



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

MEMORANDUM

TO : THE MANAGER
Legal Department

FROM : THE ASSISTANT CHIEF OPERATING OFFICER
Assets Management Sector

DATE : 25 AUGUST 2020

**RE : REQUEST FOR LEGAL OPINION AND RECOMMENDATION ON PIMC'S
LETTER REQUEST ON YEAR 2020 FINANCIAL COMMITMENTS TO
TIEZA AS PER LEASE, OPERATION AND MANAGEMENT AGREEMENT**

Reference is made on the request of Premiere Islands Management Corporation (PIMC) on the following:

1. Consideration on relief on monthly rental charges, instead to apply and collect only 5% of whatever sales PIMC can generate (dated 27 April 2020)
2. Request to sublease a portion of the Iloilo Convention Center (ICON) for long-term clients, that will have no legal or moral impact on the business to cover overhead expenses and upkeep of the Convention Center (dated 15 May 2020)
3. Request for a fee relief for rental charges for 2020 (dated 15 May 2020)
4. Rental Condonation by waiving PIMC's Rental for April to June 2020 and 50% discount on rental fee until such time the economy will recover (dated 14 July 2020)

BACKGROUND

The Megaworld Corporation donated a parcel of land with an area of more or less Seventeen Thousand Three Hundred Seventy-one square meters (17,371) located in Iloilo Business Park in Mandurriao, Iloilo City to the Department of Tourism (DOT). **The land was donated on the condition that it shall be used for the sole purpose of constructing and developing the Iloilo Convention Center (ICC)**

The DOT accepted the donation and bound itself to be responsible in **ensuring that the entity to be awarded the Operation and Management of the ICC shall faithfully observe, follow and conform to the use of the parcel of land as a Convention Center.**



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

Pursuant to the Deed of Donation executed between Megaworld Corporation and the DOT, a **Memorandum of Agreement was executed between the DOT and TIEZA**, stipulating among others that,

1. **TIEZA shall ensure that the entity who will be awarded with the Operation and Management of the ICC shall faithfully observe, follow and conform with the exclusive use of the property as a convention center;**
2. **TIEZA or through a qualified operator who will be awarded the Operation and Management of the ICC shall supervise and monitor the activities and utilized of the ICC to ensure that its facilities are used exclusively to attract, promote, facilitate and service large scale events, international fairs and conventions, congresses, exposition and the like;**
3. All income generated from the Operation and Management of the ICC shall accrue to TIEZA, subject to the appropriate government and accounting and calculating procedures.

In order to maximize the potentials of the ICC and pursuant to the provisions in the Memorandum of Agreement, TIEZA conducted a public bidding for its Lease, Operation, Management and Maintenance.

Premier Island Management Corporation (PIMC) submitted the lone bid. After careful evaluation, PIMC's bid was found to be compliant and was declared as the Winning Bidder.

On March 11, 2016, the Contract for the Lease, Operation and Management (LOM) of ICC was signed by PIMC and TIEZA.

In view of the above-mentioned request of PIMC, the following are the financial commitments of PIMC as per contract (LOM Agreement):

5.1.3 Secured Nominal Committed Capital

The Committed Capital in the total amount of Philippine Pesos: Eighty Eight Million (Php 88,000,000.00) to be infused into the ICC based on the schedule of equity infusion indicated in the Bid Proposal and Annex "H" of this Agreement and made an integral part hereof.

5.1.1 Secured Nominal Fixed Revenue

The nominal Annual Fixed Payments, before taxes, in the total amount of Php 36,149,738.00 for the first twenty five years payable based on the Schedule of Annual Php Financial Commitments indicated in Annex "H" of this Agreement and made an integral part hereof.

5% Escalation every 3 years

5.1.2 Percentage Share in Projected Revenues



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

The Percentage Share in Projected Revenues equivalent to 15% of Actual Gross Revenues. Of this, the Operator commits to secure the equivalent of 5% of its Projected Annual Gross Revenues for ICC, in the total amount of Php 37,904,529.00 for the first twenty five years as indicated in Annex "H" of this Agreement and made an integral part hereof.

A letter reply to PIMC from TIEZA dated 08 June 2020 was made requesting the following additional information necessary for the review of their request letter to TIEZA dated 27 April 2020 and two (2) letters dated 15 May 2020.

1. Revised Projected Revenue for the years 2020 and 2021, including assumptions used.
2. Comparative Matrix of original projections and the revised projections; and to include the Peso Share of TIEZA in Gross Revenue, and the Secured Peso Share in Gross Revenue. The original projections are the numbers submitted during the bidding for the ICC's LOM.
3. Schedule of Fixed Fees for the entire 25- year period, indicating the amount already paid and the amounts proposed to be deferred or waived.

PIMC submitted the above information as attachment to their letter to TIEZA dated 14 July 2020. Upon checking on the above-mentioned information requested from PIMC, please find below the following reviews:

1. **Revised Projected Revenue for the years 2020 and 2021, including assumptions used.**

PIMC submitted under the heading "ICON SALES PERFORMANCE" with notations that figures are all based on tentative bookings and no guarantee that it will push thru as Iloilo by July 16, 2020 will be back to GCQ due to increase numbers of Coved 19 cases.

2. **Comparative Matrix of your original projections and the revised projections; and Kindly include the Peso Share of TIEZA in Gross Revenue, and the Secured Peso Share in Gross Revenue. The original projections are the numbers submitted during the bidding for the ICC's LOM.**

PIMC submitted under the heading Percentage Share in Projected Revenues that includes 15% Peso Share of TIEZA from Annual Projected Gross Revenue (APGR) and the 5% Secured Peso Share from APGR but basis of APGR is not the same amount presented in "ICON Sales Performance" thus the 15% Share from APGR and 5% Secured Peso Share from APGR also is not the same amount if basis of AGPR is the "ICON Sales Performance". Please see matrix data in blue ink as attachment on Comparative 15% and Secured 5% Share from Annual Projected Gross Revenue per LOM Agreement Vis a Vis to Revised Annual Projected Gross Revenue submitted by PIMC compared to APGR based on "ICON Sales Performance" in black ink.



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

 (+632) 510-9931
 brdd.tieza@gmail.com
 www.tieza.gov.ph

Clarification call had been made to PIMC on the above discrepancy thus PIMC sent a letter dated 06 August 2020 as an addendum to the requirement submitted dated 14 July 2020 that includes:

- a. Basis of its ICON Sales Performance
 - b. Corrected Percentage Share in Projected Revenues that includes 15% Peso Share of TIEZA from Annual Projected Gross Revenue (APGR) and the 5% Secured Peso Share from APGR
 - c. Performance Security Bond that includes Year 2020.
 - d. Correction on the amount of 2019 Performance Bond
3. **Schedule of Fixed Fees for the entire 25- year period, indicating the amount already paid and the amounts proposed to be deferred or waived.**

PIMC submitted the following:

- a. Secured Nominal Committed Capital
Per report, PIMC compliance on Committed Capital based on Equity Infusion Schedule was made from 2016 -2018. No report for Year 2019.

Clarification call had been made to PIMC as to its 2019 Secured Nominal Committed Capital, PIMC sent thru email summary of its 2019 compliance to Secured Nominal Capital and scanned copies of receipts as supporting documents.

- b. Secured Nominal Fixed Revenue
Per report, PIMC compliance on Fixed Revenue based on the Schedule of Annual Financial Commitment was from 2016 – 2019 and partial of 2020 in the amount of Php630,000.00 or 50% of the Secured Fixed Revenue.
- c. Percentage Share of Projected Revenue
Per report, PIMC's compliance to 15% Share in Actual Gross Revenue has been made from 2016 -2019 and has reflected the 15% Percentage Share of TIEZA from the Revised Projected Annual Gross Revenue or the Equivalent of Secured 5% Share of TIEZA from the Revised Projected Annual Gross Revenue.
- d. Performance Security in the Form of Performance Bond
Per report, PIMC's compliance on Performance Bond has been made from Year 2016 – 2019. For Year 2020, PIMC did not reflect in its report but has sent earlier copies of the Performance Bond submitted to Legal Department that forms part of documents for their review.

Clarification call has been made to PIMC thus PIMC included in its letter dated August 6, 2020 as an addendum to the requirement submitted dated 14 July 2020 that includes the 2020 Performance Bond.



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

Based on the Payments and Remittance on the above Financial Commitment of PIMC to TIEZA

1. PIMC has infused capital from 2016 -2019 based on its scheduled equity infusion.
2. PIMC has been updated on its payment of Annual Fix Payment from Year 2016 -2019 and has made payment of 50% of the scheduled secured nominal fix revenue.
3. PIMC has remitted to TIEZA its 15% share of ICC's Actual Gross Revenue from year 2016 – 2019.

A. Financial Commitment on Percentage Share based in Projected Revenue per LOM Vis a Vis Actual 15% Share of TIEZA Remitted:

Based on PIMC's Financial Commitment on Percentage Share in Projected Revenues equivalent to 15% of Actual Gross Revenues. Of this, PIMC commits to secure the equivalent of 5% of its Projected Annual Gross Revenues for ICC as indicated in Annex "H" of this Agreement and made an integral part hereof. Please find below comparative Projection on 15% share of TIEZA per contract and the actual remittance made.

Projected Annual Gross Revenue	Projected TIEZA's 15% Share	15% Share of TIEZA Remitted
Year 1 (2016) Php14,400,000.00	Php2,160,000.00	Php1,887,586.00
Note: Month Started April 25, 2016 thus prorated based on 8 Months of Operation for year		
2016 Php 9,600,000.00	Php1,440,000.00	Php1,887,586.00
Year 2 (2017) Php15,840,000.00	Php2,376,000.00	Php5,039,350.55
Year 3 (2018) Php17,568,000.00	Php2,635,200.00	Php5,046,565.20
Year 4 (2019) Php18,446,400.00	<u>Php2,766,960.00</u>	<u>Php4,102,769.32</u>
Total	Php9,218,160.00	Php16,076,271.07

Based on the secured 5% share of TIEZA from Projected Annual Gross Revenue:

Year 1 (2016) Php 720,000.00	
Year 2 (2017) Php 792,000.00	
Year 3 (2018) Php 878,400.00	
Year 4 (2019) <u>Php 922,320.00</u>	
Total	Php3,312,720.00
Year 5 (2020) Php968,436.00	



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

Comparative Analysis:

- Based on the total remittance made by PIMC on TIEZA's 15% Share on Annual Gross Revenue of ICC vis a vis the secured 5% share of TIEZA from Projected Annual Gross Revenue, **PIMC has remitted 385.29% more from its secured 5% share of TIEZA.** $(16,076,271.07 - 3,312,720.00) / 3,312,720.00 \times 100\% = 385.29\%$
- Based on the total remittance made by PIMC on TIEZA's 15% Share on Annual Gross Revenue of ICC vis a vis the Projected 15% share of TIEZA from Projected Annual Gross Revenue, **PIMC has remitted 74.40% more from its Projected 15% Share of TIEZA of Projected Annual Gross Revenue** $(16,076,271.07 - 9,218,260.00) / 9,218,260.00 \times 100 = 74.40\%$.

A. Presentation of Total Financial Commitment of PIMC per LOM (Secured Nominal Fixed Revenue and Percentage Share in Projected Revenue) vis a vis PIMC Request and TIEZA Option.

Based on PIMC's Schedule Annual Php Financial Commitment to TIEZA per LOM As Annex H (Year 2016 - 2019)

Based on Actual Remitted to TIEZA (Year 2016 -2019)

Secured Nominal
Fixed Payment (Rent) Php 4,473,333.33

Secured Nominal Peso 15%
Share in Gross Revenue Php 9,218,160.00

TOTAL **Php13,691,493.33**

Php 4,473,333.33

Php16,076,271.07

Php20,549,604.40

Add: Year 2020

OPTION 1

PIMC Request

1. Secured Nominal Fixed Payment

Yearly Php1,260,000.00

Monthly Php 105,000.00

Breakdown:

Jan- March 2020

3 mo. x Php105,000=315,000.00

April – June 2020 = 000,000.00

(relief on monthly charges)

July – December 2020

50% x 6 mo. x Php105,000

=315,000.00

Secured Nominal
Fixed Payment (Rent) Php 1,260,000.00

= Php 630,000.00



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

**2. Secured Nominal Peso Share in
Gross Revenue**

Per PIMC Request to apply and
collect only 5% of whatever sales
PIMC can generate (dated 27 April
2020) based on Actual Sales from Jan
– March 2020 and Revised APGR per
14 July 2020
Sales Projection in the amount of
Php482, 598.56

**Grand Total from Year 2016-
2020 under Option 1 is
Php21,662,202.96**

OPTION 2

**1. Secured Nominal Fixed
Payment**

PIMC Request

Breakdown:

Jan- March 2020

3 mo. x Php105,000=315,000.00

April – June 2020 = 000,000.00
(relief on monthly charges)

July – December 2020

50% x 6 mo. x Php105,000

=315,000.00

= Php 630,000.00

**2. TIEZA's Secured Nominal Share
of 5% or 15% of Actual Gross
Revenue (whichever is higher)**

Considerations:

*TIEZA's Secured Nominal Share of
5%

Per LOM is **Php 968,436.00**

*Actual Sales of PIMC as of March
2020

is $\text{Php}4,928,121.29 \times 15\% =$

Php 739,218.19

*TIEZA's 15% based on PIMC's

Revised APGR during Covid 19 is

$(9,651,971.29 \times 15\%) =$

Php1,447,795.69



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

Difference on TIEZA's Secured Nominal
Share of 5% per LOM vis a vis TIEZA's 15%
Of Actual Sales of PIMC as of March 2020
(968,436.00-739,218.19) =
Php229, 218.00

**PIMC needs to generate Actual Gross
Revenue from July – December 2020 in
the amount of Php1,528,120**
(229,218.00/ 15% =1,528,120)

Secured Nominal Peso 15%
Share in Gross Revenue submitted
During the bidding for the LOM
Of ICC and form part of the LOM
Php2,905,308.00

The revised APGR of PIMC during
Covid 19 from July – December 2020 is
Php4,723,850.00.

Thus per LOM, the Secured 5% Share in
Gross Revenue should remain as PIMC's
Financial Commitment to TIEZA or 15% of
Actual Gross Revenue (Whichever is
higher) with a minimum of Secured Peso
Share of **Php968,43600.**

Grand Total
Php17,856,801.33
^^^^^^^^^^^^^^^^^^

**Grand Total from Year 2016-2020
under Option 2 is**
Php22,148,040.40
^^^^^^^^^^^^^^^^^^

Comparative Analysis:

OPTION 1

Comparing TIEZA's Total Revenue from 2016 -2020 generated based on PIMC's Schedule Php
Financial Commitment to TIEZA per LOM in the amount of **Php17,856,801.33** compared to
PIMC's request under Option 1 in the Total amount of **Php21,662,202.96** , **TIEZA's Total
Revenue is still higher in the amount of Php3,805,401.63 or by 21.31%.**

OPTION 2

Comparing TIEZA's Total Revenue from 2016 -2020 generated based on PIMC's Schedule Php
Financial Commitment to TIEZA per LOM in the amount of **Php17,856,801.33** compared to
the Secured Nominal 5% Share or Actual Sales per LOM (whichever is higher) under Option
2 in the Total Amount of **Php22,148,040.40**, **TIEZA's Total Revenue is still higher in the
minimum amount of Php4,291,239.07 or by 24.03%.**



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

Based on the above review and analysis, the following recommendations are made on the following request of Premiere Islands Management Corporation (PIMC):

- 1. Consideration on relief on monthly rental charges, instead to apply and collect only 5% of whatever sales PIMC can generate (dated 27 April 2020). Based on the letter of PIMC Dated 14 July 2020 that they have to reduce their rates due to reduce in capacity.**

Considerations:

The following are the Basis on the revised Annual Projected Gross Revenue was made By PIMC brought about by the Covid 19 Pandemic

- All events on the last half of March are canceled and entire months of April – June 2020
- Quarantine restrictions on mass gathering and travel restrictions were significant factors in pulling out their events.
- Iloilo despite easing up on restrictions, clients are still hesitant to hold events.
- DOH cancelled due to directive that all government events are put on hold.
- Enumerated Bookings were cancelled and on tentative bookings and no guarantee to push through and waiting for travel restrictions to be lifted and clearance to hold social and mass gatherings.
- Most of the 2020 events were postponed to 2021 but have not confirmed with payments until restrictions on travel and mass gatherings are lifted.

The reduce in capacity is in compliance to Department of Tourism's (DOT) Memorandum Circular 2020-006 on Health and Safety Guidelines Governing the Operations of MICE Organizers and Venues or Facilities under the New Normal specifically Section 6 Letter E No. 1 on Venue Handling that states " Ensure that seats are arranged at least one (1) meter between participants during event proper, including during meals and other interactions."

Under DOT's Administrative Order No. 2020-03, MICE suppliers, exhibitors, and venue operators can only use up to 50 percent of the total venue capacity. Moreover, only those living in areas under MGCQ can participate in MICE events.

Recommendation:

The following options are recommended:

Option 1:

Approved PIMC's request that TIEZA's share of 5% on Actual Gross Revenue with a minimum amount of **Php482, 598.56 based on actual sales from January to**



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

 (+632) 510-9931
 brdd.tieza@gmail.com
 www.tieza.gov.ph

March 2020 and Revised Projected Annual Projected Gross Revenue submitted by PIMC subject to TIEZA's MANCOMM recommendation to the Board of Director's Approval. Please see Option 1 No. 2 above on Secured Nominal Peso Share in Gross Revenue

This is consideration of the following:

1. Based on the total remittance made by PIMC on TIEZA's 15% Share on Annual Gross Revenue of ICC vis a vis the secured 5% share of TIEZA from Projected Annual Gross Revenue from Year 2016 -2019 and Projected 2020, **PIMC's remittance will be 385.29% more from its secured 5% share of TIEZA.**
2. Based on the total remittance made by PIMC on TIEZA's 15% Share on Annual Gross Revenue of ICC vis a vis the Projected 15% share of TIEZA from Projected Annual Gross Revenue from Year 2016-2019 and Projected 2020, **PIMC remittance will be 74.40% more from its Projected 15% Share of TIEZA on Projected Annual Gross Revenue.**

Option 2:

Retain the secured 5% share on Gross Annual Revenue as stipulated in the LOM Agreement in the amount of **Php968,436.00** instead of the 5% Actual Gross Revenue as requested by PIMC. Based on the 15% Share on Actual Gross Revenue of TIEZA from January to March 2020, TIEZA would have a share of **Php739,218.19**. Difference on TIEZA's Secured Nominal Share of 5% vis a vis TIEZA's 15% of Actual Sales of PIMC as of March 2020 is **Php229,218.00**.

PIMC needs to generate Actual Gross Revenue from July – December 2020 in the amount of Php1,528,120 ($\text{Php1,528,120} \times 15\% = \text{Php229,218.00}$) and the revised APGR of PIMC during Covid 19 from July – December 2020 is **Php4,723,850.00** that will generate **Php 708,577.50** ($\text{Php4,723,850} \times 15\% = 708,577.50$) that is more than enough to cover the difference of the 5% Share on Gross Revenue of **Php229,218.00**.

2. **Request for a fee relief for rental charges for 2020 (dated 15 May 2020) and subsequently PIMC requested that the rental condonation by waiving PIMC's Rental for April to June 2020 and 50% discount on rental fee until such time the economy will recover (dated 14 July 2020)**

Considerations:

REPUBLIC ACT 11469 OR THE "BAYANIHAN TO HEAL AS ONE ACT" (the "Act") has been made to address the Covid 19 Pandemic

- A 30-day grace period has been extended to commercial rents falling due upon MSMEs within the period of ECQ without incurring interests, penalties, fess and



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

 (+632) 510-9931
 brdd.tieza@gmail.com
 www.tieza.gov.ph

other charges subject to the guidelines to be issued by the Department of trade and industry.

DTI has also issued Memorandum Circular No. 20-12 Series of 2020 on Guidelines on the Concession of residential rents: Commercial Rents of MSMEs. But such Guidelines is very specific to MSMEs and Residential but based on the guidelines issued by DTI, it has recognized the impact of COVID 19 Pandemic to business that includes ICC thus granting grace period for payment of rents.

The Department of Tourism said the industry has incurred **66 percent decline in revenue from tourism in the first six months of the year due to the COVID-19 pandemic.**

Travel restrictions were implemented by the government as part of its goal to control the spread of the infectious disease which led to thousands of flights and cruise trips canceled.

Tourism Undersecretary, Benito Benzoin, told CNN Philippines' Newsroom Ngayon that they have estimated tourism revenue of ₱81 billion for the first six months of 2020, down from ₱243 billion recorded in the same period last year.

Recommendation:

OPTION 1

Per LOM Agreement on the Annual Secured Fix Payment of Php1,260,000.00 for year 2020, TIEZA will still collect the same amount but **grant grace period for its payment** subject to TIEZA's MANCOM recommendation to the Board of Director's approval.

OPTION 2

Grant PIMC's request on rental condonation by waiving PIMC's Rental for April to June 2020 and 50% discount on rental fee from July – December 2020 with a total amount of Php630,000.00 for Year 2020 **and/or waive its rental on months the Administrative Order 2020-003 dated 14 July 2020 also known as Guidelines on MICE Operations under the Modified General Community Quarantine (MGCQ) and Executive Orders from the City Government that prohibits mass public gathering such as but not limited to concerts, sporting events and other entertainment activities, community assemblies, religious gatherings and non-essential work gatherings.** Based on the guidelines, MICE events in areas under enhanced community quarantine (ECQ), modified ECQ, and general community quarantine (GCQ) are strictly prohibited. MICE can be held only in areas under the MGCQ only at 50 percent capacity, according to the guidelines set by the Department of Tourism and (DOT).



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

Yearly Php1,260,000.00
Monthly Php 105,000.00
Breakdown:
Jan- March 2020
3 mo. x Php105,000 = Php315,000.00
April - June = 000,000.00
(relief on monthly charges)
July - Dec
50% x 6 mo. x Php105,000 = Php 315,000.00
Total = **Php 630,000.00**

3. Request to sublease a portion of the Iloilo Convention Center (ICON) for long-term clients, that will have no legal or moral impact on the business to cover overhead expenses and upkeep of the Convention Center (dated 15 May 2020)

PIMC informed TIEZA on its letter dated 14 July 2020, that NEARSOL Philippines will have an event for one (1) month to be held at Function Rooms 1- 4 with a reduced daily rate of Php18,217.90 versus the published rate of Php68,000.00. A clarification call was made with PIMC regarding NEARSOL Philippines. PIMC further informed that it is a call center but business will not be conducted at ICC but it will be utilized for training for one (1) month.

Reference is made to the Philippine Department of Tourism Website on Meeting, Incentives, Conventions and Exhibitions (MICE) specifically paragraph 3 ... "The Convention Industry now became known by the acronym: M.I.C.E, which stands for Meetings, Incentives, Conventions and Exhibition/Events."

As per DOT Memorandum Circular 2020-006 on Health and Safety Guidelines Governing the Operations of MICE Organizers and Venues or Facilities under the New Normal, per

Its definition of terms under Article 1 General Provisions Section 2 Definition of Terms . For the purpose of these Guidelines, the following terms means

(e) "MICE" shall refer to Meeting, Incentive, Convention, Exhibition and business events industry.

(f) "MICE Events" shall refer to MICE-related activities including business meetings, congresses, conventions, incentive trips, product presentations, **business courses**, conferences, and seminars.

(g) "MICE Exhibitor" shall refer to a person or organization **who rents an area** from the MICE Organizer, usually setting up a booth in the MICE Venue, to meet with



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

Attendees for purposes of networking, marketing, generating sales, or acquiring potential clients.

(h) "MICE Organizer" refers to an entity engaged in the business of managing or organizing congresses, conventions, meetings, conferences, exhibitions, or similar events in a professional manner for a fee or any form of remuneration.

(i) "MICE Suppliers" shall refer to persons or organizations that supply goods and services for the holding of MICE events, including freight forwarders, contractors, and caterers.

(j) "MICE Venue/Facility" shall mean a physical space designed and provided for events, exhibitions, meetings, conferences, and conventions for a fee or any form of remuneration.

Based on the above information, NEARSOL Philippines rents an area of ICC to be used as one of MICE-related activity such as business courses where in a process such as lectures or other matter dealing with a subject is conducted.

In addition, the above request has been forwarded to your office (Legal Department) for legal opinion and recommendation on the above-mentioned request "to sub-lease a portion of ICON or ICC for long term clients....", taking into consideration the following:

a. Deed of Donation

The Megaworld Corporation donated a parcel of land with an area of 17,371 sq. meters in Iloilo City to the Department of Tourism. **The land was donated on the condition that it shall be used for the sole purpose of constructing and developing the Iloilo Convention Center (ICC).**

Pursuant to the Deed of Donation executed between Megaworld Corporation and the DOT, a **Memorandum of Agreement was executed between the DOT and TIEZA, stipulating that TIEZA shall ensure that the entity who will be awarded with the Operation and Management of the ICC shall faithfully observe, follow and conform with the exclusive use of the property as a convention center;**

b. Lease, Operation and Management Agreement with PIMC and TIEZA specifically on the following:



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

 (+632) 510-9931
 brdd.tieza@gmail.com
 www.tieza.gov.ph

1. Article 2: Scope

1.1 The LOM of the ICC by the Operator shall be subject to the provisions of this Agreement, Bid Proposal inclusive of its financial projections, and the restrictions and conditions imposed by the Deed of Donation Condition:

- **Deed of Donation**

The land was donated on the condition that it shall be used for the sole purpose of constructing and developing the Iloilo Convention Center.

- **MOA DOT and TIEZA**

TIEZA shall ensure that the entity who will be awarded with the Operation and Management of the ICC shall faithfully observe, follow and conform with the exclusive use of the property as a convention center;

2. Article 2: Scope

Article 2. 2.1

Marketing and Operations

Manage the day to day operations of the ICC and undertake activities including but not limited to the following:

- Sub-lease portions of the ICC subject to the prior written approval of TIEZA, For purposes of accessory use such as but no limited to retail outlets, advertising space, etc. If TIEZA does not take any action with a period of Fifteen (15) Calendar days, then said request for written approval shall be deemed approved.

3. Article 7: Roles and Responsibilities of the Parties

Article 7. 1 The following are the OPERATOR's obligations and Responsibilities

Article 7.1. 4

The OPERATOR hereby agrees to continue the business presently ongoing in the ICC as received by it. **Provided that the ICC shall continue to be used only for purposes as a convention center, the OPERATOR may only introduce changes to the operation and management of the ICC to ensure its economic viability, but subject to prior written approval by TIEZA as provided in the aforementioned provisions.** To this end, the operator is hereby given full authority to likewise undertake necessary marketing and sales activities within the ICC to promote its utilization by the public, **provided that such marketing and sales efforts, and the very operations of the ICC itself shall not cause any dispute to the TIEZA, the DOT and the republic of the Philippines.**



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

 (+632) 510-9931
 brdd.tieza@gmail.com
 www.tieza.gov.ph

Article 7.1.10

In addition to the foregoing, **the OPERATOR shall likewise be bound to observe all the obligations and responsibilities as detailed in the TOR, Bid Proposal and the Deed of Donation.**

LEGAL BASIS

TIEZA's mandate under Republic Act 9593 includes exercising functions previously exercised by predecessor, the Philippine Tourism Authority (PTA) under Presidential Decree No. 564, unless otherwise inconsistent with the other provisions of said Republic Act.

Included in the powers and functions of PTA is the Reservation of Power Necessary to Carry out the Authority's Purposes, Functions and Objectives,

"To do any and all acts and things necessary, convenient and expedient to be done to carry out the purposes for which the Authority is created and organized and not repugnant to law, it being hereby expressly provided that the enumeration herein of specific purposes, objects, business, powers, rights, and privileges shall not be construed as limiting or restricting in any way the general purposes, powers, rights, and privileges to be possessed and exercised by the Authority."

Deed of Donation executed between Megaworld Corporation and the DOT of which Megaworld donated a parcel of land with an area of 17,371 sq. meters in Iloilo City to the Department of Tourism. The land was donated on the condition that it shall be used for the sole purpose of constructing and developing the Iloilo Convention Center (ICC).

Memorandum of Agreement executed between the DOT and TIEZA, stipulating that TIEZA shall ensure that the entity who will be awarded with the Operation and Management of the ICC shall faithfully observe, follow and conform with the exclusive use of the property as a convention center.

The Lease, Operation and Management Agreement by and between TIEZA and PIMC on ICC dated March 11, 2016.

DOT Memorandum Circular 2020-006 on Health and Safety Guidelines Governing the Operations of MICE Organizers and Venues or Facilities under the New Normal as per Administrative Order 2020-003 dated 14 July 2020 also known as Guidelines on MICE Operations under the MGCQ. Based on the guidelines, MICE events in areas under enhanced community quarantine (ECQ), modified ECQ, and general community quarantine (GCQ) are strictly prohibited.



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

 (+632) 510-9931
 brdd.tieza@gmail.com
 www.tieza.gov.ph

Interagency Task Force for the Management of Emerging Infectious Diseases Resolution No. 60-A July 30, 2020 on the amended Community Quarantine Classification of provinces, Highly Urbanized Cities (HCUCs), and Independent Component Cities (ICC) based on Epidemic risk level, economic, social, and security considerations and the appeals and commitment of local government units (LGUs) shall be adopted.

LGU's Executive Orders specifically Executive Order (EO) no. 113-A Series of 2020 that amends Section 2 (B) and Section 2 (c) of EO 113, s 2020 on the amendment on provisions of curfew and restrictions on movements dated 6 August 2020.

POTENTIAL PROBLEMS

No disadvantage to TIEZA can be anticipated at this point considering that PIMC has posted a Performance Security in the form of Performance Bond on Secured Nominal Committed Capital, Secured Nominal Fixed Revenue, and Secured Nominal Pesos Share from Gross Revenue

FUND AVAILABILITY

No Funds is required for the above request of PIMC to TIEZA.

DESIRED ACTION OF THE ASSETS MANAGEMENT SECTOR FROM THE OFFICE OF THE CHIEF OPERATING OFFICER

1. The Chief Operating Officer's consideration on the options presented on the basis that the Lease, Operation and Management (LOM) Contract specifically provides in Section 5.1.2.2 that "Any adverse deviation from the revenue projections of the Operator shall be subjected to due and detailed diligent evaluation by TIEZA."
2. Approval of the recommendation based on presented options after a review, analysis and considerations has been made on PIMC's request as follows:
 - a. Consideration on relief on monthly rental charges, instead to apply and collect only 5% of whatever sales PIMC can generate (dated 27 April 2020).

Recommending Options 2:

Retain the secured 5% share on Gross Annual Revenue as stipulated in the LOM Agreement in the amount of **Php968,436.00** instead of the 5% Actual Gross Revenue as requested by PIMC. Based on the 15% Share on Actual Gross Revenue of TIEZA from January to March 2020, TIEZA would have a share of **Php739,218.19**. Difference on TIEZA's Secured Nominal Share of 5% vis a vis TIEZA's 15% of Actual Sales of PIMC as of March 2020 is **Php229,218.00**.



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

 (+632) 510-9931
 brdd.tieza@gmail.com
 www.tieza.gov.ph

PIMC needs to generate Actual Gross Revenue from July – December 2020 in the amount of Php1,528,120 ($\text{Php}1,528,120 \times 15\% = \text{Php}229,218.00$) and the revised APGR of PIMC during Covid 19 from July – December 2020 is **Php4,723,850.00 that will generate Php 708,577.50** ($\text{Php}4,723,850 \times 15\% = 708,577.50$) that is more than enough to cover the difference of the 5% Share on Gross Revenue of $\text{Php}229,218.00$.

- b. Rental Condonation by waiving PIMC's Rental for April to June 2020 and 50% discount on rental fee until such time the economy will recover (dated 14 July 2020)

Recommending Option 2

Grant PIMC's request on rental condonation by waiving PIMC's Rental for April to June 2020 and 50% discount on rental fee from July – December 2020 with a total amount of $\text{Php}630,000.00$ for Year 2020 **and/or waive its rental on months the Administrative Order 2020-003 dated 14 July 2020 also known as Guidelines on MICE Operations under the Modified General Community Quarantine (MGCQ) and Executive Orders from the City Government that prohibits mass public gathering such as but not limited to concerts, sporting events and other entertainment activities, community assemblies, religious gatherings and non essential work gatherings.** Based on the guidelines, MICE events in areas under enhanced community quarantine (ECQ), modified ECQ, and general community quarantine (GCQ) are strictly prohibited. MICE can be held only in areas under the MGCQ only at 50 percent capacity, according to the guidelines set by the Department of Tourism and (DOT).

Yearly $\text{Php}1,260,000.00$

Monthly $\text{Php } 105,000.00$

Breakdown:

Jan- March

3 mo. x $\text{Php}105,000 = \text{Php}315,000.00$

April – June = 000,000.00

(relief on monthly charges)

July – Dec




50% x 6 mo. x $\text{Php}105,000 = \text{Php } 315,000.00$

Total = **Php 630,000.00**



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

 (+632) 510-9931
 brdd.tieza@gmail.com
 www.tieza.gov.ph

- c. Request to sublease a portion of the Iloilo Convention Center (ICON) for long-term clients, that will have no legal or moral impact on the business to cover overhead expenses and upkeep of the Convention Center (dated 15 May 2020)

Recommendation:

Grant PIMC request if legal opinion and recommendation is favorable to the request of PIMC subject to approval of TIEZA's Board of Directors.

The above recommendations has been made taking into consideration the present status of the tourism industry being one of the industries hardest affected by Covid 19 Pandemic as expressed by the different tourism organizations, Tourism Congress of the Philippines (TCP) and Philippine Tour Operators Association of the Philippines (Philotoa), that resulted in the lobbying of financial assistance with support from the Department of Tourism (DOT) on the approval of Bayanihan 2 which will be instrumental in DOT's mission to help the critically impacted tourism-related enterprises, mostly micro, small, and medium enterprises (MSMEs) to get back on their feet. TCP President, Jose Clamente III, noted that "government assistance will be vital to the tourism industry's survival" as posted in DOT's website dated July 29, 2020.

In addition, despite the IATF's classification of Iloilo City under Modified General Community Quarantine (MGCQ), Iloilo City might shift to GCQ or MECQ if and when Covid 19 cases increases and we expect the continuing imposition of community quarantine measures until 2021 until a vaccines is administered nationwide.

Domestic travel will continue to be lower until the end of 2020 and may extend to 2021 than pre - Covid 19 pandemic. Despite DOT allowing the operation of MICE on the condition that the area where a MICE Venue is located is on MGCQ, clients are still hesitant to hold events especially if there are still participants coming from a GCQ and MGCQ areas . In addition, with the recent shift to Webinar as an alternative way of conducting meetings, seminars and conferences, face to face meetings, seminars and conferences share on the market as MICE Venue will be affected.

In view of the above, we are requesting for your legal opinion and recommendation in addition to earlier requested dated 27 May 2020 taking into consideration the above information, review, analysis and recommendation with options presented.




**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

(+632) 510-9931
brdd.tieza@gmail.com
www.tieza.gov.ph

We appreciate to have your reply by September 10, 2020.

Thank you.


JETRO NICOLAS F. LOZADA
Assistant Chief Operating Officer
Assets Management Sector

Attachments:

- ✓ 1. PIMC's letter dated 27 April 2020
- ✓ 2. Two (2) PIMC's letter Dated 15 May 2020
- ✓ 3. TIEZA's letter reply dated 08 June 2020
- ✓ 4. PIMC's letter reply to TIEZA dated 14 July 2020 with attachments
 - ✓ a. PIMC's report on Revised Projected Sales Projections
 - ✓ b. PIMC's Report on 15% Share on Gross Revenue and Performance Security thru Performance Bonds
 - ✓ c. PIMC's Report on Financial Commitment on Secured Committed Capital and Secured Nominal Fixed Revenue
- ✓ 5. PIMC's letter dated 06 August 2020 as addendum to 14 July 2020 letter
- ✓ 6. Comparative 15% and 5% Share on Annual Project Gross Revenue per LOM Agreement, Projected before Covid 19 and and Projected after Covid 19
- ✓ 7. PIMC's 2019 Summary on Committed Capital
- ✓ 8. PIMC's 2019 Committed Capital with Receipts
- ✓ 9. PIMC's Proof of Payment of 15% Share on 4th Quarter 2019 Actual Annual Gross Revenue
- ✓ 10. PIMC's Proof of Payment of 2020 Secured Nominal Fix Revenue
- ✓ 11. PIMC's Performance Bond on Fixed Revenue
- ✓ 12. PIMC's Performance Bond on Peso Share on Annual Gross Revenue
- ✓ 13. PIMC's Performance Bond on Committed Capital
- ✓ 14. TIEZA and PIMC's LOM Agreement
- ✓ 15. Annex H of the LOM Agreement – Financial Commitment of PIMC
- ✓ 16. IATF Resolution No. 60A
- ✓ 17. DOT Memorandum Circular 2020-006 on Health and Safety Guidelines Governing the Operations of MICE Organizers and Venues or Facilities under the New Normal as per Administrative Order 2020-003 dated 14 July 2020 also known as Guidelines on MICE
- ✓ 18. LGU Iloilo City Executive Order No. 113-A series of 2020 dated 06 August 2020
- ✓ 19. Request for Legal Opinion dated 27 May 2020 on PIMC's request permission to allow sub-leasing on some portions of Iloilo Convention Center
- ✓ 20. Request for Legal Opinion dated 27 May 2020 on PIMC's request for relief of rental charges.
- ✓ 21. Published Materials as References:
 - ✓ a. More PH Malls waive rental fees



**TOURISM
INFRASTRUCTURE AND
ENTERPRISE
ZONE
AUTHORITY**

6th & 7th Floors, Tower 1
Double Dragon Plaza
Double Dragon Meridian Park
Macapagal Avenue corner
Edsa Extension Bay Area
Pasay City 1308

☎ (+632) 510-9931
✉ brdd.tieza@gmail.com
🌐 www.tieza.gov.ph

b. Covid 19 and Force Majeure: Managing Contract Crisis in the Philippines
By: Baler Mckenzie