



Republic of the Philippines
CITY COUNCIL
City of Manila

REGULAR SESSION NO. 110

11TH CITY COUNCIL

Begun and held in the City Council on Thursday,
the twenty-eight day of January, Two Thousand Twenty-One

ORDINANCE NO. 8725

AN ORDINANCE APPROPRIATING NINE HUNDRED THIRTY MILLION PESOS (PHP. 930,000,000.00) AS SUPPLEMENTAL BUDGET NO. 2 FOR FISCAL YEAR 2021 FOR THE HAULING AND DISPOSAL OF SOLID WASTE WITH EXCAVATION, BACKFILLING AND COMPACTING OF GROUND IN SMOKEY MOUNTAIN, TONDO, MANILA

SPONSORED BY:

HON. JOEL R. CHUA
Majority Floor Leader



PREAMBLE

WHEREAS, no less than the 1987 Philippine Constitution provides for the duty of the State to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature (Section 16, Article II).

WHEREAS, the Local Government Code of 1991, states that: "Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, *promote health and safety, enhance the right of the people to a balanced ecology*, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants" (Section 16, Republic Act No. 7160).

WHEREAS, since the 1970s the Smokey Mountain located within the District of Tondo has been a primary repository for wastes collected throughout the City of Manila, and after several decades, it has accumulated tons of solid-wastes and garbage;

WHEREAS, in 1995, then President Fidel V. Ramos ordered the closure of the Smokey Mountain following the approval of a Smokey Mountain development plan under the National Housing Authority and due to the pressing condition of the dumpsite;

WHEREAS, the Manila Health Department likewise initiated a screening survey to document exposures to health hazards that lead to chronic diseases and compromised health of residents of Smokey Mountain. It recommended the following actions: immediate clean-up of Smokey Mountain landfill and stoppage of the continued practice of using it as a receptacle for solid waste, rehabilitation of the Smokey Mountain area to free it from waste, air, and water pollution; mitigation of risks of health adverse effects on the population by employing all possible environmental and sanitation strategies; continuation of health surveillance through screening interventions especially of chronic diseases, and consultation with other health-related stakeholders for involvement of partner agencies for long-term solutions; and rehabilitation of Smokey Mountain to create a healthy environment for Manileños.

WHEREAS, on 30 October 2019, the Regional Trial Court of Quezon City Branch 97 ruled against the Quezon City Government ordering it to pay Fifty Thousand Pesos (PhP. 50,000.00) in temperate damages, Fifty Thousand Pesos (PhP. 50,000.00) in moral damages and Ten Thousand Pesos (PhP. 10,000.00) in exemplary damages to each of the fifty-six (56) plaintiffs who are relatives of the victims of the tragic dumpsite landslide that killed hundreds of people in July 10, 2000, when a wall of garbage buried two hundred thirty-two (232) people alive. The Court also ordered the Quezon City Government to pay the plaintiffs One Hundred Thousand Pesos (PhP. 100,000.00) in attorney's fees. The Court relied on the legal principle of proximate cause, which was defined in past Supreme Court cases as a kind of negligence that produces an event "without, which the event would not have occurred." The court agreed that it was the government's negligence, and not the resident's refusal to relocate, which was the proximate cause of the deaths.

WHEREAS, the decision, if read meticulously and with laws such as the Ecological Solid Waste Management Act deeply associated with this tragedy, helps shape a template for local governments in averting and managing disasters.

WHEREAS, on 14 October 2020, during a Joint Committee Hearing conducted by the Committee on Health and Committee on Environmental Protection, Ecological Preservation and Sanitation of the City Council of Manila, it was established by a representative from the Environmental Management Bureau of the Department of Environment and Natural Resources (DENR) that there is a high probability that a similar landslide, which occurred in Payatas twenty (20) years ago, could also occur in Smokey Mountain considering that the mountain is already at a ninety (90) degree slope and that the level of waste density is low enough that a continuous output of torrential rains in the City could trigger, at any moment, a tragic landslide that could hurt or at worst, end the lives of the innocent residents in the Smokey Mountain Area, numbering more than eight hundred (800) families.

WHEREAS, thereafter the Committees recommended the immediate removal, clearing and disposal of the Smokey Mountain dumpsite for the safety of Manileños, and the fulfilment of the City's duty to protect the life and well-being of all its residents.

WHEREAS, with these recommendations and consistent with its Constitutional and Statutory mandates, the City Government of Manila has set up plans for the development and improvement of the Smokey Mountain.

WHEREAS, the Local Government Code of 1991 provides that all budgetary proposals shall be included and considered in the budget preparation process. After the local chief executive concerned shall have submitted the executive budget to the sanggunian, no ordinance providing for a supplemental budget shall be enacted, except when supported by funds actually available as certified by the local treasurer or by new revenue sources.

A supplemental budget may also be enacted in times of public calamity by way of budgetary realignment to set aside appropriations for the purchase of supplies and materials or the payment of services which are exceptionally urgent or absolutely indispensable to prevent imminent danger to, or loss of, life or property, in the jurisdiction of the local government unit or in other areas declared by the President in a state of calamity. Such ordinance shall clearly indicate the sources of funds available for appropriations, as certified under oath by the local treasurer and local accountant and attested by the local chief executive, and the various items of appropriations affected and the reasons for the change (Section 321 par. 1 of Republic Act No. 7160);

WHEREAS, the Code further provides that funds shall be available exclusively for the specific purpose for which they have been appropriated. No ordinance shall be passed authorizing any transfer of appropriations from one item to another. However, the local chief executive or the presiding officer of the sanggunian concerned may, by ordinance, be authorized to augment any item in the approved annual budget for their respective offices from savings in other items within the same expense class of their respective appropriations (Section 336 of Republic Act No. 7160);

WHEREAS, earlier today, the City Council of Manila issued a resolution adopting and approving RESOLUTION NO. 01, SERIES OF 2021, PASSED BY THE EXECUTIVE COMMITTEE OF THE CITY DEVELOPMENT COUNCIL ON JANUARY 25, 2021, ENTITLED: "A RESOLUTION APPROVING THE AMENDMENT OF THE ANNUAL INVESTMENT PROGRAM AND THE ISSUANCE OF A SUPPLEMENTAL INVESTMENT PROGRAM FOR FY 2021 IN THE AMOUNT OF NINE HUNDRED THIRTY MILLION PESOS (PHP 930,000,000.00) FOR THE CLEARING, GRUBBING, HAULING AND DISPOSAL OF SOLID WASTE IN SMOKEY MOUNTAIN, TONDO, MANILA"

WHEREAS, the funds to be released through this Ordinance shall be consistent with national and local policies, and shall be utilized to protect and promote the health and safety of Manileños by removing the Smoking Mountain dumpsite and improvement of its area: NOW, THEREFORE,

Be it ordained by the City Council of Manila, in session assembled, THAT;

SECTION 1. Appropriations. – The Supplemental Budget of the City Government of Manila for Fiscal Year 2021 in the amount of Nine Hundred Thirty Million Pesos (PhP. 930,000,000.00) is hereby approved.

SEC. 2. Source of Funds. – The funds for the Supplemental Budget in the total amount of Nine Hundred Thirty Million Pesos (PhP. 930,000,000.00) shall be derived from funds actually available and new revenue source as certified by the City Treasurer.

Attached are the following details:

Annex A – Statement of Funding Source; and
Annex B – Statement of Supplemental Appropriation No. 2

SEC. 3. Use of Funds. – The amount of Nine Hundred Thirty Million Pesos (PhP. 930,000,000.00) is hereby appropriated under the Department of Public Services (DPS) – Maintenance and Other Operating Expenses - Environmental/Sanitation Services for the hauling and disposal of solid waste with excavation, backfilling and compacting of ground in Smokey Mountain, Tondo, Manila which includes but not limited to the following works:


- Mobilization and demobilization
- Site preparation, clearing of site, construction of temporary storage area, safety enclosure, hauling of debris, removal of water and electrical utilities
- Demolition / hauling of 361.85 linear meter existing CHB wall
- Clearing and Grubbing of 1,323,934.86 cubic meter (compacted) of smokey mountain with the use of necessary equipment
- Hauling and Disposal of 2,647,862.72 loose volume of smokey mountain with the use of necessary equipment
- Excavation of unsuitable materials
- Backfilling, Compaction and Ground Preparation
- Hauling and Disposal of debris
- Gravel Bedding
- Other necessary works

SEC. 4. Effectivity Clause. – This Ordinance shall take effect immediately upon its approval.


This Ordinance was finally enacted by the City Council of Manila on January 28, 2021.

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PRESIDED BY:


ERNESTO C. ISIP, JR.
President Pro-Tempore and
Acting Presiding Officer
City Council, Manila


ATTESTED:


LUCH R. GEMPIS, JR.
City Government Department Head III
(Secretary to the City Council)

APPROVED BY HIS HONOR, THE MAYOR, ON JAN 28 2021


FRANCISCO "Isko Moreno" DOMAGOSA
Mayor
City of Manila

ATTESTED:


BERNARDITO C. ANG
City Government Department Head III
(Secretary to the Mayor)

RNF: rrb/acl/jok/cpl/jmt/eyes