

REGISTRY OF COMMENTS

Draft Inter-agency MOA among the Department of Tourism (DOT), Tourism Infrastructure and Enterprise Zone Authority (TIEZA), Department of Environment and Natural Resources (DENR), Palawan Council for Sustainable Development (PCSD), Bureau of Fire Protection (BFP) and the Local Government of San Vicente

	TIEZA	PCSD	DENR
This MEMORANDUM OF AGREEMENT, hereinafter referred to as the “Agreement”, is hereby made and entered into on _____ 2020 and executed by and between:	This MEMORANDUM OF AGREEMENT (the “Agreement”) made and entered into this of _ _____ 2020 in Pasay City, Philippines, by and among:		
<p>The DEPARTMENT OF TOURISM with principal office address at DOT Bldg., 351 Gil Puyat Avenue, Makati City, Metro Manila represented herein by Secretary BERNADETTE ROMULO-PUYAT (or RD?) hereinafter referred to as the “DOT”;</p> <p>The DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES OFFICE, with principal office address at Visayas Avenue, Diliman, Quezon City, Metro Manila, represented herein by Secretary ROY A. CIMATU (or RD?) hereinafter referred to as the “DENR”;</p>	Normally, inter-agency MOAs are represented by the head of agencies and may only be signed by the next ranking official when officially delegated.		
WHEREAS , the Municipality of San Vicente, Palawan was officially designated by the national government	WHEREAS , the Municipality of San Vicente, Palawan was officially designated by the National Government as the		

as the country’s 1 st Flagship Tourism Enterprise Zone (“FTEZ”), pursuant to Republic Act 9593 or the <i>Tourism Act of 2009</i> , declared through TIEZA Board Resolution No. 29-09-15A, and <i>Sangguniang Bayan</i> Resolution No. 2013-025;	country’s First Flagship Tourism Enterprise Zone (“FTEZ”), pursuant to Republic Act No. 9593 or the <i>Tourism Act of 2009</i> , and declared through TIEZA Board Resolution No. 29-09-15A, and <i>Sangguniang Bayan</i> Resolution No. 2013-025;		
WHEREAS , as a Flagship Tourism Enterprise Zone, the municipality enjoys the special support, assistance, and incentives provided by no less than the country’s Department of Tourism (“DOT”) and its key infrastructure arm, the Tourism Infrastructure and Enterprise Zone Authority (“TIEZA”), as both agencies implement the landmark <i>Tourism Act of 2009</i> , its Implementing Rules and Regulations, and other relevant issuances, all aimed at the full development of the TEZs, the advancement of the tourism industry, and the over-all improvement of the quality of life in its host communities;	Please see proposed revision below: WHEREAS , as an FTEZ, the Municipality enjoys the special support, and assistance, of the Department of Tourism (“DOT”) and the Tourism Infrastructure and Enterprise Zone Authority (“TIEZA”) and enjoys both fiscal and non-fiscal incentives as provided for under the <i>Tourism Act of 2009</i> , its Implementing Rules and Regulations, and other relevant issuances;		
WHEREAS , as part of its designation as an FTEZ, the municipality rigorously formulated, worked for the approval and has been implementing a model 30-year <i>Integrated and Conceptual Tourism Master Plan</i> since 2015, and	Please see proposed revision below: WHEREAS , the Municipality of San Vicente has been implementing the 30-year <i>Integrated and Conceptual Tourism Master Plans</i> (Collectively, the “Master Plans”) since 2015, and the “ <i>Deed of Restrictions</i> ” (“DOR”) since 2017, both of		

<p>a unique comprehensive <i>green building</i> and sustainability local legislation called “<i>Deed of Restrictions</i>” (“DOR”) since 2017, stringently regulating all the developments, use and occupancy of lots in the municipality. The Master Plan, awarded internationally “for excellence in planning”[1], envisions the municipality to become the country’s leader in sustainable, responsible and inclusive tourism development, following a spatial development approach, green principles, and government- led development (“build and they will come” principle) with minimal impact to the environment;</p>	<p>which have been stringently regulating all the developments, use, and occupancy of lots in the Municipality;</p> <p>WHEREAS, the Master Plans, aim to make the Municipality of San Vicente the country’s leader in sustainable, responsible and inclusive tourism development, following a spatial development approach, green principles, and government-led development (“build and they will come” principle) with minimal impact to the environment;</p>		
<p>WHEREAS, San Vicente, Palawan was also selected as the country’s pilot Eco-town [1] by the Climate Change Commission in its implementation of the “<i>Demonstration of the Eco-town Framework Project</i>” in 2011-2014, and as its model in its “<i>Eco-town Scale-up Project</i>” known as the “<i>Climate Resilient Green Growth at the Provincial Level</i>”, implemented in the entire Provinces of Palawan and Oriental Mindoro from 2016 to 2018. Under the Project, the municipality’s vulnerabilities to the impacts of climate change were scientifically accounted for, and thereafter, a science-based Local Climate Change Action Plan was formulated, integrated</p>	<p>Please see proposed revision below:</p> <p>WHEREAS, the Municipality of San Vicente, Palawan was also selected as the country’s pilot Eco-town⁴ by the Climate Change Commission in its implementation of the “<i>Demonstration of the Eco-town Framework Project</i>” in 2011-2014, and as its model in its “<i>Eco-town Scale-up Project</i>” known as the “<i>Climate Resilient Green Growth at the Provincial Level</i>”, both of which assessed the Municipality’s vulnerabilities to the impacts of climate change, resulting in a science-based Local Climate Change Action Plan;</p>		

into the LGU's plans and programs, and successfully implemented in the municipality;			
<p>WHEREAS, both planning frameworks have been integrated and harmonized into the municipality's Comprehensive Land and Water Use Plan ("CLWUP"), Environmentally- Critical Areas Network ("ECAN") Map, Land Classification Map, Hazards Map, Tax Maps, and all other derivative plans and maps. All these maps were digitized and are available in Geographic Information System ("GIS"), making planning, land use implementation and zoning, building and developments regulation, environmental protection, and even resolving land disputes easier, more convenient and most importantly, data- backed in the municipality;</p>	<p>WHEREAS, both planning frameworks have been integrated and harmonized into the Municipality's Comprehensive Land and Water Use Plan ("CLWUP"), Environmentally- Critical Areas Network ("ECAN") Map, Land Classification Map, Hazards Map, Tax Maps, and all other derivative plans and maps. These maps were digitized and are available in the Geographic Information System ("GIS"), making planning, land use implementation and zoning, building and developments regulations, environmental protection, and resolving land disputes easier and more convenient. and most importantly, data-backed in the municipality;</p>		
<p>WHEREAS, by virtue of San Vicente Management Committee (SVT ManCom) Resolution No. 06-27-19-VI[1] and Resolution No. 09-26-19-III[2], adopted by the LGU through <i>Sangguniang Bayan</i> Resolution No. 2019-67, business permitting for tourism- related establishments ("TREs") in the municipality has been transferred to the jurisdiction of TIEZA effective year 2020. The SVT ManCom, acting as the interim TEZ Operator in-charge of the over-all management of the San Vicente FTEZ and oversees its</p>	<p>Please see proposed revision below:</p> <p>WHEREAS, by virtue of San Vicente Management Committee (SVT ManCom) Resolution No. 06-27-19-VI⁵ and Resolution No. 09-26-19-III⁶, adopted by the LGU through <i>Sangguniang Bayan</i> Resolution No. 2019-67, business permitting for tourism- related establishments ("TREs") in the municipality has been transferred to TIEZA effective year 2020.</p>		

operation, is composed of TIEZA's Chief Operating Officer as Chairperson, the municipality's local chief executive as its Vice- Chairperson, and sitting as its members are a DOT's Undersecretary, TIEZA's Assistant COO for TEZ Management Sector, and a representative of the private sector;	WHEREAS , the SVT ManCom, acting as the interim TEZ Operator in-charge of the over-all management of the San Vicente FTEZ and oversees its operation, is composed of TIEZA's Chief Operating Officer as Chairperson, the Municipality's local chief executive as its Vice- Chairperson, along with a DOT's Undersecretary, TIEZA's Assistant COO for TEZ Management Sector, and a representative of the private sector sitting as its members;		
WHEREAS , a workshop between and among the representatives of all the Parties concerned herein was conducted last January 9-10, 2020 "to harmonize and streamline the processes in the issuance of endorsements, clearances, certificates and permits" as permitting for TREs in the municipality was mired by "complex inter-agency process flow"[1] and imposition of "excessive number of requirements"[2]: 62 to 117 documents required in seven government agencies and offices before one can legally build a TRE, and 30 to 45 additional documents to be submitted to at least six different government agencies/offices before one can legally operate a business[3];	<p>Please see proposed revision below:</p> <p>WHEREAS, the permitting system for TREs in the Municipality was mired by "complex inter-agency process flow"⁷ and imposition of "excessive number of requirements"⁸: 62 to 117 documents required in seven government agencies and offices before one can legally build a TRE, and 30 to 45 additional documents to be submitted to at least six different government agencies/ offices before one can legally operate a business⁹;</p> <p>Can we remove this and focus on ease of doing business and increase competitiveness as reasons? <i>(TIEZA-NFA)</i></p>		
WHEREAS , during the workshop, all the Parties concerned herein agreed to harmonize and streamline the processes and requirements down to the minimum, most reasonable	WHEREAS, during the workshop, all the Parties concerned herein agreed to harmonize and streamline the processes and requirements down to the minimum, most reasonable number and processing		

number and processing time without compromising the “sustainable development” of this pilot <i>Ecotown</i> of the country.[1] A “logical framework and decision matrix of business permitting for TREs in the vis-à-vis its Tourism Master Plan” (see Annex “A”) was formulated based on this agreement, as well as the “guiding principles of harmonization, streamlining and permitting” agreed upon during the “Harmonization and Streamlining Workshop”[2] participated in by representatives of regulatory offices and agencies;	time without compromising the “sustainable development” of this pilot <i>Ecotown</i> of the country.¹⁰ A “logical framework and decision matrix of business permitting for TREs in the vis-à-vis its Tourism Master Plan” (see Annex “A”) was formulated based on this agreement, as well as the “guiding principles of harmonization, streamlining and permitting” agreed upon during the “Harmonization and Streamlining Workshop”¹¹ participated in by representatives of regulatory offices and agencies;		
WHEREAS , it is a declared policy of the State, and the President of the Republic, Pres. Rodrigo Roa Duterte (“PRRD”) to “increase competitiveness and the ease of doing business” in the country, as laid out in PRRD’s 10-point socio-economic agenda duly adopted in the Philippine Development Plan 2017- 2022. Specifically, the President wants government services to be more accessible to the people through reduced documentary requirements, processing time and signatories for transactions. He mandated a “whole-of-government approach that promotes simplification of government transactions, inter-operability of government processes and strengthened linkages and coordination among agencies”;	<p>Please see proposed revision below:</p> <p>WHEREAS, it is likewise the declared policy of the State to “increase competitiveness and ease the doing business” in the country as laid out in the Philippine Development Plan 2017- 2022, by making government services more accessible to the people through reduced documentary requirements and, shortened processing time;</p> <p>WHEREAS, a workshop among the representatives of the Parties was conducted last January 9-10, 2020 to harmonize and streamline the processes in the issuance of endorsements, clearances, certificates and permits and reduce the number of documentary requirements;</p>		

<p>WHEREAS, to support the vision of the national government, and this municipality’s Tourism Master Plan and its key strategies, contribute to the national effort of promoting and developing the tourism industry particularly in the countryside, address the current policy gaps on business permitting, and encourage investments and developments while at the same time adapting to the “New Normal scenario”[1], the SVT ManCom formulated and approved “the Harmonized and Streamlined Guidelines on the Issuance of Clearances and Permits to Build, Occupy and Operate Tourism-Related Establishments within the Territorial Jurisdiction of the Municipality of San Vicente, Palawan, Philippines” (“the Guidelines”);</p>	<p>Please see proposed revision below:</p> <p>WHEREAS, to support the vision of the national government, and this municipality’s Tourism Master Plan and its key strategies, contribute to the national effort of promoting and developing the tourism industry particularly in the countryside, address the current policy gaps on business permitting, and encourage investments and developments while at the same time adapting to the “New Normal scenario”¹², this resulted in the drafting of “the Harmonized and Streamlined Guidelines on the Issuance of Clearances and Permits to Build, Occupy and Operate Tourism-Related Establishments within the Territorial Jurisdiction of the Municipality of San Vicente, Palawan, Philippines” (“the Guidelines”)</p> <p>WHEREAS, the SVT ManCom approved the Guidelines as this would highly contribute to the National Government’s efforts of promoting and developing the tourism industry particularly in the countryside, address the current policy gaps on business permitting, and encourage investments and developments while at the same time adapting to the “New Normal scenario”¹³;</p>		
<p>WHEREAS, among the implementing mechanisms of said Guidelines is an</p>	<p>Please see proposed revision below:</p>		

<p>“Inter- Agency Memorandum of Agreement” (this “Agreement”) between and among all Parties involved in the permitting system of TREs in the municipality, explicitly stating the conformity of these agencies to the Guidelines, their commitment to the achievement of the latter’s goals and objectives, their cooperation to all the institutional arrangements, specific agency roles, duties and responsibilities under this Agreement;</p>	<p>WHEREAS, to successfully implement the Guidelines, there is a need to have an “Inter- Agency Memorandum of Agreement” (this “Agreement”) among the Parties which would embody their conformity thereto, their commitment to achieve the common goal, and an undertaking to extend their cooperation in accordance with their roles, duties and responsibilities as stated in this Agreement;</p>		
<p>NOW, THEREFORE, for and in consideration of the foregoing premises, all Parties do hereby agree to bind themselves and fulfil the following:</p>	<p>NOW, THEREFORE, for and in consideration of the foregoing premises, all the Parties do hereby agree to bind themselves and fulfil the following:</p>		
<p>I. ALL PARTIES shall:</p> <p>(1) Adopt the Guidelines as its official permitting system for TREs in the Municipality of San Vicente, Palawan,</p>	<p>Please see proposed revisions below:</p> <p>Are these TIEZA obligations only? If not, let’s separate the obligations per party (i.e. LGU, DOT, TIEZA) Or are these obligations common to all parties? But it seems not since No. 3, establish satellite office may not be an obligation of all but only one agency. <i>(TIEZA-NFA)</i></p> <p>I. THE PARTIES shall:</p> <p>(1) Adopt the Guidelines as the official permitting system for TREs in the Municipality of San Vicente, Palawan, and where needed, issue the necessary orders</p>	<p>The following provisions must either be altered, corrected or deleted as the case may be:</p> <p>I. ALL PARTIES shall:</p>	<p>Above statement disregarded the primary regulatory functions of the DENR which are governed by the existing national laws, Department Administrative Orders, Executive Orders and Presidential Proclamations.</p> <p>The DENR (which includes its line Bureau such as EMB and MGB) are mandated to enforce relevant national laws (including its respective IRR), but not limited to the following:</p> <ol style="list-style-type: none"> 1. Expanded National Integrated Protected Areas System (RA No. 11038) 2. Water Code of the Philippines (RA 1067) 3. Public land Act or Commonwealth Act of 1936 (CA 141) 4. Forestry Reform Code of the Philippines (PD 705) 5. The Philippine Clean Water Act (RA 9275) 6. Environmental Impact Statement System Act (PD 1586)

<p>and where needed, issue the necessary orders or memoranda updating its own Citizen's Charter or pertinent regulations specific for the municipality;</p> <p>xxx</p> <p>(3) Establish a satellite office in the municipality, dedicated toward processing permits and clearances for TREs, where possible;</p> <p>(4) Dedicate sufficient number of full-time staff members in-charge of its effective and efficient administration of its regulations, and timely issuance of its permits and clearances for TREs in the municipality;</p> <p>xxx</p> <p>(7) Fully participate in the Business One Stop Shop ("BOSS") program and activities designed for TREs in the municipality;</p> <p>(8) Fully participate in the Information, Education and Communications ("IEC") program of the lead agency, including during the New Normal scenario, in order to educate the stakeholders about</p>	<p>or memoranda updating its own Citizen's Charter or pertinent regulations specific for the Municipality;</p> <p>xxx</p> <p>(3) Establish a satellite office in the Municipality that will process the permits and clearances for TREs, if possible;</p> <p>(4) Dedicate a sufficient number of full-time employees in-charge of effectively and efficiently administering their respective mandates, including the timely issuance of permits and clearances for TREs in the Municipality;</p> <p>xxx</p> <p>(7) Fully participate in the Business One Stop Shop ("BOSS") program and activities designed for TREs in the Municipality;</p> <p>(8) Fully participate in the Information, Education and Communications ("IEC") program of the lead agency at all instances and in all situations in order to</p>	<p>xxx</p> <p>(3) Establish a satellite office in the Municipality that will process the permits and clearances for TRE's, if possible;</p> <p>Item I. (3) stated above, the agency as well as the applicants may coordinate with the PCSD District Management Office (DMO) having jurisdiction over the municipality. The establishment of a satellite office in the municipality would entail additional government expenditures</p> <p><i>(PCSD commented on a version of the MOA with partial edits. Hence, they cited items 3 & 11 provisions that are different from the original version).</i></p>	<p>7. Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 (RA 6969) 8. Ecological Waste Management Act of 2000 (RA 9003)</p> <p>A statutory law cannot exempt an area from the rules and regulations stipulated in its IRR (unless expressed in the said law), or a mere order or memoranda from the Secretary cannot be issued to suit for pertinent regulations specific for the Municipality of San Vicente, Palawan.</p> <p>Article I.1 of the MOA may be revised and re-stated as "All Parties shall adopt the Guidelines as its official permitting system for the TREs in the Municipality of San Vicente, Palawan, and where applicable, may issue the necessary orders or memoranda updating its own Citizen's Charter or pertinent regulations specific for the municipality subject further, to existing laws, rules and regulations.</p>
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<p>each respective Party’s streamlined permitting process;</p> <p>(9) Fully participate in the “Computerization Program” or ePermitting of the lead agency, and where needed, share each Party’s necessary files and databases subject to the Data Privacy Act and confidentiality clauses;</p> <p>(10) Fully participate in the “Incentives Program” to be launched by the lead agency in order to encourage compliance, support, and excellence from among the stakeholders, and where possible, develop its own incentives program for TREs in the municipality;</p> <p>(11) Determine and provide “alternative means of compliance” to requirements that are generally difficult to comply with vis-à-vis resources of the TRE, and the cost and length of processing these said requirements. Said “AMC” shall be simpler, affordable, easier-to-process, and does not compromise the goals or objectives of the original requirement/s;</p>	<p>educate the stakeholders about each Party’s streamlined permitting process;</p> <p>(9) Fully participate in the “Computerization Program” or ePermitting of the lead agency, and when needed, share each Party’s necessary files and databases subject to the <i>Data Privacy Act</i> of 2012;</p> <p>(10) Fully participate in the “Incentives Program” to be launched by the lead agency in order to encourage compliance and, earn the support of the stakeholders, and when possible, develop its own incentives program for TREs in the Municipality;</p> <p>(11) Provide alternatives to requirements that are generally difficult to comply by putting due consideration to the resources of the TRE, and the cost and length of processing these requirements. The alternative requirement should be simpler, more affordable, easier-to- process, and does not compromise the goals or objectives of the original requirement/s;</p>	<p>(11) Provide alternatives to requirements which are generally difficult to comply by putting due consideration to the resources of the TRE’s, and the cost and length of processing these said requirements. The alternative requirements should be simpler, affordable, easier-to-process, and does not compromise the goals or objectives of the original requirements.</p> <p>Item I (11) must particularly state which of the current requirements of the government agencies concerned, specifically that of the PCSD, should be provided with alternatives, as well as</p>	
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<p>(13) Allocate the requisite support funding, logistics, supplies and materials in order for its satellite office and support staff to be able to effectively and efficiently perform its obligations under this Agreement; and</p> <p>(14) In case of institutional difficulty hindering the concerned Party to fulfill any of its obligations stipulated herein, such concerned Party/ies shall authorize TIEZA in writing to act on its/their behalf in the issuance of accreditation, clearance, and other related documents subject to certain terms, conditions and limitations, and using the Deed of Restrictions and the Tourism Master Plan as development and regulation standard.</p>	<p>(13) Allocate funds, logistics, supplies, and materials for its satellite office and support staff to enable them to be able to effectively and efficiently perform their functions under this Agreement; and</p> <p>(14) Subject to existing laws, to authorize TIEZA to act on its/their behalf in the issuance of accreditation, clearance, and other related documents using the Deed of Restrictions and the Tourism Master Plan as development and regulation standard in case a Party faces institutional difficulty that would prevent it from fulfilling any of its obligations.</p>	<p>justification as to the difficulties that may be encountered in obtaining them.</p>	<p>(14). The DENR cannot delegate to any Party any regulatory functions in the form of clearances and the like, as this will violate the law, rules and regulations governing DENR mandates and programs.</p>
<p>II. In addition to its obligations enumerated under the preceding Article, the TIEZA shall:</p> <p style="text-align: center;">xxx</p> <p>(4) Allocate support funding, staff, logistics, supplies and materials for the effective and efficient implementation of this Agreement;</p>	<p>Please see proposed revision below:</p> <p>II. In addition to its obligations enumerated under the preceding Article, TIEZA shall:</p> <p style="text-align: center;">xxx</p> <p>(4) Provide support, funds, staff, logistics, supplies and materials for the effective and efficient implementation of this Agreement;</p>		

<p>(5) Compile, publish and disseminate bi- annual reports to all Parties concerned relative to the implementation of this Agreement; and</p> <p>(6) Develop and implement other initiatives and innovations as may be needed in order to achieve the goals and objectives of this Agreement, and that of the Guidelines, in coordination with other concerned Parties as may be applicable.</p>	<p>(5) Compile, publish and disseminate bi-annual reports to all the Parties detailing the implementation of this Agreement; and</p> <p>(6) Innovate, develop, and implement initiatives as may be needed in order to achieve the objectives of this Agreement, and the Guidelines, in coordination with the other Parties, as may be applicable.</p>		
<p>III. In addition to its obligations enumerated under Article I, LGU-SAN VICENTE shall:</p> <p>xxx</p> <p>(3) Provide space, temporary or permanent, for concerned Party/ies planning to set- up a satellite office in the municipality relative to the implementation of this Agreement; and</p> <p>(4) Develop and implement other initiatives and innovations as may be needed in order to achieve the goals and objectives of this Agreement, and that of the Guidelines, in coordination with the lead agency and other concerned Parties as may be applicable.</p>	<p>Please see proposed revision below:</p> <p>III. In addition to its obligations enumerated under Article I, the LGU-SAN VICENTE shall:</p> <p>xxx</p> <p>(3) Provide space, temporary or permanent, for each Party/ies planning to set-up a satellite office in the Municipality for the implementation of this Agreement; and</p> <p>(4) Innovate, develop, and implement initiatives as may be needed in order to achieve the goals and objectives of this Agreement and the Guidelines, in coordination with the lead agency and other Parties, as may be applicable.</p>		

<p>IV. In addition to its obligations enumerated under Article I, the DOT shall:</p> <p style="text-align: center;">xxx</p> <p>(4) Develop and implement other initiatives and innovations as may be needed in order to achieve the goals and objectives of this Agreement, and that of the Guidelines, in coordination with the lead agency and other concerned Parties as may be applicable.</p>	<p>Please see proposed revision below:</p> <p>IV. In addition to its obligations enumerated under Article I, the DOT shall:</p> <p style="text-align: center;">xxx</p> <p>(4) Innovate, develop, and implement initiatives as may be needed in order to achieve the goals and objectives of this Agreement and the Guidelines, in coordination with the lead agency and other Parties, as may be applicable.</p>		
<p>V. In addition to its obligations enumerated under Article I, the DENR shall:</p> <p>(1) Recognize the municipality's Tourism Master Plan and Deed of Restrictions as strict environmental and development standards that may be used by the agency as a key regulatory tool in reviewing environmental clearance applications in the municipality, and henceforth, shall issue the necessary agency rules allowing and recognizing the relevant provisions in the comprehensive Permitting Guidelines as valid and, where applicable, substantial compliance to the same is a lawful alternative to "environmental</p>	<p>Please see proposed revision below:</p> <p>V. In addition to its obligations enumerated under Article I, the DENR shall:</p> <p>(1) Recognize the Municipality's Tourism Master Plan and Deed of Restrictions as strict environmental and development standards that may be used by the agency as a key regulatory tool in reviewing environmental clearance applications in the Municipality and draft rules consistent with the Permitting Guidelines and, if applicable, consider substantial compliance to it as a valid alternative to "environmental clearance/s";</p>		<p>The proposed recognition of the Municipality's TMP and DOR as strict environmental and developmental standards that may be used by the agency as key regulatory tool in reviewing environmental clearance application in the Municipality and consider substantial compliance to it as a valid alternative to "environmental clearance" and the issuance of an encompassing one-time "environmental clearance" to the 883.05 HAS may have some legal implications. The issuance of environmental clearance is governed by existing environmental laws and regulations, and prescribing a "valid alternative" based on another development standards and criteria as substantial compliance thereof by mere expedient of an inter-agency MOA cannot be legally done. The pertinent laws or regulations for that matter must be amended.</p> <p>These are issues that the DENR has been continually addressing pursuant to the laws and regulations on the matter and not merely limited to the Municipality of San Vicente.</p>

<p>clearance/s” issued by the agency;</p> <p>(2) Explore the possibility of issuing an encompassing one-time “Environmental Clearance” to the 883.05-hectares covered by the Integrated Tourism Master Plan (“ITMP”), subject to certain terms and conditions, including the faithful compliance of landowners and developers to the provisions of the ITMP and the DOR;</p> <p>xxx</p> <p>(3) Study and resolve the land ownership issues and concerns hampering the business permitting system of TREs in the municipality;</p> <p>i. Provide immediate relief to long-term occupants of untitled and timberland areas (but are apparently qualified to become A & D) in the municipality;</p> <p>ii. Lift the suspension of titling in the municipality;</p> <p>iii. Reclassify certain areas of the municipality from timberland to Alienable and Disposable, subject to certain criteria as may be jointly determined by the DENR, TIEZA and the LGU; and</p>	<p>xxx</p> <p>(3) Study and resolve land ownership concerns hampering the business permitting system of TREs in the Municipality;</p> <p>i. Provide immediate relief to long-term occupants of untitled and timberland areas (but are apparently qualified to become A & D) in the Municipality;</p> <p>ii. Lift the suspension of titling in the Municipality;</p> <p>iii. Recommend to the President and/or Congress to reclassify certain areas in the Municipality from timberland to alienable and disposable, giving due regard to the criteria jointly determined by the DENR, TIEZA and the LGU; and</p>		<p><i>Additional comments from EMB Dir. Atty. Michael Drake Matias</i></p> <p>An Environmental Compliance Certificate (ECC) is a decision document issued by Environmental Management Bureau after a positive review of an ECC application. The ECC certifies that the proponent has complied with the requirements of the EIS System. The proponent is committed to implement its submitted and approved Environmental Management Plan.</p> <p>Section 4 of the Presidential Decree (PD) 1586 states that “No person, partnership or corporation shall undertake or operate any such declared environmentally critical project or area without first securing an ECC. All agencies and instrumentalities of the National Government, including GOCCs, firms, and entities to undertake an EIA for all proposed projects and undertakings which significantly affect the quality of the environment.</p> <p>The Rule II, Section 6, Item II-d under the Documentary Requirements for Designation of TEZ (from TIEZA “Guidelines for the Designation and Supervision of the Tourism Enterprise Zones and the Administration of Incentives under RA 9593”, Book Two, Rule II: Establishment and Designation of Tourism Enterprise Zones) listed the ECC issued by the DENR is required prior to designation of TEZ.</p> <p>In addition, the EMB may either require an ECC or CNC (Certificate of Non-Coverage) on a certain project depending on the threshold or capacity. The CNC certifies that, based on the submitted Project Description Report, the project is not covered by the EIS System and is not required to secure an ECC.</p>
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<p>(4) Develop and implement other initiatives and innovations as may be needed in order to achieve the goals and objectives of this Agreement, and that of the Guidelines, in coordination with the lead agency and other concerned Parties as may be applicable.</p>	<p>It is not DENR that reclassifies lands but the president (EO) or Congress (law). DENR can only recommend.</p> <p>(4) Innovate, develop, and implement initiatives as may be needed in order to achieve the goals and objectives of this Agreement and the Guidelines, in coordination with the lead agency and other Parties, as may be applicable.</p>		<p>Emphasis is given to one important function of the Bureau and that is the issuance of permits, clearances under RA 8749 (Permit to Operate), RA 9003, RA 9275 (Discharge Permit), RA 6969 (DENR ID, Permit to Transport), and PD 1586 (Environmental Compliance Certificate) and monitor compliance to said laws.</p> <p><i>(Please see EMB memorandum dated 13 April 2021 for more details)</i></p> <p>iii. This is contrary to E.O. 192, Series of 1987, specifically under Section 5 (m) thereof which gives the DENR the power and mandate to “exercise exclusive jurisdiction on the management and disposition of all lands of the public domain”. As such, the DENR “shall continue to be the sole agency responsible for classification, sub-classification, surveying and titling of lands in consultation with appropriate agencies.” Clearly, the power to recommend reclassification of public lands to the President or Congress and set criteria thereof remains the sole responsibility of the DENR, although the latter may consider inputs from other appropriate agencies.</p> <p>It is emphasized that while as a state policy, R.A. No. 9593 declares tourism as an indispensable element of the national economy and an industry of national interest and importance, nowhere in its provisions sanctions compromise or shortcuts to environmental safeguards already in place. These safeguards are deemed non-negotiable to ensure that the constitutional right of the people to a balanced and healthful ecology is upheld and protected. (*DENR)</p> <p>iv.</p>
	<p>Please see proposed revision below:</p>		

<p>VI. In addition to its obligations enumerated under Article I, the PCSDS shall:</p> <p>(1) Recognize the municipality's Tourism Master Plan and Deed of Restrictions as strict environmental and development standards that may be used by the agency as a key regulatory tool in reviewing environmental clearance applications in the municipality, and henceforth, shall issue the necessary agency rules allowing and recognizing the relevant provisions in the comprehensive Permitting Guidelines as valid and, where applicable, substantial compliance to the same is a lawful alternative to "environmental clearance/s" issued by the agency;</p> <p>(2) Explore the possibility of issuing an encompassing, one-time "Strategic Environmental Plan Clearance" to the 883.05-hectares covered by the Integrated Tourism Master Plan ("ITMP"), subject to certain terms and conditions, including the faithful compliance of landowners and developers to the provisions of the ITMP and the DOR; and</p>	<p>VI. In addition to its obligations enumerated under Article I, the PCSDS shall:</p> <p>(1) Recognize the Municipality's Tourism Master Plan and Deed of Restrictions as strict environmental and development standards that may be used by the agency as a key regulatory tool in reviewing environmental clearance applications in the Municipality and draft rules consistent with the Permitting Guidelines and, if applicable, consider substantial compliance to it as a valid alternative to "environmental clearance/s";</p>	<p>VI. In addition to its obligations enumerated under Article I, the PCSDS shall:</p> <p>xxx</p> <p>(2) Explore the possibility of issuing an encompassing, one-time "Strategic Environmental Plan Clearance" to the 883.05 hectares covered by the Integrated Tourism Master Plan (ITMP), subject to certain terms and conditions, including the faithful compliance of landowners and developers to the provisions of the ITMP and the DOR;</p> <p>xxx</p> <p>PCSD Administrative Order No. 06, as amended provides for the Revised Guidelines in the Implementation of the</p>	
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<p>(3) Develop and implement other initiatives and innovations as may be needed in order to achieve the goals and objectives of this Agreement, and that of the Guidelines, in coordination with the lead agency and other concerned Parties as may be applicable.</p>	<p>(3) Innovate, develop, and implement initiatives as may be needed in order to achieve the goals and objectives of this Agreement and the Guidelines, in coordination with the lead agency and other Parties, as may be applicable.</p>	<p>SEP Clearance System. Section 18 thereof states that <i>“Renewal of licenses, permits and similar instruments shall require the corresponding renewal of SEP Clearance.”</i> Therefore, it is contrary to the provisions of PCSD Administrative Order No. 06, as amended to issue a one-time SEP Clearance because there is a need for the PCSD to periodically monitor the status of the tourism enterprise to ensure compliance with pertinent laws and issuances. Granting a one-time SEP Clearance, though convenient for the time being, could possibly cause irreversible problems in the long run.</p>	
<p>VII. In addition to its obligations enumerated under Article I, the BFP shall:</p> <p>(1) Recognize the municipality’s Tourism Master Plan and Deed of Restrictions as strict environmental, development and fire safety standards that may be used by the agency as a key regulatory tool in reviewing fire safety</p>	<p>Please see proposed revision below:</p> <p>VII. In addition to its obligations enumerated under Article I, the BFP shall:</p> <p>(1) Recognize the Municipality’s Tourism Master Plan and Deed of Restrictions as strict environmental and development standards that may be used by the agency as a key regulatory tool in reviewing environmental clearance applications in</p>		

<p>clearance applications in the municipality, and henceforth, shall issue the necessary agency rules allowing and recognizing the relevant provisions in the comprehensive Permitting Guidelines as valid and, where applicable, substantial compliance to the same is a lawful alternative to the “fire safety clearance/s” issued by the agency; and</p> <p>(2) Develop and implement other initiatives and innovations as may be needed in order to achieve the goals and objectives of this Agreement, and that of the Guidelines, in coordination with the lead agency and other concerned Parties as may be applicable.</p>	<p>the Municipality and draft rules consistent with the Permitting Guidelines and, if applicable, consider substantial compliance to it as a valid alternative to “environmental clearance/s”;</p> <p>(2) Innovate, develop, and implement initiatives as may be needed in order to achieve the goals and objectives of this Agreement and the Guidelines, in coordination with the lead agency and other Parties, as may be applicable.</p>		
<p>VIII. Role of the San Vicente Management Committee.</p> <p>Matters that may not be covered by the above enumeration of roles, duties and obligations or cases of overlapping and vagueness in jurisdiction shall be submitted for resolution before the SVT ManCom, pending the creation of a TEZ Operator for the San Vicente Flagship TEZ.</p>	<p>Please see proposed revision below:</p> <p>VIII. Role of the San Vicente Management Committee.</p> <p>All matters not covered in the preceding Articles or in cases of overlapping responsibilities and/or vagueness in jurisdiction shall be submitted for resolution before the SVT ManCom, pending the creation of a TEZ Operator for the San Vicente Flagship TEZ.</p>		
			<p>Other DENR Comments:</p> <p>8. There are GIS maps used in formulation of the plan; however, we have existing issues about the status of GIS maps being used by different offices. Most GIS maps are not official and needed</p>

			<p>to be updated. It is recommended that verification of GIS maps and its official status must be made specially maps used by the DENR such as the land Classification map. Only official GIS maps must be used.</p> <p>9. The mentioned guidelines may only be applied to A&D and not to Forestland. We cannot omit any of the requirements in application of tenure and recognize any other clearances pertaining to Forestlands. This is covered by specific Law. We can only expedite the processing but it may still depend on the commitment of the proponent since they were the ones who would submit the necessary documents for their applications. It is recommended to ensure compliance to the existing DENR Laws, Policy, Rules and Regulations.</p> <p>10. Regarding the sharing of information as mentioned, there are limit to what our office can disclose, specially involving tenure in Forestland. It is suggested to ensure the adherence to the DAO 97-24 dated July 3, 1997 Policy on the release or disclosure of information.</p> <p>11. The MOA particularly on the role of the DENR failed to recognize the importance of the land classification status as well as the criteria being considered in reclassification. Additionally, the process of issuance of tenure such as FLaGT is in compliance with the existing laws and policy, omitting a single requirement therein would simply violate the law. Furthermore, the reclassification from Forestland to A/D may not be practical solution because of the involved process such as Act of Congress. Approval of this MOA may be considered negligence of our mandate, (subject to examination of legal personnel of DENR or higher authority). It is recommended to have a focused discussion with the different level of DENR Office (Central, Regional, Provincial, and Community) and other line Bureaus such as the EMB for the reconstruction of MOA or other settlement regarding this.</p>
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