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LAND USE COMMISSION

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June 8, 2017

Ms. Kathy Sokugawa, Acting Director
City & County of Honolulu
Department of Planning and Permitting
650 South King Street
Honolulu, Hawai'i 96813

Dear Ms. Sokugawa:

We have reviewed the subject petition to amend State Special Permit SP15-405 (Waipi`o PV, Ltd.) transmitted by your letter dated May 12, 2017. We understand that Waipi`o PV, Ltd. ("Applicant") is requesting to amend Condition 5 to extend the deadline in which to establish the solar energy facility ("SEF") and amend Condition 7 to redefine what constitutes a major modification. In addition, applicant is requesting modifications to findings of fact and/or conditions: recognition of a change in ownership (findings and condition); extension of time to establish the project and term of the project (findings and condition 5); change in the number of panels (condition 7); change from fixed-tilt racks to tracking racks (findings); and, a change in perimeter fencing material (findings). Further, Applicant has provided Suggested Revisions to the Findings of Fact and Decision and Order (Exhibit G) based on the City and County of Honolulu Planning Commission's ("Planning Commission") Order dated January 27, 2015. With this understanding, we have the following comments:

1. By Findings of Fact, Conclusions of Law, and Decision and Order Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order With Modifications filed March 25, 2015, in Docket No. SP15-405, the Land Use Commission ("LUC") granted a special permit ("SP") to establish an SEF on approximately 308.8 acres of land within the State Land Use Agricultural District at Waipi`o, District of `Ewa, O`ahu, Hawai'i. The approval was subject to 13 conditions, including conditions 5 and 7, which the Applicant currently seeks to amend.
2. LUC Condition No. 5 required the Applicant to establish the SEF within two years of the date of the LUC's Decision and Order approving the SP. Under this condition the SEF would need to be established by March 25, 2017. Based on the petition, we understand that the Applicant requests that this deadline be extended thirty (30) additional months. The Applicant's letter to the Planning Commission dated May 5, 2017 requests extending

the deadline from March 31, 2017 to December 31, 2019; which is a period of thirty-six (36) months. This discrepancy should be addressed before the Planning Commission.

3. LUC Condition No. 7 identified major modifications to the SEF that would require review and approval from the Planning Commission and the LUC. We understand that the Applicant proposed to amend the condition to replace the current reference to the number of PV panels to the area covered by PV panels to reflect the change in the type of solar modules that will be used for the SEF.
4. During consultations between LUC staff, Planning Commission staff, and Applicant, issues with regard to which "commission" was intended to be referenced in any given section within both the Planning Commission's Order and the LUC's Decision and Order. We recommend that both bodies use the terms "Planning Commission" to refer to the City and County Planning Commission and "Land Use Commission" or "LUC" to refer to the State Land Use Commission. This should help both bodies and applicants be certain who will be responsible for any review and approval of any modifications or amendments.
5. Applicant's Suggested Revisions (Exhibit G) are based on the Planning Commission's Order dated January 27, 2015. The Planning Commission's Order was adopted and modified by the LUC in its Decision and Order dated March 25, 2015. Therefore, the Applicant needs to address any changes to the LUC's Order that might be necessary to support Applicant's proposed amendments. In particular, LUC Condition No. 6 which requires the filing of an annual report to the LUC, the State Office of Planning, and the City and County Department of Planning and Permitting ("DPP").
6. In the event the Planning Commission recommends approval of the petition, we acknowledge that the decision and the complete record of its proceedings will be transmitted to the LUC in accordance with Hawai'i Revised Statutes Section §205-6(e).

We have no further comments to offer at this time.

We appreciate the opportunity to comment on this matter. Should you have any questions please contact Scott A.K. Derrickson, AICP at 587-3921 or our office at 587-3822.

Sincerely,



Daniel E. Orodener
Executive Officer

cc: Dean I. Hazama, Chair - City & County Planning Commission
Leo Asuncion, State Office of Planning
Scott Enright, State Department of Agriculture
Wren Westcoatt, NRG Energy LLC via e-mail <wren.wescoatt@nrg.com>