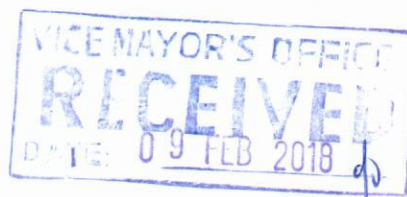




REPUBLIKA NG PILIPINAS  
SANGGUNIANG PANLUNGSOD  
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE  
FOURTEENTH SANGGUNIANG PANLUNGSOD NG ORMOC HELD  
AT THE SANGGUNIANG PANLUNGSOD SESSION HALL,  
ORMOC CITY HALL BUILDING  
ON FEBRUARY 08, 2018

PRESENT:

Leo Carmelo L. Locsin, Jr.,	Vice Mayor & Presiding Officer
Rolando M. Villasencio,	SP Member, Majority Floor Leader
Vincent L. Rama,	SP Member, Asst. Majority Floor Leader
Mario M. Rodriguez,	SP Member, Presiding Officer "Pro-Tempore"
Tomas R. Serafica,	SP Member
Benjamin S. Pongos, Jr.,	SP Member
Eusebio Gerardo S. Penserga,	SP Member
Gregorio G. Yrastorza III,	SP Member
Nolito M. Quilang,	SP Member
John Eulalio Nepomuceno O. Aparis II,	SP Member
Lea Doris C. Villar,	Minority Floor Leader
Mariano Y. Corro,	SP Member, Asst. Minority Floor Leader
	Ex-Officio SP Member
	Chapter President, Liga ng mga Barangay ng Ormoc

**RESOLUTION NO. 2018-030**

**A RESOLUTION AFFIRMING THE INTEREST OF THE LOCAL GOVERNMENT UNIT OF ORMOC CITY (LGU-ORMOC) TO APPLY, NEGOTIATE AND BORROW FUNDS FROM THE MUNICIPAL DEVELOPMENT FUND OFFICE (MDFO) OF THE DEPARTMENT OF FINANCE (DOF) FOR THE IMPLEMENTATION OF THE LAKE DANAOW WATER SYSTEM PROJECT AND ADDITIONALLY, AUTHORIZING THE CITY MAYOR, MAYOR RICHARD I. GOMEZ OR THE ACTING CITY MAYOR, TO SIGN THE COMMITMENT LETTER ADDRESSED TO THE DOF TO AVAIL OF THE FINANCIAL SERVICES FROM THE MDFO.**

WHEREAS, this Fourteenth Sangguniang Panlungsod was in receipt of an Indorsement dated January 25, 2018 from the Office of the City Mayor, relative to the 1<sup>st</sup> Indorsement dated October 10, 2017 on the loan assistance to fund the Lake Danao Water System Project, further requesting for the issuance of the required and necessary Resolution to authorize the City Mayor to sign the commitment letter as required by the Department of Finance and affirm the interest of the LGU-Ormoc to apply, negotiate and borrow funds from the Municipal Development Fund Office (MDFO) of the Department of Finance (DOF) and further classifying the same as EXTREMELY URGENT, a photocopy of the Commitment Letter is hereto attached as Annex "A" and made an integral part hereof;

WHEREAS, for a long time now, the City Government of Ormoc has been continuously responding to tremendous challenges it faces in effectively managing its water supply system and yet, its customers still continue to experience water service gaps, with the City constantly plagued with consumer complaints of inadequate and/or turbid water supply, especially during times of rainy days;



WHEREAS, to address these issues, the City Government of Ormoc is prioritizing the upgrading and improvement of the water supply system thru the Lake Danao Water System Project, the "Project", which basically seeks to tap the abundant water supply that Lake Danao located in Barangay lake Danao, this City, as a principal sufficient and efficient water source for the supply of the ever increasing water needs of the City's growing constituents;

WHEREAS, the Ormoc Waterworks System plans to completely overhaul, expand and rehabilitate the existing water system of the entire City of Ormoc into one system thru the proper and effective conceptualization, preparation, planning and implementation of the said Project, and thus, provide the people with a good quality water supply through the construction of the best design and the most reliable and sustainable water supply system to target service areas;

WHEREAS, the Proposed Comprehensive Master Plan of Ormoc Waterworks System- Development of Lake Danao Water Supply System (the Project) is included in the approved Local Development Investment Program (LDIP) 2017-2020 of the City and also, in the duly approved Annual Investment Program (AIP) 2018 of LGU-Ormoc per Reference Code No. 80000-2-1-010-8-18 under the Ormoc Water Supply System Development Program;

WHEREAS, due to financial constraints to adequately finance the realization of the Projects, however, LGU-Ormoc is constrained to find for alternative viable and affordable sources of funding for the same;

WHEREAS, Republic Act No. 7160, otherwise known as the Local Government Code of 1991, empowers the local government units to create indebtedness, and avail of credit facilities to finance local infrastructure and other socio-economic development projects in accordance with the approved local development plan and public investment program;

WHEREAS, the MDFO is an office that is under the Department of Finance which provides financing assistance to Local Government Units (LGUs) under easy and affordable rates as well as reasonable terms and conditions;

WHEREAS, LGU-Ormoc is affirming its interest to access the credit financing offered by the MDFO, which financing terms and conditions had already been clearly conveyed and explained to this Body by officials of the financial institution;

WHEREAS, LGU-Ormoc, therefore, is manifesting earnest willingness to apply, negotiate and borrow funds from the MDFO to assist in financing the Project;

WHEREAS, LGU-Ormoc hereby commits to undertake the necessary acts for the implementation of the Project, as follows:

- a. Create a Project Implementation Unit ("PIU") by providing adequate number of technical and support staff, office space and all necessary facilities and assistance for the effective and efficient management of the Project;
- b. Provide the LGU equity for the Project, when necessary;
- c. Appropriate the total project costs composed of loan proceeds, equity and grant (if applicable);



- d. Appropriate funds for the amortization of loan until fully paid. The funds appropriated shall include the cost of insurance and all operation and maintenance expenses of the Project;
- e. Conduct public hearings and consultations, enact ordinances authorizing the collection of fees, charges and other impositions and carry out necessary measures in support of the viability and sustainability of the Project;
- f. Authorize the MDFO to deduct from the LGU's Internal Revenue Allotment ("IRA") the amount due to MDFO in connection with the Project under the following cases: (i) default in the payment of principal amortization including interests and penalties; or (ii) any unliquidated financial obligations. The right of MDFO to deduct on the LGU's IRA shall be without prejudice to any other remedies available under Philippine law;
- g. To appropriate LGU funds to defray expenses charges and penalties contemplated in the commitment letter attached hereto, incurred by MDFO during appraisal which include administrative/travel expenses settled between the parties in case the LGU would withdraw, cancel or postpone the application;

WHEREAS, this august Body sees the need to authorize and empower the incumbent local chief executive, City Mayor Richard I. Gomez, for and behalf of the City of Ormoc to:

- i. Apply, negotiate and enter into a loan agreement with the MDFO and with partner agency/s, when necessary, and execute deeds and to do all acts necessary and proper under the premises for the effective and efficient implementation of the Project;
- ii. Enter into agreements with qualified private individuals or corporations, after public bidding, to execute the Project; and
- iii. Together with the City Treasurer, to open a separate bank account to facilitate the transfer of funds due to MDFO as payment for principal amortizations, interests and any other amount owing to MDFO by the LGU in connection with the Project;

WHEREAS, upon close and thorough review, this Sanggunian finds that the aim of the Project is beneficial to address the present water supply challenges of this City, particularly, the perennial problem of lack of or inadequate water supply to many of its barangays, and that after thorough and objective consultations with competent and qualified water supply and distribution experts, LGU-Ormoc has determined that the noble objectives of attaining a water supply and distribution system that will address the water needs of its inhabitants in a sufficient, sustainable, viable and practical manner can only be attained through a drastic overhaul and rehabilitation of its current water system which alternative entails the infusion of a substantial amount of funds for its full realization and implementation;

WHEREAS, in order to effectively determine the City's capacity in wanting to upgrade the delivery of basic services to its people, the financial assistance to be entered into for realization of the Project for the benefit of the Ormocanons is seen to be most advantageous, thereby, certainly deserving this august Body's prompt and affirmative consideration and action;



WHEREFORE, on joint motion of SP Member Benjamin S. Pongos Jr., Chairman, Committee on Laws and Ordinances and SP Member Mario M. Rodriguez, Chairman, Committee on Finance and Appropriation, severally seconded by SP Members Rolando M. Villasencio, Vincent L. Rama, Tomas R. Serafica and Mariano Y. Corro; be it

RESOLVED, AS IT IS HEREBY RESOLVED, to pass a RESOLUTION AFFIRMING THE INTEREST OF THE LOCAL GOVERNMENT UNIT OF ORMOC CITY (LGU-ORMOC) TO APPLY, NEGOTIATE AND BORROW FUNDS FROM THE MUNICIPAL DEVELOPMENT FUND OFFICE (MDFO) OF THE DEPARTMENT OF FINANCE (DOF) FOR THE IMPLEMENTATION OF THE LAKE DANA O WATER SYSTEM PROJECT AND ADDITIONALLY, AUTHORIZING THE CITY MAYOR, MAYOR RICHARD I. GOMEZ OR THE ACTING CITY MAYOR, TO SIGN THE COMMITMENT LETTER ADDRESSED TO THE DOF TO AVAIL OF THE FINANCIAL SERVICES FROM THE MDFO;

ADOPTED, February 08, 2018.

RESOLVED, FURTHER, that a copy of the final and signed Commitment Letter be furnished to this Sanggunian for its information and files;

RESOLVED, FINALLY, to furnish copies of this resolution each to the City Mayor of Ormoc Richard I. Gomez, the City Administrator, Mr. Vincent L. Emnas; the City Legal Officer, Atty. Jasper M. Lucero; the Municipal Development Fund Office; the OIC-City Director, DILG, Engr. Jesus Jeremy D. Bagares; the City Accounting Office; the City Budget Office; the City Treasurer's Office; and other offices concerned for their information and guidance;

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the foregoing resolution.

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

ATTESTED:

  
LEO CARMELO L. LOCSIN, JR.  
Vice Mayor & Presiding Officer



## 4. Commitment Letter

LGU Letterhead

\_\_\_\_\_  
(Date)

**Ms. HELENA B. HABULAN**

*Executive Director*

Department of Finance

Podium Level, DOF Building

Roxas Boulevard corner Pablo Ocampo, Sr. Street

Dear ***Executive Director Habulan:***

The ***[insert name of LGU]*** intends to avail of the financial services from the Municipal Development Fund Office ("MDFO") in the form of loans and/or grants under ***[insert name of financing window]*** for the purpose of funding and/or financing the Subproject: ***(Provide Title of the Subproject to be Funded)***.

In this regard, we hereby provide you with the LGU's consent to be bound by the following commitments:

### ***Information***

The LGU agrees to furnish and/or assist the MDFO in obtaining such information that will be reasonably requested by the MDFO to assist in performing its tasks in relation to the proposed financing transaction. The LGU shall use reasonable effort to ensure that the MDFO has access to and is provided with all complete, updated, relevant, and accurate information on a timely basis. The MDFO shall have the right to rely on the truthfulness and correctness in all material aspects of all information provided to them by the LGU on matters related to the proposed financial transaction.

### ***Confidentiality***

This Commitment Letter, any proposal, written communication and reports and all other information or advice communicated by MDFO to the LGU and vice versa, whether verbal or written, are intended solely for the MDFO and LGU in relation to this proposal and shall be deemed confidential.

The LGU agrees to ensure that its employees, staff, agents and other advisors will not without the prior written consent of MDFO disclose to any third party the discussions or negotiations between MDFO and the LGU concerning the possible transaction including the terms, conditions, analyses, status of fund application, studies or other documents and materials prepared by MDFO. However, information that are generally available to the public such as MDFO brochures and Pro-forma documents may be shared by the LGU to other LGUs, as necessary.

In the event that the LGU or any of its employees, staff, agents and other advisors is required by a competent government authority to disclose any confidential information described above, the LGU shall provide MDFO with prompt notice of the requirement and the LGU shall perform all such acts necessary to protect the confidentiality of the information sought.

### ***Exclusivity***

The LGU agrees that from the date hereof, all the provisions in this Commitment Letter are effective. Therefore, the LGU or any of its employees, staff, agents and other advisors should not (i) solicit, initiate, encourage, or take any other action to facilitate any inquiry, proposal or offer from any other financing institution, relating to, or that is reasonably likely lead to, any "Alternative Transaction"; and (ii) participate in any discussions or negotiations regarding, or furnish to any financing institution/or its representative/s information with respect to, or otherwise cooperate in any way with, any "Alternative Transaction". The term "Alternative Transaction" shall mean a third party's direct or indirect acquisition of initiatives, efforts, activities, reports and other form of documentations made by or provided by the MDFO to the LGU in relation to the proposed financing transaction leading to an alternate offer for the similar proposal.



**Indemnification**

The LGU shall indemnify and hold harmless the MDFO and any of its officers, directors, employees and project staff (each an "Indemnified Party") from and against any losses, claims, damages, liabilities, or expenses, arising out of the LGU's negligence or willful misconduct in the performance of its obligations under this Commitment Letter or any financing transaction that results therefrom. This provision shall survive the termination of this Commitment Letter.

**Termination**

The LGU may withdraw or cancel the proposed financial transaction by submitting to MDFO a withdrawal/cancellation letter for that purpose.

In addition, MDFO may deem that the LGU has cancelled/withdrawn from the proposed financial transaction in cases of dormant application or continued failure of the LGU to implement the provisions stipulated in the loan agreement for a period of at least six (6) months. In that case, MDFO shall send a letter to the LGU confirming if the LGU is still interested in pursuing the financing transaction. If the LGU fails to confirm its commitment to pursue the financial transaction to MDFO two (2) months after the receipt of the said letter, the MDFO shall deem that the proposed financial transaction has been cancelled/ withdrawn by the LGU.

**Charges/Penalties**

In case the LGU cancels/withdraws this Commitment Letter or its commitment to pursue the financing transaction at any part during the subproject cycle (i.e., from appraisal until the end of the subproject life, as stipulated in the Subproject Loan Agreement), the LGU shall pay MDFO the amount equal to the actual expenses or P100,000.00 whichever is higher, representing all reasonable out-of-pocket expenses of MDFO including but not limited to expenses incurred in connection with MDFO due diligence to the LGU that are associated with the preparation, execution, delivery, administration, and other processes related to the transaction.

In the event the LGU fails to make such payment to MDFO, this Commitment Letter shall be sufficient for the MDFO to recover the payment due through IRA intercept in accordance with the mechanics therefore determined by the DOF, MDFO and DBM.

**Amendments, Governing Law and Dispute Resolution**

The terms of this Commitment Letter may be amended, modified or waived only by an agreement in writing signed by each Party expressly so amending, modifying or waiving such terms. This Commitment Letter shall be governed by and construed in accordance with the laws of the Republic of the Philippines. Any dispute arising from this Commitment Letter shall be, at the first instance, resolved amicably by the Parties, failing which either party may elevate the matter to the Office of the President for final resolution.

We look forward to working with the MDFO on this transaction.

Very truly yours,

Name of LGU,

By: Name of Local Chief Executive  
(Signature over printed Name)

**Confirmed and agreed to as of the date first above written:**  
**Municipal Development Fund Office-Department of Finance**

By: HELENA B. HABULAN  
Executive Director  
Date: