MPLT TRUSTEE RESOLUTION NO. 17-001A
AMENDED AND RESTATED

MPLT RESOLUTION ON TRUSTEE COMPENSATION,
PER DIEM RATES AND TRAVEL POLICIES

RECITALS

WHEREAS, Article XI § 6 of the NMI Constitution establishes the Marianas Public Land Trust with five Trustees responsible for the reasonable, prudent, and careful investment of the Trust funds; and

WHEREAS, the Trustees are held to strict standards of fiduciary care in the administration and management of the Trust; and

WHEREAS, MPLT is a public trust established to benefit persons of Northern Marianas descent as provided for by the CNMI Constitution; and

WHEREAS, the trust instrument, the CNMI Constitution, does not state the compensation and expenses allowable to the Trustees in the exercise of their fiduciary duties; 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 Trust as approved by the American Law Institute as the rules of decision in the courts of the Commonwealth; and

WHEREAS, in *Romisher v. Marianas Public Land Corp.,* 1 CR 898 (Trial Ct. 1984) and *Northern Marianas Housing Corporation v. Marianas Public Land Trust, et. al.* 5 N.M.I. 150 (1998) the Courts confirmed the proposition that MPLT has the exclusive right to administer the trust fund independent of any branch of the government. More recently in *DPL v. Commonwealth,* 2010 MP 14 at ¶ 34 the CNMI Supreme Court confirmed the perpetual responsibilities of the Trust its function

to hold and invest funds for persons of Northern Marianas Descent; and

WHEREAS, in the exercise of their duties, the MPLT Trustees have historically strived to establish the parameters of reasonable compensation for meeting fees; travel and per diem rates; and other costs for the Trustee. For the period 2004 through 2006 the Trustees had established rates parallel to those of Board members for the Marianas Public Lands Authority. Subsequently the Trustees reverted to the compensation rates for Boards and Commissions pursuant to Public Law 15-32 and considered the general CNMI travel policy and per diem rates; and

WHEREAS, on reconsideration of the Trustees' compensation the Trustees have reviewed the current developments in MPLT including the expanding scope of monitoring investment decisions for the Trust. Even so the standards for Trustee compensation must remain reasonable and comport with applicable standards. Thus, in determining the amount of a Trustee's compensation in the absence of compensation terms in the trust instrument, Section 243 of the Restatement (Second) of Trusts articulates the factors and circumstances to be considered in determining the amount of trustee compensation as follows:

1. the amount and character of the trust property;
2. the extent of the risk and responsibility of the trustee;
3. the character of the services rendered by the trustee;
4. the degree of difficulty in administering the trust;
5. the skill and success of the trustee in administering the trust;
6. the statutory rates of compensation for executors and administrators; and

WHEREAS, more recently and updated the *Restatement of Trusts (Third)* (*Restatement Third*) Section 34 also provides that "[a] trustee is entitled to reasonable compensation out of the trust estate for

services as trustee, unless the terms of the trust provide otherwise or the trustee agrees to forego compensation." In the comments, the *Restatement Third* recognizes that some states still prescribe formulas for trustee compensation and that courts, nonetheless, generally retain authority over compensation. The *Restatement Third* then lists factors to be considered in determining compensation, including: local custom; trustee's skill, experience and facilities; time spent; amount and character of the trust property; difficulty, responsibility and risk assumed; nature and costs of services rendered by others; and quality of the trustee's performance. The General Comment to Section 38 of the Restatements states that the trustee's "experience, skill, and facilities, however, are factors in determining the reasonableness of compensation"; and

WHEREAS, Section 644 of American Jurisprudence 2nd articulates the factors that have been considered appropriate in determining the reasonableness of a trustee's compensation including the size of the trust; the responsibility involved; the character of the work involved; the results achieved; the knowledge, skill, and judgment required and used; the time and services required; the manner and promptness in performing its duties and responsibilities; any unusual skill or experience of the trustee; the fidelity or disloyalty of the trustee; the amount of risk; the custom in the community for allowances to trustees; and any estimate of the trustee of the value of his services (citations omitted); and

WHEREAS, the MPLT Trustees hereby apply the applicable standards and factors from Section 34 of the Restatement (Third) of Trusts as well as Section 243 of the Restatement (Second) of Trusts to establish and confirm compensation, travel and per diem rates as follows:

1. AMOUNT AND CHARACTER OF THE TRUST PROPERTY: The Trust funds under MPLT management is made up of approximately $80 million of investments. These investments are divided into two separate trust funds, i.e., MPLT General Trust Fund - approximately $72.9 million, and the MPLT Park Trust Fund - $8.4 million. The sources of MPLT principal are the various distributions received from the Marianas Public Land Corporation and its successor entity today the Department of Public Lands, a CNMI Executive Branch Department, established pursuant to Public Law 15-2. Such distributions to MPLT are to be made in accordance with Article XI, § 5 (g) of the Commonwealth Constitution. While the terms of the Constitution makes MPLT a recipient from DPL as to land lease funds are clear, there has been substantial controversy over the years of the annual amounts due to MPLT and efforts to divert funds away from the Trust. This controversy in the past spawned litigation and although settled in part and MPLT's position was supported by opinions from the Office of the Attorney General, the Supreme Court opinion in *DPL. v. Commonwealth* decision affirmed the constitutional obligation of MPLT to receive and invest public land funds for prudent investments.

However, the issue of receiving timely accounting information and determinations of distributions due to MPLT from DPL remains a present and serious concern. For the past several years the Trustees have consistently asserted their concerns regarding non-compliance with the constitutional requirement for remittance. As a result, it is a function of the Trustees to be continually having to request routine financial information relating to the activities of DPL and monitor or oversee DPL with respect to accounting of funds; audits and reporting of funds.

In order for the Trustees to perform their fiduciary duties to MPLT, they are required to keep a constant vigil over DPL's activities due to that entity's lack of due diligence to the beneficiary

of their trust. This requires constant attention and use of skills. The trust property MPLT receives from MPLA is in the form of cash distributions. This principal is currently attributable to the MPLT General Trust Fund, whose income beneficiary is the Commonwealth General Fund. The initial distribution to MPLT came from the Tinian Land Lease in accordance with the Covenant which was apportioned to the MPLT General Trust Fund. The money from the Tanapag Harbor lease was apportioned to the MPLT Park Trust Fund. The Park Trust Fund is fully funded and does not receive any new principal distributions. The income beneficiary of the Park Fund is the American Memorial Park, and such distributions to the National Park Service for maintenance and development of the Park.

MPLT therefore, manages two separate trust funds having segregated assets and different beneficiaries. Such assets are predominately invested in U.S. marketable securities. This also requires constant monitoring and technical skills. Additionally, the MPLT General and Park Trust Funds have asset allocations wherein a portion of the assets have been targeted to local investment opportunities. This also poses special challenges to the Trustees. It is the philosophy of the Trustees to not only manage a sound investment program, but also to do so in a manner to benefit its beneficiaries and the American Memorial Park. A diversified local investment program involves much more time and energy in order to ensure that sound investments are made at comparable rates of return to those made in marketable securities. Local investments require much more supervision.

Furthermore, there is a constant stream of inquiries from the Administration, Legislature and other groups wishing to borrow MPLT funds. Unfortunately, MPLT is not a granting agency. MPLT is mandated by the Constitution to prudently invest funds and remit returns on investments to the General Fund. Evaluating such requests and maneuvering through political obstacles is no

easy matter but they are duties the Trustees perform with purpose. The Trustees are the caretakers of MPLT (General and Park) funds and are the sole responsible individuals to ensure that with proper investment and expenditure of these funds will continue to benefit its beneficiaries in the future. The trust fund is expected to be without end, as the corpus is restricted from being expended, thus it is the heavy burden of the trustees to ensure that the trust is protected and invested so that it may last for eternity.

2. THE EXTENT OF THE RISK TO AND RESPONSIBILITY OF THE TRUSTEE:

Since its inception and for the past several decades, the MPLT Trustees have taken a substantial risk and personal exposure in their administration of the Trust. Securing insurance policies for directors' liability has been extremely difficult and cost-prohibitive due to the amount of the trust corpus. The Trustees secured Directors & Officers insurance but following a suit for breach of fiduciary duty discovered that the insurance provider asserted that MPLT undertake its own defense pursuant to the policy deductible. Thus, each Trustee's personal exposure is unique in that it encompasses both personal financial risk and personal economic risk. A Trustee's personal wealth is at risk by lawsuit, if a beneficiary is unhappy with certain decisions of the Trustee. This risk of lawsuit is ever present and could happen at any time based on any decision of the Trustees.

It is always the burden of the Trustee to prove that decisions were made prudently and carefully. If the Trustee cannot prudently explain such decision, the Trustee could lose all his personal assets in an amount to be determined by the court. Therefore this risk is exemplified by the fact that MPLT represents the largest beneficiary body in the CNMI, thereby magnifying the risk of every decision the Trustees make. Trustees must also face extreme and powerful political pressures to expend trust funds on issues that may not be in the best interest of the trust or result in nominal

returns. Thus, trustees are forced to balance risks of political isolation for the decisions that they make against certain political influences. Often, these unpopular decisions are made with ramifications and risk to the individual trustee. In a politically charged society such as the CNMI, decisions that Trustees make on behalf of protecting the trust may have detrimental effects on their personal economic lives.

The Trustees' responsibility is enormous: the management of a $72.9 million (more or less) trust fund for the beneficiaries, including responsibility for prudent and careful investment of those funds in various forms and with substantial risks as to such investments and management of a fund of $8.6 million (more or less) for the American Memorial Park. Trustees realize that they are the custodians of funds for the beneficiaries.

What is an investment fiduciary? Anyone who manages property for the benefit of another or has the responsibility for delegating the management of trust assets to "prudent experts". Since the inception of MPLT in 1983, when the first trustees were nominated, the individual trustees have been held to the highest standards of fiduciary care. The management of money belonging to others in an investment process subjects the trustees to substantial personal risk. Anyone can sue them for negligence if the investment outcome is not to their liking. Protecting the Trust's assets from improper distributions has required the Trustees to go to Court to seek intervention and legal rulings. The services of current and past trustees have been performed given this degree of responsibility without the benefit of director's liability insurance as it was not available or was too expensive.

Given the two types of investment programs, i.e., marketable securities managed by discretionary money managers and diversified local investment where the Trustees have the

discretionary authority poses a much more complex landscape for our trustees and their related fiduciary risk. To manage investment decisions on a non-discretionary basis requires the trustees to know fiduciary standards of care and the process of prudent investment practices. It is the trustees' role to manage this process and failure to do so increases his risk of fiduciary liability.

The management of a diversified local investment program encompasses making direct investment decisions wherein the Trustees have discretionary authority. This authority greatly increases the associated fiduciary risk and introduces the potential for real and/or perceived conflicts of interest or independence issues. The training and skill needed to evaluate and manage such investments are also much greater since the ability to rely on "prudent experts" is significantly limited, especially in this local environment. This also contributes to greater fiduciary risk.

2. THE CHARACTER OF THE SERVICES RENDERED BY THE TRUSTEE: The MPLT Trustees make substantial policy decisions on the investment of the fund corpus while ensuring that those investment decisions represent the best interests of its beneficiaries. In doing so the Trustees consult with investment consultants and active money managers; ensure the protection of the funds through the diversification of the trust portfolio in both domestic and international markets and market sectors and industries; hold public hearings regarding economically targeted investments, seek judicial guidance as to the proper administration of the trust,

3. CONSULTATION, EDUCATION AND TRAINING: Consult with constitutional law experts to define the perimeters of directly benefitting the beneficiaries, and take continuing education courses on fiduciary prudence including courses at the Center for Fiduciary Studies in Pittsburgh, PA.

A sampling of the courses in continuing fiduciary education by the Trustees include the following:

* International Foundation of Employee Benefit Plans (IFEBP) programs on fiduciary prudence and Trust management;
* Asian Pacific Association for Fiduciary Studies (APAFS) programs on investment trends and issues;
* Fi360 training programs to help financial intermediaries use prudent fiduciary practices to profitably gather, grow, and protect investors' assets including the Accredited Investment Fiduciary (AIF) designation.
* Wharton Alternative Investment Strategies programs.

The demands of today's beneficiaries must be delicately weighed against the needs of tomorrow's generation. A Trustee's skill of any explanation denying the current beneficiaries' request must display true care and concern but must also convey the effect of that request on the Trust's ability to care for beneficiaries of the future. This perceived power of the Trustee, is in high demand. Often a Trustee is summoned to give his opinions to other entities on matters relating to the rust. Therefore, a trustee is almost always "on the job", often being asked to attend multiple meetings with elected officials, attend public hearings to testify and to report directly to the Governor of the CNMI.

The types of investment decision-making services provided by the trustees are different depending on the two types of assets being managed, i.e., non-discretionary assets vs. discretionary assets. The services provided for each type of assets are as follows.

a. The management of investments on a non-discretionary basis follows the concepts

of modern portfolio theory. This theory follows some well-established principles. It is the role of the fiduciary to manage the process of investment decision-making, and not make the investment decisions.

b. To manage this process it is necessary for the trustees to know and apply the Uniform Standards of Care:

   i. Know standards, laws, and trust provision.

   ii. Diversify assets to specific risk/return profile of the Trust.

   iii. Prepare investment policy statement.

   iv. Use "prudent experts" – money managers – and document due diligence.

   v. Control and account for investment expenses.

   vi. Monitor money managers and service vendors.

   vii. Avoid conflicts of interests and prohibited transactions.

These standards of care are technical in nature. Not anyone with general governmental or business experience can be expected to know how to understand such concepts or apply them without sufficient training and skill development. To develop and maintain such skills requires constant training and research, as this is a dynamic environment.

The Trustees are required to know and understand the Steps in the Investment Management Process. These steps follow well-established investment portfolio management theory. Again, the Trustees are required to use "prudent experts". It is not their responsibility to make direct investment decisions as to what securities to buy or sell. It is their responsibility to manage this process, but to do so requires comprehensive knowledge of the process and keep a constant vigil over the application of the steps.

The management of the local discretionary investment program aimed at achieving corollary benefits in a social sense in addition to a risk/adjusted rate of return is much more complicated to perform. This process is a discretionary one wherein the Trustees have to evaluate proposals and allocate resources in accordance with the asset allocation as established in the Investment Policy Statement. This process presents many more issues increasing fiduciary risk due to the exposure of potential conflicts of interest, self-dealing, and lack or erosion of independence. These risks may be real or perceived.

The degree of difficulty in administrating the Trust is directly related to the character of the services that the Trustees provide, i.e., management of the investment process using "prudent experts" and management of a local investment program where direct investment decisions are made. While the management of the investment process using "prudent experts" is non-discretionary when making direct investment decision, the Trustees must be knowledgeable of the how the experts hired proceed with the steps of the process so that they can evaluate the findings and reports given to them by such experts. The following identifies the steps and what is to be accomplished through their application.

Investments are managed in accordance with applicable laws, trust documents, and investment policy statements. Documents are reviewed pertaining to investment management, e.g., applicable trust documents, custodial and/or brokerage statements, investment performance reports, service agreements with investment management vendors, and investment policy statement and minutes of committees.

Fiduciaries must be aware of their duties and responsibilities given their role in the investment management process, i.e., managing property for the benefit of another, exercising

discretionary authority or control over assets or acting in a professional capacity of trust and rendering comprehensive and continuous investment advice. Even when using experts, MPLT Trustee fiduciary duties and responsibilities extend to determining investment goals and objectives, choosing an appropriate asset allocation strategy, establishing an explicit, written investment policy consistent with the goals and objectives, approving appropriate money managers, mutual funds, or other "prudent experts" to implement the investment policy, monitoring the activities of the overall investment program for compliance with the investment policy, and avoiding conflicts of interest and prohibited transactions.

The successful MPLT Trustee needs to have a sincere commitment and courage to develop a consensus formulation of goals and objectives, a personal interest in understanding the basics of capital markets, a discipline to develop long-term investment policies, and the patience to evaluate events calmly in the context of long-term trends, an understanding of personal and organizational strengths and weaknesses to determine when delegation and outsourcing is more appropriate, and an ability to get the right things done, otherwise known as effective management. A prudent process facilities effective management by distinguishing the important from the unimportant tasks. MPLT Trustees, as part of the Standard of Care, must be able to control and monitor investment expenses. To do so they need to separately account for money manager, custody, execution, and consultant expenses. In this manner, proper evaluation can be made of each type of expense.

MPLT Trustees have the responsibility to implement successful portfolio management practices wherein the service providers (money management, custody and brokerage) are separate, and the consultant is separate and independent of any service provider and compensated solely by MPLT. Furthermore, all service agreement and contracts are in writing, and do not contain

provisions that conflict with fiduciary standards of care.

The measurement of risk involves the trustees knowing the concepts of standard deviation and correlation coefficient. Also, knowledge of the effect of investment time horizons has on risk. In general, longer holding periods reduce risk. All of these concepts enter into developing expected modeled returns by asset classes in order to meet investment objectives. Such modeling involves complicated capital market inputs of comparing historical capital market returns by asset class.
From this process, the following questions would be answered: What is the Time Horizon of the Investment Strategy? What Asset Classes will be considered? What will be the mix among Asset Classes? What Sub-Asset Classes will be considered? Which Managers/Funds will be selected?

The trustees have to know the due diligence process for implementing an investment strategy. This process is as follows: performance relative to peer group; performance relative to assumed risk; inception date of product; correlation to peer group; assets under management; holdings consistent with style; expense ratios or fees; stability of the organization.
The Trustees have to know and apply the following "safe harbor" provisions: use "prudent experts"; follow a due-diligence process for selecting managers; give investment discretion to selected managers; receive manager's written acknowledgment of co-fiduciary status; monitor the activities of selected managers.

Trustees hire money managers to manage a specific asset class or investment strategy. Such asset classes encompass equities and fixed income. Within these classes there are sub-classes or styles as follows: Sub-Equity Styles: Yield – Top 15% of value universe, defensive equity style; Concentrator – Low diversification, high highs, low lows; Contrarian – Buying securities out-of-favor; Style Rotator – Deliberate, tactical allocation between styles; Tactical Allocator – Deliberate

allocation between asset classes; Top Down – Macro economic examination leading to specific security selection; Bottom Up – Security selection made against back-drip of macro-economic examination; Global – Securities from U.S. and foreign markets; Fixed Income Styles: AA or Better – Short-Term, Intermediate-Term & Long-Term High Quality; BBB – A – Short-Term, Intermediate Term & Long-Term Medium Quality; BB or Lower – Short-Term, Intermediate-Term & Long-Term Low Quality.

All of these styles contemplate passive and active management. A passive management would be a mutual fund, which is structured to own the same securities as a published index. Active management anticipates market conditions and follows their own buy-sell discipline. Security allocation does not follow an index. The trustees have to manage the appropriate investment vehicles in accordance with the portfolio size. Diversification carries a cost and must be kept in balance to the corresponding transaction, custody, and record-keeping costs. The implementation phase of the process is very critical and involves knowledge of many technical concepts. The trustees in their official capacity must be able to understand these concepts.

Once the preceding steps in the investment process have been completed, the fiduciary role of the trustees is not finished. It is necessary for them to monitor the progress of the investment strategy and ensure such strategy is meeting its goals and objectives. Whereas, prudent experts (consultant) has the primary role to performing the detail work of analyzing performance and reporting in a timely fashion to the trustees. The trustees have the final say about performance results and decisions relative to expert recommendations. The trustees have a fiduciary duty to ensure the monitoring process in being conducted in a thorough manner and all reports relating to performance and strategic investment planning are received in a timely fashion.

As part of their monitoring responsibilities, the Trustees must be able to read and understand technical performance reports. The performance reports will detail the following information: returns for the major asset classes and peer groups; Trust's asset allocation and how the investments performed; Trust's progress in meeting investment objectives; Manager/fund performance as compared to their peers and benchmarks; Recommendations as to call to action – manager replacement, re-balancing of portfolio, etc. Also, incumbent upon the trustees is their ability to understand performance charts and graphs. Such presentations are technical and require skill. Performance reports should be received and reviewed by the trustees at least quarterly.

A part of the monitoring process is to re-balance the portfolio in order to keep it tracking to the IPS risk/return profile. Also, the trustees need to be make quarterly review of the qualitative changes to money managers such as changes to personnel, process or philosophy. It is also necessary to have control procedures in place to periodically review money manager's policies for best execution, soft dollars and proxy voting. Best execution deals with trading costs and best price scenarios. Soft dollars relate to excess of commissions being used for other goods and services. Such excess commissions should be directed to benefit the Trust. The trustees are responsible for the continuous review of all fees being charged for investment management to ensure they are consistent with contracts and service agreements.

The Trustees also receive many requests for funding and have to review the receipt of many proposals, legislation and other inquiries for use of MPLT funding. The following are some of the types of funding requests being received: recent requests included an investment with the Tinian Municipality for a farmers' market; an investment with the Commonwealth Health Care Corporation for electronic health records and a revolving line of credit; a locally operated parent/student tuition

loan program; a loan to the Tinian Municipality for payment of a USGS judgment of $3 million; Saipan Typhoon Soudelor housing assistance program; an investment in a local airline to deliver produce to Guam; a loan to pay the Public School System and central government CUC debts. Prior requests included financing tourism related promotions on Tinian and Rota; Loan request from the Administration for financing tax refunds and rebates; various real estate investment projects aimed at providing housing for medical referrals and other governmental purposes; financing of school buses for PSS; financing retroactive Commonwealth government salary adjustments; financing Rota airport improvements; performing custodial investment related service for other Commonwealth governmental entities.

4. THE DEGREE OF DIFFICULTY IN ADMINISTERING THE TRUST: The administration of the MPLT Trust funds are not complex as to the source of the funds. However, the issues of asset allocation and the security of the funds require constant monitoring by the Trustees. In administering the trust, a Trustee must follow five important management steps that are meant to be continuous in nature.

A) A Trustee must ensure that the trust funds current monetary and strategic position is continuously analyzed to ensure that the position will meet the trust's goal. Because two of the Trustees must travel from Rota and Tinian in order to make decisions on the trust administration, the logistical challenges make administration of the trust rather difficult at times. Further, as the investment consultants and money managers are on the mainland, the Trustees must often communicate at different times and in various ways to ensure the analysis of the funds. Trustees are also expected to keep abreast of the capital and financial markets on a daily basis. Due to the time difference, Trustees are expected to stay up as late as 3 a.m. to follow the mainland securities

markets.

B) A Trustee must also ensure that investments of the funds are properly diversified to ensure proper exposure to all markets and to be consistent with the investment time horizon. This means that trustees must constantly be abreast of new emerging markets to weigh the potential investment in that new market and the effect it will have on the trust funds. The trustee must also ensure that the diversification of the investment properly reflects a chosen asset allocation strategy. This process must be monitored closely as often swings in the market will dramatically affect the allocation of funds in the trust fund.

C) A Trustee must also formalize a written investment policy that properly describes the strategic plan for its investments. This plan must reflect the duties and responsibilities of all the parties involved with the trust fund. The plan must also define the diversification and re-balancing guidelines as well as the due diligence required in implementing investment options. Since MPLT is currently seeking judicial guidance on several issues, it is expected that this investment policy be a constant evolving document.

D) A Trustee must prudently implement this investment policy by ensuring that the investment vehicles or diversification is appropriate for the fund size. A Trustee must hire prudent experts to aid them in their investment decisions as outlined in the investment policy and must use a proper due diligent process in selecting those experts. It is this implementation step of the management process that is the most difficult and time consuming. Trustees must be well versed and educated in the capital market machinery in order to navigate through this perilous process. One single implementation of the investment policy may take months to accomplish due to the sheer amount of detailed steps in order to achieve the implementation.

E) Lastly, Trustees are expected to monitor and supervise their decisions as it relates to the investment policy to ensure that the decision is effective. In order to accomplish this, trustees must review periodic financial reports that compare the trust's investment performance against an appropriate peer. These reviews occur every three months at the least and on a monthly basis as standard practice. Trustees must then make adjustments accordingly as it relates to fees charged, performance relative to the peer, as well as detailed review of actual performance reported. This aspect of the Trustees' management requires the most detailed understanding of the financial investment process. Trustees are expected to understand the effects of best execution for trades, soft dollar arrangements, proxy voting, expert fee structures, finders fees, cash sweeps and many other terms in order to properly monitor the investment process.

Administration of the Trust is challenging because the Trustees must monitor the borrowers' accounts under the NMHC Home Loan Portfolio which MPLT has taken back and is now directly administering through the Bank of Saipan. The Trustees monitor the investment accounts monthly and must engage in the proactive collection of delinquent funds by suits, restructuring and other methods of ensuring compliance with loan terms. The Trustees also recover foreclosed homes and properties under the portfolio to offer out to persons of Northern Marianas Descent through the Supplemental Home Loan Program (SHIP). The Trustees also monitor the compliance by the Commonwealth Healthcare Corporation as to the revolving line of credit. Of greater difficulty is the challenge with the Department of Public Lands with the ongoing concerns over non-compliance with the remittance of funds to MPLT in a timely manner and with accurate accounting. The Trustees have had to be vigilant in ensuring that DPL follows its constitutional obligations strictly and pursuant to Public Law 15-2. To date the challenges remain and the Trustees must review this

matter constantly as to DPL.

5. THE SKILL AND SUCCESS OF THE TRUSTEE IN ADMINISTERING THE TRUST: The Trustees must be intricately familiar with the investment and securities trade. The knowledge and skills of each Trustee as to the industry is critical to the prudent and careful management of the Trust funds. Such skills require constant familiarization with the industry practices as to investments and trends in investments as well as a constant monitoring of the stock market in which Trust funds are placed. A minimum skill level required of each Trustee would be the knowledge and comprehension of the following statutes, terms or subjects: The CNMI Constitution, ERISA, UPIA, MPERS, Uniform Fiduciary Standards of Care, Investment Management Process, Fiduciary Code of Conduct, Standard Deviation, Sharpe Ratio, Alpha, Beta, R Squared, Risk Free Return, Equilibrium Spending Rate, Economically Targeted Investments, Commission Recapture, Basis Point, Asset Allocation, Best Execution, Directed Brokerage, Real Estate Investment Trust, Market Timing, Soft Dollar, Trading Costs, Tactical Asset Allocation and Strategic Asset Allocation.

The Trustees must also have the personal skills to interact with other trustees in order to put personal differences aside for the benefit of the trust. Often this skill is lacking in trusts that are stagnant or not moving toward the goal of the trust. Interpersonal skills of the trustees are as important to that of financial skills that the trustee possesses. In addition to the current skills and knowledge that each trustee offers, a trustee is expected to garner more skills on a regular basis to assist in the administration of the trust.

The skill of each Trustee is paramount to the success in the administration of the trust. The skill requirements for the Trustees have been well documented in the preceding sections of this narrative. The success of MPLT's administering of the trust can also be shown to be very successful through

the listing of accomplishments:

- Since its inception in 1983 when $26 million was received, MPLT has been able to grow its principal to $72.9 million as of September 30, 2015.
- MPLT has since its inception through September 30, 2015 made distributions to benefit the Commonwealth General Fund in the amount of $56.4 million.
- MPLT has since its inception through September 30, 2015 made distributions to benefit the American Memorial Park in the amount of $6.3 million.

By whatever standards MPLT may be judged by, it is difficult not to conclude that the Trustees over the years have managed the Trust in a diligent manner to increase its principal base while providing substantial monetary resources to its beneficiaries and the community as a whole. The Trustees' stewardship over the assets has been remarkable.

6. THE STATUTORY RATES OF COMPENSATION FOR EXECUTORS AND ADMINISTRATORS: While there are no statutory rates of compensation for executors and administrators in the Commonwealth, there are few other agencies to which MPLT can be compared. Public Law 15-32 confirmed the rate of compensation for Executive Branch boards and commissions. That statutory provision provides for $30 for a half-day meeting and $60 for a full-day meeting for each board or commission.

Conversely, MPLT is a constitutionally-created Trust and while the Trustees have strived to run parallel to the Executive Branch, this methodology cannot limit the Trustees' compensation commensurate with their duties. In other words, there is no Executive Branch Trust or Board which administers a trust fund today. The NMI Retirement Fund is subject to a Trustee whose compensation was confirmed by the Bankruptcy Court. The Fund Trustees are no longer in existence. As to MPLA, its statutory authority was repealed and DPL was established. The *Tinian Casino Gaming Control Commission* case held for the proposition that if a statutory provision conflicts

with a constitutional provision, that statutory provision must fall. *See, Commonwealth v. Tinian Casino Gaming Control Commission,* 3 NMI 134, 147-148 (1992).

To determine reasonable Trustee compensation for MPLT we have to look at what is reasonable given the services being rendered by the trustees and the time being spent by them. The preceding discussion illuminates the contributions being made by the trustees to the Trust. The trend on the mainland is for boards of directors to be earning more due to increased liability being imposed through federal legislation to remedy the corporate governance problems of the past. Previously MPLT undertook a survey of director compensation based upon the size of assets governed detailed median compensation for 2001 and 2002 at $17,000 and $18,000, respectively. The size of assets managed was $0.5-1B or the smallest group noted. The number of meetings for the smaller funds was four times per year. Given that MPLT trustees meet monthly suggests that their compensation should be greater than the $17,000 to $18,000 range indicated in the survey. However, that is not the confirmed compensation being established here. The Trustees establish an hourly rate which is subject to caps per meeting and with an absolute cap each fiscal year which may not be exceeded. Within the Commonwealth, there is no statutory rate of compensation for executors and administrators. Even so the Trustees have taken with serious and great consideration the 2006 audit and review of the MPLT Trustee expenditures, critical of the expenditures of the prior body of Trustees. In this regard the Trustees provide the restrained amount of compensation; specified the meeting times to be compensated; and placed an absolute hard cap on Trustee compensation which is within reason given the amount of the Trust corpus; historical duties performed and the current activities of the Trust.

Finally and most importantly, the MPLT Trustee meetings have dramatically increased in frequency due to the proactive efforts of the Trustees to maximize investments; develop the

Diversified Local Investment program; attend to litigation involving MPLT such as *Ayuyu v. Guerrero* (dismissed on failure to join an indispensable party); and to consider and pursue local investments as well as proactively manage securities investments on the mainland. Whereas previously MPLT was passive as to its investment management, the Trustees have needed to increase their meetings because of the need to monitor the activities of its money managers rather than simply allow them to make major policy decisions on investments. Delegation of the ministerial acts of investments and placements must follow the policy decisions of the collective Trustees. The current Trustees believe that careful management requires proactive and active management. Locally, the Trustees have opened up their meetings to have the beneficiaries become aware of the Trust's role and the Trustees' activities. Trustees, either collectively or individually, have met on a frequent basis with many local entities or organizations including potential investors. These include the local Mayor's offices; community non-profit organizations; business groups; special interest groups; representatives of the Administration; and members of the House and Senate

RESOLUTION ON TRUSTEE COMPENSATION AND PER DIEM

WHEREAS, the Trustees have reviewed the compensation and per diem rates and set a revised schedule of Trustee compensation and travel rates. At all times the Trustees intend for expenditures and compensation to be judicious, restrained and reasonable.

THEREFORE, in consideration of the foregoing criteria in determining the compensation rates for MPLT Trustees, the Trustees hereby RESOLVE AS FOLLOWS:

1. RESOLVED, COMPENSATION RATE: The Trustees determine and confirm that the reasonable rate of compensation per Trustee is hereby established. The MPLT Bylaws shall be amended to reflect the following rates: $ 125.00 per meeting day for official Trustee meetings attended each day. At no time, however, shall the compensation for any Trustee exceed the sum of $8,000.00 per fiscal year regardless of the number of meetings attended.

"Meetings" are deemed to be any regularly scheduled meetings; special meetings; committee meetings; or any other meetings with counsel, consultations with managers; or with MPLT personnel or meetings with the Executive or Legislative branch by invitation only through the Chairman, Administrator and Committee Chairs.

However, if a Trustee fails to attend an official scheduled meeting the Trustee shall not be compensated at all. Attendance may be by virtual when a Trustee, for any good reason, cannot personally attend a meeting on Saipan, Tinian or Rota, and such virtual appearance shall count as attendance at a meeting.

2. FURTHER RESOLVED, PER DIEM: The established per diem rate for travel on behalf of the Trust is pursuant to the CNMI Travel per diem rates, as published by the Department of Finance.

Per diem rates shall start on the first day of travel for each Trustee and the last day of return travel by the Trustee.

It is preferred that all Trustees shall travel by economy/coach or "Y" class regardless of destination or duration of travel. In no circumstance shall a Trustee travel First Class paid for by MPLT Trust funds. The established rate allowed for ground transportation is $125.00per day. Any reasonable amount claimed for ground transportation that exceeds the established rate shall be paid to the traveler upon submission of acceptable supporting documentation.

Extraordinary Expenses Reimbursement: An MPLT Trustee may receive reimbursement for extraordinary expenses actually incurred in the performance of his/her duties upon the submission of receipts or other proof of extraordinary expenses to the Trustees and the specific approval of the Trustees to reimburse.

For the foregoing reasons, the MPLT Trustees hereby adopt this Resolution as supporting the compensation plan as reasonable for the Trustees for their services in the management and administration of the MPLT Trust.

SO ADOPTED THIS 29th DAY OF **September** 2025

PHILLIP MENDIOLA-LONG

RITA A. SABLAN

ALVARO A. SANTOS

CARLA N. CAMACHO

PEDRO Q. DELA CRUZ