



Republic of the Philippines

Province of Iloilo

Municipality of Tigbauan

Office of the Sangguniang Bayan

Tigbauan Municipal Hall, Tigbauan, Iloilo 5021 Philippines

(033) 511-8532 sbtigbauan@yahoo.com



EXCERPT FROM THE MINUTES OF THE 26th REGULAR SESSION OF THE HONORABLE SANGGUNIANG BAYAN, TIGBAUAN, ILOILO HELD AT THE S.B. SESSION HALL, TIGBAUAN MUNICIPAL BUILDING ON JUNE 26, 2019 AT 3:00 O'CLOCK IN THE AFTERNOON

PRESENT

HON. VIRGILIO T. TERUEL,	- Vice Mayor & Presiding Officer
HON. SUZETTE MARIE HILADO-BANNO	- S.B. Member & Temp. Presiding Officer
HON. DENNIS T. VALENCIA	- S.B. Member
HON. JOHN GERSHWIN C. TUERES	- S.B. Member
HON. JULIUS T. LEDESMA	- S.B. Member
HON. NERI T. CAMIÑA	- S.B. Member
HON. MA. GERRYLIN SANTUYO-CAMPOSAGRADO	- S.B Member
HON. JERRY T. TUARES	- Liga President
HON. DYOSA MARIE TERUÑEZ	- SKMF President

ABSENT:

HON. RICKY T. NULADA - S.B. Member (*Special Priv. Leave*)

Resolution No. 2019 – 061

RESOLUTION AUTHORIZING THE MUNICIPAL MAYOR, ATTY. SUZETTE TENEFRANCIA-ALQUISADA, FOR AND IN BEHALF OF THE MUNICIPALITY OF TIGBAUAN TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE UNIVERSITY OF THE PHILIPPINES FOR THE IMPLEMENTATION OF THE COMMUNITY HEALTH INFORMATION TRACKING SYSTEM (CHITS) IN THE RURAL HEALTH UNIT OF TIGBAUAN

WHEREAS, pursuant to the provisions of Section 3(d) 8 of Republic Act No. 9500, U.P. as the National University shall "lead as a public service university by providing various forms of community, public, and volunteer service, as well as scholarly and technical assistance to the government, private sector and civil society while maintaining its standards of excellence";

WHEREAS, in 1998, UP., through its Board of Regents, created and established the National Telehealth Center (NTHC) in its constituent university and the country's National Health Sciences Center, UPM, with a mandate to improve the health of Filipinos through the appropriate and optimal use of information and communications technology, and which mandate includes the development of nationwide capacity for health informatics and health Information Technology (IT), including eHealth;

WHEREAS, further to its mandate, the NTHC has, over the years, designed and implemented various research projects in eHealth (telemedicine, electronic medical records, eLearning), both locally and internationally, with technical and funding assistance from various international and national agencies such as the World Health Organization (WHO), the Commission on Information and Communications Technology (CICT), the Department of Science and Technology (DOST), and the Department of Health (DOH), among others, that enabled and continue to enable NTHC to develop relevant, timely, and cost-effective technologies as well as expertise in the management of health informatics, coupled with its ownership over creative, intellectual and proprietary outputs, know-how, materials, products and processes, specifications, procedures and methodologies, and other related intellectual and proprietary information and outputs;

WHEREAS, one such research project is the Community Health Information Tracking System, also known as the CHITS, which is a web-based, free and open source electronic health record management system specifically developed since 2004 by U.P., through UPM-NTHC, for government health centers that integrates research-based health information and reporting features consistent with the Field Health Services Information System (FHSIS) of the Department of Health (DOH). The CHITS as an electronic health record management system

...d by U.P. has, to date, been applied, utilized, and continuously being up-graded, tested and developed in more than 200 facilities nationwide, as far North in Batanes to Tawi-Tawi;

WHEREAS, the Philippine Health Insurance Corporation (PhilHealth) and the Department of Health as per PhilHealth Circular 2016-0013 and PhilHealth Advisory 2016-0040, recognized CHITS as one of their certified electronic medical record (EMR) system capable of submitting electronic Primary Care Benefit (PCB) package reports;

WHEREAS, U.P., through UPM-NTHC, is the sole and exclusive service and maintenance provider of the CHITS, including its open-source software customization and development, capability-building and training programs, and IT support and related management services;

WHEREAS, through its Rural Health Unit (RHU) has implemented the Community Health Information Tracking System (CHITS) Open MRS version in its primary care facilities. The said project was composed, among others: development of CHITS, capability-building programs for end-users, facility administrators and IT personnel; the installation and configuration of CHITS, technical support and assistance and other related services;

WHEREAS, the Municipality, through its RHU, is desirous of engaging the services of U.P. as their EMR service provider as elaborated in Article 1: Scope of Work and Annex 1: Service Level Agreement

WHEREAS, the Municipality of Tigbauan is among the identified implementation sites of the "RxBox1000: Roll Out of the RxBoxTelehealth Devices to (1000) Selected Rural Health Units". The, CHITS is part of the technologies of the RxBox2 research program: *Integration of Medical Devices in the National Telehealth Service Program*. The RxBox program, among others, demonstrates the seamless integration of three technologies: the RxBoxtelehealth device and the National Telehealth System app are clinical decision support tools, and the CHITS is the data capture system wherein all clinical information is documented, stored, retrieved, transferred and exchanged.

WHEREAS, for and in consideration of the foregoing premises and of the terms and conditions hereinafter set forth, the parties mutually agree, as they hereby agree, as follows:

ARTICLE 1: SCOPE OF WORK

Section 1: Specific agreements, responsibilities of stakeholders and working relationship of the parties are defined in the Research Agreement, Annex 1. Its effective coverage period of which begins immediately after the RxBox training and deployment to the LGU to three months after the 1000th RxBox system is deployed, and the RxBox1000 project is concluded respectively;

ARTICLE 2: TERMS

Section 1: This MOA shall take effect upon signing of the parties concerned and shall be valid and effective for a period of one (1) year unless terminated earlier in accordance with the provisions of this MOA.

ARTICLE 3. CONTRACT PRICE AND TERMS OF PAYMENT

Section 1: For 2019, the training, deployment and implementation of CHITS as a bundled electronic medical record system of the RxBox will be at the cost of the RxBox 1000 project wherein the effective coverage period begins immediately after the training and deployment and three months thereafter.

Section 2: Should the municipality decides to continue implementing CHITS as their EMR, the details of the costs and terms of payment for the services to be rendered for technical and maintenance support shall be agreed upon by the parties in subsequent specific agreements, subject to the parties' respective policy guidelines on the matter, which shall form integral parts of this MOA.

ARTICLE 4. CONFIDENTIAL INFORMATION

Section 1: Either party's disclosure, acceptance or use of any confidential information in the course of this agreement will be subject to the following:

- a. Confidential Information means any confidential and proprietary information that was made known and disclosed by one party to another, including but not limited to creative, intellectual, and industrial outputs, materials, products and processes, trade and business proposals and techniques, plans and programs, specifications, procedures and methodologies, databases, software programs, whether disclosed orally, in written, non-written, graphic, schematic, and/or electronic mode or learned through observation, examination and/or use thereof. For brevity, said

Confidential and proprietary information are collectively and commonly referred to as "Confidential Information."

- c. Confidential Information will be clearly marked as such in writing subject to the provisions of item c below provided that such information:
 - 1. is not publicly known or available from other sources who are not under a confidentiality obligation to the source of the information;
 - 2. has not been made available by its owners to others without a confidentiality obligation;
 - 3. is not already known by or available to the receiving party without a confidentiality obligation;
 - 4. is not independently developed by the receiving party without reference to or use of confidential information;
 - 5. does not relate to potential hazards or cautionary warnings associated with the performance of work under this Agreement as stated in the TOR or is not required to be disclosed under operation of law.
- d. Confidential Information shall not include information which:
 - 1. is now, or hereafter becomes generally known or available to the public through no act or failure to act on the part of either party;
 - 2. was acquired before receiving such information;
 - 3. is hereafter rightfully furnished by a third party without restriction as to use or disclosure; or
 - 4. is disclosed with the prior written consent of either party.

Handwritten signature

Section 2: In the event that a Receiving Party or any of its directors, regents, officers, employees, consultants or agents are requested or required by legal process to disclose any of the Confidential Information, the Receiving Party will provide the Disclosing Party with prompt notice so that the Disclosing Party may seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained within seven (7) days, the Receiving Party will disclose only that portion of the Confidential Information, which its counsel advises that it is legally required to disclose.

Section 3: To be considered Confidential Information, all written information must be marked or designated in writing as CONFIDENTIAL by the party providing the information, and oral communications must be reduced in writing within thirty (30) days of the initial communication of the information and such writing must be marked or designated in writing as CONFIDENTIAL and provided to the other party.

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Section 4: The Receiving Party will use reasonable efforts to limit internal disclosure of the Confidential Information only to such persons whose access to such information is necessary for the sole purpose of carrying out its obligations under this Agreement. The Receiving Party further undertakes that the abovementioned persons shall be advised of the confidential nature of the information and directed to treat such information confidentially and to otherwise comply with this Agreement.

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Section 5: Where the Receiving Party does accept such information as confidential, such Party agrees to use the same degree of care to prevent the unauthorized use, dissemination, or publication of the Confidential Information, without the express written permission of the Disclosing Party.

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Section 6: The Receiving Party's obligation to hold Confidential Information in confidence will survive notwithstanding the termination or expiration of this Agreement until such time when the Disclosing Party discloses the Confidential Information to the public or when it otherwise becomes part of the public domain through no action of the Receiving Party.

Section 7: Upon the Disclosing Party's request or at the termination or expiration of this Agreement, the Receiving Party agrees to promptly return all Confidential Information to the Disclosing Party, and all copies thereof, and to destroy and permanently delete all information prepared for or by the Receiving Party that contains Confidential Information furnished by the Disclosing Party. Additionally, the Receiving Party, through its duly authorized representative, shall provide certification that all copies made by it have been destroyed and permanently deleted and that no such Confidential Information has been retained in any form whatsoever, except for one hard copy which may be retained by the Receiving Party only for the purpose of determining the Receiving Party's continuing obligations hereunder. Notwithstanding the return and destruction of the Confidential Information, the Receiving Party will continue to be bound by its obligation of confidentiality as otherwise provided herein.

Section 8: In the event of any breach of any and all stipulations in this Article hereof by the Receiving Party, including without limitation, the actual or threatened disclosure of Confidential Information without the prior express written consent of the Disclosing Party, the parties hereby acknowledge and agree that

The Disclosing Party will suffer irreparable injury such that no monetary remedy is adequate protection for such injury, or appropriate compensation for said breach by the Receiving Party. Accordingly, each Party agrees that the Disclosing Party shall be entitled to specific performance of the Receiving Party's obligations under this Agreement, as well as such further injunctive or equitable relief as may be granted by a court of competent jurisdiction without need for the posting of a bond. Any such remedy will not be deemed to be the exclusive remedy for breach of this Agreement but shall be in addition to all other remedies available at law or equity to the Disclosing Party.

ARTICLE 5. PUBLICITY

Section 1: Neither party will identify the other in any products, publicity, promotion, promotional advertising, or other promotional materials to be disseminated to the public, or use any trademark, service mark, trade name, logo, or symbol that is representative of a party or its entities, whether registered or not, or use the name, title, likeness, or statement of the other party's officer or employee or in the case of U.P. its faculty member, employee, or student without the other party's prior written consent. Any use of a party's name shall be limited to statements of fact and shall not imply endorsement of products or services.

ARTICLE 6. PUBLICATION

Section 1: The basic objective of research and extension (service) activities of UP is the generation of new knowledge and its expeditious dissemination for the public's benefit. The CHITS subject hereof is one such activity. Towards this end, the Municipality will provide all reasonable cooperation with UP in meeting this objective in conformity with the State Policies and Objective of Republic Act (RA) No. 10055, otherwise known as the Technology Transfer Act of 2009.

Section 2: As a matter of basic academic policy and pursuant to the provisions of the Constitution and RA No. 10055, UP retains the right at its discretion to publish freely any results of the research activities and outputs generated from and/or otherwise arising from the implementation of the CHITS and to reserve for itself and for third persons the right to make use of intellectual property generated therefrom pursuant to said research for educational, scholarly and other non-profit research purposes. UP agrees to provide the Municipality a copy of any manuscript at the time it is submitted for publication. For this purpose, the Municipality may review the manuscript:

- a. To ascertain whether the Municipality's Confidential Information would be disclosed by the publication;
- b. To determine whether as Government Funding Agency under RA 10055 that the publication would constitute a prejudicial disclosure that would bar the filing of patent or other intellectual property applications;
- c. To confirm that the privacy rights of individuals are adequately protected.

The Municipality, after review, shall issue a certification within seven (7) days after receipt of a copy of the proposed publication if it finds the same to be acceptable for publication.

Section 3: The Municipality will provide comments, if any, within thirty (30) days of receipt of manuscript. UP shall refrain from making such publication or presentation for a maximum of sixty (60) days from the date of receipt of such objection in order to enable the filing of the appropriate patent or other intellectual property applications, if any, in its name pursuant to RA No. 10055.

Section 4: The Municipality shall have the right to request that any of its confidential information be deleted from the materials submitted, or that portions thereof be rewritten so as to protect its rights; provided that UP shall have the final authority to determine the scope and content of any publication.

Section 5: UP agrees that nothing in this Section will be construed as giving UP the right to disclose the Municipality's Confidential Information to any third party without its prior written consent.

Section 6: Any publication or report arising from the activities undertaken by virtue of and pursuant to this Agreement shall clearly establish and identify UP as the source of said publication with due acknowledgement given to the Municipality.

ARTICLE 7. REPRESENTATIONS, WARRANTIES, LIABILITY LIMITS AND INDEMNIFICATION

Section 1: CHITS modules were developed and were customized using free and/or open source software (FOSS), both U.P. and the Municipality are bound to comply with the terms and conditions of licenses covering said FOSS. As such, the parties expressly agree and bind themselves to the following:

- a. Consistent with the terms of the FOSS licenses that were, are and to be utilized in the continuing development and customization of CHITS, UP disclosed and the Municipality expressly agreed that UP cannot provide warranties to the Municipality for CHITS under said FOSS licenses.

is understood by the Parties that the payment to be received by UP is not a royalty payment for a license for the CHITS but payment for the services to be rendered by UP to the Municipality comprising of the following implementation of CHITS; system administration and maintenance of the CHITS; and IT support and related management services.

Section 2: The rights and obligations of the Parties as regards technologies and intellectual properties that are produced pursuant to the implementation of this Agreement shall be governed by RA No. 10055 and its Implementing Rules and Regulations subject to the provisions of the abovementioned licenses for FOSS that were used for the development and customization of CHITS.

Section 3: Neither party shall make any claim to the other party's pre-existing intellectual property. Except to the limited extent required to perform a party's obligations under this Agreement, no party shall receive any right, title, or interest in or to any intellectual property provided to it by the other party, or any technology, works or inventions of the other party or any patent, copyright, trade secret or other intellectual property rights in any of the foregoing.

Section 4: The Municipality acknowledges and confirms that UP is an academic research institution and that the CHITS and its various applications as well as any of the outputs or results of the research under the scope of work and any research materials, including its pre-existing and new intellectual properties, are provided on "as is" basis and subject further to the stipulations in paragraph 1 above. Thus, UP will not guarantee the results of the research, whether any results will produce any research materials or any invention, process or product, whether tangible or intangible, conceived, discovered, developed or reduced to practice under this Agreement. UP does not guarantee the merchantability or fitness for a particular purpose of the research, any research materials or any pre-existing or new intellectual property or product. New intellectual property refers to technology and intellectual property produced as a result of carrying out the activities related to CHITS.

Section 5: Considering the nature and scope of CHITS as a health information system which will be supported by science and evidence – based research outcomes, UP shall not be liable for any direct, consequential, or other damages suffered by the Municipality or any third party, including but not limited to damages arising from loss of data or delay or termination of the Agreement, or from the use of the results of the research activities under the Agreement, the use of any research materials or pre-existing or new intellectual property or product. The Municipality acknowledges and agrees that this exclusion and limitation is reasonable considering that CHITS was developed and customized using the FOSS, the nature of the necessary and required research activities under scope of work, and the nature and terms of the relationship of the parties, both being government entities or public entities.

Section 6: Subject only to the foregoing stipulations, UP warrants that the quality of services to be rendered by UP in favor of the Municipality as required in the scope of work shall be in accordance with acceptable professional and technical standards. This warranty contract covers the entire one year of this Agreement and up to one year from the date of expiration or termination thereof.

Section 7: Each party shall indemnify and hold the other party, its affiliates and subsidiaries, and their directors, officers and/or employees free and harmless against any and all claims, damages, actions, suits or other proceedings, and from any liabilities, costs, expenses (including legal fees), losses, and taxes arising from (i) breach or non-compliance with any of the other provisions of this MOA; or (ii) the fault or negligence of the other party in connection with this MOA.

ARTICLE 8: TERM, TERMINATION FOR CAUSE, SURVIVAL OF PROVISIONS

Section 1: This Agreement will remain valid, effective and binding on the parties for a period of one (1) year counted from the date of receipt by UP of the Notice to Proceed from the Municipality, unless sooner terminated, rescinded, cancelled or extended in writing signed by the parties in accordance with this Agreement.

Section 2: At any time during the term of this Agreement, any of the parties shall promptly notify the other in writing of the any and all conditions that each believe may tend to or did cause the delay or failure by the other party in the performance of its obligations. As soon as practicable, after receipt of the Notice, the other parties shall evaluate the situation and determine as follows:

- a. If the failure to perform is with excusable cause, the parties shall agree on the extension of time to perform the obligations or the deliverables. The Agreement shall not be terminated and the liquidated damages shall not be imposed.
- b. If the cause is due to fortuitous event or force majeure beyond the control of the party, the parties shall agree on the extension of the time of performance of their respective obligations unless the fortuitous event or force majeure prevents or materially affects the ability of said party to comply with any of its obligations, subject further to the condition that the party invoking it as an excuse for the non-performance of its obligations is neither at fault or negligent.

3: In case of termination, rescission or cancellation of this Agreement, UP shall be entitled to reimbursement from the Municipality of all actual costs and expenses incurred in the performance of the services called for under this Agreement and the payment of which had not been previously made as of the effective date of the termination, rescission or cancellation.

Section 4: This Agreement may be extended and/or renewed by the parties under such terms and conditions as they may mutually agree upon. At any time within six (12) months after the signing of this Agreement, UP shall submit a proposal to the Municipality for the extension or renewal of this Agreement, and which proposal shall be discussed by the parties at least three (3) months before the expiration and termination hereof.

Section 5: The provisions of Articles 4, 5, 6, and 7 will survive any expiration, termination, rescission or cancellation of this Agreement.

ARTICLE 9: DISPUTE RESOLUTION AND VENUE

Section 1: In case of disputes, claims and controversies arising from the interpretation and application of this Agreement the parties agree to freely and voluntarily submit themselves to consultation and negotiation to amicably settle the dispute. Should the parties fail to reach an amicable settlement, all disputes, controversies or claims arising out of or relating to this Agreement or about its breach, termination or invalidity shall be administratively settled pursuant to the provisions of Presidential Decree No. 242, as amended, and related laws, rules and regulations, including the Rules on Alternative Dispute Resolution (ADR) issued by the Office of the Solicitor General (OSG) which became effective on March 28, 2010.

Section 2: All such conflicts which cannot be decided by negotiation and/ or mediation shall be decided by arbitration in accordance with the rules of arbitration contained in the UNCITRAL Model Law as adopted in Republic Act No. 9285 or the ADR Law of 2004, subject however to Rule 26 of the Implementing Rules and Regulations of RA No. 10055.

Section 3: In the event that the either party refuses to resort to arbitration as a mode of dispute settlement, or that the dispute involves issues which may not be resolved through arbitration the aggrieved party may seek judicial relief. For this purpose, the venue of judicial action shall be in the trial courts of the City of Manila.

ARTICLE 10: COMPLIANCE WITH THE DATA PRIVACY ACT

Section 1: This Agreement, in the process of information acquired in the implementation of this Agreement, the parties agree to comply with the provisions of the Data Privacy Act.

Section 2: The information processors shall be oriented on the salient provisions of the Data Privacy Act and shall be required to sign a Confidentiality Agreement for information that are processed as defined by the Act.

ARTICLE 11: INDEPENDENCE OF PARTIES

Section 1: The parties are independent entities with respect to each other.

Section 2: Nothing in this Agreement shall be construed to place that parties in the relationship of partners, joint venture, fiduciaries or agents

Section 3: The parties are not granted any right nor any authority to assume or to create an obligation or to bind the other party.

ARTICLE 12: NOTICES

Section 1: Form of Notice. All notices, requests, claims, demands and other communications between the parties shall be in writing.

Section 2: Method of Notice. All notices shall be given:

- a. By delivery in person,
- b. By a nationally recognized courier services,
- c. By first class, registered or certified mail, postage prepaid

Section 3: All notices shall be effective:

- a. Upon receipt by the party to which notice is given,
- b. On the day the mail is returned to sender because the addressee no longer resides at the given address in this Agreement without notifying the other party of the new address, or,
- c. After two (2) failed attempts to personally deliver the notices, requests, claims, demands and other communications, the party delivering the notice may leave the notice, request,

d. claim, demand or other communications to a person of legal age residing or working in the address specified in this Agreement.

Section 4: Refusal of Delivery. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

Section 5: Party to notify. All notices, requests, claims, demand and other communications shall only be valid, effective and binding if received by the following officials and only in the addresses indicated below:

UP MANILA:

Carmencita D. Padilla, MD, MAHPS
Office of the Chancellor
University of the Philippines Manila
RCB Building, Philippine General Hospital
Taft Avenue, Manila

MUNICIPALITY OF TIGBAUAN:
ATTY. SUZETTE T. ALQUISADA
Office of the Mayor
Tigbauan, Iloilo

ARTICLE 13: NON-WAIVER OF RIGHTS AND REMEDIES

Section 1: Failure of any party to notify the other party of a breach of the terms and conditions of this Agreement or to demand compliance or a strict performance thereof shall not be considered as a waiver of any cause of action, right or remedy that may be available.

Section 2: None of the provisions of this Agreement shall be considered waived by any of the parties hereto unless such waiver is made in writing and signed by the party making the waiver.

Section 3: No such waiver shall be construed as a modification of any provisions of this Agreement or as a waiver of any part or future default or breach thereof, except as expressly stated in such waiver.

NOW, THEREFORE, on motion of HON. SUZETTE MARIE HILADO-BANNO, Chairperson, Committee on Health and Sanitation and duly seconded by Hon. Dennis T. Valencia, Hon. John Gershwin C. Tueres, Hon. Ariel I. Bernardo, Hon. Neri T. Camiña, Hon. Julius T. Ledesma, Hon. Ma. Gerrylin Santuyo-Camposagrado, Hon. Jerry T. Tuares and Hon. Dyossa Marie Teruñez;

RESOLVED, to authorize the Municipal Mayor, Atty. Suzette Tenefrancia-Alquisada, for and in behalf of the Municipality of Tigbauan to enter into a Memorandum of Agreement with the University of the Philippines for the implementation of the Community Health Information Tracking System (CHITS) in the Rural Health Unit of Tigbauan

RESOLVED FURTHER, to furnish copies of this Resolution to the Office of the Municipal Mayor, Atty. Suzette T. Alquisada, to the University of the Philippines, Manila thru its representative, Dr. Carmencita Padilla, and to all concerned for their information and/or appropriate action.

APPROVED.

CERTIFIED CORRECT:

ATTESTED:


VIRGILIO T. TERUEL
Vice Mayor & Presiding Officer


MARLENE TAYO-NAVA
S.B. Secretary

HON. VIRGILIO T. TERUEL, LAWYER
Municipal Vice Mayor

Sangguniang Bayan Members:

Hon. Dennis T. Valencia	Hon. Suzette Marie Hilado-Banno, M.D.	Hon. Ma. Gerrylin Santuyo-Camposagrado, LLB, MPA
Hon. John Gershwin C. Tueres, LLB	Hon. Neri T. Camiña	Hon. Ricky T. Nulada
Hon. Ariel I. Bernardo	Hon. Julius T. Ledesma, O.D.	Hon. Jerry T. Tuares, (LnB-Pres.)- Civil Engineer
		Hon. Dyossa Marie Teruñez (SKMF-Pres.)

"Public office is a public trust. Public Officials must at all times be accountable to the people."