

SANGGUNIANG PANLUNGSOD

DRAFT ORDINANCE NO. 2022-A-090

Authors: Hon. A.P. Padilla, Hon. R.A.Q. Saguisag, Jr., Hon. D.B. Almario, Hon. B.B. Baniqued, Hon. V.V. Hilario, Jr., Hon. M.J.P.Q. Arenas, Hon. J.M. Ariones, Hon. K.T. Sarosa, Hon. J.C. Villena, IV, Hon. M.D.M. Arayon, Hon. E.M. Marquez, Hon. A.J. Cruz, Hon. C.C. Ortega, and Hon. R.C. San Pedro, Jr.

AN ORDINANCE APPROVING THE PUBLIC-PRIVATE PARTNERSHIP (PPP) CONTRACT WITH IBAYAD ONLINE VENTURES, INC. REGARDING THE PROJECT KNOWN AS THE MAKATI HEALTH CLEARANCE CERTIFICATE SYSTEM, AND AUTHORIZING FURTHER THE HONORABLE MAYOR MAR-LEN ABIGAIL S. BINAY TO ENTER INTO AND SIGN THE PPP CONTRACT, AND FURTHER AUTHORIZING THE HONORABLE MAYOR AND/OR THE CITY ADMINISTRATOR ATTY. CLARO F. CERTEZA TO EXECUTE AND/OR DELIVER ANY AND ALL INSTRUMENTS AND DOCUMENTS IN CONNECTION WITH, ARISING FROM, PERTAINING TO, OR NECESSARY FOR THE PROJECT, SUBJECT TO ALL LAWS, RULES, AND REGULATIONS.

WHEREAS, Section 20, Article II of the 1987 Philippine Constitution provides that the State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments;

WHEREAS, the private sector participates in infrastructure, development, and social service-related projects of the State and local government units (LGUs) through what is properly known as Public-Private Partnerships (PPPs);

WHEREAS, LGUs, such as the City Government of Makati, are authorized to enter into Joint Ventures under the Local Government Code, particularly, Sections 17(a), 22(d), and 35 thereof. Article 66 of the IRR of the Local Government Code likewise provides explicit authority for LGUs to enter into Joint Ventures with the private sector;

WHEREAS, in 2014, the Sangguniang Panlungsod of the City of Makati enacted City Ordinance No. 2014-051, otherwise known as the "City of Makati PPP Code," which was amended by City Ordinance Nos. 2017-007, 2018-066, and 2020-231;

WHEREAS, on 1 June 2022, the City Government of Makati, through the Office of the Mayor and the Public-Private Partnership Selection Committee, received the unsolicited proposal for a PPP on the Makati Health Clearance Certificate System of iBayad Online Ventures Inc. (the "Original Proponent") to provide, maintain, and operate the Makati Health Clearance Certificate System, a software and integrated system platform that will be used in making available online, through a web portal, an interoperable platform for processing and issuing Health Clearance Certificates of employees of businesses in Makati City for their employment, business permit, and other requirements (the "Project");

WHEREAS, on 1 July 2022, after a successful negotiation, a Joint Certification was issued by the City Government of Makati and the Original Proponent pursuant to the City of Makati PPP Code, as amended, providing that an agreement has been reached, that both agree to submit the proposal to competitive challenge, that the City Government of Makati has found the Original Proponent and the technical and financial aspects of the Project eligible, and that the City Government of Makati confers to the Original Proponent the Original Proponent Status;

WHEREAS, on 12 September 2022, after not receiving any comparative proposals, and upon recommendation by the PPP Selection Committee ("PPP-SC") of the City Government of Makati, the Project was awarded to the Original Proponent;

WHEREAS, pursuant to Rule 3, Section 62 of the City of Makati PPP Code, as amended, the “Sangguniang Panlungsod, through an ordinance, shall approve the PPP Contract and authorize the City Mayor to sign; provided that public hearings for that purpose shall be conducted prior to the approval of Sangguniang Panlungsod for PPP Contracts where public hearing is required by the Local Government Code or other applicable laws;”

WHEREAS, upon thorough scrutiny by the Members of the Sangguniang Panlungsod, it was ruled that the PPP selection process and the PPP Contract are compliant with the requirements by the City of Makati PPP Code, as amended;

WHEREAS, Section 8 (a) (6) of R.A. No. 7854, otherwise known as the Charter of the City of Makati, provides that the City Mayor, as the chief executive of the city government, shall, among others, represent the City in all its business transactions and sign on its behalf all bonds, contracts, and obligations, and such other documents upon authority of the sangguniang panlungsod or pursuant to law or ordinance;

WHEREAS, considering the reasonableness of the terms and conditions and the absence of any legal impediment to the subject PPP Contract, the Sangguniang Panlungsod, pursuant to the abovementioned provisions, hereby authorizes the City Mayor to enter into and sign such PPP Contract with the Original Proponent;

WHEREAS, the Sangguniang Panlungsod also deems it necessary to give authority to the City Mayor, Honorable Mayor Mar-len Abigail S. Binay and/or the City Administrator, Atty. Claro F. Certeza to enter into, execute, sign, and/or deliver on behalf of the City Government of Makati, upon recommendation/resolution of the PPP-SC, any and all instruments and documents in connection with, arising from, pertaining to, or necessary for the Project including but not limited to, instruments and documents to interpret, clarify, confirm, implement, carry out, and/or further explain the provisions, terms, and/or conditions of the said Project;

NOW, THEREFORE BE IT ENACTED, AS IT IS HEREBY ENACTED BY THE SANGGUNIANG PANLUNGSOD OF MAKATI, METRO MANILA, BY VIRTUE OF THE POWERS VESTED IN IT BY LAW, IN SESSION ASSEMBLED, that:

Section 1. The Sangguniang Panlungsod hereby approves the PPP Contract with iBayad Online Ventures, Inc. to provide, maintain, and operate the Makati Health Clearance Certificate System, a software and integrated system platform that will be used in making available online, through a web portal, an interoperable platform for processing and issuing Health Clearance Certificates of employees of businesses in Makati City for their employment, business permit, and other requirements, a copy of which is attached hereto and made an integral part hereof as **Annex “A”**.

Section 2. The Sangguniang Panlungsod further authorizes the City Mayor, Honorable Mayor Mar-len Abigail S. Binay to enter into and sign the PPP Contract with iBayad Online Ventures, Inc.

Section 3. The Sangguniang Panlungsod further authorizes the City Mayor, Honorable Mar-len Abigail S. Binay and/or the City Administrator, Atty. Claro F. Certeza to enter into, execute, sign, and/or deliver on behalf of the City Government of Makati, upon recommendation/resolution of the PPP-SC, any and all instruments and documents in connection with, arising from, pertaining to, or necessary for the Project including, but not limited to, instruments and documents to interpret, clarify, confirm, implement, carry out, and/or further explain the provisions, terms, and/or conditions of the said Project, subject to all laws, rules, and regulations.

Section 4. The provisions of this Ordinance are hereby deemed separable. If any provision hereof should be declared invalid or unconstitutional, the remaining provisions shall remain in full force and effect.

Section 5. All ordinances, resolutions, and executive orders which are inconsistent with any of the provisions of this Ordinance are hereby repealed or modified accordingly.

Section 6. Let copies of this Ordinance be furnished to the Office of the Mayor, Office of the City Administrator, Law Department, Finance Department, Makati Health Department (MHD), Department of the Interior and Local Government – Makati City (DILG-Makati), Information and Community Relations Department (ICRD), iBayad Online Ventures, Inc., and other departments, offices, and agencies concerned for their information, guidance, and reference.

Section 7. This Ordinance shall take effect immediately upon its approval.

