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AN ORDINANCE AUTHORIZING TO ALLOW THE PRIVATE SECTOR TOCARRY OUT THE COMMERCIAL ACTIVITIES ONE OF ITS PUBLIC ECONOMIC ENTERPRISES, THE TRANSPORT TERMINAL BUSINESS; APPROVING THE...

CABANATUAN CITY ORDINANCE NO. 061-2015, August 24, 2016

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LUNGSOD NG CABANATUAN
SANGGUNIANG PANLUNGSOD

EXCERPT FROM THE MINUTES OF THE 27TH REGULAR WEEKLY SESSION OF THE SANGGUNIANG PANGLUNGSOD, CITY OF CABANATUAN, HELD AT THE BULWAGANG-PULUNGAN OF THE SANGGUNIAN, CITY HALL BUILDING & GOVERNMENT CENTER ON THE 7TH DAY OF JULY 2015

PRESENT:

HON. MARIUS A. GARCIA ..... Vice Mayor/Presiding Officer

HON.ANGELITOD. SACLOLO, JR. ..... President Pro-tempore

HON. JEAN YASMIN D. CRUZ ..... Majority Floor Leader

HON. GABRIEL L. CALLING ..... Minority Floor Leader

HON. ARIEL G/SEVERINO ..... Member

HON. JOSELITOC.ROQUE ..... Member

HON. MARIO R. SEEPING ..... Member

HON. EDUARDO JOSE B. JOSON VII ..... Member

HON. ROSENDO D. DEL ROSARIO III ..... Member

HON. CHRISTIAN JAN G. CECILIO ..... Member

HON. ALDWIN JOSEPH V. DIAZ ..... Member

HON. SERGIO J. TADEO ..... Member/ABC President

ABSENT: NONE

WHEREAS, in accordance with the national policy of President Benigno C. Aquino III of pursuing Public-Private Partnership (PPP) projects in the implementation of the local government development programs and projects, the City Government of Cabanatuan received an unsolicited proposal from SM Prime Holdings, Inc., the original proponent, for the acquisition of the Transport Terminal Business in Cabanatuan City including the existing

Cabanatuan City Central Transport Terminal located in Cabanatuan City, Nueva Ecija, Philippines with an area of 20,301 square meters, including the acquisition of the existing improvements and use of the land herein; and to establish and operate other transport terminals in strategic locations within the City (the "Transport Terminal Business");

WHEREAS, as provided in Ordinance No. 017-2015 enacted by the Sangguniang Panlungsod of Cabanatuan, the CGC thru its City Mayor submitted the proposal to the Local Finance Committee (LFC), to determine the appropriate and reasonable commercial terms for the allowance of the original proponent to carry out the transport terminal business;

WHEREAS, LFC conducted a thorough study, evaluation and comparison of the income generated by CGC's transport terminal business vis-a-vis the amount that SM Prime Holdings, Inc. is willing to pay. It also determined the average net income of the transport terminal business and a conservative rate of 5% increase every three (3) years. Thus, in Its letter dated 15 May 2015, LFC concluded that the proposal of SM Prime Holdings, Inc. maybe consider as acceptable but it recommended further negotiation with them to maximize the benefits for the city;

ACCORDINGLY, the CGC, through the Negotiation Committee sent a letter to SM Prime Holdings, Inc. to start the negotiation of their proposal. Series of meeting ensued. In another proposal, SM Prime Holdings, Inc. offered an increased amount for acquisition of the transport terminal business and a commitment to put an investment in the subject property. The CGC acceded to the new proposal of SM as recommended by the LFC in another letter dated 4 June 2015 and study all relative documents thereto;

WHEREAS, in compliance and within the parameters set forth in SP Ordinance No. 017-2015 and other laws, rules and regulations of general application, the following documents relative to the receipt of Unsolicited Proposal for the acquisition of the Transport Terminal Business System of Cabanatuan City are hereby submitted to the Sanggguniang Panlungsod for appropriate actions:

- Background on the receipt of Unsolicited Proposal from the Proponent (SM Prime Holdings, Inc.)

- Opinion of the Legal Officer, this City, Atty. Cesar Villar

- Negotiation documents:

- Invitation to Bidders;

- Terms of Reference;

- Transport Terminal Business Operations Agreement;

- Sample Affidavits/form.

WHEREAS, consistent with the foregoing, the City reserves the right to reject the current unsolicited proposal and any other proposal in the event that the same does not prove to.be of optimum benefit and advantage to the local community;

NOW, THEREFORE, on joint motion of all the City Councilors present.

RESOLVED, AS IT IS HEREBY RESOLVED, to enact/adopt the following Ordinance:

ORDINANCE NO. 061-2015

AN ORDINANCE AUTHORIZING TO ALLOW THE PRIVATE SECTOR TOCARRY OUT THE COMMERCIAL ACTIVITIES ONE OF ITS PUBLIC ECONOMIC ENTERPRISES, THE TRANSPORT

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TERMINAL BUSINESS; APPROVING THE UNSOLICITED PROPOSAL OF THE ORIGINAL PROPONENT, THE SM PRIME HOLDINGS, INC.; APPROVING THE PROCEDURE AS PROVIDED IN SP ORDINANCE NO. 017-2015, SUBJECT TO THE PROPOSAL TO SWISS CHALLENGE; AND APPROVING ALL NEGOTIATION DOCUMENTS RELATIVE THERETO

BE IT ORDAINED BY THE SANGGUNIANG PANLUNGSOD, IN SESSION ASSEMBLED, THAT:

SECTION 1. – In compliance and within the parameters set forth in SP Ordinance No. 017-2015 known as "AN ORDINANCE PROVIDING FOR THE GUIDELINES TO PROCESS THE UNSOLICITED PROPOSALS OF THE PRIVATE SECTOR", and other laws, rules and regulations of general application, i.e. the Local Government Code of 1991 and Law of Sales pertinent to the receipt of Unsolicited Proposal for the acquisition of the Transport Terminal Business System of Cabanatuan City, the following are hereby approved and adopted:

1) Authorizing to allow the private sector to carry out the commercial activities one of its public economic enterprises, the transport terminal business;

2) Accepting and approving the unsolicited proposal of the original proponent, SM Prime Holdings (SMPH);

3) Approving the procedure, as provided in SP Ordinance No. 017-2015, subject to the proposal to Swiss Challenge; and

4) Approving/adopting the following negotiation documents:

a) Invitation to Bidders;

b) Terms of Reference;

c) Transport Terminal Business Operations Agreement;

d) Sample Affidavits/form.

SECTION 2. – Ordinances, part or parts thereof, inconsistent with the provisions of this ordinance are hereby repealed or modified accordingly.

SECTION 3. – This Ordinance shall take effect immediately upon its approval.

Approved unanimously.

-oOo-

WE HEREBY CERTIFY to the correctness of the foregoing Ordinance, and to its passage.

(Sgd.) ALFREDO G. ORTALEZA
Sectretary, Sangguniang Panlungod (Sgd.) MARIUS S. GARCIA
Vice Mayor
Presiding Officer

A T T E S T E D :

(Sgd.) ANGELITO D. SACLOLO, JR.
President Pro-tempore (Sgd.) JEAN YASMIN D. CRUZ

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Majority Floor Leader

(Sgd.) GABRIEL L. CALLING
Minority Floor Leader (Sgd.) MARIO R. SEEPING
Member

(Sgd.) ARIEL G. SEVERINO
Member (Sgd.) JOSELITO C. ROQUE
Member

(Sgd.) EDUARDO JOSE B. JOSON VIII
Member (Sgd.) ROSENDO D. DEL ROSARIO III
Member

(Sgd.) CRISTIAN JAN G. CECILO
Member (Sgd.) ALDWIN JOSEPH V. DIAZ
Member

(Sgd.) SERGIO J. TADEO
Member/ABC President

A P P R O V E D :

(Sgd.) JULUIS CESAR V. VERGARA
City Mayor

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