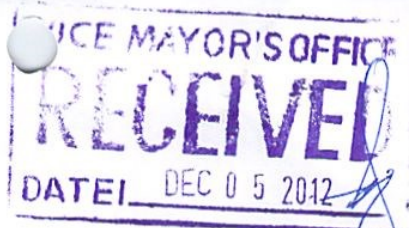
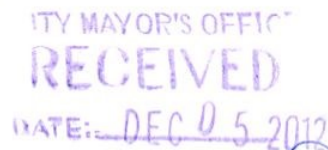




REPUBLIKA NG PILIPINAS
SANGGUNIANG PANLUNGSOD
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE TWELFTH
SANGGUNIANG PANLUNGSOD NG ORMOC HELD AT THE
SANGGUNIANG PANLUNGSOD SESSION HALL,
ORMOC CITY HALL BUILDING
ON DECEMBER 04, 2012 IN LIEU
DECEMBER 06, 2012



PRESENT:

Hon. Nepomuceno P. Aparis I.
Hon. Ruben R. Capahi,
Hon. Rolando M. Villasencio,
Hon. Claudio P. Larrazabal,
Hon. Mario M. Rodriguez,
Hon. Lea Doris C. Villar,
Hon. Filomeno P. Maglasang,
Hon. Jose C. Alfaro, Jr.,
Hon. Sotero M. Pepito,
Hon. Demosthenes F. Tugonon,
Hon. Antonio M. Codilla,

Vice Mayor & Presiding Officer
City Councilor, Majority Floor Leader
City Councilor, Minority Floor Leader
City Councilor, Presiding Officer "Pro-Tempore"
City Councilor, Assist. Minority Floor Leader
City Councilor, Assist. Majority Floor Leader
City Councilor
City Councilor
City Councilor
City Councilor
Ex-Officio City Councilor
Chapter President, Liga ng mga Barangay ng Ormoc
Ex-Officio City Councilor,
SK Federation President

Hon. Corinne M. Corro,

ON LEAVE:

Hon. Rafael C. Omega, Jr.,

City Councilor

PREFATORY STATEMENT

WHEREAS, the operation of the Ormoc City Public Market, specifically Bldgs. "B & C" is governed by Ordinance No. 70, dated June 18, 1999, entitled: "AN ORDINANCE ADOPTING THE GUIDELINES ON THE OPERATION OF THE NEW PUBLIC MARKET SPECIFICALLY BUILDING "B & C" OF THE CITY OF ORMOC RELATIVE TO THE OCCUPANCY, CLASSIFICATION, AND FIXING OF RENTAL RATES & OTHER RELATED MATTERS THEREOF";

WHEREAS, per aforecited Ordinance, the 2nd Floor of Bldg. "B" is allocated and designated as PARKING AREA for motor vehicles for a fee and the 2nd Floor of Bldg. "C" as EATERY SECTION (Barbecue Stalls & Carenderia);

WHEREAS, it is unfortunate that only few customers patronized the said PARKING AREA at the 2nd Floor of Bldg. "B" hence, its operation is not economically viable. Likewise, the operation of the EATERY SECTION at the 2nd Floor of Bldg. "C" does not turn out profitable as envisioned considering that numerous stall holders were not paying their monthly rentals religiously and operating without the necessary Mayor's Permit thus, has caused significant reduction to the city's revenue;

WHEREAS, to maximize the income of the entire 2nd Floor of Bldg. "B & C" it becomes imperative that the use thereof be changed to a more profitable venture, after all, the Local Government Code of 1991, especially Sec. 22, par. (d), thereof, authorizes LGUs full autonomy in the exercise of their proprietary functions and in the management of their economic enterprises, subject to the limitations, provided by law;

FOREGOING PREMISES CONSIDERED, on motion of City Councilor Sotero M. Pepito, Chairman, Committee on Economic Enterprise, severally seconded by City Councilors Antonio M. Codilla, Jose C. Alfaro, Jr., Lea Doris C. Villar and Corrine M. Corro; be it

RESOLVED, AS IT IS HEREBY RESOLVED, to enact:

ORDINANCE NO. 177

AN ORDINANCE CONVERTING THE ENTIRE SECOND FLOOR OF BUILDING "B AND C" OF THE PUBLIC MARKET (PARKING SPACE AND EATERY SECTION) INTO A COMMERCIAL SPACE TO BE LEASED IN ITS ENTIRETY THEREBY AMENDING ORDINANCE NO.70, DATED JUNE 18, 1999, AND PROVIDING GUIDELINES IN THE OPERATION AND MANAGEMENT THEREOF.

BE IT ENACTED, by the Twelfth Sangguniang Panlungsod ng Ormoc in Session assembled, That:

SECTION 1. This Ordinance shall be known and cited as the "AMENDATORY ORDINANCE GOVERNING THE OPERATION AND MANAGEMENT OF THE ENTIRE PREMISES OF THE SECOND FLOOR OF BUILDING "B & C" OF THE ORMOC CITY PUBLIC MARKET".

SECTION 2. The entire Second Floor of Bldg. "B & C" of the Ormoc City Public Market shall be converted from **PARKING SPACE** and **EATERY SECTION** to **COMMERCIAL SPACE** for any legitimate business subject to the provisions of Section 4.5 hereof.

SECTION 3. The whole premises of the Second Floor of Bldg. "B" (designated as Commercial Space) and Bldg. "C" (designated as EATERY SECTION-Barbecue & Carenderia Stalls), with an estimated total area of 4,286 square meters shall be offered for lease through **COMPETITIVE PUBLIC BIDDING** with the paramount consideration being accorded to the highest competitive and qualifying bid. Furthermore, the acceptability of the bid shall be evaluated not only based on compliance with all the documentary requirements and financial security guarantees hereinafter set forth but also in consideration of the over-all benefits that will accrue to the *City Government of Ormoc* in accordance with its plans and programs during the period or duration of the lease. Likewise, the recommendations of the duly-authorized committees and consultative bodies of the *City Government of Ormoc* shall also be considered in the determination of the final award to interested and qualified bidders.

As far as may be applicable, the operational procedures outlined in Republic Act No. 9184 for the conduct of public bidding may be adopted. The adoption of such procedures or processes, or the resort to alternative processes, shall be subject to the paramount authority granted to the *Head of Agency* in accordance with Section 7 of Executive Order No. 301, Series of 1987.

SECTION 4. GENERAL TERMS AND CONDITIONS OF THE BID- Any interested bidder, which may be a natural or juridical person, shall submit compliant and qualified bids for the lease of the **ENTIRE SECOND FLOOR OF BUILDING "B & C"**, subject to the following terms and conditions, to wit:

- 4.1. The initial period of the **CONTRACT OF LEASE** shall not exceed a period of **TEN (10) YEARS**. Upon the expiration of the **CONTRACT OF LEASE**, the same may be renewed for the same duration between the **LESSOR** and the existing **LESSEE** subject to the mutual agreement of the **PARTIES**. During the period of the **CONTRACT OF LEASE**, the **LESSOR** shall have the right to conduct a periodic review of the compliance by the **LESSEE** of its terms and conditions;
- 4.2. For purposes of determining the highest competitive and qualifying bid and the **MONTHLY RENTAL RATE**, the **Minimum Competitive Bidding Rate (MCBR)** shall be **ONE HUNDRED FIFTY (P150.00) PESOS PER SQUARE METER**;

- 4.3. The **LESSEE** shall not assign, encumber, or in any other manner transfer the **CONTRACT OF LEASE**, or any portion thereof, or any rights or obligations arising therefrom, without the **PRIOR WRITTEN CONSENT** of the **LESSOR** and subject to the limitations imposed in and by the provisions of this Ordinance;
- 4.4. Subject to the requirements set forth in 4.3. above, the **LESSEE** shall have the right to sub-lease the same during the effectivity of the **CONTRACT OF LEASE**. However the **SUB-LESSEE**, as far as practicable, shall be subject to the same contractual obligations and qualification requirements as those imposed on the **LESSEE** such as, but not limited to, securing the requisite clearances, licenses, and permits from the appropriate offices and departments of the **LESSOR**;
- 4.5. The **LESSEE** and the **SUB-LESSEE** may use the subject properties for the conduct and performance of any lawful and legitimate business *except* for the purpose of operating, in whole or in part, permanently or temporarily, *lodging houses, pension houses, motels, massage parlors, body spa or foot spa, day and nightclubs, drinking bars, Karaoke and / or KTV Bars, "Ukay-ukay" or "Wag-wagan" or any similar establishment selling secondhand clothes, shoes, and other apparel, ticketing outlet and/or garage terminal for buses, vans, and other such vehicles for hire, Lotto outlet, Off-track Betting (OTB), E-Games, or any form of gambling*, and other related establishments;
- 4.6 Charges for the water, telephone and electric bills shall be for the account of the **LESSEE**;

SECTION 5. The **LESSEE** expressly undertakes that it is the **SOLE PARTY** contractually liable for payment of the lease, and for the payment or settlement of all the taxes, fees, and charges due even if there are **SUB-LESSEES**. In view thereof, the **LESSEE** is precluded from evading any of its obligations specified herein as well as in the **CONTRACT OF LEASE** on account of any act or omission of the **SUB-LESSEE/S**. The **LESSEE** further undertakes to secure the requisite **BUSINESS PERMIT/S** prior to its operation and every year thereafter, as well as all other city and national permits and licenses as may now or hereafter be required by law or subsequently deemed necessary and indispensable in accordance with the nature of lessee's business establishment.

SECTION 6. The **LESSOR** shall be free from any liability that may arise from any case or controversy between the **LESSEE** and the **SUB-LESSEE/S**. Likewise, the **SUB-LESSEE** shall hold the **LESSOR** free from any liability for any act or omission committed by the **LESSEE**, or for any claim or cause of action arising from his agreement with the **LESSEE**.

SECTION 7. The **SUB-LESSEE/S**, if any, shall not be allowed to sub-lease, transfer, or in any other manner assign to any other person the lease agreement executed with the **LESSEE**.

SECTION 8. All **LESSEES** and **SUB-LESSEES** shall be subject to the payment of the corresponding *Value Added Tax (VAT)* on their sales and transactions, and shall likewise assume the payment of the *Value-Added Tax (VAT)* which may be assessed against or collected from the **LESSOR** as a consequence of the **CONTRACT OF LEASE**.

SECTION 9. The **CONTRACT OF LEASE** shall be subject to an escalation on the **NET RENTAL RATE** of **TEN PERCENT (10%) per ANNUM** which escalation shall begin on the **SIXTH YEAR** of the **CONTRACT OF LEASE** until the same is terminated. In the event that a new **CONTRACT OF LEASE** is executed with the same **LESSEE**, this escalation clause shall continue to be applicable unless otherwise agreed upon in writing by the **PARTIES**.



SECTION 10. Upon the signing of the **CONTRACT OF LEASE**, the **LESSEE** shall pay *ONE (1) MONTH ADVANCE RENTAL* and *TWO (2) MONTHS SECURITY DEPOSIT* which shall answer for whatever liability the **LESSEE** may incur during the period of the **CONTRACT OF LEASE**. Any remaining balance at the time of the expiration or termination of the **CONTRACT OF LEASE** shall be returned to the **LESSEE**.

SECTION 11. The **LESSEE** shall pay the monthly rental within the first five (5) days of the month for which it is applicable at the *Office of the City Treasurer of Ormoc* without need of any demand. In the event of non-payment of the rental when due, the **LESSEE** shall be liable to pay a surcharge of *TWENTY-FIVE PERCENT (25%)* of the amount due and interest of *TWO PERCENT (2%) PER MONTH* of the unpaid rentals including the applicable surcharges, if any, until the rental is fully paid but in no case shall the total interest on the unpaid rentals or portion thereof exceed *THIRTY SIX (36) MONTHS*.

SECTION 12. Renovations, improvements, and other constructions and civil works such as, but not limited to, installation of toilet fixtures, air conditioning, telephone, lights and other facilities at the leased premises, and any other kind of construction or renovation of the same or any portion thereof, shall be at the sole expense of the **LESSEE** but can only be undertaken after the engineering specifications and plans for the same have been submitted to the **LESSOR** and its agents and approved in writing by the City Mayor. Any and all such constructions and renovations which are permanent or fixed in nature or which cannot be removed without damaging the corresponding area or portion of the leased structures shall form part of the property of the *City Government of Ormoc* at the end of the lease without any obligation to reimburse the builder/s thereof for such acquisition.

SECTION 13. In relation to the foregoing **SECTION 12**, the **LESSEE** shall secure within one (1) month from the date of the signing of the **CONTRACT OF LEASE** a *Performance and Indemnity Bond* in an amount to be determined by the **LESSOR** and the **LESSEE** with the *Government Service Insurance System (GSIS)*, or with a reputable and established private assurance corporation approved by the **LESSOR** with **LGU-Ormoc** as beneficiary which *Performance and Indemnity Bond* shall answer for any and all damages arising from any unauthorized or unapproved renovations, demolitions, and other analogous acts made on the subject properties.

SECTION 14. The City shall conduct periodic visits to the leased premises for regulatory purposes. In this regard, the **LESSEE** shall ensure continuing and duly-certified compliance with all the health, fire, safety, and sanitation requirements, as well as compliance with the requirements imposed by special laws such as, but not limited to, provisions for ramps and other safety features required for persons with disabilities (**PWD**) in accordance with *Republic Act No. 7277* and other related laws and regulations.

SECTION 15. The **LESSOR** has the right to terminate the lease contract for failure or refusal of the **LESSEE** to pay the rentals or for violation of any of the policies and guidelines as specified herein, as well as of the terms and conditions as provided in the **CONTRACT OF LEASE** without the need of any Court action. Upon such pre-termination or upon expiration of the lease, the **LESSEE** shall deliver the premises and shall be liable for such consequential damages which the *City Government of Ormoc* may suffer for failure to surrender the same.

SECTION 16. All fixed improvements introduced by the **LESSEE** and/or by its **SUB-LESSEES** shall form part of the property of the *City Government of Ormoc* at the end of the lease without any obligation to reimburse the builder/s thereof for such acquisition. In the event that the leased premises is abandoned by the **LESSEE** before the expiration of the lease without justifiable cause, the *City Government of Ormoc* reserves the right to enter and re-let the same, with the corresponding right to collect the rental corresponding to the unexpired portion of the lease as well as consequential damages which the *City Government of Ormoc* may suffer arising from such abandonment.

SECTION 17. LEAD OFFICE / AGENCY FOR IMPLEMENTATION – There shall be created and duly-constituted, in accordance with Section 7 of Executive Order No. 301, Series of 1987 as adopted in SECTION 3 of this ORDINANCE, a BIDS AND AWARDS COMMITTEE (BAC) specifically for the purpose of conducting the **COMPETITIVE PUBLIC BIDDING** and screening process established in and by the provisions of this ORDINANCE.

In the exercise of its powers and performance of its duties, the BIDS AND AWARDS COMMITTEE (BAC) herein created shall be fully authorized and duly-empowered to implement the procedures and processes for the conduct of the COMPETITIVE PUBLIC BIDDING as may be formulated by the Head of Agency in accordance with SECTION 3 of this ORDINANCE.

The BIDS AND AWARDS COMMITTEE (BAC) herein contemplated may also be constituted or created whenever there arises the necessity for the conduct of COMPETITIVE PUBLIC BIDDING for the leasing of the premises subject of this ORDINANCE.

SECTION 18. APPLICABILITY CLAUSE - All other provisions of Ordinance No. 70 which are not affected by this Amendatory Ordinance shall continue to be in full force and effect.

SECTION 19. SEPARABILITY CLAUSE – If any provision of this Ordinance, or any portion of such provision, is declared invalid by competent court, all the other provisions or portions hereof which are not affected by such declaration shall continue to be in force and effect.

SECTION 20. REPEALING CLAUSE – Any existing Ordinances, resolutions, rules, and regulations, and other similar issuances of the City Government of Ormoc which are inconsistent herewith are hereby repealed or modified accordingly.


SECTION 21. EFFECTIVITY – This ORDINANCE shall take effect immediately upon its approval subject however, to the compliance of the posting and publication requirements provided in RA 7160, otherwise known as the Local Government Code of 1991.

ENACTED, December 04, 2012.


RESOLVED, FURTHER, to furnish copies of this Ordinance to His Honor, the City Mayor; the City Administrator; the City Legal Officer; the City Treasurer; the City Auditor; the Business Permits, Franchising & Licensing Office (BPLFO); the BAC Office; the Ormoc City Public Market Office; and other offices concerned:

CARRIED UNANIMOUSLY.

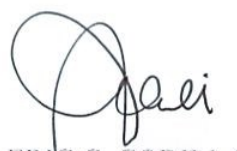
I HEREBY CERTIFY to the correctness of the foregoing ordinance.


MARIA ANTONIETA G. CO HAT
OIC – SP Secretary
(Supervising Administrative Officer)

ATTESTED:


NEPOMUCENO R. APARISI
Vice Mayor & Presiding Officer

APPROVED:


ERIC C. CODILLA
City Mayor
12/5/12
(Date)