cebu Thermal Power Plant I and Cebu Thermal Power Plant II remained non-operational;

On September 8, 2020, PSALM issued a Certification which states that TPVI has commenced on 7 August 2020 the operation of its 44.58 Oil-Fired Power Plant located inside the Power Facility (i.e., the Diesel Plant).

The LGU-Naga created a team composed of the City Administrator, the City Planning & Development Coordinator, the City Building Official and the City Assessor to verify the claims of TPVI as to the existence and functionality of the subject real properties;

Per actual ocular inspection and verification it was found out that TPVI is using and operating only 2 of the 9 properties, specifically the (1) Fuel Treatment Plant, covered by Tax Declaration No. 46954, and (2) the Diesel Powerhouse, covered by Tax Declaration No. 46955;

TPVI submitted an affidavit to the LGU-Naga, requesting for the following:

1. Exemption from penalties on RPT for the 9 properties, in accordance with the provisions of Section 222 of the LGC which stipulates that no penalties will be imposed on newly declared/assessed properties if taxes due thereon is paid on or before the end of the quarter following the Notice of Assessment;
2. Refund or credit to TPVI's RPT for the year 2023 onwards until applicable the following: (a) the amount of penalties paid for the 9 properties from the 3rd Quarter, 2018 to the 4th Quarter of 2019, and (b) the RPT paid in the year 2020, 2021 and 2022 for the 7 properties which were not used since they assumed operations of the NPPC on 7 August 2020;

As computed by the Office of the City Treasurer the amount of Php16,411,938.55 comprises the (a) amount of penalties paid for the 9 properties from the 3rd Quarter, 2018 to the 4th Quarter of 2019, and (b) RPT paid in the year 2020, 2021, 2022, for the 7 properties which were not used since they assumed operations of the NPPC in August 7, 2020.

BE IT ENACTED, AS IT IS HEREBY ENACTED, BY THE SANGGUNIANG PANGLUNGSOD OF THE CITY OF NAGA, CEBU IN SESSION ASSEMBLED, BY VIRTUE OF THE POWERS VESTED IN IT BY LAW, THAT:



SECTION 1. TITLE. This Ordinance shall be known as "Tax Credit Grant to the Therma Power Visayas Inc."

SECTION 2. COVERAGE. This Ordinance shall cover only the following payments made by TPVI:

1. RPT for the period 2020-2022 on 7 unused real properties; and
2. Penalties paid for late payment of RPTs for the period 3rd quarter to 4th quarter of 2018 and 1st quarter to 4th quarter of 2019 on 9 real properties

SECTION 3. IMPLEMENTING OFFICE. The Office of the City Treasurer shall be the office designated to implement this Ordinance.

SECTION 4. REPEALING CLAUSE. All ordinances contrary to or inconsistent with this Ordinance are hereby repealed or modified accordingly.

SECTION 5. SEPARABILITY CLAUSE. If any part or provision of this Ordinance is declared unconstitutional or invalid, the same shall not affect the validity and effectivity of the other parts or provisions hereof.

SECTION 6. EFFECTIVITY CLAUSE. This Ordinance shall take effect upon the enactment of the Ordinance.

ENACTED BY THE SANGGUNIANG PANLUNGSOD OF THE CITY OF NAGA, CEBU, in its 48th Regular Session held on the 20th day of June 2023.

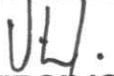
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CERTIFIED TRUE AND CORRECT:


GERALDINE L. TAMPOS
Secretary to the Sanggunian-Designate

6/23/23

ATTESTED BY:


VIRGILIO M. CHIONG
Vice Mayor/Presiding Officer

APPROVED BY:


VALDEMAR M. CHIONG
City Mayor

