unified, integrated, and comprehensive territory-wide program of environmental protection and procedures to fulfill that responsibility; and

WHEREAS, conducting environmental review and impact assessments is a vital and integral part of the development planning process and is therefore of substantial value and utility to developers and landowners, as well as being in the public interest.

NOW, THEREFORE, I, CARL T. C. GUTIERREZ, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, and the laws of Guam, do hereby order that, notwithstanding any other executive order:

(1) For the purposes of implementing this Executive Order and supplementing definitions not contained in Chapters 61 through 63 of Title 21, Guam Code Annotated, the following definitions shall apply:

(a) "**Accessory use**" means a use of land or a building or a portion thereof, when such use is customary and incidental to the actual principal use of the land or building and such accessory use is located on the same parcel of property as the principal use.

(b) "**Applicant**" means the person, government, or other entity which submits any application for consideration before the Commission.

(c) "**Application**" means the complete application form and all supporting documentation required for a project.

(d) "**Barracks**" means a building containing One (1) or more rooms intended or designed to be used or rented for living and sleeping purposes, typically but not exclusively housing provided by an employer for employees. A barracks shall not be construed to mean a hotel.

(e) "**Bed and Breakfast Inn**" means a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

(f) "**Club**" means an organization which operates an establishment for objectives of an athletic, patriotic, political or social nature and not for pecuniary gain, having a bona fide membership list, the majority of members of which pay dues at least once in every year.

(g) "**Clubhouse**" means a building used to house a club or social organization, not conducted for private profit and not an adjunct to, operated by, or in connection with a public tavern, bar, cafe, or other public place.

(h) "**Day**" means a calendar day unless otherwise specified.

(i) "**Lodging House**" or "**Rooming House**" means any building, or portion thereof, containing not more than five guest rooms which are used by not more than five guests where rent is paid

DRAFT

comply with all of the requirements of the Building Code for dwellings.

(j) **"Planned Unit Development"** means land under unified control to be planned and developed as a whole in a single development operation or a programmed series of development operations or phases. A planned unit development generally as a range of uses including residential, commercial, office, and recreational that are designed to be in a harmonious relationship with each other. Such a development is built according to specific plans that include not only streets, utilities, lots, and building locations, but also site plans for all buildings that are intended to be located, constructed, used and related to each other and plans for other uses and improvements on the land as related to the buildings.

(k) **"Project"** means any type of proposal that comes before the Commission for approval.

(2) There is created an Application Review Committee ("Committee" or "ARC") which is comprised of the following permanent voting members:

(a) Department of Land Management, Planning Division (DLM);

(b) Guam Environmental Protection Agency (GEPA);

(c) Department of Agriculture (DAGR);

(d) Guam Waterworks Authority (GWA);

(e) Guam Power Authority (GPA);

(f) Department of Parks and Recreation (DPR);

(g) Department of Public Works (DPW); and

(h) Bureau of Planning (BOP).

The heads of such agencies shall assign senior members of their respective departments to attend the ARC meetings.

(3) Interim ARC Guidelines are hereby established, pending promulgation as rules through the Administrative Adjudication Law. The Interim Guidelines are attached as Appendix A.

(4) This Executive Order shall govern all land and water uses that come before the ARC and the Commission. All applications and other matters that come before the ARC or Commission shall be in compliance with this Executive Order and the attached and incorporated Interim Application Review Committee (ARC) Guidelines. The requirement to conform to the Interim Guidelines shall cease upon the promulgation of rules pursuant to the

DRAFT

(5) All applications for Commission action shall first be submitted to the voting member agencies of the ARC for their technical review and analysis. The period of this review and analysis shall not exceed Sixty (60) days from the first ARC meeting at which the application appears on the ARC's agenda; provided, however, that this period may be reasonably extended by the Commission upon written request of an ARC member or the applicant. No items shall be placed on the Commission agenda unless the items are first approved by the ARC. All Commission agenda items must be approved by the ARC not less than Two (2) weeks prior to the scheduled Commission meeting. Except for applications for zone changes, the applicant shall apply for and receive a building or grading permit for the approved project within One (1) year of the date of recordation of the Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire; provided, however, that the Commission may grant Two (2) one-year extensions of the above approval period.

(6) All applications for conditional use, zone change, variance, subdivision approval, golf courses, any proposed developmental action in wetlands, or for development of aquaculture facilities shall be required to submit an Environmental Impact Assessment (EIA) in the format required by the Guam Environmental Protection Agency (GEPA) Administrator; provided, however, that the proposed action may be determined by the GEPA Administrator to be exempt from the EIA requirement as set forth below:

(a) One (1) or Two (2) single family dwelling units on a single lot;

(b) a single duplex;

(c) sign or setback variances;

(d) reduction, relocation or deletion of easements; and

(e) horizontal property regimes.

The above listed projects shall not be exempt from the EIA requirement if the project involves construction and is located within an environmentally sensitive area, which includes, but is not limited to, areas that affect seashore, rivers and streams, wetlands, critical fauna and flora habitats, and aquifer recharge areas.

(7) When there is a change in ownership, management, or directorship of any development project before, during, or after construction on the project, and the project requires an EIA under provisions of this Executive Order, each subsequent owner, manager, or director of the development project shall be subject to all provisions of the EIA in the same manner as the original owner, manager, or director of the development. The owner of the development project shall give written notice to the GEPA and the Territorial Planner of a change in ownership, project manager, or directorship, within Thirty (30) days of the change.

DRAFT

(8) The Planning Division of the Department of Land Management shall provide administrative support staff and services for the ARC.

(9) No act prohibited or restricted by any statute, rule, law, or executive order shall be permitted by reason of compliance with this Executive Order No. 96-26.

(10) No permit, license, or requirement under any statute, rule, or law, federal or territorial, shall be waived by reason of compliance with this Executive Order No. 96-26.

(11) This Executive Order No. 96-26 shall operate prospectively only, and applies to all applications submitted to the Department of Land Management after the effective date of this Executive Order No. 96-26. All previously submitted applications shall continue under the procedures in force when the applications were accepted by the Department of Land Management.

(12) The provisions of this Executive Order No. 96-26 are severable and if any provision or part is held invalid, unconstitutional, or inapplicable to any person or circumstances, such invalidity, unconstitutionality, or inapplicability shall not affect or impair the remaining provisions of this Executive Order. If the use of the Interim Application Review Committee (ARC) Guidelines are invalid or unlawful, the existing Development Review Committee (DRC) Rules and Regulations, promulgated January 1995, as far as practicable, shall govern all matters before the ARC and Commission until the ARC Rules can be promulgated pursuant to the Administrative Adjudication Law.

(13) Executive Orders Nos. 90-09, 90-10, 90-15, and 92-06 are rescinded.

SIGNED AND PROMULGATED at Agaña, Guam this 28th day of October, 1996.

CARL T. C. GUTIERREZ
Governor of Guam

COUNTERSIGNED:

MADELEINE Z. BORDALLO
Lieutenant Governor of Guam

DRAFT

APPENDIX A
of Executive Order No. 96-26

INTERIM
APPLICATION REVIEW COMMITTEE (ARC)
GUIDELINES

Table of Contents

§100. Authority.
§200. Official Name.
§300. Purpose.
§400. Organization.
§500. Support Staff.
§600. Meetings.
§700. Application Procedure.
§800. Approval of Agendas.
§900. Voting.
§1000. Order of Business.
§1100. Severability.

§100. Authority. These Interim Guidelines are established under the authority of Executive Order 96-26 pending promulgation through the Administrative Adjudication Law, Chapter 9 of Title 5, Guam Code Annotated.

§200. Official Name. The official name of the Committee is the "Application Review Committee", referred to as "ARC" or "Committee".

§300. Purpose. The Committee is formulated for the purpose of providing the Territorial Land Use Commission/Territorial Seashore Protection Commission/Guam Natural Resources Board (hereinafter referred to as the "Commission") with technical and professional review, analysis, and advice through individual agency positions concerning various development activities in Guam. Within its mandated area of authority, each ARC agency shall:

(a) Ensure compliance with applicable law, regulatory standards, procedures, policies, and rules within its mandated area of concern;

(b) Evaluate alternative development strategies with the applicant to provide the best development plan for the developer and the community; and

(c) Develop and provide official position statements on applications submitted to the Commission.

§400. Organization. (a) **Permanent Voting Members.** The permanent voting members of the ARC as defined in this Executive Order are:

(1) Department of Land Management, Planning Division (DLM); (the Territorial Planner shall be the Chairperson)
(2) Guam Environmental Protection Agency (GEPA);
(3) Department of Agriculture (DAGR);
(4) Guam Waterworks Authority (GWA);
(5) Guam Power Authority (GPA);
(6) Department of Parks and Recreation (DPR);
(7) Department of Public Works (DPW); and
(8) Bureau of Planning (BOP).

(b) **Ex-Officio Members.** Ex-officio members shall be informed of meeting locations, times, and agendas. They shall have no vote on matters before the ARC and shall not be required to submit position statements and Infrastructure Certification Forms. The ex-officio members are:

(1) Chamorro Language Commission;
(2) Department of Commerce;
(3) Department of Education;
(4) Guam Fire Department; and
(5) Department of Public Health and Social Services.

Upon approval of the ARC, other agencies may become ex-officio members.

(c) The Chairperson shall call all meetings to order, oversee the application procedure and transmit all comments, recommendations, position statements, and Infrastructure Certification Forms to the Commission. Any Acting Territorial Planner shall automatically become Acting Chairperson of ARC.

(d) The Attorney General's office shall provide legal assistance as necessary.

§500. Support Staff. The Planning Division of the Department of Land Management shall provide support staff and services to implement Executive Order No. 96-26 and these Interim Rules. Such support shall include, but not be limited to:

(a) Retaining complete project files by municipal district, tract, block, lot number, petitioner, and type of application, and developing a means of cross-referencing project files;

(b) Developing an application package and revising it as needed;

(c) Providing application package to applicant and receiving the completed application package from applicant;

(d) Providing ARC minutes to Committee members;

(e) Receiving the ARC position statements and providing them to the Commission and applicant;

(f) Providing a summary of Commission actions to the ARC by the next ARC meeting; and

(g) Providing, upon request, to ARC members at no cost, and to the public at cost, copies of the approved Commission minutes.

§600. Meetings. (a) There shall be at least Two (2) regular ARC meeting per month. The meetings shall be held on alternate Thursdays from the Commission meetings, unless the ARC meeting falls on a legal holiday. If a regular ARC meeting is not held on the aforementioned Thursday, the ARC meeting shall be on the subsequent Tuesday.

(b) Special meetings for administrative matters only may be called by the Territorial Planner. Special meetings shall require at least Four (4) days notice to all permanent voting members.

(c) Majority (50% + 1) of the permanent voting members shall constitute a quorum for the purpose of conducting its business and for all other purposes. A quorum is required for all business conducted.

(d) The Committee shall hold its meetings at a location to be determined by a majority vote of the permanent voting members at any meeting.

§700. Application Procedure. (a) Applications for:

(1) Conditional Uses;
(2) Zone Changes;
(3) Zone Variances;
(4) Subdivision Variances;
(5) Tentative and Final Subdivisions;
(6) Wetland Permits;
(7) Seashore Clearances;
(8) Tentative Development Plan;
(9) Agricultural Subdivisions and Lot Parceling; and
(10) Other land use permit applications

shall meet the requirements of all relevant laws, executive orders, rules, and the requirements of the Commission and ARC. The applications for the above are available from the Territorial Planner. Completed applications shall be submitted to the Territorial Planner. Applications should be accompanied by an executive summary.

DRAFT

(b) Applications shall be received and initialed by the Territorial Planner or his or her authorized representative, who shall stamp the date and time the application was received.

(c) Upon receipt of the application, the Territorial Planner shall review the application to ensure that all required materials are included, prior to acceptance. The application shall include an affidavit of ownership or authorization signed by the owner authorizing the application before the Commission. Incomplete applications shall not be accepted by the Territorial Planner who shall notify the applicant thereof. The Territorial Planner may conduct preliminary interviews with the applicant where needed.

(d) After acceptance by the Territorial Planner, applications shall be transmitted to ARC members at least Two (2) weeks prior to the ARC meeting at which the application is scheduled.

(e) The Territorial Planner shall provide a tentative ARC agenda to be approved by the ARC not less than Two (2) weeks prior to its next regularly scheduled meeting. Only agenda items approved by the ARC at its previous meeting shall be considered and heard by the Committee. In no event shall the agenda exceed Ten (10) applications for review at each meeting.

(f) The Committee shall hold a regularly scheduled meeting with the applicant to discuss the application, thus commencing the Sixty (60) day assessment period, which shall not be extended without Commission approval.

(1) At the time of its initial meeting with the applicant, the ARC shall tentatively set the project application for the first regularly scheduled Commission meeting falling after the Sixty (60) day assessment period and the Two (2) week period required under Subsections (a) and (b)of §800 of these Interim Rules, below, has elapsed; provided, however, that the ARC may reschedule the matter to an earlier Commission meeting if all permanent voting members of the ARC have submitted their required positions and Infrastructure Certification Forms and there is no objection from the applicant.

(2) If any permanent voting Committee member finds an application to be incomplete or lacking pertinent information which may reasonably be deemed necessary to formulate comments or recommendations at any time within the first Forty-five (45) days of the assessment period, the ARC member shall notify the applicant in writing (with a copy of the letter or notice to the Territorial Planner) as to precisely what additional information is required from the applicant to adequately review the application.

(3) If at any time within the Sixty (60) day assessment period a permanent voting member of the ARC or the applicant requires additional time for adequate review and determination of a position on the project application,

the member or applicant may, in writing, notify the Territorial Planner, and the applicant, if necessary, that additional time is required and the precise reasons therefor. The Commission shall hear the request for additional time at the earliest opportunity, consistent with law, executive orders, and these Guidelines, but not later than the Commission meeting wherein the matter itself is scheduled to be heard.

(4) Permanent voting members of the ARC shall submit written comments in individual position statements and Infrastructure Certification Form, if required, to the Territorial Planner not later than Sixty (60) days from the initial ARC meeting on the project application.

(g) The position statements shall contain a clear and unambiguous statement indicating whether the agency APPROVES, DISAPPROVES, or APPROVES WITH CONDITIONS the project application. If an Approval with Conditions is given, specific conditions for the approval must be clearly stated. The position statement from GPA, DPW, GWA and GEPA shall include a completed Infrastructure Certification Form, a sample copy of which is attached hereto.

§800. Approval of Commission Agendas. (a) The Territorial Planner shall compile all position statements and Infrastructure Certification Forms and prepare the tentative Commission agenda. No item shall be placed on the Commission agenda unless the item is approved by the ARC. All tentative Commission agenda items must be approved by the ARC not less than Two (2) weeks in advance of the scheduled Commission meeting.

(b) The Territorial Planner shall transmit the approved agenda, applications packages, Infrastructure Certification Forms and position statements to the Commission not later than One (1) week before the Commission meeting.

§900. Voting. (a) Subject to the ARC quorum requirements, motions on all matters before the ARC shall be passed by majority vote of the permanent voting members present, provided, however, that at least Four (4) affirmative votes shall be required for any action to be approved by the Committee.

(b) The Chairperson of the Committee shall vote on all matters before the Committee.

(c) Except as otherwise provided, the parliamentary procedures set forth in Robert's Rules of Order shall govern the conduct of all Committee meetings.

§1000. Order of Business. At the regular meetings of the Committee, the following shall be the order of business:

(a) Attendance;
(b) Approval of Minutes;

(c) Old or Unfinished Business;
(d) New Business;
(e) Approval of ARC Agenda;
(f) Approval of Commission Agenda;
(g) Administrative and Miscellaneous Matters; and
(h) Adjournment.

§1100. Severability. The provisions of these Interim Guidelines are severable and if any provision or part is invalid, unconstitutional, or inapplicable to any person or circumstance, such invalidity, unconstitutionality, or inapplicability shall not affect or impair the remaining provisions of these Interim Guidelines.

SIGNED and ESTABLISHED at Agaña, Guam on this 28th day of October, 1996.

CARL T. C. GUTIERREZ
Governor of Guam

ATTACHMENT TO APPENDIX A OF EXECUTIVE ORDER NO. 96-26

Use a separate form for each activity, service or facility certified.

Infrastructure Certification Form

Agency Certifying: _____
Applicant: _____
Location: Tract _____ Block _____ Lot No. _____ Village _____
Type of Application: _____
TLUC/TSPC Application No.: _____
Brief Project Description: _____
_____

For the purposes of this Certification, GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE include, but are not limited to: **power lines, poles and facilities; water lines, pumps and facilities; sewer and liquid waste disposal; storm water disposal; solid waste disposal; telephone lines and facilities; schools; health facilities; police and fire fighting service and facilities; roads; traffic and street lights; parks and recreational facilities.**

1. I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently **AVAILABLE AND IN PLACE** to support this project: Yes _____/ No _____/

2. If the answer to #1 above is YES, then:
I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently **ADEQUATE** to support this project:
Yes _____/ No _____/

3. If the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE currently in place are **NOT AVAILABLE** or they are **AVAILABLE, BUT NOT ADEQUATE**, itemize the services, facilities and infrastructure that are needed, the estimated cost thereof and whether funds are currently available and identified to develop such services, facilities and infrastructure:

Services, Facilities and Infrastructure Needed	Cost of Upgrades	Funds Available	Date Available	Funds Identified
		Yes/No		Yes/No
		Yes/No		Yes/No
		Yes/No		Yes/No
		Yes/No		Yes/No
		Yes/No		Yes/No

I hereby certify that the foregoing is true and correct to the best of my knowledge.

Agency/Department Head	Date

Comments:

Appendix F. Guam Water Classification Map.

DRAFT