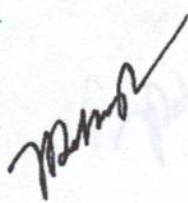


ORDINANCE NO. 1099, 2002

AN ORDINANCE APPROPRIATING THE AMOUNT OF FIFTY SIX MILLION FORTY THREE THOUSAND SIX HUNDRED NINETY TWO PESOS AND NINETEEN CENTAVOS (P 56,043,692.19) FOR THE PAYMENT OF THE JUDGMENT OBLIGATION OF THE QUEZON CITY GOVERNMENT IN CIVIL CASE NO. Q-94-19405, ENTITLED "LEXBER INCORPORATED PLAINTIFF VERSUS QUEZON CITY, DEFENDANT," AS OF NOVEMBER 30, 2001.

Introduced by Councilors ELIZABETH A. DELARMENTE, JESUS C. SUNTAY, VINCENT P. CRISOLOGO, JULIAN M.L. COSETENG, JORGE L. BANAL, WENCEROM "BENEDICT" C. LAGUMBAY, WILMA AMORANTO-SARINO, VOLTAIRE GODOFREDO L. LIBAN III, RAMON P. MEDALLA, ALLAN BUTCH T. FRANCISCO, ERIC REY Z. MEDINA, MARY ANN L. SUSANO, FRANZ S. PUMAREN, DANTE M. DE GUZMAN, ALMA F. MONTILLA, ANTONIO E. INTON, JR., RESTITUTO B. MALAÑGEN and ALMARIO E. FRANCISCO.

WHEREAS, in his 2nd Indorsement of November 12, 2001, His Honor, Mayor Feliciano R. Belmonte, Jr., recommended the enactment of an ordinance appropriating the amount of Fifty Five Million Five Hundred Sixty Four Thousand Six Hundred Sixty Nine Pesos & Fifty Eight Centavos (P55,564,669.58) and cost of suit in payment of judgment obligation of the City government to the plaintiff in Civil Case No. Q-94-19405 entitled "LEXBER INCORPORATED, plaintiff versus Quezon City, defendant," of the Regional Trial Court Branch 220, Quezon City, informing the City Council that the payment of such obligation on or before November 30, 2001 would be for the benefit of the City government, as it will save the city from paying enormous amount for legal interest, upon the recommendation of the Acting City Legal Officer, Atty. Christian B. Valencia;

WHEREAS, this case emanated from the judgment of the Court in the above-entitled case dated January 26, 1998, for Breach of Contract, Specific Performance or Rescission of Contract and Damages in favor of plaintiff Lexber, after the City government failed to comply with its obligation under certain contracts when the City stopped dumping garbage on the dumpsite after May 1992;

WHEREAS, the City government commenced dumping garbage on the landfill site from December 1991 continuously until May 1992 when the City ceased to dump garbage on the said site. Hence, Lexber demanded payment of its service fee under the said contracts from the City, but the latter refused on the ground that the contracts are invalid and unenforceable as the same were not approved nor ratified by the City Council and for lack of the required budget appropriations;

WHEREAS, the contract referred to as having been violated is:

1. Tripartite Memorandum of Agreement drawn on August 27, 1990 between Quezon City, represented by then Mayor Brigido R. Simon, Jr., Lexber Inc., and the then Municipality of Antipolo, whereby, a 26,010 parcel of land owned by Lexber located in Antipolo was to be used as garbage dumping site by Quezon City and other Metro Manila cities or municipalities, for a period of 5 years starting January 1991 to December 1995.
2. Negotiated contract signed by Mayor Simon and Lexber on September 10, 1990, whereby the latter was engaged to construct the necessary infrastructure at the dumpsite, designated as Quezon City Sanitary Landfill, for the contract price of Four Million Three Hundred Eighty-One Thousand Sixty-Nine Pesos (P4,381,069.00). The construction was completed by Lexber on November 25, 1991, and the agreed contract price was paid by the City to Lexber.
3. A second negotiated contract was executed by Lexber with Quezon City also represented by Mayor Simon on November 3, 1990, whereby Lexber undertook to provide maintenance services in the form of manpower, equipment and engineering operations for the dumpsite in consideration of One Million Five Hundred Thirty Six Thousand Seven Hundred Ninety Six Pesos (P1,536,796.00) monthly.

WHEREAS, the decision of the lower court in the above-captioned case was appealed to the Court of Appeal which, in its Decision of October 18, 1999, affirmed in toto the lower Court's judgment. Assailing the Decision of the Court of Appeals, the City government brought the same before the Supreme Court, by way of a petition for review, which in its Decision promulgated on March 15, 2001, the Supreme Court denied the petition and affirmed in toto the Court of Appeals decision. The Decision has now become final and executory.

WHEREAS, hence, this appropriation ordinance is imperative to comply with the said compromise agreement.

WHEREAS, the compromise agreement entered into by LEXBER Inc. and the Quezon City government in Civil Case No. Q-94-19405 reducing the City's liabilities to Fifty Six Million Forty Three Thousand Six Hundred Ninety Two Pesos and Nineteen Centavos (P56,043,692.19) has already been approved by the Regional Trial Court, Branch 220 in its Order dated January 31, 2002.

NOW, THEREFORE,

SECTION 1. There is hereby appropriated from any available funds in the City Treasury the amount of Fifty Six Million Forty Three Thousand Six Hundred Ninety Two Pesos and Nineteen centavos (P56,043,692.19) for the payment of the judgment obligation of the City government in Civil Case No. Q-94-19405 entitled "Lexber Incorporated, Plaintiff versus, Quezon City, Defendant, "of the RTC Branch 220, Quezon City, in favor of the plaintiff.

SECTION 2. The payment to be made by the City government shall be subject to the Commission on Audit pertinent rules and regulations.

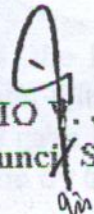
SECTION 3. This Ordinance shall take effect upon its approval.

ENACTED: February 19, 2002.

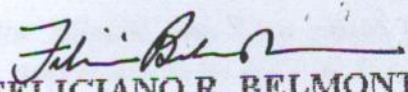

HERBERT M. BAUTISTA

Vice Mayor
Presiding Officer

ATTESTED:

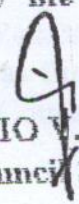

EUGENIO V. JURILLA
City Council Secretary

APPROVED: March 5, 2002


FELICIANO R. BELMONTE, JR.
City Mayor

CERTIFICATION

This is to certify that this Ordinance which was APPROVED on Second Reading on February 19, 2002, was finally PASSED by the City Council on February 26, 2002.


EUGENIO V. JURILLA
City Council Secretary