



Republic of the Philippines
MUNICIPALITY OF MONCADA
Province of Tarlac

SANGGUNIANG BAYAN

EXCERPT FROM THE MINUTES OF THE 1st REGULAR SESSION OF THE SANGGUNIANG BAYAN OF MONCADA, TARLAC FOR CY 2021 HELD ON THE 4th DAY OF JANUARY 2021 AT THE SB SESSION HALL, LEGISLATIVE BUILDING

PRESENT:

HON. JAIME O. DUQUE	.. VICE MAYOR/PRESIDING OFFICER
HON. CLEOFE D. FAVIS	.. MEMBER
HON. RODOLFO C. ESPEJO, JR.	.. MEMBER
HON. ALBERTO C. MARZAN, JR., MD	.. MEMBER
HON. RUBEN V. GAMBOA, JR	.. MEMBER
HON. THELMAFLOR A. ESPEJO	.. MEMBER
HON. GEORGE MICHAEL P. AGUILAR	.. MEMBER
HON. JANIUS M. YASAY	.. MEMBER
HON. CELESTE A. AYSON	.. MEMBER
HON. GEORGE R. CUCHAPIN, MD	.. LnB PRESIDENT
HON. EZEKIEL C. RIVERA	.. SKF PRESIDENT

ABSENT:

NONE

RESOLUTION NO. 02

Series of 2021

Sponsored by: COUN. ALBERTO C. MARZAN, JR., MD
Chairman, Committee on Health, Sanitation and Environmental Protection

RESOLUTION AUTHORIZING THE MUNICIPAL GOVERNMENT OF MONCADA, THROUGH THE HONORABLE MAYOR ESTELITA M. AQUINO, TO ENTER INTO A USUFRUCT AGREEMENT WITH THE ENVIROKONSULT EQUIPMENT AND SERVICES, INC. FOR THE USE OF THE PARCEL OF LAND OWNED BY THE LOCAL GOVERNMENT UNIT LOCATED AT BARANGAY BURGOS OF THIS MUNICIPALITY WITH AN AGGREGATE LAND AREA OF THREE THOUSAND (3,000) SQUARE METERS, MORE OR LESS, COVERED UNDER TRANSFER CERTIFICATE OF TITLE NO. 373862

WHEREAS, submitted to this August Body is a proposed Usufruct Agreement to be entered into by the Municipal Government of Moncada, represented by its Local Chief Executive, the Honorable Mayor Estelita M. Aquino, herein referred to as the CLIENT, and the Envirokonsult Equipment and Services, Inc., represented by its President and Chief Executive Officer, Mr. Anthony V. Gedang, herein referred to as the USUFRUCTUARY;

WHEREAS, the foregoing usufruct agreement shall be undertaken to authorize Envirokonsult Equipment and Services, Inc. use of the property as project site for the establishment of a Septage Management Program (SMP) in the municipality, more particularly the construction and operation of a Septage Treatment Plant (STP);

WHEREAS, the establishment of SMP shall be carried out through a Joint Venture Agreement (JVA) between the Municipal Government of Moncada and Envirokonsult, in



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compliance with Republic Act 9275 or the Philippine Clean Water Act of 2004, Municipal Ordinance No. 03, Series of 2020 or the "Sewage and Septage Ordinance of the Municipality of Moncada", Municipal Ordinance No. 06, Series of 2019 or the "Moncada PPP Code 2019" and other applicable laws and ordinances;

WHEREAS, the main objectives of Septage Management Program are to protect the current and future sources of water supply such as groundwater, surface water and seawater to prevent water pollution and protect the people's health;

WHEREAS, the improvement, maintenance, protection and preservation of the ecosystem from pollution and further degradation as well as protection of public health are the primordial concerns of the Municipality;

WHEREAS, after a careful review of the Usufruct Agreement, the SB finds the same to be of merit;

NOW, THEREFORE, on motion by Coun. Alberto C. Marzan, Jr., duly seconded;

RESOLVED, that this Sanggunian, acting on the favorable recommendation of the Committee on Health, Sanitation and Environmental Protection, hereby authorizes the Municipal Government of Moncada, through the Honorable Mayor Estelita M. Aquino to enter into a Usufruct Agreement with the Envirokonsult Equipment and Services, Inc. for the use of the parcel of land owned by the Local Government Unit located at barangay Burgos of this municipality with an aggregate land area of three thousand (3,000) square meters, more or less, covered under Transfer Certificate Of Title No. 373862;

RESOLVED, FURTHER, that copies of this Resolution be furnished the Honorable Mayor Estelita M. Aquino, Mr. Anthony V. Gedang and all concerned parties for their information and appropriate action;

CARRIED.

CERTIFIED to have been duly
ADOPTED on the above-mentioned
date and place:


VICTOR SANDINO S. MOLINA
Secretary to the Sanggunian

ATTESTED AND CERTIFIED
TO BE DULY ADOPTED:


JAIME O. DUQUE
Vice-Mayor & Presiding Officer

USUFRUCT AGREEMENT

APPROVED UNDER
SB RESO NO. 02, Series
of 2021 dtd. Jan. 04, 2021

MS
VICTOR SANDINO S. MULINA
SB SECRETARY

This Usufruct Agreement made and entered into this _____th day of _____ 2021,
_____, Philippines, by and between:

MUNICIPALITY OF MONCADA, a local government unit in the Province of Tarlac, with official address at Municipal Building, Poblacion 1, Moncada, Tarlac, represented herein by its Municipal Mayor namely **HONORABLE ESTELITA M. AQUINO**, hereinafter referred to as the **CLIENT**.

-AND-

ENVIROKONSULT EQUIPMENT AND SERVICES, INC., a corporation duly organized and existing under the laws of the Republic of the Philippines, with business address at Feria Road, Pook dela Paz, Old Balara, Quezon City, represented herein by its **President & CEO, Mr. Anthony V. Gedang**, hereinafter referred to as the **USUFRUCTUARY**.

(Each a "Party," and collectively, the "Parties.")

RECITALS:

1. The **CLIENT** is the owner of parcel of land located at _____ particularly described in TCT No. _____ comprising of _____ square meters, hereinafter referred to as the „MRF Facility.”
2. The **CLIENT** is duly authorized by the Sangguniang Bayan of Moncada Tarlac to allocate a portion of the MRF Facility about 3,000 square-meters which is identified as Lot _____ in the subdivision plan _____, referred to as **USUFRUCT PROPERTY** for the use of the **USUFRUCTUARY**. A copy of the Sangguniang Bayan Resolution No. _____ dated _____ is hereto attached and made integral part hereof.
3. The **USUFRUCTUARY** is the Private Sector Proponent and the Joint Venture partner of the **CLIENT** in the Joint Venture Agreement executed between the Parties for the Septage Management Program of the Municipality of Moncada Tarlac.
4. Under Joint Venture Agreement performed between the Parties for the Septage Management Program, the **CLIENT** is obligated to grant and authorize the use of the **USUFRUCT PROPERTY** as the Project Site before the issuance of the notice of award.
5. Unless otherwise defined in this Agreement, defined terms shall have the meaning ascribed to them in the Joint Venture Agreement.

NOW, THEREFORE, for and in consideration of the foregoing and the mutual covenants hereinafter contained, the **CLIENT** has let by these presents do hereby usufruct

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unto the **USUFRUCTUARY** the **USUFRUCT PROPERTY** and the **USUFRUCTUARY** hereby accept the same subject to the following terms and conditions:  **VICTOR S. MOLINA**
SB SECRETARY

1. **TERM** – The **CLIENT** grants unto the **USUFRUCTUARY** a right to the use of and of the possession over the **USUFRUCT PROPERTY** for twenty-five (25) years.
2. **COVERAGE** – The parties agree that this Agreement only applies to the **USUFRUCT PROPERTY**. It shall not include any other accessions, servitudes, easements, or other benefits inherent therein. Further, the **USUFRUCTUARY** is only entitled to the property's use and possession and not entitled to natural, civil, and industrial fruits arising from the **USUFRUCT PROPERTY**, unless expressly agreed upon. Finally, the **USUFRUCTUARY** shall not be entitled, even as a stranger, to any hidden treasure on the **USUFRUCT PROPERTY**.
3. **RENT-FREE USE** - The Parties herein agree that the **USUFRUCTUARY** shall not pay rent to the **CLIENT** for the possession and use of the **USUFRUCT PROPERTY** for the duration of the Joint Venture Agreement. It shall be co-terminous with the SMP and/or JVA.
4. **USE OF PREMISES** - The **USUFRUCT PROPERTY** shall be used by the **USUFRUCTUARY** only for the Parties' objectives as set out in the Septage Management Program of the Municipality of Moncada and the Joint Venture Agreement, and other necessary and incidental purposes related thereto.
5. **ALTERATION AND IMPROVEMENTS** - The **USUFRUCTUARY**, with prior notice to **CLIENT**, may make structural changes, alterations or improvements in the **USUFRUCT PROPERTY** provided that it is in accordance with laws and existing ordinances and in furtherance of the objectives and purposes of SMP and JVA. Any major change, structural or otherwise shall be with prior written consent from **CLIENT**.
6. **TAXES AND INSURANCE** - Real estate taxes, government assessments, fees, charges, bills, utilities, fire insurance, and all other fees and charges due to the national and local government or on private entity concerning the **USUFRUCT PROPERTY** and any improvements shall be for the account of the **USUFRUCTUARY** **unless exempted**. It is understood that the **USUFRUCTUARY** shall be responsible for covering the building with adequate insurance against damage due to fire and other natural hazards.
7. **SALE, TRANSFER, MORTGAGE** - The **CLIENT** may sell, transfer, mortgage, encumber or otherwise assign its rights in the **USUFRUCT PROPERTY** but the **CONTRACT OF USUFRUCT** shall be respected. The **USUFRUCTUARY** may assign its rights provided it will not violate the project and any provision of the contract between the parties and is with **CLIENT**'s prior written consent.
8. **EXISTENCE, CHANGES, AND TERMINATION**. This Agreement shall remain valid as long as the principal contracts of Septage Management Program of the Municipality of Moncada Tarlac and the Joint Venture Agreement are valid and subsisting. The termination or change in the SMP and the JVA shall terminate or change the provision/s of this **USUFRUCT AGREEMENT** mutatis mutandis.

NRW

9. **PEACEFUL POSSESSION.** The CLIENT warrants that USUFRUCTUARY shall not be disturbed in its possession of, or evicted from, the USUFRUCT P~~SB SECRETARY~~ duration of the Joint Venture Agreement, any extension or renewal thereof. However, the CLIENT, as an instrumentality of the State reserves its rights and powers embodied under the Local Government Code or ordinance in exercising its police power.

10. **REGISTRATION OF IMPROVEMENTS.** Improvements made by the USUFRUCTUARY belongs to it during the existence of this Agreement. Hence, USUFRUCTUARY shall be responsible for all taxes, fees, charges, registration, insurance, and expenses to it. USUFRUCTUARY shall also cause the registration of the JVA, SMP, and this Agreement in the appropriate property registry. The USUFRUCTUARY, only in exceptional circumstances and with CLIENT'S prior written consent, may mortgage the property, provided that the loan amount shall be used solely to fund the project and that it will not violate the other contracts and covenants between herein parties.]

11. **OWNERSHIP AFTER TERMINATION.** Upon the termination of this Agreement, all the properties erected on the property shall be owned by the CLIENT as agreed upon in the JVA. Personal properties of the USUFRUCTUARY'S officers and its employees are excluded. Ownership over the improvements shall also vest to CLIENT if the JVA, SMP, or this Agreement is pre-terminated due to the fault, negligence, mismanagement, or bad faith of USUFRUCTUARY.

12. **NON-WAIVER.** - The failure of either Party to insist upon a strict performance of any of the terms, conditions and covenants hereof shall neither be deemed a relinquishment or waiver of any right or remedy that such Party may have, nor shall it be construed as a waiver of any subsequent breach or default on the conditions and covenants which shall continue to be in full force and effect. No waiver by either Party of any of its rights under this Usufruct Agreement shall be deemed to have been made unless expressed in writing and signed by such Party.

13. **VENUE IN CASE OF DISPUTE.** In case of legal dispute between the parties, any and all cases shall be instituted only in the proper Court/Body in Tarlac Province to the exclusion of all other venues.

14. **SEVERABILITY.** - If any part, term or provision of this Usufruct Agreement is declared by any competent court as illegal or unenforceable, this shall be ineffective to the extent of such provision only and any such declaration shall not invalidate the remaining provisions of this Usufruct Agreement. In the event of such illegality or unenforceability, this Usufruct Agreement shall be construed, if possible, in a manner to give effect, by means of valid provisions, to the intent of the Parties to the particular provision or provisions which have become invalid, illegal or unenforceable and, in any event, all other terms shall remain in full force and effect. The Parties shall negotiate in good faith new provisions to restore, as best as possible, the original intent and effect of this Usufruct Agreement, with the end in view of rendering all the provisions of this Agreement legal and enforceable.

15. **AMENDMENT.** - The Parties may, upon mutual Agreement, amend, modify, supplement or otherwise revise, in writing, any provisions of this Usufruct Agreement.

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16. **COUNTERPARTS.** - This Usufruct Agreement may be executed in one (1) or more counterparts, each of which shall be deemed original, but all of which shall constitute one and the same Agreement.

17. **NEGOTIATED CONTRACT.** This is a negotiated contract and not a contract of adhesion. It shall not be construed against any of herein parties.

IN WITNESS WHEREOF, the parties have cause this instrument to be executed and signed on the day, month, year, and place herein before mentioned.

HON. ESTELITA M. AQUINO
MUNICIPAL MAYOR
Municipality of Moncada Tarlac
CLIENT


FDr. ANTHONY V. GEDANG, EnvM
PRESIDENT & CEO
USUFRUCTUARY

Signed in the presence of:

ACKNOWLEDGMENT

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SB RESO NO. 02, Series
of 2021 dtd. Jan. 04, 2021

REPUBLIC OF THE PHILIPPINES
CITY OF S.S.

VS
VICTOR SANDINO S. MOLINA
SB SECRETARY

BEFORE ME, a Notary Public for and in _____, this _____ 2021,
personally came and appeared the following:

PASSPORT NO. PLACE/DATE OF ISSUE

All known to me and to me known to be the same persons who executed the foregoing document and acknowledged that the same is their own act and deed and that of the corporations represented. This document consists of 4 pages signed by the parties and their instrumental witnesses on each and every page thereof.

WITNESS MY HAND AND SEAL on the date and place above stated.

NOTARY PUBLIC

Doc. No. ; _____;
Page No. ; _____; Book
No. ; _____; Series of
2021.