

§ 1981. MPLT Line of Credit.

Pursuant to N.M.I. CONST. ART. X Section 3, the CNMI Legislature authorizes a public debt and obligation to the Marianas Public Land Trust for Governor Arnold I. Palacios, through the Secretary of Finance and the Department of Finance, to enter into a Revolving Line of Credit with the Marianas Public Land Trust in an amount not to exceed \$15,000,0000 on the following terms and conditions:

(a) The term of the Revolving Line of Credit shall not exceed seven years (84 months) starting from the date of execution of the Revolving Line of Credit between MPLT and the Governor and the Secretary of Finance.

(b) The Office of the Governor and Department of Finance shall repay the Line of Credit as to any drawdowns no later than thirty (30) calendar days from the date of each drawdown.

(c) No further drawdowns shall be made unless and until the prior drawdown is satisfied or MPLT agrees to additional drawdowns.

(d) Any reimbursements received by the CNMI Department of Finance/Office of the Governor from the United States Economic Development Administration paid or remitted to the CNMI Government for CIP project advances that are covered in the MPLT-CNMI Revolving Line of Credit shall be paid directly to MPLT as settlement for the line of credit herein.

(e) The interest rate shall be 5.5% per annum.

(f) Because the Revolving Line of Credit is a public debt this legislation must be passed by two-thirds (2/3) of the members of the House of Representatives and the Senate before being signed into law. Further, the obligation for such a public debt shall not exceed ten percent (10%) of the total appraised value of the properties of the Commonwealth so that the Secretary of Finance shall not execute the Revolving Line of Credit until the Secretary of Finance certifies, with the concurrence of the Attorney General, that this constitutional requirement is satisfied.

(g) The Attorney General shall review the Revolving Line of Credit Agreement for legal sufficiency for the Governor and Secretary of Finance to enter into this transaction in order for the Revolving Line of Credit to be effective against the Commonwealth.

(h) Transactional Documents. The Marianas Public Land Trust and the Commonwealth, acting through the Governor and the Secretary of Finance, shall execute the transactional financial documents for the Revolving Line of Credit through a line of credit agreement, assignment of income, and a Promissory Note. After such documents have been duly executed, MPLT shall authorize and commence any initial drawdown, subject to its terms and conditions, to the Department of Finance which shall be used for the CIP-approved or designated project bridge financing or advances, only.

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

(i) The Secretary of Finance and the Office of the Governor shall issue a quarterly summary “MPLT Loan Report” which shall be a financial statement detailing the activities of the CNMI Government as to the CIP project advances and status. This MPLT Loan Report shall be submitted to all the members of the Legislature, the Office of the Public Auditor, the Office of the Attorney General, and a copy to MPLT.

(j) Authorization to Defend, Hold Harmless, and Indemnify MPLT. The legislature hereby authorizes, as a condition precedent to the loan agreement being authorized herein, the Commonwealth Government, through the Executive Branch including the Secretary of Finance and Office of the Attorney General, to defend, hold harmless, and indemnify the Trustees of the Marianas Public Land Trust, individually and collectively, along with MPLT’s staff, counsel and consultants for any suits, causes of action, litigation, and claims as well as any loss, liability, and expense whatsoever of any kind or nature including but not limited to attorneys’ fees which may arise from or that are in any way related to the loan agreement which is the subject of this Act or the events arising therefrom as to MPLT’s actions in extending the line of credit. The Commonwealth shall pay for the cost of representation being authorized herein through the Department of Finance without cost to MPLT or provide representation by the CNMI Office of the Attorney General. In the event MPLT is compelled to engage its own counsel or representation of the Commonwealth, the Department of Finance shall reimburse MPLT for such costs and expenses. In the event the CNMI Government fails to reimburse or pay for such costs and expenses, MPLT may withhold further distributions of income until its expenses and costs are fully reimbursed.

Source: PL 23-12, § 2 (Nov. 20, 2023), modified.

Commission Comment: The Commission numbered this section pursuant to 1 CMC § 3806(a).

Legislative Findings.—In addition to severability and savings clause provisions, PL 23-12 included the following Findings and Purposes section:

On July 17, 2023, Governor Arnold I. Palacios in a letter signed by the CNMI Senate President and House Speaker, submitted a written request, to the Marinas Public Land Trust. Governor Palacios requested a Line of Credit in the amount of \$20 million dollars for “bridge financing or advances” for costs related to federally-funded Capital Improvement Projects (“CIP”) from the United States Economic Development Administration whereby the CNMI would be reimbursed for such advances within thirty (30) days of advancing such costs for grant projects. Further, Governor Palacios requested that the line of credit (“LOC”) facility be available for a period of 5-7 years while infrastructure and other CIP projects are under construction. The Marianas Public Land Trust has reviewed initial planned drawdown requests by the Governor and has determined that a \$15 million

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

§ 1981

Line of Credit is suitable for the amounts needed, in any given 30-day period, during the next few years of forecasted drawdowns offered by the Governor.

In addition to the \$20 million LOC request, Governor Palacios also requested that MPLT reduce the interest rate on the CNMI's existing debt obligation to MPLT for the Typhoon Yutu loan, currently at 7.5% per annum. That debt currently stands at approximately \$10.7 million dollars as of June 2023 and is being repaid by MPLT's withholding of the annual interest-income distributions to the CNMI General Fund.

MPLT has noted that previously in June 2019 the Trust received the Typhoon Yutu request from the CNMI for \$15 million dollars through a line of credit and later converted it to a loan, to pay for "extraordinary expenses made under extraordinary circumstances" for disaster recovery expenses which the former CNMI Secretary of Finance asserted were not normal operating expenses of the government. While the CNMI expected reimbursement from the Federal Emergency Management Agency for disaster-related advances or expenses, the CNMI ultimately could not repay the MPLT Yutu Loan for which MPLT is now servicing as repayment through the withholding of distributions for the next several years.

The legislature acknowledges that the Trustees of MPLT continue to recognize that the \$15 million LOC request addressed in this legislation, as with the Yutu Loan, constitutes a public debt obligation for government operations or infrastructure, which have particular requirements under the CNMI Constitution. As such, the legislature is informed that the Trust has set forth certain requirements from the CNMI Government through the Office of the Governor, Secretary of Finance, and the Office of the Attorney General, to ensure the propriety of the requested transaction and ensure capacity for payment.

As one of the requirements by MPLT, the purpose of this proposed legislation is to authorize this public debt by the Commonwealth Government to MPLT for a period not to exceed seven years (84 months) on a Revolving Line of Credit and to ensure that there are adequate funds at the disposal of the CNMI Department of Finance for purposes of paying that Line of Credit timely and without default. The amount authorized for the LOC from MPLT shall not exceed \$15,000,000.

The legislature agrees that, unlike the Yutu Loan, the \$15 million LOC is to be repaid by the CNMI Government through the Secretary of Finance on a regular 30-day period following each advance, with reimbursed funds from the Federal government, and with other restrictions on drawdowns imposed by MPLT, such as drawdown limits and drawdown pre-conditions. The LOC and this legislative authorization expire automatically at the end of the 84-month period and shall not be renewed or extended.

For the foregoing reasons, the legislature finds that the \$15 million LOC with MPLT is in the best interest of our people and our Commonwealth and authorizes the Executive Branch to enter into such an agreement as required on terms and conditions by MPLT.