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DOCUMENT TRACKING / ACTION PAGE			DATE:	DOCUMENT HANDLER:
			SERIAL No. <b>BUDD-BRDD MEMO UPDATES 2020</b>	
FROM/SUBJECT:				
DATE	FROM	TO	REMARKS / ACTIONS	
Oct. 22, 2020	Noel Bayani 	Ms. Zeny Quinahan	Forwarded to your end the 2 <sup>nd</sup> Semester 2020 Updates on Issue Based Briefers of the following properties: - Lights & Sound Museum - Manila Ocean Park - Samal Island Tourism Estate	
11/03/20	Ma. Zenaida R. Quinahan	Ms. Ma. Evelyne A. Francisco	<p>Forwarding Updates on Issue Based Briefer of the above-mentioned properties for our information and initial prepared by its Project Officer, Emmanuel Luis V. Bayani, addressed to the Head Technical Assistant of the Chief Operating Officer. After initial has been affixed, requesting to forward to the Assistant Chief Operating Officer of Assets Management Sector.</p> <p>Per information of the Project Officer, the Update on Lights and Sound Museum has been sent already to Ms. Mitch Vivo. For your information, Mam.</p> <p> Ma. Zenaida R. Quinahan</p>	

**LEGEND:**

BDP- Business Development Plan  
AP-Asset for Privatization  
AT-Administrative Titling  
MP-Master Planning

VP-Valuation of Property  
PP-Project Profiling  
DB-Data Bank  
AR-Accomplishment Report

OM-Other Matters  
MM-Minutes of the Meeting



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**MEMO FOR** : **MS. MICHELLE MAE V. VIVO**  
*Head Technical Assistant*  
*Office of the Chief Operating Officer*

**FROM** : **EMMANUEL LUIS V. BAYANI**  
*Project Officer – Manila Ocean Park*

**SUBJECT** : **UPDATES ON ISSUE BASED BRIEFER FOR  
MANILA OCEAN PARK (MOP)**

**DATE** : October 20, 2020

**ISSUE: Recurring COA AOM on MOP**

1. TIEZA's 2% share on Gross Receipts from Hotel Room Operations not collected and recorded.
2. The Lease Agreement covering the Land Side Area extending the term for another 25 years prior to conclusion of existing contract on 2030 is grossly disadvantageous to the Government.

STEPS UNDERTAKEN	PROGRESS	REMARKS / PROBLEM AREAS ENCOUNTERED
A. October 12, 2020 – A Summary of Audit Observations, Recommendations and Management Comments was sent out by ACOO-AMS Jetro Lozada to BUDD and OPED. <ul style="list-style-type: none"><li>• Manila Ocean Park's was included due to the two (2) recurring AOM enumerated above.</li></ul>	October 15, 2020 – ACOO Jetro Lozada met with the Legal department to discuss the COA AOM.  ACOO Lozada requested the Legal Department to make a thorough study on issues concerning Manila Ocean Park.  Sir Jetro wants legal opinion on the following: a. On the Term Extension: <ul style="list-style-type: none"><li>• Since the amendment extending the term for another 25 years was not approved by the TIEZA Board, what happens to the Contract?</li></ul>	COPI insist that the 2% share from hotel room operations is anchored on the construction of the proposed Darling Hotel project at the land side area and not on the platform area.  When the original Lease Contract was signed on April 25, 2005 the agreement was China Oceanis Philippines, Inc. (COPI) shall pay a annual flat rate of P16,500,000 <ul style="list-style-type: none"><li>• There is no provision that percentage share on locators shall be collected.</li></ul> During the March 2015 TIEZA Board meeting the 25-year term extension was not approved by Sec. Jimenez.
B. COA encouraged us to meet with the Management of COPI regarding the AOMs.		



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<p>Steps were undertaken by the ACOO-AMS even before the COA came out with their latest suggestion as follows:</p> <p><b>September 25, 2017</b> A letter signed by ACOO AMS was sent to Lee Chee Yong (CEO &amp; Exec. Dir.) thru Van Kam Weng (GM-MOP) reminding COPI of their financial obligation to TIEZA as follows:</p> <p>a) Submission of Audited Financial Statements on revenues derived from parking operations.</p> <p>b) COPI's obligation to remit 2% share to TIEZA from Gross Revenues (Net of Tax) on hotel room operations. An amount of P14,015,283.19 was specifically mentioned based on COPI's submitted audited FS (2007 to 2016)</p> <p><b>October 6, 2017</b> Sir Jetro gave instructions to the Project Officer Reyna Palacay, to obtain COPI's detailed compliance of COPI's of their financial obligations to the Authority covering the period 2008 to 2016.</p> <p><b>October 10, 2017</b> Sir Jetro together with representatives from FSD (Bobot Ancheta), Legal (Atty. Shangrila Quezon), Althea Mariz Reynoso and Bernard Fajardo had</p>	<ul style="list-style-type: none"> <li>• Is it still valid and enforceable? Or is it now considered void?</li> </ul> <p>b. On the 2% Share from hotel room operations:</p> <ul style="list-style-type: none"> <li>• Do we have a legal basis to collect?</li> <li>• The contract stipulates that COPI shall make a yearly payment of P16,500,000. There is no provision to collect from locators.</li> </ul> <p>Sir Jetro wants to have a clear stand to be presented to top management for approval, before we meet with COPI key officers to settle these issues.</p>	
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a meeting with Mr. Van Kam Weng, Ms. Amy Poppaw and two other COPI representatives. The main agenda was to review COPI's compliance of their financial obligations to TIEZA as contained in the Lease Agreement.

**March 26, 2019**

Sir Jetro, together with four representatives from the Legal Department, had a meeting with Mr. Van Kam Weng, Ms. Amy Poppaw and their legal team.

Discussed the COA-AOM on the H2O Hotel and TIEZA's 2% share from gross revenue (net of Tax) from hotel room operations.

Ms. Poppaw informed us that:

- a. They have documents proving that all their plans were cleared by the Authority prior to its implementation. They committed to send us copies of said authorization.
- b. The 2% share from hotel room operations shall be taken from the Darling Hotel upon its completion and start of operations.

**Status:**

Despite follow-up calls, COPI has not submitted the said Authorization Letter.





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Immediately After the Meeting our Lawyers presented two options:

- a) Send MOP a Demand Letter for payment of the Authority's 2% share from H2O hotel's room operations;
- b) Collect damages/penalties from MOP for the unauthorized construction of the H2O hotel and come up with an addendum to the Contract of Lease.

Sir Jetro requested that further research be conducted on the matter and if possible seek OGCC opinion.

Noted by:

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

CC: COO Pocholo J.D. Paragas



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**MEMO FOR** : **MS. MICHELLE MAE V. VIVO**  
*Head Technical Assistant*  
*Office of the Chief Operating Officer*

**FROM** : **EMMANUEL LUIS V. BAYANI**  
*Project Officer – Lights & Sound Museum*

**SUBJECT** : **UPDATES ON ISSUE BASED BRIEFER FOR LIGHTS & SOUND MUSEUM**

**DATE** : **October 8, 2020**

**ISSUE:** On February 26, 2020 the DOF & DOT entered into a new Memorandum of Agreement that **"Supersedes all prior written or oral agreements, negotiations, commitments and understanding"**.

STEPS UNDERTAKEN	PROGRESS	REMARKS / PROBLEM AREAS ENCOUNTERED
<p>A. September 27, 2018 – Don Arawan (Head, Philippine Film Archive) met with COO Pocholo J.D. Paragas about the space for Cinematheque in the Lights and Sound Museum (Mentioned in the letter dated Nov. 28, 2018). It was agreed the TIEZA will house a film archive with its own film museum and a cinematheque within the property of LSM, specifically the storage area.</p> <p>November 28, 2018 – Mr. Arawan wrote a letter to ACOO Jetro Lozada requesting for a copy of the conceptual plan and/or design of LSM, specifically the storage area of their reference of the draft design that will be</p>	<p>1. January 9, 2019 – Engrs. John Domingo and Giovanni Rullan met with Don Arawan at the LSM and conducted a sight inspection. They identified the storage area that the FDCP were referring to. It is a separate building beside the LSM and has an approximate area of 875 sq.m.</p> <p>2. January 15, 2019 – Engr. John Domingo submitted his report (Noted by ACOO Engr. Nestor Domalanta) to Atty. Karen Baydo who was at that time the Head Technical Assistant of the OCOO.</p>	



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<p>proposed to the TIEZA Board.</p> <p>B. June 2019 FDCP requested the DOF that they be allowed to use a portion of the LSM building, Intramuros, Manila. Thereafter, the DOF forwarded their request to TIEZA.</p> <p>Sir Jetro and Atty. Kristin Liu had several meetings with Usec. Liza Mae Dino, Dir. Lara Estevez and representatives of FDCP regarding the latter's request.</p> <p>June 7, 2019 – In response to the OSEC's request for legal advice she received on June 3, 2019 Atty. Estevez sent a Memo to the DOT Secretary (thru Usec. Edwin Enrile). It was her opinion that:</p> <ol style="list-style-type: none"> <li>1. The existing MOA between DOT &amp; DOF has restrictions that prohibits FDCP from using the Allied Warehouse building.</li> <li>2. Both parties are legally bound to the provisions.</li> <li>3. To allow FDCP use of the property, two instruments must be executed:</li> </ol>	<ol style="list-style-type: none"> <li>1. The matter was referred to the Legal Department and was assigned to Atty Kristin Liu.</li> <li>2. There were several succeeding meetings between the DOF, DOT, I.A. and FDCP attended by Atty. Kristin discussing options on how to accommodate FDCP's request in light of the restrictions contained in the original MOA (Confirmed with Atty. Kristin Liu: 10/08/2020; 5:48 p.m.).             <ol style="list-style-type: none"> <li>a. October 22, 2019 – DOT, DOF, FDCP, I.A. and TIEZA had a meeting. It was agreed that a draft of the new MOA be prepared for DOT's possession of the Allied Warehouse. As requested by DOF:                 <ul style="list-style-type: none"> <li>• Term shall be for 50 years;</li> <li>• Use will be limited to tourism-related purposes;</li> <li>• Further assignment is subject to DOF's prior written consent; and</li> <li>• Free and harmless</li> </ul> </li> </ol> </li> </ol>	<p>The original MOA between the DOF &amp; DOT (Feb. 8, 2002) turned-over to the DOT the Allied Warehouse Building located at the corner of Santa Lucia and Victoria St., Intramuros solely for the purpose of developing it into a Lights and Sound Museum.</p> <p>An amendment to the MOA (April 3, 2002) prohibits DOT to assign or sub-lease any portion of the property to any other third party except the PTA.</p> <p>July 18, 2002 – The property was transferred to TIEZA through a Deed of Assignment by DOT.</p>
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<ul style="list-style-type: none"> <li>• An amendment to the DOT-DOF MOA; and</li> <li>• An amendment to the DOT-TIEZA Deed of Assignment.</li> </ul> <p>On this same day Atty. Estevez informed Atty. Liu (email) that she is in the process of drafting the instruments and inquired if TIEZA intends to lease or merely assign the Allied Warehouse to FDCP. ACOO Jetro informed Atty. Liu that it is his personal opinion that "We are better off leasing the property for a minimal fee and it will establish a clearer relationship between parties."</p> <p>June 21, 2019 – ACOO Jetro and Atty. Liu met with I.A., FDCP and DOT. Among other topics that were discussed, the parties agreed that:</p> <ol style="list-style-type: none"> <li>1. FDCP will write a letter to DOF to get an opinion on whether DOF or DOT owns the property (FDCP does not agree with DOT's position).</li> <li>2. That TIEZA will lease a portion of the LSM building to FDCP for TIEZA to recoup its investments and</li> </ol>	<p>provision is included.</p> <p>Per Atty. Liu, DOT and DOF included us in their email (ACOO-AMS not included). It was Atty. Liu's opinion that since we are not parties to it plus it does not involve a TIEZA-owned property, there was nothing she could comment on.</p> <p>b. October 28, 2019 – Atty. Lara Estevez sent to DOF, DOT, I.A. and FDCP a copy of the draft MOA (via email).</p>	
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<p>because of our nature as a GOCC.</p> <p>3. FDCP will write COO Paragas for financial assistance. Mr. Don Arawan (FDCP) said that then COO Atty. Asido committed to give them P100 Million for the project. FDCP estimate is that they will need P300 million</p> <p>August 30, 2019 – Usec. Enrile sent a letter to Usec. Gil Beltran (DOF Policy Development and Management Service Group) informing him that certain restrictions in the existing DOF-DOT MOA prohibits assigning of the property to any other party except PTA. Usec Enrile Informed Usec. Beltran that there is need to amend the existing MOA to allow FDCP to use and lease a portion of the property as a Film Heritage Building.</p> <p>October 11, 2019 – Usec. Bayani Agabin (DOF Legal Services Group) wrote a letter to Usec. Edwin Enrile (DOT Chief of Staff and Legal and Special Concerns Head). Usec. Agabin observed that provisions in the old MOA are obsolete and</p>		
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<p>inapplicable. In order to accommodate FDCP's request to use the property as a film heritage building, he suggested that DOF and DOT enter into a new usufructuary agreement incorporating the necessary provisions that will legally permit and encompass any future tourism-related endeavors of the property, subject to the written consent of the DOF.</p>		
<p>C. On February 26, 2020 a new MOA was signed by the DOF &amp; DOT with the following changes:</p> <ol style="list-style-type: none"> <li>1. DOT to take possession and use the property for the promotion of tourism, history and culture.</li> <li>2. Term: Twenty-five (25) years by way of Usufruct.</li> <li>3. DOT may further assign or lease the property to any government agency or government-owned &amp; controlled corporation provided prior consent of DOF is obtained and the use of the property remains to be for the</li> </ol>	<ol style="list-style-type: none"> <li>1. September 28, 2020 ACOO Jetro gave instructions to collate pertinent documents and communications relative to LSM and FDCP including e mails.</li> <li>2. October 1, 2020 the ACOO-AMS met representatives from the Legal Dept., AEES Engineers and BRD to identify points of discussions in the forthcoming meeting with representatives from the DOT.</li> <li>3. October 5, 2020 – ACOO Jetro met with the OCOO Chief of Staff and representatives from the Legal Dept., AEES Engineers and BRD and identified talking points.</li> </ol>	<p>The ACOO of AMS only learned about the signing of the new MOA between the DOF &amp; DOT on the last week of September 2020.</p> <p>ACOO Jetro had concerns regarding certain provisions in the new MOA as follows:</p> <ol style="list-style-type: none"> <li>1. Section 1 - The purpose of the MOA is now broad and does not mention LSM.</li> <li>2. Section 4 – Authorizes the DOT to lease it to other agencies. What happens to the LSM? Will LSM be removed?</li> <li>3. Section 6 - What will TIEZA's role be moving forward? Who will then operate, manage and maintain the LSM? Will TIEZA fund the construction of the FDCP building?</li> </ol>



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<p>promotion of tourism.</p> <p>D. March 4, 2020 – FDCP wrote COO Pocholo J.D. Paragas requesting for the approval of a contract of lease over a portion of LSM for the construction of FDCP's Film Heritage Building for a period of 25 years renewable for another 25 years.</p> <p>E. July 30, 2020 – FDCP sent another letter to COO Paragas reiterating their request contained in their March 4, 2020 letter.</p>	<p>4. October 6, 2020 – ACOO of AMS together with the OCOO Chief of Staff and representatives from the Legal Dept. and BRD met with Dir. Lara Estevez and Atty. Aylene Sarmiento.</p> <p>Dir. Estevez clarified that:</p> <p>c. The old MOA contained provisions that are irrelevant and obsolete.</p> <p>d. The new MOA presumed an arrangement that TIEZA is still the assignee of DOT's usufructuary and that TIEZA shall be the one to assign or sublease the same to FDCP and shall be subject to all the agreements of all parties.</p> <p>e. If the DOF consents, TIEZA may have a MOA with DOT authorizing TIEZA to sub-lease the property; and a MOA with FDCP for the sub-lease of a portion of the property.</p> <p>It was agreed that TIEZA will draft two MOAs:</p> <ul style="list-style-type: none"> <li>• DOT-TIEZA MOA allowing the Authority to sub-lease the property; and</li> </ul>	<p><b>NEXT STEPS:</b></p> <p>Atty. Lapuz to prepare a Draft DOT-TIEZA MOA and another MOA with FDCP.</p>
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	<ul style="list-style-type: none"><li>• TIEZA-FDCP MOA for the sub-lease of the warehouse building.</li></ul> <p>October 7, 2020 – Atty Lapuz sent a copy of the draft DOT-TIEZA MOA for further review and inputs of ACOO Jetro and the OCOO Chief of Staff.</p>	<p>After review of the draft DOT-TIEZA MOA:</p> <ol style="list-style-type: none"><li>1. It will forwarded to Dir. Estevez.</li><li>2. The MOA between TIEZA and FDCP will also be drafted for sub-lease of Allied Warehouse building.</li></ol>
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Noted by:

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

*W*

CC: COO Pocholo J.D. Paragas





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**MEMO FOR :** **MS. MICHELLE MAE V. VIVO**  
*Head Technical Assistant*  
*Office of the Chief Operating Officer*

**FROM :** **EMMANUEL LUIS V. BAYANI**  
*Project Officer – Samal Island Tourism Estate (SITE)*

**SUBJECT :** **UPDATES ON ISSUE BASED BRIEFER FOR  
SAMAL ISLAND TOURISM ESTATE (SITE)**

**DATE :** October 20, 2020

**ISSUE:** On September 25, 2020 Dir. Jeffrey I. Manalo (Policy Formulation, Project Evaluation Monitoring Service-PPP Center) sent a letter to COO Pocholo J. D. Paragas to send them the duly accomplished "Form A,B & C" for the SITE which shall form part of their database of project information on Public and Private sector spending and contingent liabilities arising from PPP projects.

STEPS UNDERTAKEN	PROGRESS	REMARKS / PROBLEM AREAS ENCOUNTERED
A. October 9, 2020 – The afore-mentioned letter was forwarded to the Project Officer for proper disposition.	<p>October 13, 2020 the undersigned called up Mr. Paolo David (Project Evaluation Officer - PPP Center) and discussed Dir. Manalo's letter dated September 25, 2020.</p> <p>The Project Officer clarified with Mr. David that:</p> <p>a) TIEZA has an existing 50-Year Lease Agreement with the SLS-CARBMCO (June 10, 1994 to June 9, 2044). The then PTA has delivered in full all its funding commitments to the SITE Project as provided in the lease agreement and highlighted the following:</p> <p>1. The full payment made in advance for</p>	<p>PPP Center Forms A, B &amp; C are basically the standardized monitoring system of Public and Privates Sector spending on PPP projects.</p> <p>TIEZA's predecessor the Philippine Tourism Agency (PTA) entered into a 50-year Lease Agreement (June 10, 1994 to June 9, 2044) with the San Isidro, Libertad, San Remigio – Comprehensive Agrarian Reform Beneficiaries Multi-Purpose Cooperative (SLS-CARBMCO).</p> <p>PTA's spending commitments were already consummated /delivered in full by the year 2004 as follows:</p> <p>1. The 50-year lease amounting to P47,000,000.00 was paid in full upon signing of the Lease Agreement on June 10, 1994. This includes:</p>



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	<p>the entire 50-year lease period;</p> <p>2. The funding for the completed construction of the road network;</p> <p>3. The funding for the finished water system;</p> <p>4. The settlement for the Voluntary Land Transfer; and</p> <p>5. The relocation costs for affected families.</p> <p>b) Public Sector spending commitments have all been consummated by 2004.</p> <p>c) PTA sub-leased to Ekran Berhad (Private Proponent) the 250-hectare leased property for fifty years (June 10, 1994 to June 9, 2044) to develop the SITE. The whole 50-year sub-lease was paid in advance.</p> <p>d) Succeeding spending commitments on the SITE project is now with the private sector (Ekran Berhad).</p> <p>e) The status of the SITE development project with TIEZA is not "terminated" as tagged in their data-base.</p> <p>f) The Project Officer also asked Mr. David if there was a formal endorsement of the SITE as a PPP Center Project.</p>	<p>a) Settlement of Voluntary Land Transfer (P10,829,130.20)</p> <p>b) Financial Assistance for Relocation of Affected families (P1,100,000.00)</p> <p>2. The Authority's funding commitment to the Samal Island Road Construction Project amounting to P63,297,101.10 was released in full and TIEZA's part on the road project was completed (commenced on January 29, 1997 &amp; completed on October 14, 2004).</p> <p>3. The water system built by the Authority at a cost of P28,264,510.30 was completed on July 30, 1997.</p> <p>TIEZA has fulfilled its responsibilities as provided in the lease agreement with the Farmer Cooperative.</p> <p>Succeeding development projects and costs on the SITE is the responsibility of Ekran Berhad to develop the SITE into a premiere Resort and Casino Tourism Complex as provided in the sub-lease agreement.</p>
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	<p>In reply, Mr. David informed the Project Officer that:</p> <ol style="list-style-type: none"><li>1) The PPP Center was formerly the BOT and latest records pertaining to the SITE turned-over to them were dated 2002.</li><li>2) No formal endorsement was made by TIEZA to PPPC regarding the SITE, it was just included as BOT projects turned-over to PPP Center.</li><li>3) Instead of accomplishing the PPP Center "Forms A, B &amp; C" a letter to Dir. Manalo will suffice informing him:<ul style="list-style-type: none"><li>➤ Of the consummated spending made by TIEZA on the SITE project;</li><li>➤ That it is now the responsibility of Ekran Berhad to fulfill succeeding spending commitments on the SITE project; and</li><li>➤ That the SITE project is not "terminated" and is sub-leased to Ekran Berhad for fifty (50) years.</li></ul></li><li>4) They will correct the "terminated" tagging of the SITE and update it to being covered by a fifty (50) year sub-lease agreement between TIEZA and Ekran Berhad.</li></ol>	
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	A reply letter to Dir. Manalo was drafted on October 14, 2020 and was forwarded to the Chief Technical Assistant of the OCOO.	
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Noted by:

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

CC: COO Pocholo J.D. Paragas