GUIDELINES GOVERNING THE ISSUANCE OF PERMITS FOR TREASURE HUNTING

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Pursuant to No. 8, Section 29 of Article VII of the Republic Act No. 10066, otherwise known as The National Cultural Heritage Act of 2009, the following guidelines are hereby promulgated for the guidance of all concerned:

Section 1. Declaration of Policy. It is the policy of the State that the discovery/ recovery of hidden treasures and their disposition shall be under the full control and supervision of the State in order to ensure the interest of the Government which also includes rehabilitation of disturbed areas and the preservation of important cultural properties and national cultural treasures.

Section 2. Scope and Coverage. This guideline shall govern the issuance of Permits for the following:

2.1 Treasure hunting activities in Government land or private land;

2.2 Disposition of recovered hidden treasures or things of value hoarded in secret/ undisclosed places prior to the effectivity of these rules and regulations. This includes transport and/or sale of hoarded gold bars, gold coins, platinum, silver, nickel babbitts, jewelries, gemstones, etc., or the so called “Yamashita Treasures.”

These guidelines, however, do not cover the issuance of permits for the discovery/ recovery of cultural and historical values, such as objects of arts, archaeological artifacts, ecofacts, relics and other materials embodying the cultural and natural heritage of the Filipino nation, as well as those of foreign origin, which shall be governed by Republic Act No. 4846 as amended by Presidential Decree 374 or “The Preservation and Protection of Cultural Properties Act”; Republic Act No. 8492, the National Museum Act of 1998; and Republic Act No. 10066, otherwise known as National Cultural Heritage Act of 2009.

Section 3. Objectives. The objectives of these Guidelines are:

3.1 To rationalize the system of evaluation of applications for Treasure Hunting;

3.2 To provide appropriate guidelines for hunting hidden treasure and disposition thereof, to protect the interest of the Government and to preserve the cultural heritage of the Filipino people.

Section 4. Definition of Terms. As used in and for purposes of these guidelines, the following terms shall mean:

4.1 Area Clearance – refers to a clearance issued by the agency allowing an applicant to conduct treasure hunting activities as shown in the submitted technical and environmental work programs

4.2 Agency- refers to the National Museum of the Philippines

4.3 Artifacts – refers to articles that are products of human skills or workmanship, especially in the simple product of primitive arts or industry representing past eras or periods.

4.4 Digging – refers to the process or activities of excavating hidden treasures buried underground for years or centuries.

4.5 Director – means the Director of the National Museum of the Philippines.

4.6 Environmental Compliance Certificate (ECC) – refers to a document issued by the Secretary or the concerned Regional Executive Director of the Department of Environmental and Natural Resources certifying that based on the representation of the proponent and the preparer, the proposed project or undertaking will not cause significant negative environmental impact and that the proponent is committed to undertake all the mitigation stated in the Initial Environmental Examination.

4.7 Environmental Impact Assessment – refers to a process of predicting the likely environmental consequences of implementing a project or undertaking and designing appropriate, preventive, mitigating and enhancement measures.

4.8 Environmental Work Program – refers to a comprehensive and strategic management plan to achieve the environmental objectives, criteria and commitments including protection and rehabilitation of the disturbed environment during and after the treasure hunting

4.9 Hidden Treasure – refers to any hidden money, jewelry, or other precious objects, the lawful ownership of which does not appear.

4.10 Initial Environmental Impact Examination (IEIE) – refers to the document required of proponents describing the environmental impact or and mitigation enhancement measures for projects or undertakings located in an Environmentally Critical Area.

4.11 Permit – refers to the Permit issued for Treasure Hunting.

4.12 Permit Holder – refers to a holder of a Permit for Treasure Hunting.

4.13 Private Land – refers to title belonging to any private person or entity which includes alienable and disposable land being claimed by the holder, claimant or occupant who has already acquired a vested right thereto under the law, although the corresponding certificate of evidence of title or patent has not been actually issued.

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4.14 Relics – refers to object possessing cultural properties which, either as a whole or in fragments, are left behind after the destruction or decay of the rest or it's parts and which are intimately associated with important beliefs, practices, customs and traditions, persons and personages.

4.15 Technical Work Program – refers to a detailed outline of activities and financial plan to be followed in the treasure hunting.

4.16 Treasure Hunting – refers to any and all inland activities such as but not limited to locating, digging or excavating, transporting and disposition of recovered treasures.

4.17 Site – refers to the actual ground location of diggings and excavations.

Section 5. Qualifications of Applicants. The following entities may apply for a Treasure Hunting Permit:

5.1 In case of an individual – must be a Filipino citizen, of legal age, with capacity to enter into contract and capable of conducting Treasure Hunting.

5.2 In case of partnership, association or corporation – must be organized or authorized for the purpose of engaging in Treasure Hunting, duly registered in accordance with law, and with technical and financial capability to undertake Treasure Hunting activities.

Section 6. Filing of Application. All applications for Treasure Hunting shall be made under oath and shall be filed with the Agency where all legal, technical, financial and operational requirements shall be evaluated.

An application fee based on the categories mentioned below shall be followed:

6.1 Small scale treasure hunting activity (if the area is less than one hectare) - P 3,000

6.2 Medium scale treasure hunting activity (private/ commercial area) - P 5,000

6.3 Large scale treasure hunting activity (area is one hectare or more /public land) - P10,000

Section 7. Requirements. All applications shall be accompanied by the following:

7.1.A Legal and Administrative

7.1.1 Prescribed personal and/or Corporate Information Sheet

7.1.2 For partnership, associations or corporations

7.1.2.1 Certified true copy of Certificate of Registration issued by the Securities and Exchange Commission (SEC) or concerned authorized Government agency;

7.1.2.2 Certified true copy of Articles of Incorporation/Partnership/Association and Bylaws; and

7.1.2.3 Organizational and Operational Structure

7.1.3 Consent of landowner(s) concerned, when the activities are bound to affect private lands or consent of the concerned Government agency, when the activities affect government buildings, dams, watersheds and other areas or site reserved or used for purposes affecting vital national interest, military or naval camps, bases and reservations, shrines and other hallowed places; or consent of concessionaires when the permit area affects aquaculture or fishery projects or beach/marine recreational areas, if applicable:

7.1.4 Area Clearance from concerned Government agency, when the activities affect public land.

7.1.5 Certified true copy of Joint Venture Agreement(s), if any; and

7.1.6 Free and prior informed consent of indigenous cultural community in areas covered by ancestral land/domain.

7.1.7 ECC and/or IEIE in Environmentally Critical Area identified by the Department of Environment and Natural Resources.

7.2 Technical

7.2.1 Technical description of the site expressed in terms of latitude and longitude.

7.2.2 Technical Work Program, including appropriate technology, manpower, equipment, cost estimates and safety measures.

7.2.3 Environmental Work Program, including the nature and extent of predicted damages to the environment, if any, and the proposed restoration/rehabilitation program and budgetary requirements. This shall be the basis for the assessment of the required surety bond for the restoration/rehabilitation works. The said program must conform or must have prior clearance from concerned local government unit (Municipal or City level).

7.2.4 Curriculum Vitae or technical person/s who shall undertake the Technical and Environmental Work Programs.

7.3 Financial

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7.3.1 Latest income/corporate tax return, if applicable;

7.3.2 Certified true copies of latest audited financial statements, if applicable; and

7.3.3 Bank guarantees/references, credit lines, cash deposits, and other proofs of the sources of funding.

Section 8. Evaluation and Approval. Within thirty (30) working days upon payment of a non-refundable application fee and submission of the complete requirements to the agency, the application shall be processed and evaluated by the Cultural Properties Division (CPD) which shall be approved by the Director.

The CPD shall assist the Director on the following:

8.1 Plotting of area applied for in control map(s);

8.2 Evaluation and review of applications;

8.3 Determination of the amount of surety bond to be posted;

8.4 Monitoring in compliance with the terms and conditions stipulated in the treasure hunting permit;

8.5 Recommendation of any measure in connection with authorized activities; and

8.6 Preparation of progress report on the said activities.

If necessary, the evaluation shall include a field assessment/verification of the location, public or private structures that may be affected based on the submitted Technical and Environmental Work Programs. The corresponding field verification fee of One Thousand Five Hundred Pesos (P1,500.00) per field man per day shall be paid by the applicant. However, all spot inspections verifying the progress of the approved treasure hunting activity shall be shouldered by the National Museum.

The Chief of the Cultural Properties Division shall endorse the results of the technical evaluation of the application to the Director for consideration and approval, including the recommendation for the amount of surety bond to be posted by the applicant.

After the approval, the permit shall be forwarded to the Permit Section of the CPD for numbering.

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8.7 No permit shall be issued in cave sites within 500 meters from the mouth of the cave, archaeological, and/or declared historical zones, and anthropological reservations.

8.8 No permit shall be issued on any shipwreck activities;

8.9 No permit shall be issued on all identified or recorded archaeological sites;

Section 9. Posting of Bond and Releasing of Permit. A surety bond shall be posted by the applicant upon approval but before the release of the permit, to answer for and guarantee payment to whatever actual damages that may be incurred during locating, digging and excavating activities. The applicant shall post the bond in the Government Service Insurance System (GSIS) or any reputable bonding company in case of the former's failure to provide the same. The proof of posting of the surety bond shall then be submitted to the agency prior for numbering and release of the Permit of the applicant.

Section 10. Term of the Permit. The Permit shall have a term of one (1) year renewable once for a period of one (1) year.

Section 11.Terms and Conditions of the Permit. The Permit shall contain the following terms and conditions:

11.1 The permit for treasure hunting shall be for the exclusive use and benefit of the Permit Holder and shall not be transferred or assigned, except in case of death or total incapacitation of individual permit holder where succession would only be to next of kin;

11.2 The Permit area may be inspected and examined at any time by the Director or his authorized representative(s). Other concerned agencies may also undertake inspection in the Permit Area in coordination with the agency;

11.3 The Permit Holder shall commence its activities within three (3) months from the issuance of the Permit;

11.4 The Permit Holder shall not destroy any building or structure erected on the Permit Area without the consent of the owner.

11.5 The Permit Holder shall submit a quarterly report detailing thereon the accomplishment/progress of work as per submitted and approved Technical Work and Environmental Work Programs not later than ten (10) days after the end of each quarter.

11.6 The Permit Holder shall immediately notify the agency within twenty four (24) hours upon discovery of valuable items in the area applied for;

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11.7 The Permit Holder shall assume full responsibility and be liable for damages that may incur during its operation under the Permit or activities or omission incidental to its operation;

11.8 Upon the recommendation of the Chief of the Cultural Properties Division, the Director may at any time suspend or revoke the Permit when in his opinion, public interest so requires or upon failure of the Permit Holder to comply with the terms and conditions thereof or of relevant laws, rules and regulations and local ordinances without any responsibility on the part of the Government as to the expenditures that might have been incurred or as to other damages that might have been suffered by the Permit Holder;

11.9 The Permit Holder shall conform to applicable laws, rules and regulations;

11.10 Withdrawal by the Permit Holder from the Permit Area shall not release it from any and all financial, environmental, legal and/or other obligations.

11.11 The Permit Holder shall comply with any additional terms and conditions which the Director may impose, or requirements that the agency may thereafter prescribe;

Section 12. Transport of Treasure Finds

12.1 No Treasure Finds (gold bullions, platinum, jewelries, etc.) shall be moved from one destination to another without prior permit to transport issued by the National Museum; to this effect, the following documents shall be provided:

12.1.1 Formal Request to transport from the original place to a place of destination;

12.1.2. Copy of Treasure Hunting Permit;

12.1.3. List of Inventory to be transported;

12.2 The inventory of treasure finds shall be conducted by the agency together with the applicant or his/her authorized representative.

Section 13. Valuation and Disposition of Recovered Treasure/Valuable Cargoes. Upon discovery of valuable items such as monies, things and article of value, resulting from Treasure Hunting, the agency shall determine whether or not they are considered to have cultural and/or historical value. In the event that the items are considered to have historical and cultural value, it shall be turned over to the National Museum for appropriate action. Otherwise, the same shall be turned-over to the Oversight Committee for valuation and disposition.

All treasures found shall be allowed for export only upon the approval of the National Museum in coordination with the Central Bank of the Philippines.

Section 14. Oversight Committee. An NM Oversight Committee shall be created within thirty (30) days from the date of effectivity of these rules and regulations to oversee all the diggings, excavations and to take possession for

valuation and eventual disposition of all monies, things, and articles of value without historical and cultural value. The Committee shall be composed of the Director or his duly authorized representative as Chairperson; technical personnel from the National Museum, Central Bank and the Permit Holder or his representative as members.

Section 15. Sharing. After an audited report of expenses has been evaluated and approved by the Oversight Committee, the sharing of the net proceeds shall be as follows:

15.1 For Treasure Hunting within Public Lands – Fifty percent (50%) to the Government, fifty percent (50%) to the Permit Holder;

15.2 For Treasure Hunting in Private Lands – Seventy percent (70%) to the applicant and thirty percent (30%) to the government.

Section 16. Government Rights. An intellectual property rights arising from the documentation or recording of the discovery, recovery and other such activities pertaining to Treasure Hunting by means of still photography, film, video or other forms of electronic media, publication of the images generated thereby and other forms of reproduction or dissemination of the same belong to the Government and shall be governed by appropriate laws.

Section 17. Confidentiality of Information. All information submitted by the appli- cants in support of their applications and other data supplied by the Permit Holder shall be treated as confidential by the Government from the time they are submitted/supplied to Agency and/or Oversight Committee up to a period of two (2) years from the expiration of the permit. Likewise, illegal treasure activities reported to the National Museum must be treated with strict confidentiality. And as such, the National Museum shall be liable in case of leak of information of said report.

Section 18. Rehabilitation. Rehabilitation of disturbed areas shall be monitored in accordance with the approved ECC and the permit itself. In cases of forfeiture, both the rehabilitation fee and the posted bond shall be used to rehabilitate the area and shall not be limited to rehabilitation activities but may include repair and maintenance of adjacent areas.

Section 19. Terms and Conditions. The Permit shall have a maximum term of one (1) year renewable once for the same period and shall contain the following terms and conditions:

19.1. The boundaries of the permit area for treasure hunting shall be properly marked;

19.2 The permit holder shall immediately formally notify in writing the agency within twenty four (24) hours upon discovery of valuable items in the area covered by the permit. Failure to notify the agency within the required period shall render the collection and/or gathering as illegal and shall constitute as a violation of the Guidelines on Treasure Hunting;

19.3 The permit holder shall assume full responsibility and be liable to damages that may be occasioned by its operation under the permit.

Section 20. Termination and Cancellation of the Permit. The grounds for the termination or cancellation of the

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Permit shall be as follows:

20.1 Failure of the TH permit holder to comply with the terms and conditions of the Permit;

20.2 Violation of any of the provisions of R.A. 10066 and applicable environment and natural resources laws, rules and regulations;

20.3 When the national interest so requires as determined by the agency.

In cases of violations the bond shall automatically accrue for rehabilitation works.

Section 21. Permit Renewal. Treasure Hunting Permit (THP) renewal shall be subject to the following conditions:

21.1 Payment based on the category mentioned in Section 6 of this order for application fee, submission of new/revised work program, certification of performance or accomplishment reports, submission of area clearances and proofs of financial capability as specified in Section 7.3 of this order and payment of bond.

Section 22. Penal Provision. Any violation on the provisions of these rules and regulations shall be penalized in accordance with R.A. 10066 or the National Cultural Heritage Act of 2009 and other existing applicable laws, rules and regulations.

Section 23. Transitory and Miscellaneous Provisions. All existing Treasure Hunting permit previously issued by the DENR – Mines and Geosciences Bureau shall be evaluated and validated by the National Museum. All pending, new and renewal of applications shall be endorsed to the Chief of the Cultural Properties Division for evaluation to be approved by the Director.

Section 24. Separability Clause. If any of the provisions of these rules and regulations is held or declared to be unconstitutional or invalid by a competent court, the other provisions hereof shall continue to be in force as if the provision so annulled or voided had never been incorporated in these rules and regulations.

Section 25. Repealing and Amending Clause. These Guidelines amends and/or revoke other orders, rules and regulations inconsistent herewith.

Adopted: 05 January 2011

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