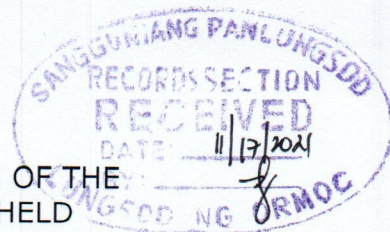


REPUBLIKA NG PILIPINAS  
SANGGUNIANG PANLUNGSOD  
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE  
FIFTEENTH SANGGUNIANG PANLUNGSOD NG ORMOC HELD  
AT THE SANGGUNIANG PANLUNGSOD SESSION HALL,  
ORMOC CITY HALL BUILDING  
ON NOVEMBER 16, 2021

PRESENT:

Tomas R. Serafica,	(Temporary Presiding Officer)
Benjamin S. Pongos, Jr.,	SP Member, Presiding Officer "Pro-Tempore"
Roiland H. Villasencio,	SP Member, Majority Floor Leader
Nolito M. Quilang,	SP Member, 1 <sup>st</sup> Asst. Majority Floor Leader
Eusebio Gerardo S. Penserga,	SP Member, 2 <sup>nd</sup> Asst. Majority Floor Leader
Jasper M. Lucero,	SP Member
Peter M. Rodriguez,	SP Member
Vincent L. Rama,	SP Member
Gregorio G. Yrastorza III,	SP Member
Lalaine A. Marcos,	SP Member
Esteban V. Laurente,	SP Member
Joan Marbie C. Simbajon,	Ex-Officio SP Member, Chapter President,
Panlungsod na Pederasyon ng mga Sangguniang Kabataan ng Ormoc	Liga ng mga Barangay ng Ormoc
	Ex-Officio SP Member, Chapter President,
	Panlungsod na Pederasyon ng mga Sangguniang Kabataan ng Ormoc

ON LEAVE:

Leo Carmelo L. Locsin, Jr.	City Vice Mayor & Presiding Officer
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**RESOLUTION NO. 2021-313**

**A RESOLUTION GRANTING AUTHORITY TO THE CITY  
MAYOR RICHARD I. GOMEZ OR THE ACTING CITY  
MAYOR TO ENTER INTO AND SIGN THE  
MEMORANDUM OF AGREEMENT (MOA) WITH FIRST  
SOLAR ENERGY CORPORATION, REGARDING THE ER  
1-94 FINANCIAL BENEFITS.**

WHEREAS, this Fifteenth Sangguniang Panlungsod was in receipt of an Indorsement dated November 4, 2021 from the Office of the City Mayor, endorsing a request for the issuance of a Resolution granting the City Mayor or Acting City Mayor the authority to sign the Memorandum of Agreement (MOA) with First Solar Energy Corporation, regarding the ER 1-94 financial benefits, a copy of the MOA is hereto attached as "ANNEX A" and made an integral part hereof;

WHEREAS, in an Opinion dated October 22, 2021, the City Legal Office finds nothing legally objectionable in the said MOA and that the same is not contrary to law, morals, public order, or public policy much less detrimental to the best interests of Ormoc City;

WHEREAS, Congress passed the RA 11469 entitled "Bayanihan to Heal as One Act" giving broader powers to the President to address COVID-19 including the authority to identify and allocate funds in relation thereto;

WHEREAS, Section 5 (i) of Republic Act No. 7638, otherwise known as the "Department of Energy Act of 1992" mandates the Department of Energy (DOE) to devise ways and means of giving direct benefits to the province, city, or municipality, especially the community and people affected and equitable and preferential to the region that hosts the energy resource and/or the energy-generating facility;



WHEREAS, Section 66 of RA No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" and Rule 29(A) of its Implementing Rules and Regulations (EPIRA-IRR) require all energy generation companies (GenCos) and/or energy resource developers (ERDs) to provide financial benefits equivalent to One Centavo per kilowatt-hour (P0.01/kWh) of the total electricity sales of the generation facility and energy resource facility, as well as the establishment of corresponding trust accounts and the administration thereof by the DOE;

WHEREAS, to operationalize such mandate, the DOE issued Energy Regulation (ER) 1-94 which provides that host communities of energy-generating facilities and/or energy-resource developers are entitled to a share of One Centavo per kilowatt-hour (P0.01/kWh) of the total electricity sales as financial benefit of the host community to be allocated as Electrification Funds (EF), Development and Livelihood Fund (DLF), and Reforestation, Watershed Management, Health and/or Environment Enhancement Fund (RWMHEEF) which are collectively referred to as "ER 1-94 Funds";

WHEREAS, the subject MOA clearly and plainly encapsulates the terms and conditions of the agreement of the parties thereto, including their specific roles and obligations towards the attainment of the lofty ends of the same, and this Sanggunian, upon thorough review, finds that the same is entered for the purpose of providing guidelines for the effective administration and immediate utilization of the ER 1-94 Funds to combat and mitigate the transmission and effects of COVID-19, thereby, serving the best interests of the City and its constituents, and therefore, is most deserving of this august Body's prompt and favorable consideration;

WHEREFORE, on joint motion of SP Member Lalaine A. Marcos Chairperson, Committee on Environment, Natural Resources, and Energy Conservation and SP Member Benjamin S. Pongos, Jr, Chairperson, Committee on Laws and Ordinances, severally seconded by SP Members Esteban V. Laurente, Peter M. Rodriguez, Eusebio Gerardo S. Penserga, Joan Marbie C. Simbajon and Vincent L. Rama; be it

RESOLVED, AS IT IS HEREBY RESOLVED, to pass A RESOLUTION GRANTING AUTHORITY TO THE CITY MAYOR RICHARD I. GOMEZ OR THE ACTING CITY MAYOR TO ENTER INTO AND SIGN THE MEMORANDUM OF AGREEMENT (MOA) WITH FIRST SOLAR ENERGY CORPORATION, REGARDING THE ER 1-94 FINANCIAL BENEFITS;

ADOPTED, November 16, 2021.

RESOLVED FURTHER, that a copy of the final notarized Memorandum of Agreement (MOA) be submitted to this Sanggunian for its information and files;

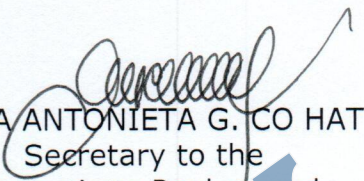
RESOLVED FINALLY, to furnish copies of this resolution each to the City Mayor of Ormoc Richard I. Gomez; the City Administrator, Mr. Vincent L. Emnas; the City Legal Officer, Atty. Josephine Mejia-Romero; First Solar Energy Corp.; the City Budget Officer; the City Accountant; the City Treasurer; the City Planning & Development Officer; the City Local Government Operations Officer-DILG; and other offices concerned for their information and guidance;

CARRIED UNANIMOUSLY.

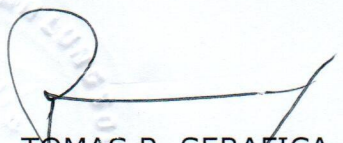




I HEREBY CERTIFY to the correctness of the foregoing resolution.

  
MARIA ANTONIETA G. CO HAT  
Secretary to the  
Sangguniang Panlungsod

ATTESTED:

  
TOMAS R. SERAFICA  
(Temporary Presiding Officer)  
SP Member  
Presiding Officer "Pro-Tempore"



**MEMORANDUM OF AGREEMENT  
Between the First Solar Energy Corp. (FSEC) and  
Ormoc City**

*For the Establishment and Administration of Trust Accounts in Accordance with  
DC2018-08-0021 of Leyte Solar Project*

**KNOW ALL MEN BY THESE PRESENTS:**

This Memorandum of Agreement (the "Agreement"), made and entered into by and between:

**First Solar Energy Corp.**, a private corporation duly organized and existing under the laws of the Philippines, with principal office address at Brgy. Dolores, Ormoc, Leyte duly represented by its President, **Mr. Westin Raymond A. Contreras** hereinafter, referred to as "**FSEC**".

and

**Local Government Unit of Ormoc City**, a local government unit of the Republic of the Philippines, with office address at Ormoc City Hall Bldg., Brgy. Cogon, Ormoc City, Leyte duly represented herein by its City Mayor, **Mr. Richard Gomez** per Sangguniang Panlungsod under Resolution No. \_\_\_\_\_ series of 202, and hereinafter referred to as "**LGU ORMOC**".

**FSEC** and **LGU Ormoc** shall hereinafter be collectively referred to as "**Parties**" and individually as a "**Party**".

**WITNESSETH: That**

**WHEREAS**, Section 5 (i) of Republic Act No. 7638 (R.A. No. 7638), otherwise known as the "Department of Energy Act of 1992" mandates the Department of Energy (DOE) to devise ways and means of giving direct benefits to the province, city or municipality, specially the community and people affected and equitable and preferential to the region that hosts the energy resource and/or the energy-generating facility;

**WHEREAS**, Energy Regulations No. 1-94 (ER 1-94) was promulgated by the DOE on 01 August 1994 to operationalize the implementation of section 5 (i) of R.A. No. 7638;

**WHEREAS**, Energy Regulations ("ER") No. 1-94 implementing Section 5(i) of Republic Act No. 7638, otherwise known as the "Department of Energy Act of 1992", grant financial benefits to the host communities of the energy-generation company and/or energy resources;

**WHEREAS**, Section 66 of R. A. No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" and Rule 29(A) of its Implementing Rules and Regulations (EPIRA-IRR) require all energy generation companies (GenCos) and/or energy resource developers (ERDs) to provide financial benefits equivalent to one centavo per kilowatt-hour (P0.01/kWh) of the total electricity sales of the generation facility to the region, province, city or municipality and barangay that host the generation facility and energy resource facility, as well as the establishment of corresponding trust accounts and the administration thereof by the DOE;

**WHEREAS**, in accordance with Republic Act No. 8371 (RA 8371) also known as "The Indigenous Peoples' Rights Act of 1997", the DOE promulgated Department Circular No. DC2018-03-0005 on 20 March 2018 recognizing the rights of the Indigenous Cultural Communities (ICCs) and Indigenous Peoples (IPs) to their ancestral domain and the natural resources therein and provides for reasonable share in the development and



livelihood fund (DLF) and for the reforestation, watershed management, health and/or environment enhancement fund (RWMHEEF) components of the ER 1-94 funds;

WHEREAS, on 07 August 2018, DOE issued Department Circular No. DC2018-08-0021, amending for the purpose Rule 29 (A) of the EPIRA-IRR, to accelerate socio-economic development and to have a more effective and efficient utilization of the funds and to enforce the immediate provision of benefits to Host communities. In this regard, by virtue of the transition to an efficient distribution of funds, the Host Communities shall not withhold or delay issuance of the necessary permits required for the operations of the energy resource and/or energy-generating facility;

WHEREAS, pursuant to Section 6 of DC2018-08-0021 the financial benefit shall be allocated in the following manner:

"6.2. Twenty-five percent (25%) of one-centavo per kilowatt-hour (P0.0025/kWh) for Development and Livelihood Fund ("DLF"); and Twenty-five percent (25%) of one centavo per kilowatt-hour (P0.0025/kWh) for Reforestation, Watershed Management, Health and/or Environment Enhancement Fund ("RWMHEEF");

The DLF and RWMHEEF shall be allocated in the following manner:

6.2.1. Community and People Affected	- 5%
6.2.2. Host Barangay/s	- 20%
6.2.3. Host Municipality/ies or City/ies	- 35%
6.2.4. Host Province/s	- 30%
6.2.5. Host ICCs/IPs	- 5%
6.2.6. Host Region	- 5%

In the absence of Community and People Affected, funds allocated for the same shall form part of the fund for the Host Barangay.

In the absence of ICCs/IPs, the funds allocated for the same shall form part of the fund for the Host Region."

NOW, THEREFORE, in view of the foregoing, the Parties hereby stipulate and agree as follows:

#### Section I. Scope of Agreement

This Agreement shall cover the establishment and administration by the HB of separate trust accounts for DLF and RWMHEEF (the "DLF and RWMHEEF Trust Accounts").

#### Section II. Responsibilities of the Parties

##### 1. FSEC shall:

1.1. Remit directly to LGU Ormoc its share of the DLF and RWMHEEF in the manner set forth in Section 6 of DC2018-08-0021 *or DC 2019-01-0001, Section 4??*

1.2. The DLF and RWMHEEF shall be remitted quarterly based on the reported Electricity Sales and in accordance with the following:

a) The DLF and RWMHEEF accruing from the billing period 26 September 2018 up to the present shall be directly remitted to HB, Provided the latter has already established its own trust accounts and with approved AWP

b) For the succeeding quarterly billing periods, the remittance shall be made within fifteen (15) calendar days after the end of each billing quarter.



- 1.3. Maintain separate **regular accounts** in trust and/or for the benefit of the ER 1-94 Funds in accordance with the 1<sup>st</sup> Advisory on the Implementation of DC2018-08-0021.

2. The LGU Ormoc shall:

- 2.1. Be responsible for the opening and maintenance of the DLF and RWMHEEF Trust Accounts in accordance with DC2018-08-0021;

- a) If HB has existing DLF and RWMHEEF Trust Accounts, it shall request the Authorized Government Depository Bank (AGDB) to adopt the account names stated below and subsequently issue a certification of the said accounts, its status and current available balance.

Ormoc City- First Solar Energy Corporation DLF (ER 1-94) *7 Demand*  
Ormoc City - First Solar Energy Corporation RWMHEEF (ER 1-94)

- b) If HB does not have existing DLF and RWMHEEF Trust Accounts, it shall establish trust accounts specific for DLF and RWMHEEF, under the following account names:

Ormoc City - First Solar Energy Corporation DLF (ER 1-94)  
Ormoc City - First Solar Energy Corporation RWMHEEF (ER 1-94)

All costs related to the opening of such trust accounts shall be considered as administrative expenses and shall be deducted from the DLF and RWMHEEF Trust Accounts

- 2.2. Maintain the required balance in the DLF and RWMHEEF Trust Accounts (the "Maintaining Balance"), which shall not be withdrawn by HB.

The fees and charges relative to the maintenance of such trust accounts shall be considered as administrative expenses and shall be deducted from the DLF and RWMHEEF Trust Accounts.

- 2.3. Prepare and submit to the GenCo/ERD the Annual Work Program (AWP) as provided in Section 10 of Circular No. DC2018-08-0021. The AWP shall be submitted in print and in electronic copy to the GenCo and/or ERD not later than March 15 of every year. It shall identify the priority tangible projects under the DLF and RWMHEEF that can be implemented within the reference year of the AWP. The HB shall post the validated AWP in its website and in absence thereof, in two (2) conspicuous places within its area. The AWP shall be supported by a Resolution from the Sanggunian for the LGUs, or Council for the Region and ICCPs/IPs, certifying that the said list of tangible projects is in accordance with their respective CDP, CLUP, RDP, RPFP, ADSDPP, and IPDP, whichever is applicable;

- 2.4. Conduct minimum social preparation activities such as, but not limited to, community consultations and orientations in the preparation of the AWP.

- 2.5. Accept all remittances made by the GenCo/ERD as deemed certified by the DOE, subject to post audit rules and regulations; and

- 2.6. Issue Official Receipt (OR).

Section IV. Effectivity of Agreement



This Agreement shall take effect immediately upon signing by both Parties and remain valid and effective unless revoked, modified and/or amended.

**Section V. Amendments**

Any amendment or modification of this Agreement will only be effective upon written consent by the Parties.

IN WITNESS WHEREOF, the Parties hereby set their hands this \_\_\_\_ day of \_\_\_\_\_,  
Two Thousand \_\_\_\_\_ in \_\_\_\_\_.

**First Solar Energy Corp.**  
By:

**Ormoc City**  
By:

**Mr. Westin Raymond A. Contreras**  
President

**Mr. Richard Gomez**  
Mayor

Signed in the presence of Witnesses:

\_\_\_\_\_





ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)  
\_\_\_\_\_ ) ss

BEFORE ME, this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_  
personally appeared:

Name	Designation	Company	ID Number
Mr. Westin Raymond A. Contreras	President	First Solar Energy Corp.	
Mr. Richard Gomez	Mayor	Ormoc City	

This instrument which consists of five (5) pages, including this page on which this acknowledgment is written, has been signed by the above Party and his instrumental witnesses on each and every page thereof and sealed with my notarial seal.

WITNESS MY HAND and SEAL, at the place and on the date first above written.

Notary Public

Doc. No. \_\_\_\_\_  
Page No. \_\_\_\_\_  
Book No. \_\_\_\_\_  
Series of \_\_\_\_\_

