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CONSTITUTION OF GUAM

PREAMBLE

We the people of Guam, grateful to Almighty God for our religious, political, and civil freedoms, in order to secure a more progressive government, provide security and tranquillity for the common welfare, and promote the understanding of human rights and privileges do ordain and establish this constitution.

PART I - Declaration of Rights

ARTICLE I - Equality and Natural Rights of All Men

All men are born free and equal, and have certain natural, essential and unalienable rights; among which include the rights to enjoy and defend their lives and liberties; acquiring, possessing, and protecting their properties, and the right to seek safety and happiness.

ARTICLE II - Citizenship

The citizenship of the people of Guam shall be that of the United States provided the people meet the requirements set forth by the Immigration and Nationality Act of June 27, 1952, as amended.

ARTICLE III - Bill of Rights

Section 1 - Freedom of Worship

Every person shall be at liberty to worship God according to the dictates of his won conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay rates for the support of any minister of the gospel or teacher of religion.

Section 2 - Freedom of Speech and of the Press

Every person may freely speak, write, and publish his or her sentiments on all subjects, being responsible for the abuse of that right, and no laws be passed to restrain or abridge the liberty of speech or of the press.

Section 3 - Right to Assemble and Petition

The right of the people peaceably to assemble and to petition the government for a redress of their grievances shall never be abridged or denied.

Section 4 - No Soldier to be Quartered in any House

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Section 5 - Rights of Search and Seizures Regulated

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizures, shall not be violated; and no warrant for arrest or search shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

Section 6 - Self Incrimination and Double Jeopardy

No person shall be compelled to give evidence which will tend to incriminate him, except as in this Constitution specifically provided; nor shall any person after having been once acquitted by a jury, be again put in jeopardy of life or liberty for that which he has been acquitted. Nor shall any person be twice put in jeopardy of life or liberty for the same offense.

Section 7 - Due Process of Law

No person shall be deprived of life, liberty, or property without due process of law.

Section 8 - Private Property

Private property shall not be taken for public use without just compensation. Private property donated by certified owner to the government for public use shall be the property of the government and shall be repaired and maintained by the government.

Section 9 - Rights of the Accused

In all criminal prosecutions, the accused shall have the rights to a speedy and public; to be informed of the nature and cause of the accusation and to have a copy thereof; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Section 10 - Bail

All persons shall beailable by sufficient sureties, except for treason and murder, where the proof is evident or the presumption great. No court shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishment.

Section 11 - Slavery

Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in Guam.

Section 12 - Attainder; Expost Facto Laws; Impairments of Contracts

No bill of attainder, expost facto law, or law impairing the obligation of contracts shall be enacted.

Section 13 - Imprisonment for Debt

No person shall be imprisoned for debt arising out of, or founded on a contract, express or implied, except in cases of fraud or breach of trust, or of moneys collected by public officers or in any professional employment.

Section 14 - Habeas Corpus

The privilege of the writ of habeas corpus shall not be suspended, unless, when in cases of rebellion or invasion or imminent danger thereof, the public safety shall require it.

Section 15 - Elections; Qualifications

No qualification with respect to property, income, political opinion, or any other matter apart from citizenship, civil capacity, and residence shall be imposed upon any voter.

Section 16 - Denial or Rights; Discrimination

No discrimination shall be made in Guam against any person on account of race, language, or religion, nor shall the equal protection of the laws be denied.

Section 17 - Treason

No person shall be convicted of treason against the United States unless on the testimony of two witness to the same overt act, or on confession in open court.

Section 18 - Public Fund and Property

No public money and property shall ever be appropriated, supplied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or association, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such.

Section 19 - Employment of Children

The employment of children under the age of fourteen years in any occupation injurious to health or morals or hazardous to life or limb is here prohibited.

Section 20 - Compulsory Education

There shall be compulsory education for all children between the ages of six and sixteen years.

Section 21 - Qualifications to Public Office and Trust.

No religious test shall be required as a qualification to any office or public trust under the government of Guam.

Section 22 - Advocators

No person who advocates, or who aids or belongs to any party, organization, or association which advocates the overthrow by force or violence of the government of Guam or of the United States shall be qualified to hold office and public office of trust or profit under the government of Guam.

Section 23 - No License to Peddle of Farm or Garden Products

Any person may sell or peddle the products of the farm or garden cultivated by him without obtaining a license therefor.

Section 24 - Accountability of all Officers

All power residing originally in the people, and being derived from them, the several officers of government vested with authority, whether legislature, executive, or judicial, or their substitutes or agents are at all times accountable to the people.

Section 25 - Nepotism

No person working as government official under various functions or organizations shall hire members of the family by marriage or otherwise to work in the same organization or function.

Section 26 - Taxation Founded on Consent

No subsidy, charge, tax import, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

Section 27 - Rights to Keep and Bear Arms

The right of every citizen to keep and bear arms in defense of his home, person, or property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but the legislature may regulate or forbid carrying concealed weapons.

Section 28 - Misuse and Misappropriation of Public Funds

Public officials, their substitutes, or agents found guilty of misusing or misappropriating public funds shall be prosecuted in accordance with laws set thereto by the legislature. Person found guilty of such offense shall not be permitted to hold government position.

Section 29 - Promotion of Personal Interest

No person, elected for governmental position shall use government authority to promote personal interest in his private enterprise. Persons so convicted shall be prosecuted in accordance with legislative laws set thereto.

Section 30 - Government Officials

Person in government position who misrepresents or take advantage of his authority shall be reprimanded in accordance with the laws set forth by this constitution.

Part II - The Frame of the Government

The power of the Government of Guam shall be divided into three distinct branches, the Executive, Legislature, and Judicial Branch. No person or group of persons being one of these branches, shall exercise any power properly belonging to either of the others, except as hereinafter directed or permitted.

ARTICLE I - Executive

Section 1 - Executive Department

The executive officers of Guam shall be the Governor, Lieutenant Governor, Attorney General, Treasurer, and the heads of such other executive departments as set forth herein or as may be established by law. The heads of all executive departments established by law shall be appointed by the Governor with the consent of a majority of all members elected to the legislature, but officers so appointed may be removed by the Governor. Subject to the provisions of this Constitution, the head of the various executive departments shall design upon the sit of new elected Governor.

Section 2 - Governor and Lieutenant Governor; Qualifications

No person shall be eligible for election to the office of Governor or Lieutenant Governor unless he is an eligible voter and has been five consecutive years immediately preceding the election, a citizen of the United States and a bona fide resident of Guam and will be, at the time of taking office, at least thirty years of age. The Governor and Lieutenant Governor shall maintain his official residence in Guam during his incumbency.

Section 3 - Election of Governor and Lieutenant Governor

The Governor of Guam, together with the Lieutenant Governor shall be elected by a majority of the votes cast by the people who are qualified to vote for the members of the Legislature of Guam. The Governor and Lieutenant Governor shall be chosen jointly, by the casting of each voter of a single vote applicable to both offices. If no candidates receive a majority of the votes cast in any election, on the fourteenth day thereafter a runoff election shall be held between the candidates for Governor and Lieutenant Governor receiving the highest and second highest number of votes cast. The Governor and Lieutenant Governor shall be chosen in the general election held in November, the year nineteen hundred seventy and each fourth year thereafter. The Governor and Lieutenant Governor shall hold their respective office until their successors are elected and qualified.

Section 4 - Term of Office

No person who has been elected Governor and Lieutenant Governor for two full successive terms shall again be eligible to hold that office until one full term has intervened.

The term of the elected Governor and Lieutenant Governor shall commence on the first Monday of January following the date of election.

Section 5 - Supreme Executive Power

The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed and the affairs of Guam efficiently and economically administered.

Section 6 - Message and Appropriation Budget

The Governor shall, at the commencement of each session, and at the close of his term of office and whenever the Legislature

may require, give by message to the Legislature information of the condition and status of Guam, and shall recommend such measures as he shall deem expedient. He shall, by message, make to the Legislature an account and statement, with vouchers, of all moneys received and paid out by him, from any and all funds subject to his order, and at the commencement of each regular sessions shall present, by the message, a complete itemized budget of the financial requirements of all departments, institutions and agencies of Guam for the ensuing year. Said budget shall be prepared with such expert assistance and under such regulations as may be provided by law. No appropriations shall be made in excess of the recommendations contained in such budget unless by two-thirds vote of the legislature and such excess so approved by a two-thirds vote shall not be subject to veto by the Governor.

Section 7 - Special Session

The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they were called together.

Section 8. - Governor to Appoint and Remove Officers

a. The Governor shall, except as otherwise provided in this Constitution or the laws of Guam, appoint by and with the advice and consent of the Legislature, all heads of the executive agencies, departments, and instrumentalities and shall commission these officers. The Governor shall have the power to remove said appointed officers from office as required.

b. All officers shall have such powers and duties as may be conferred or imposed on them by law or executive regulation of the Governor not inconsistent with any law.

c. The Governor shall, during his term in office examine the effectiveness of his organized department and agencies to provide an effective form of government. The Governor shall determine if changes are required and shall carry out these changes to the extent that full benefits are derived from such changes.

Section 9 - Reprieves and Pardons

The Governor shall have the power to grant reprieves and pardons, after conviction, for all offenses except treason and cases of impeachment, upon such condition and with such restriction and limitation, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons.

Section 10 - Execution of the Laws

The Governor shall be responsible for the execution of this Constitution, local laws, and the Constitution of the United States which are applicable to Guam. In case of disaster, insurrection, rebellion, or imminent danger thereof, or to prevent or suppress lawless violence, the Governor may request assistance of the Armed Forces of the United States in Guam and in that state shall proclaim the island to be under martial law provide he secured a two-thirds vote of the Legislature.

Section 11 - Issuing of Executive Orders and Regulations

In time of necessity and of emergency, the Governor shall have the power to issue executive orders or regulations provided

such regulations or order are not in conflict with any established law or infringing with individual personal rights.

Section 12 - Approval of Bills; Veto

Every bill shall be presented to the Governor; if he approve, he shall sign it, but if he disapprove, he shall return it to the legislature with his objections. He may submit his recommendation to the proposed bill giving his views on the matter in writing.

Section 13 - Vacancy; Lieutenant Governor to Act

In case of the impeachment, of the Governor, his removal from office, death, inability, resignation, or temporary absence from Guam, the Lieutenant Governor shall have the powers of the Governor. In case of temporary absence or inability, the Lieutenant Governor shall exercise the power until such disability cease or upon the return of the Governor.

Section 14 - Lieutenant Governor; to Act

During the administration of Lieutenant Governor in absence of the Governor, the speaker of the Guam Legislature shall act as Lieutenant Governor.

Section 15 - Replacement of Lieutenant Governor

In case of a permanent vacancy in the office of Lieutenant Governor arising from his death, resignation, or permanent disability, the Governor shall appoint a new Lieutenant Governor, with the advice and consent of the Legislature, to hold the unexpired term of office or until his successor have been elected and qualified at the next general election.

Section 16 - Impeachment

The Governor, Lieutenant Governor or other member of the executive branch may be removed by impeachment in accordance with legislative laws.

Section 17 - Compensation

The Governor, Lieutenant Governor and other official of the executive branch shall be compensated for their performed official duties and responsibilities in the manner adjudicated by Legislative laws.

ARTICLE II - JUDICIARY

Section 1 - Courts

The judicial power of Guam shall be vested in the District Court of Guam and such other inferior courts as the legislative assembly may establish.

Section 2 - District Court

The District Court shall have the jurisdiction of a district court of the United States in all causes arising under the Constitution, treaties, and laws of the United States, regardless of the sum or value of the matter in controversy, shall have original jurisdiction in all other causes in Guam, jurisdiction over which has not been transferred by the Legislature to other court or jurisdiction as the legislature may determine. The jurisdiction of and the procedure in the courts of Guam other than the District Court of Guam shall be described by the Laws of Guam.

Section 3 - Appeals

Appeals to the District Court of Guam shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The presiding judge shall be the judge of the District Court of Guam who shall be appointed by the President of the United States and shall preside therein unless removed or unable, physically or mentally, to preside. The other judges shall be as designated by the presiding judge from among the judges of the inferior courts as created by this Constitution. The final decision in the District Court shall be made by the concurrence of two judges on

the merit of the appeal but the presiding judge alone may make appropriate judgement with respect to an appeal prior to the hearing and determination on the merits and may thereto dismiss such an appeal.

Section 4 - Rules

The rules heretofore or hereafter promulgated and made effective by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code, in admiralty cases; Section 3771 and 3772 of Title 28, United States Code, in criminal cases; and Section 30 of the Bankruptcy cases; shall apply to the District Court of Guam and to appeal there from; except that no provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Guam unless and until made so applicable by laws enacted by the Legislature of Guam, and except further that the terms "attorney for the government" and "United States attorney as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of Guam, mean the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein.

Section 5 - Appointment of District Court of Guam Judge

The judge of the District Court of Guam shall be appointed by the President of the United States with the consent and approval of Senate of the United States Congress.

Section 6 - Term

The term of the District Court judge shall be for a period of not less than eight years, until his successor is chosen and qualified unless sooner removed by the President for cause, or in case of poor health or death.

Section 7 - Compensation

The District Court judge shall receive compensation payable by the United States which shall be at the rate prescribed for judges of the United States District Courts. Compensation for judges of the inferior courts shall be prescribed by legislative laws.

Section 8 - Temporary Assignment as a Judge of the District Court of Guam

A temporary judge selected from the inferior courts may be assigned to assist the appointed judge in case of necessity to properly dispatch the business of the court.

Section 9 - United States Attorney and United States Marshal

The President shall appoint, by and with the advice and consent of the Senate, a United States Attorney and United States Marshal for Guam to whose offices the provision of Chapters 31 and 33 of Title 28, United States Codes, respectively, shall apply.

Section 10 - United States Code

The provisions of Chapters 43 and 49 of Title 28, United States Code, shall apply to the District Court of Guam.

ARTICLE III - LEGISLATURE

Section 1 - Legislature

The legislative power of Guam shall be vested in the legislative body consisting of twenty-one members to be called Senators chosen every two years by the qualified voters of Guam. The legislature shall be presided by the Speaker of the house selected by the elected senators.

Section 2 - Sessions

The legislature shall meet at the seat of government in regular session on the first Tuesday after the first Monday in January, unless the Governor of Guam shall, in the interim, convene the Legislature by proclamation.

Section 3 - Qualifications for Senators

Each member of the Senate shall be a citizen of the United States, shall not be less than twenty-five years of age, shall have resided on Guam as a resident for a period of five years, and shall be a qualified voter preceding his election.

Section 4 - Vacancies

If a vacancy shall occur by death, resignation, or otherwise, the said vacancy shall be filled immediately by the Governor appointing the person recommended by the executive committee being of the same political party with which the deceased or resigned member was affiliated.

Section 5 - Compensation

The legislative members for the term for which they have been elected shall receive compensation as established by law for their services. The members and presiding officer shall also receive, while engaged in legislative duties, such

subsistence and travel allowances as shall be established.

Section 6 - Ineligibility, Federal Officials

No person shall serve as a member of the legislature who is, at the time of such service, an officer of the United States, or is receiving compensation as such; nor shall any person be eligible for election who has been convicted of felony.

Section 7 - Ineligibility to Appointment to Office

No member of the legislature shall be appointed or elected, during the term for which he was elected, to any office, which shall have been created, nor shall any member receive any appointment from the Governor. No member shall, during the term for which he shall have been elected, or within two years thereafter, be interested, directly or indirectly, in any contract with the Government of Guam authorized by law passed during the term for which he shall have been elected.

Section 8 - Disclosure of Personal or Private Interest

A member of the Legislature, who has a personal or private interest in any measure or bill, proposed or pending before the Legislature, shall disclose the fact to the Legislature and shall not vote thereon.

Section 9 - Retirement of Officers

The Legislature shall not retire any officer on pay or part pay, or make any grant to such retiring officer.

Section 10 - Quorum

Two-thirds shall constitute a quorum to do business, and compel the attendance of absent members in such penalties as may be provided by law.

Section 11 - Bills

No bills, except general appropriation bills, which may embrace the various subjects and accounts, shall contain more than one subject, which shall be expressed in the title.

Section 12 - Reference of Bills to Committees

No bill shall be considered or passed, unless it has been first referred to a committee and reported thereon.

Section 13 - Purposes for Which Taxes May be Levied

The Legislature shall not have the right to levy taxes or impose burdens upon the people, except to raise revenue sufficient for the economical administration of the government.

Section 14 - Assistance to Needy Aged, Blind, and Children

The Legislature shall have the power, by law, to provide, subject to limitation and restriction as contained herein, assistance to:

- a. Needy aged persons who are actual bonafide residents and/or citizens of Guam and who are at age sixty-five or over.
- b. Needy blind persons who are actual bonafide residents and/or citizens of Guam and who are eighteen years of age or over.
- c. Needy children who are actual bonafide residents and/or citizens of Guam and who are less than sixteen years.

The Legislature shall have the authority to accept from the Federal Government such financial aid for the assistance of the needy aged, needy blind and needy children.

The Legislature shall enact appropriation laws to make lists of the recipients of aid heretofore available for inspection.

SOCIAL BACKGROUND AND CENSUS TYPE DATA

Age _____

Profession _____

Sex _____

Village _____

Highest school grade completed _____

QUESTIONS ON SUBJECT MATTER

1. Do you know what a constitution is? _____
2. Are the provisions of the Organic Act sufficient?
3. Should the Organic Act be replaced with a constitution?
4. What areas should be emphasized most? (Rate from 1-5, use No.1 for strongest reaction)

Public Health _____ (15)

Public Welfare _____ (0)

Education _____ (213)

Criminal Justice System _____ (222)

Other _____ (39)

5. Which statement comes closest to expressing your own opinion?

57 / / The constitutional convention will be the most significant event to take place on Guam since the passage of the Organic Act.

6 / / The constitutional convention will be of no consequence to the people of Guam, and will be ineffective in solving Guams problems.

11 / / I do not know what the constitutional convention will entail and I do not care.

26 / / I think the constitutional convention will be a farce because the United States of America must approve it prior to enactment and adoption by the people of Guam.

6. What type of candidate do you prefer for the Guam constitution? (May select more than one).

7 / / Traditional politician

33 / / Independent minded

53 / / Well educated

7 / / Other _____

7. How often do you attend public hearings or village meetings?

18 / Often 52 / Seldom 30 / Never

8. Should the present village commissioner system be: 19 / Retained

60 / Modified

21 / Eliminated

9. Do you intend to participate in the formation of the Guam constitution?

56 / Yes 44 / No

0. Are you satisfied with Guams present immigration policies? 61 / Yes 39 / No

1. Are you satisfied with the performance of: Executive Branch 14 / Yes 86 / No

Legislature 17 / Yes 83 / No

Judicial Branch 20 / Yes 80 / No

2. Would a Guam constitution help create a more responsive government?

37 / Yes 7 / No 62 / Maybe

3. Do you feel Guam should seek reimbursement form the U.S.A. for federal land-taking after World War II?

87 / Yes 13 / No

4. Are you favor of capital punishment? 61 / Yes 39 / No

5. Do you feel the people of Guam should decide which airlines and shipping lines should be allowed access to Guam?

68 / Yes 32 / No

6. Being a resident of Guam and a U. S. citizen, would you like to be able to vote for the President and Vice-President of the United States?

93 / Yes 7 / No

7. How should Guam's Legislative Branch be comprised?

41 / Status Quo (as amended) with election by districts?

14 / Bicameral Legislature (one house) with election of House and Senate members by districts.

16 / Bicameral Legislature with House elected by districts and Senate elected at large (or vice-versa)

- 14 / Bicameral Legislature with both House and Senate elected at large
- 12 / Unicameral Legislature (one house) with representatives elected at large
- 3 / Other _____

18. What kind of Judicial System of Appeals should Guam Have? Island Court system with appeal channel in the following order:

- 34 / Supreme Court of Guam - U. S. Supreme Court
- 45 / U. S. District Court of Guam - Ninth Circuit Court of Appeals
U. S. Supreme Court
- 4 / Ninth Circuit Court of Appeals - U. S. Supreme Court
- 15 / U. S. District Court of Guam - U. S. Supreme Court
- 2 / Other _____

19. Should the Guam Constitution contain a provision to allow Gov/Guam to increase taxes to fund local needs?

54 / Yes 46 / No

20. Should the Guam constitution contain a provision calling for the promotion of the Chamorro culture and perpetuation of the Chamorro language for all time?

59 / Yes 8 / No 3 / Not Necessarily So

Thank You

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CHAPTER VII

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3. U. S. Department of Transportation, Effecitve Citizen Participation In Transportation Planning, (Washington, D.C.: Government Printing Office, 1976), Volume II, p.34
4. Ibid., p. 113
5. Ibid., pp. 116-121.
6. Ibid., p. 118.
7. Ibid., pp. 122-129
8. Ibid., pp. 130-142.
9. Ibid., pp. 163-166.
10. Ibid., p. 188.
11. Ibid., p. 189
12. Ibid., pp.188-212.
13. Ibid., p. 240.
14. Ibid., p. 254.
15. Ibid., pp. 240-272.
16. Ibid., p. 272.
17. U. S. Department of Transportation, Effective Citizen Participation In Transportation Planning, (Washington, D. C.: Government Printing Office. 1976) Volume I, p. 36.

APPENDIX I

- 1 - Constitution of Wisconsin as amended in 1848.
- 2 - Organic Act of Guam as amended 1971.
- 3 - Constitution of Oklahoma as amended in 1907.
- 4 - Constitution of Michigan as amended in 1909.
- 5 - Constitution of Massachusetts as amended in 1780.
- 6 - Constitution of Mississippi as amended in 1961.
- 7 - Constitution of Nebraska as amended in 1920.
- 8 - Constitution of New York as amended in 1895.
- 9 - Constituion of Oklahoma as amended in 1907.