

MPLT RESOLUTION NO. 09-07

A RESOLUTION TO INFORM THE MUNICIPALITY OF TINIAN OF TERMS AND CONDITIONS MPLT WOULD REQUIRE IN MAKING AN INVESTMENT OF MPLT FUNDS

WHEREAS, On October 23, 2009 the Trustees approved in principle by a 5-0 vote of the Trustees, subject to terms and conditions and pursuant to Tinian Local Law 16-2, a proposal by the Mayor of Tinian for a \$1 million consolidated loan/ investment in the Tinian Municipality secured by Tinian's Casino Gaming and Local Pachinko / Poker Tax Revenue; and

WHEREAS, Article VI § 8 of the NMI Constitution establishes the chartered municipality of Tinian, as well as the Municipality's right to expend all local taxes for local public purposes on the island of Tinian; and

WHEREAS, Article XII § 6 of the NMI Constitution establishes the Marianas Public Land Trust ("MPLT") with five Trustees responsible for the reasonable, prudent, and careful investment of the Trust Funds; and

WHEREAS, 7 CMC § 3401 provides statutory authority for the applicability of the common law in the CNMI as to trust administration through the Restatement of Trusts as approved by the American Law Institute as the rules of decision in the courts of the Commonwealth; and

WHEREAS, consistent with the principles set forth in Section 227 of the Restatement Third, Trusts (Third), MPLT's fiduciary responsibility requires the Trustees to make reasonable, careful, and prudent investments and to preserve and enhance net revenues received from the lease of public lands for the benefit of all CNMI descendants and their future generations; and

WHEREAS, MPLT Trustees did find a considerable risk to the proposal because of the rapidly declining economic conditions world-wide, in addition to poor economic conditions in the CNMI, challenging the Tinian Municipality's ability to service debts prior to the proposed loan, but that risk was countered and tempered by the Tinian

Municipality's pledge of all Casino Gaming revenues and local Poker/ Pachinko Tax Revenues pursuant to Tinian Local Law 16-2;

BE IT RESOLVED, THEREFORE, in consideration of the foregoing, the MPLT Board of Trustees hereby set forth the following terms and conditions which the Trustees would from the Tinian Municipality as follows:

1. An Investment of the sum of \$1 million to the Tinian Municipality through its Mayor who shall have expenditure authority pursuant to Tinian Local Law 16-2 and as required by MPLT;
2. The investment shall be secured by a Secured Promissory Note and a Security Agreement pledging all of the Tinian Municipality's Casino Gaming and Local Poker/Pachinko Tax Revenues for debt service and to secure the \$1 million loan/investment by MPLT;
3. MPLT shall incorporate, as contractual terms, the full provisions of Tinian Local Law 16-2 which would include: (a) the Municipality's full faith and credit to repay the MPLT Investment, (b) pledging, earmarking, and committing all Casino Gaming and Local Pachinko / Poker Tax Revenue for the complete and full payment of this Investment and any interest accrued, (c) granting MPLT first lien on all Casino Gaming and Local Pachinko / Poker Tax Revenue, (d) ensuring a minimum annual revenue of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) for the duration of the Investment repayment, (e) pledging that the Municipality will incur no further debts, obligations, or liabilities without prior express written consent of MPLT, (f) maintaining a reserve of two months' debt service in a Trust Account at all times in the duration of the MPLT Investment, available within six months of the consummation of the agreements, and (g) MPLT's right to appoint a receiver on behalf of the Municipality in the event of a default, to secure payment on behalf of MPLT, with the Municipality bearing all costs associated with the receivership from local revenues;
4. Supporting the Secured Promissory Note and Security Agreement, the Tinian Mayor shall issue a Certification, certifying his approval, the legitimacy, the authority to pledge and incur debt on behalf of the Municipality, and the pledge of all Casino Gaming and Local Pachinko / Poker Tax Revenue for the payment of this Investment;
5. The Tinian Municipal Treasurer shall also certify that there are no existing liens, creditors, debts, arrears, claims, lawsuits, etc. pending against the Casino Gaming

and Local Poker/Pachinko Tax Revenues pledged for the service of this Investment, and that no other debts shall be incurred for the duration of this Investment;

6. The Tinian Legislative Delegation and Municipality shall indemnify, defend and hold MPLT, its trustees, agents, board members, and employees harmless from and against any and all claims, costs, expenses, damages and liabilities (including without limitation such claims, costs, expenses, damages and liabilities based on liability in tort including without limitation strict liability in tort) including reasonable attorneys' fees in the event MPLT or its Trustees, agents or employees are named as defendants in any suit relating to or flowing from this Investment;
7. The Tinian Municipality shall obtain an opinion from legal counsel, stating that (a) the Municipality has the authority to pledge current and future revenues for the service of this Investment to pay for local or past debts for operations or municipal expenses; (b) that all obligations incurred by this Investment are legal and permissible under CNMI law, and (c) the Municipality has the authority to borrow funds for its operation and maintenance;
8. The Tinian Municipality may, at its discretion, obtain a concurrence by the CNMI Attorney General as to the substance of the above-mentioned legal counsel opinion;
9. Interest shall be at the rate of 11% per annum on a five year (60 month) note which the Tinian Municipality shall pay interest payments and principal in equal monthly installments to MPLT;
10. The investment is conditioned upon an agreement that should any government agency or the Legislature impose any rate or tariff restriction upon the Tinian Municipality during the term of this investment, that such an action shall constitute an event of default at which time MPLT shall declare the entire unpaid balance together with all accrued interest due and payable immediately;
11. The Tinian Municipality shall, upon receipt, deposit any and all Casino Gaming and Local Pachinko / Poker Tax Revenue into a specified account which requires signatures from the Treasurer of the Tinian Municipality and the MPLT Chairman, or an appointed designee, for withdrawal;

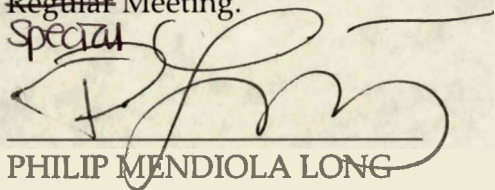
12. The Municipality shall maintain at all times during the Investment repayment period a balance of two months' debt service within six months of the consummation of the MPLT Investment documents.
13. The Tinian Municipality shall guarantee that the annual collection of municipal revenues supporting the debt service on this Investment shall not fall below 2.5 Million Dollars (\$2,500,000.00) each year, and if it does, shall agree to implement any raise in local municipal taxes, fees, and revenue necessary to meet the minimum debt service guarantee;
14. The Tinian Municipality shall, annually for the duration of this Investment, provide an independently audited financial statement to MPLT no later than one hundred twenty (120) days after the end of each fiscal year, with the Municipality bearing all costs and fees associated with the audited financial statement;
15. In the event of Default, MPLT shall have the authority to require the Tinian Municipality to (a) go into receivership and to appoint a receiver for such purpose (b) suspend all public purpose programs and (c) raise taxes, fees, and revenue in order to cure any default; and
16. Upon the satisfaction of these conditions, the MPLT Board of Trustees shall provide the full sum to the Tinian Delegation and Municipality.

BE IT FURTHER RESOLVED, that the Tinian Municipality shall use MPLT's investment subject to any constitutional or statutory restrictions or restraints against using funds from a public debt incurred for operations so that the Tinian Municipality may, at its discretion and without any limitation by MPLT, use MPLT's investment for retroactive salary payments for municipal employees pursuant to Public Law 7-31; funding for the Tinian Municipal Scholarships for a three year term; and repayment to the Tinian Dynasty Hotel & Casino for the 60th Anniversary of World War II expenses.

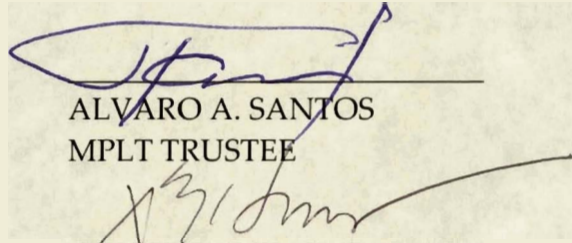
BE IT FURTHER RESOLVED, that counsel for the Municipality and Tinian Legislative Delegation shall deliver to MPLT their written legal opinion and analysis confirming the Tinian Municipality's authority to engage in the loan from and investment by MPLT and the legal sufficiency of the foregoing conditions between MPLT, the Tinian Municipality, and the Commonwealth Government.

SO ADOPTED this 30th day of OCT, 2009 by the MPLT Board of Trustees at a
~~Regular Meeting.~~

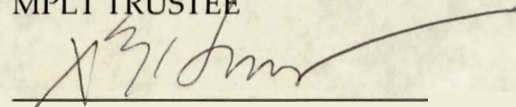
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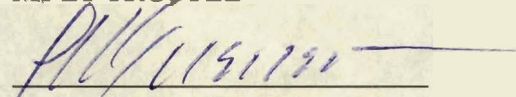
PHILIP MENDIOLA LONG
CHAIRMAN, MPLT BOARD OF TRUSTEES



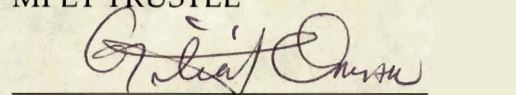
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