

Republic of the Philippines
Province of Ilocos Sur
MUNICIPALITY OF NARVACAN

OFFICE OF THE SANGGUNIANG BAYAN

3rd Regular Session
Held at the SB Session Hall
On 18 January 2010

RESOLUTION NO. 2
Series of 2010

**RESOLUTION CONFIRMING RESOLUTION NO. 1, SERIES OF 2010
AUTHORIZING THE MUNICIPALITY OF NARVACAN, CONGRESSIONAL
DISTRICT II, PROVINCE OF ILOCOS SUR TO PARTICIPATE IN THE TEXT
MONETIZATION PROGRAM ("TEMP") AS MANAGED BY THE DEVELOPMENT
BANK OF THE PHILIPPINES AND UNDERWRITTEN BY LAND BANK OF THE
PHILIPPINES WITH RESPECT TO ITS SHARE IN THE PhP5.810 BILLION
TOBACCO EXCISE TAX DIFFERENTIAL FOR THE YEARS 2002, 2005, 2006,
2007, AND 2008 AND THE UNAPPROPRIATED SHARES FOR THE YEARS 2002,
2003, AND 2004 IN THE AMOUNT APPEARING IN THE NOTICE OF PAYMENT
SCHEDULE**

WHEREAS, Republic Act 7171 (RA7171), otherwise known as "An Act To Promote The Development Of The Farmers In the Virginia Tobacco-Producing Provinces", grants special financial support to Virginia-tobacco producing provinces, to be constituted and collected from the proceeds of fifteen percent (15%) of the excise taxes on locally manufactured Virginia-type cigarettes;

WHEREAS, RA 7171 directs the Secretary of Department of Budget and Management (DBM) to retain annually funds equivalent to fifteen percent (15%) of excise taxes on locally manufactured Virginia-type cigarettes, which funds shall be directly remitted to the beneficiaries qualified under RA 7171;

WHEREAS, Republic Act 8424, otherwise known as the National Internal Revenue Code, reiterates the grant of special financial support to Virginia-tobacco producing provinces mandated by RA 7171, and again directs the annual retention by the Secretary of Budget and Management, as well as the direct remittance to qualified beneficiaries, of funds equivalent to fifteen percent (15%) of excise taxes on locally manufactured Virginia-type cigarettes;

WHEREAS, due to budgetary constraints, the DBM was unable to release the full amount of the special financial assistance due the beneficiaries of RA 7171 for the years 2002, 2005, 2006, 2007, and 2008, and there remains an unappropriated share for the years 2002, 2003, and 2004, all in the aggregate amount of Philippine Pesos Five Billion Eight Hundred Ten Million One Hundred Ninety Two Thousand Seven Hundred and Ninety Six (PhP5,810,192,796.00) (the TEXT Differential);

WHEREAS, the President of the Philippines issued Executive Order No. 846 (2009) (EO 846) authorizing the release of the accumulated TEXT Differential to the beneficiary Local Government Units (LGUs) through a monetization program;

WHEREAS, EO 846 gives beneficiary LGUs the option to collect in advance from a trustee bank their respective shares from the TEXT Differential at a discounted value, net of interest and other charges, by means of the issuance by the trustee bank of investment certificates having as underlying assets the schedule of payments to be issued by the Department of Budget and Management (DBM) pursuant to a Notice of Payment Schedule (NPS) to be issued by the DBM to each affected LGU, which NPS constitutes the direct, absolute, and unconditional obligation for the payment of money on the part of the Republic of the Philippines as confirmed by the Department of Finance (DOF), and the subsequent payment to the participating and acceding LGUs of the proceeds from the sale, at a discount, of such investment certificates;

WHEREAS, the President of the Philippines, by virtue of EO 846, directed inter alia (a) the DBM to determine the share of each beneficiary LGU from the TEXT Differential on the basis of certifications on the excise tax collection on Virginia-type cigarettes to be issued by the Bureau of Internal Revenue and certification of Virginia tobacco production and Virginia tobacco acceptances by province, including congressional districts, cities, and municipalities of each beneficiary province to be issued by the National Tobacco Administration, to issue the corresponding NPS to the affected beneficiary LGUs indicating therein their share in the TEXT Differential and the schedule of payments of such shares, and to provide an annual appropriation cover for the purpose; and (b) the DOF to, among others, provide the letter of confirmation of the National Government that the TEXT Differential constitutes an obligation of the Republic of the Philippines (the Republic);

WHEREAS, on 8 January 2010, the DOF issued in favor of all beneficiary local government units under RA 7171 a Letter of Confirmation in order to provide the beneficiary LGUs the assurance for purposes of participation in the monetization program under EO 846 that the National Government will perform its commitments to pay and honor its payment obligations for the TEXT Differential in accordance with the schedule set forth in the NPS and further declaring that the obligation of the National Government to pay the TEXT Differential constitutes a direct, absolute, and unconditional obligation for the payment of money on the part of the Republic;

WHEREAS, the Province of Ilocos Sur (Participating LGU), being a beneficiary under RA 7171 has established a Special Purpose Trust (SPT) with the Development Bank of the Philippines Trust Services, who will open for the collective benefit of the Participating LGU and other Acceding LGUs (the Acceding LGUs) for the purpose of receiving without recourse the assignment, transfer, and conveyance of the NPS of the Participating LGU and the Acceding LGUs, and consequently issue in certificated form investment certificates (the TEMP Investment Certificates) in the aggregate principal amount corresponding to the total amount of NPS assigned to the SPT with respective maturity dates corresponding to the release of the TEMP Differential;

WHEREAS, the undersigned LGU desires to participate in the TEMP;

NOW THEREFORE, FOR AND IN CONSIDERATION OF THE FOREGOING PREMISES, at a session duly called and assembled, at least a majority of all the duly elected and qualified members of the Sanggunian, after due discussions and deliberations, and upon motion of Hon. Carlito T. Corrales duly seconded by Hon. Eliseo D. Cabradilla hereby approves and confirms the following resolutions:

RESOLVED, that the LGU approves, confirms, and ratifies Resolution No. 1, Series of 2010 passed on 18 January 2010 by its Sanggunian authorizing the LGU to participate in the monetization of its TEXT Differential;

RESOLVED, that the LGU agrees, and is hereby authorized, to participate in the TEXT Monetization Program (TEMP) and all transactions necessary and relevant to fully implement all the acts contemplated under EO 486 and the TEMP;

RESOLVED, that the LGU authorizes, as it hereby authorizes the Honorable Edgardo D. Zaragoza, to negotiate and conclude any and all transactions relevant to EO 846 and the TEMP, and is further authorized to sign, execute, and deliver, for and on behalf of the LGU, the SPT Agreement with the Trustee and the Accession Agreement to the TEMP, through which the LGU:

(i) unconditionally and irrevocably agrees to assign, transfer, and convey, on a without recourse basis, as it hereby assigns, transfers, and conveys, on a without recourse basis, in favor of the Trustee its share in the TEXT Differential amounting to PHP _____ as covered by the NPS issued to it by the DBM dated _____, and further agrees to the securitization and monetization of its aggregate share in the TEXT Differential;

(ii) accepts, and expresses its unconditional and irrevocable conformity to the terms and conditions of the SPT Agreement between the Participating LGU and the Trustee;

(iii) authorizes the Trustee to enter into other agreements or transactions, and to sign, on its behalf, all agreements and contracts which may be necessary for the implementation of the TEMP and the securitization and monetization of its share in the TEXT Differential;

(iv) agrees to cede, transfer, and convey absolutely and on a without recourse basis, as it hereby cedes, transfers, and conveys, absolutely and on a without recourse basis, in favor of the Trustee all its rights, interests, and participation in and to all its share in the TEXT Differential as acknowledged by the National Government through the Letter of Confirmation issued by the DoF and the NPS issued by the DBM;

(v) instructs the Trustee to remit to the existing official RA 7171 (Tobacco Excise Tax) account maintained in the Land Bank of the Philippines with account number 3242-1009-71 the net proceeds of the securitization and monetization of its NPS;

(vi) authorizes the DBM to remit on the appropriate dates to the account of the Trustee the amounts corresponding to the NPS issued in its favor;

(vii) warrants that it has the power and authority, has taken all actions and obtained all approvals necessary, to pass this Resolution, execute the documents and agreements required to be executed and delivered by it to fully implement all the acts contemplated under EO 846, the SPT Agreement, the Accession Agreement, and the TEMP, and to perform all its obligations hereunder and

thereunder, and to consummate the transactions contemplated hereby and thereby;

(viii) represents and warrants that the action taken under this Resolution as well as all agreements contemplated hereby and thereby constitute its legal, valid, and binding obligations, and the performance and compliance by it of its obligations contemplated herein and therein shall not conflict with, nor constitute a breach or default of, its charter, or any ordinance or resolution of its Sanggunian, or any contract or other instrument by which it is bound, or any law, regulation, judgment, or order of any office, agency, or instrumentality applicable to it;

(ix) confirms and ratifies its concurrence with, and accession to, all agreements entered into by the Trustees designated under the SPT Agreement pursuant to and in furtherance of the implementation of EO 846 and the TEMP, including, but not limited to, the appointment of the Development Bank of the Philippines as Underwriter and the Development Bank of the Philippines as Issue Manager, and the engagement of the law firm of Romulo;

RESOLVED, that the LGU authorizes, as it hereby authorizes the Honorable Edgardo D. Zaragoza, to do any act, enter into any agreement, and sign and deliver on its behalf, any document, certification, or agreement pursuant to and in furtherance of the implementation of the TEMP, provided, that the Honorable Edgardo D. Zaragoza is authorized to cause his substitution by the Honorable _____.

RESOLVED, FINALLY, that the LGU hereby approves, confirms, and ratifies the foregoing Resolution as well as such agreements and acts necessary and desirable pursuant to and in furtherance of the implementation of EO 846 and the TEMP to be performed and executed by the Honorable Edgardo D. Zaragoza (or his substitute) without need for another resolution to this effect.

The specimen signatures of the authorized signatories are as follows:

Name: _____

Designation: _____

Signature: _____

Name: _____

Designation: _____

Signature: _____

APPROVED AND CONFIRMED.

I HEREBY CERTIFY the correctness of the above resolution duly approved by the Sanggunian of Narvacan, Ilocos Sur on 18 January 2010.

MARIBEL C. CORRALES
Secretary of the Sanggunian

ATTESTED:

CHARITO S. ZARAGOZA
Presiding Officer

Approved and signed by the majority of all the duly elected and qualified Members of the Sanggunian on 18 January 2010.

ROSALINDA C. CABANILLA
SBM

CARLITO T. CORRALES
SBM

MARIA PAZ V. CACHOLA
SBM

THELMA C. COPIOZO
SBM

TERESITO C. VALERA, SR.
SBM

ELISEO D. CABRADILLA
SBM

IRVIN R. LIM
SBM

PRIEMSON J. CABOTAGE
SBM

EDUARDO PEDRO Q. CABUENA
ABC President

JESKA MEDINA C. DELA CUADRA
SKF President

Certified by:

EDGARDO D. ZARAGOZA
Local Chief Executive