

March 6, 1995

MEMORANDUM FOR THE PRE-CONVENTION COMMITTEE OF THE THIRD
CONSTITUTIONAL CONVENTION OF THE CNMI

SUBJECT: Proposal to Assist the Pre-Convention Committee

This Proposal is submitted by Howard P. Willens and Deanne C. Siemer.*/ It sets forth a program for supporting the Pre-Convention Committee in implementing its responsibilities under Public Law No. 9-18. We have attached a proposed budget.

We will submit a separate proposal for legal, technical and organizational support for the Convention itself, to begin after the completion of the pre-convention work, if the Committee so desires.

Under Section 10 of Public Law No. 9-18, the Pre-Convention Committee has the following responsibilities: (1) determine the date for convening the Convention; (2) draft proposed rules of procedure for the Convention; (3) ensure that the Convention has the necessary facilities, equipment and staff support; and (4) do such other things "as are necessary and appropriate to prepare for and facilitate the work of the Convention." The Proposal sets out below a description of the work we would undertake to accomplish, as directed by the Committee, in each of these categories if this Proposal is approved and funded.

*/ Mr. Willens served as counsel to the Marianas Political Status Commission during 1972-76. He is a graduate of the Yale Law School and has practiced law for many years as a partner in a major Washington law firm. Mr. Willens has represented the CNMI on various matters over the past 17 years.

Ms. Siemer, together with Mr. Willens, served as a consultant to the First Constitutional Convention in 1976. She is a graduate of the Harvard Law School and also has practiced law in Washington, most recently as a partner in the Washington office of a major San Francisco firm.

Both are members of the bar in the CNMI. They have published an article about the CNMI Constitution in the Georgetown Law Journal. Ms. Siemer and Mr. Willens are currently writing a book on the political and legal history of the Commonwealth. More detailed information regarding professional qualifications and experience is available for the Committee.

A. Date for Convening the Convention

We will provide the Committee with a draft time line chart indicating all of the pre-convention tasks to be accomplished, and proposed deadlines for the Committee's consideration. We will also provide a draft time line chart indicating how the tasks for the Convention might be accomplished. Using these two time lines, the Committee can consider its options with respect to setting the date for convening the Convention.

B. Rules of Procedure

We will prepare draft Rules of Procedure for consideration by the Pre-Convention Committee, using as a starting point the Rules adopted by the two previous Conventions. We will identify for the Committee the major policy issues that need to be considered in deciding what Rules to propose to the Convention, and the options available to the Committee in these regards.

C. Facilities, Equipment, and Staff Support

We will inventory for the Committee the necessary space for meetings of plenary sessions of all delegates, such convention committees as may be established, such staff as the Convention may authorize, and public information and other functions so that the Convention can operate efficiently. As directed by the Committee, we will collect information regarding the availability of hotel facilities to house the Convention that can be presented to the Pre-Convention Committee, and seek to persuade the hotels that they should provide the necessary facilities as a public service to the Commonwealth.

The Convention will run smoothly and efficiently if the necessary supporting equipment is in place from the beginning. This includes computer equipment for secretarial support, telephone and pager support, copying equipment, and recording and amplifying equipment. We will identify the requirements in each of these categories and, as directed by the Committee, assist in the arrangements to obtain the necessary equipment. We will also provide the Committee with information on other options, such as automated voting equipment, real-time reporting capability (which puts a transcript of the proceedings on a large computer monitor or set of monitors immediately as the speaker completes each sentence), televising some of the proceedings, and archiving proceedings on CD-ROM for subsequent distribution or sale. Should the Committee decide to pursue any of these options, we will, as directed by the Committee, make the necessary

arrangements to get the equipment in place in time to serve the Convention.

The Convention will need secretarial, administrative, public information, and other staff support. We will provide suggested requirements in these regards to keep the Convention and its committees moving along expeditiously and to create and maintain a full record of the Convention proceedings. As directed by the Committee, we will retain or seek to borrow the necessary qualified staff people. The Committee and the Convention may also seek independent expert advice on particular constitutional issues. We have made preliminary contacts with the Institute for Public Administration, various academic experts, and economic and tax experts who might be needed for special consultations, and would provide these specialized services as directed by the Committee. The Convention will need legal advisers. We are available to do this work and will submit a proposal to provide these services, and to manage related staff services, if the Committee so desires.

D. Other Preparations

The Committee may wish to consider other preparations that might help the Convention complete its work in an effective and efficient fashion. We have set out below some ideas with respect to public hearings, media, and briefing materials.

1. Public Hearings

The Pre-Convention Committee is not required by the enabling legislation to conduct public hearings before the Convention convenes. However, the Committee may wish to hold such hearings for two principal purposes: (1) to demonstrate early on its commitment to soliciting the views of all interested parties regarding proposed deletions from or additions to the Constitution; and (2) to provide an organized forum in which the delegates can familiarize themselves with the issues before the Convention begins. We have these preliminary thoughts regarding such public hearings.

If hearings are held, we recommend that they be held on each of the three major islands -- perhaps one day each on Rota and Tinian and two or three days on Saipan. The members of the Pre-Convention Committee from the island involved would presumably chair the meetings and take responsibility for the necessary administrative arrangements.

The timing of such hearings depends on when the Pre-Convention Committee is organized and its judgment as to when hearings would be most productive. Since considerable preparatory work would be required, the hearings probably should

be deferred until sometime in April. It might also be well not to have such hearings immediately before the Convention begins, in order to provide time for more staff work to be done on proposals that are advanced during the hearings.

The Pre-Convention Committee might extend invitations to a wide range of potential attendees -- such as unsuccessful candidates in the recent election, former Convention officers or delegates, local government officials, interested groups such as the Chamber of Commerce and the Bar Association, and representatives from the Legislative and Executive Branches of the CNMI Government. Members of the public should be generally encouraged to participate. Every participant should be encouraged to make specific proposals (in writing if possible) regarding particular Constitutional provisions and to explain why the proposed deletion or addition is desirable.

The objective of these hearings would be to stimulate discussion of specific proposals -- focusing on whether the proposal addresses issues of constitutional significance and the alleged deficiencies or problems that justify the deletion or addition. We would serve as counsel to the Pre-Convention Committee in organizing and moderating such discussions. We would prepare and present graphic displays that set forth each article of the Constitution as approved by the First Constitutional Convention and as subsequently changed by the 1985 Convention or later legislative initiatives. We could summarize the decisions made by the First Convention and speak to the general issue of the kind of provisions that rise to constitutional dimension as contrasted with those that should be left for legislative action. Depending on the Committee's desires, we could participate in the questioning of the witnesses in an effort to clarify their position and highlight the issues that the delegates will eventually have to confront.

2. Media Considerations

We anticipate that all media (print, radio and TV) will be active during the pre-Convention period, and the Committee may want to consider ways to engage the media productively. The Committee may wish to encourage (or sponsor) coverage of any hearings as outlined above, talk shows devoted to specific constitutional issues -- eg. public lands, education, land alienation, or budgetary procedures -- or other media events. We would be available, as directed by the Committee, to help structure such programs and participate in them as appropriate to provide historical perspective, continuity, and balance. The goal here would be somewhat different from the public hearings; the TV and radio programs would encourage debate on the issues by participants known to have opposing views on the subject under discussion.

3. Briefing for Delegates

The Pre-Convention Committee will want to consider how the delegates might be briefed about such subjects as limitations on their powers (such as the constraints imposed by the Covenant and the U.S. Constitution on changes to the CMNI Constitution), the standards for constitutional matters as opposed to legislative matters, the history and development of the current Constitution, the legal considerations in particular subject matter areas, and other useful subjects. Pre-Convention briefings might help the Convention debate move along more expeditiously. We are prepared to provide oral briefings for the delegates with graphic displays that may help to summarize various points. We are also able to provide more traditional written briefing materials on particular areas selected by the Pre-Convention Committee. In advance of the first Convention, we prepared about 1000 pages of historical and analytical material that sought to outline the issues that the First Constitutional Convention had to address. We can distill and update selected parts of these materials where useful, and add to them any background or legal analysis the Committee believes might be helpful with respect to new issues.

E. Project Budget

The following represents our preliminary thinking regarding the expenses required to implement this Proposal during a period of about 2 1/2 to 3 months -- from about March 15, 1995 (or whenever the Pre-Convention Committee organizes itself and approves the Proposal) to June 1, 1995 (or whenever the Convention convenes).

We are prepared to offer our professional services without compensation (other than reimbursement for living expenses) to implement this Proposal because of our commitment to the Commonwealth and our interest in the Third Constitutional Convention.

We are committed to making every effort to reduce costs by utilizing the resources available to the CNMI Government.

The estimated total cost is about \$64,000 allocated as follows:

Staff Support.....\$10,000

This category would permit the per diem hire of one or more local lawyers, academicians, or others who might undertake specific or other assignments and staff support for administrative tasks assigned by the Committee.

Secretarial Assistance.....\$25,000

This assumes that we will need to rely substantially on non-government secretarial services.

Office Expenses.....\$5,000

We have access to some office space that rents for \$500 per month. The amount indicated here includes office rental and the associated costs of fax, telephone, copying and office supplies.

Living Expenses.....\$9,000

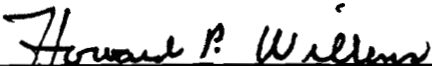
This represents the total of estimated apartment rent, food expenses, and car rental for a period of about three months.


Possible Consultant Services (other than Willens and Siemer).....\$15,000

This amount would enable the Committee to engage two or more outside experts to participate in the work outlined in this Proposal. The expenses would obviously depend on the travel costs and fees associated with each consultant.

The charges for this work would be supported by documentation so that the Committee would pay only for actual out-of-pocket expenses.

We appreciate the opportunity to submit this Proposal to be of assistance to the Committee.



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