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Attorneys for Applicant  
DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU

BEFORE THE PLANNING COMMISSION  
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU

For a New Special Use Permit To Supersede  
Existing Special Use Permit To Allow A 92-5-  
Acre Expansion And Time Extension For  
Waimanalo Gulch Sanitary Landfill,  
Waimanalo Gulch, O'ahu, Hawai'i, Tax Map  
Key: 9-2-03: 72 And 73,

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU

To delete Condition No. 14 of Special Use  
Permit No. 2008/SUP-2 (also referred to as  
Land Use Commission Docket No. SP09-403)  
which states as follows:

FILE NO. 2008/SUP-2

DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU'S MOTION FOR  
EXTENSION OF TIME;  
MEMORANDUM IN SUPPORT OF  
MOTION FOR EXTENSION OF TIME;  
DECLARATION OF KAMILLA C. K.  
CHAN; CERTIFICATE OF SERVICE

DEPT. OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU

16 OCT -5 P 2:14

R. ...

“14. Municipal solid waste shall be allowed at the WGSL up to July 21, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGSL after July 31, 2012.”

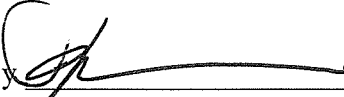
**DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU’S MOTION FOR EXTENSION OF TIME**

COMES NOW Applicant DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU, by and through its attorney, KAMILLA C. K. CHAN, Deputy Corporation Counsel, under Sections 2-58 and 2-67 of the Rules of the Planning Commission, and hereby respectfully requests that the Planning Commission extend time for the parties to file the proposed findings of fact, conclusions of law, and decision and order. The Applicant presented to Intervenors KO OLINA COMMUNITY ASSOCIATION and MAILE SHIMABUKURO a proposed deadline for the acceptance of municipal solid waste at the Waimanalo Gulch Sanitary Landfill, subject to certain conditions. KOCA expressed an interest in discussing the proposed deadline and Applicant is committed to continuing the discussion in an effort to reach an agreement on this issue. Applicant seeks an extension of time to April 21, 2017, for the filing of the proposed findings of fact, conclusions of law, and decision and order, and consideration of and decision making on all motions pending before the Planning Commission in this proceeding. The extension of time will give the parties an opportunity to reach an agreement on the deadline and draft and submit a joint proposed findings of fact, conclusions of law, and decision and order for submission to the Planning Commission.

Applicant respectfully requests that the Planning Commission consider hearing this Motion for Extension of Time on October 12, 2016 at 1:30 p.m., or as soon thereafter as may be practicable.

DATED: Honolulu, Hawaii, October 5, 2016.

DONNA Y. L. LEONG  
Corporation Counsel

By  \_\_\_\_\_

KAMILLA C. K. CHAN  
Deputy Corporation Counsel  
Attorneys for Applicant  
DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
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MEMORANDUM IN SUPPORT OF  
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**MEMORANDUM IN SUPPORT OF  
MOTION FOR EXTENSION OF TIME**

**I. BRIEF SUMMARY OF PROCEDURAL HISTORY AND FACTS**

This matter is a consolidated case before the Planning Commission, City and County of Honolulu (“Planning Commission”), of County Special Use Permit File No. 2008/SUP-2 (“2008

Application”), which the State Land Use Commission (“LUC”) remanded to the Planning Commission for the express purpose of consolidation with the proceeding on ENV’s application to modify the LUC’s Order filed on October 22, 2009 by deleting the municipal solid waste deadline (“2011 Application”). The 2008 Application is before the Planning Commission on remand and the 2011 Application has not been decided by the Planning Commission.

On August 17, 2016, the Planning Commission ordered the consolidation of the proceedings so that it may issue and transmit a single, consolidated findings of fact, conclusions of law, and decision and order to the LUC. The parties’ proposed findings of fact, conclusions of law, and decision and order are to be submitted no later than October 14, 2016, and responses thereto are to be submitted no later than October 21, 2016. The Planning Commission continued the contested case hearing to October 26, 2016, at 1:30 p.m. in the Mission Memorial Conference Room, when it will render its decision and order.

By letter dated September 7, 2016, the Planning Commission notified the parties that on October 12, 2016, at 1:30 p.m., the Planning Commission will consider Intervenors KO OLINA COMMUNITY ASSOCIATION and MAILE SHIMABUKURO’S (collectively, “KOCA”) Motion to Reopen the Contested Case Hearing to Admit Limited Additional Evidence to Correct an Error that was Discovered After the Hearing Closed.

## **II. RELEVANT LAW**

Rules of the Planning Commission (“RPC”) Section 2-58 states, in pertinent part: “Whenever a party is required to file a pleading within the period prescribed or allowed by these rules, by notice given thereunder or by an order or regulation, the chair, or in the absence of the chair, the chief planning officer may extend such period: (1) for good cause before the expiration of the prescribed period, with or without notice to the parties; . . . All requests for continuances,

except for stipulations, should be by written motion unless they are made during the course of a hearing.”

RPC Section 2-67 states: “Motions by any party may be made before, during, or after a hearing ... and that “[a]ny motion, other than one made during a hearing, shall be made in writing to the commission, shall state the relief sought, and shall be accompanied by an affidavit or legal memorandum setting forth the grounds upon which the motion is based.”

### **III.   GROUNDS FOR EXTENSION OF TIME**

The Planning Commission may grant an extension of time for good cause before the expiration of the prescribed period. RPC § 2-58. Here, ENV has presented to KOCA a proposed deadline for the acceptance of municipal solid waste at the Waimanalo Gulch Sanitary Landfill (“WGSL”), subject to certain conditions. KOCA has expressed an interest in discussing ENV’s proposed deadline. ENV requests an extension of time to April 21, 2017, for the filing of the proposed findings of fact, conclusions of law, and decision and order, and for consideration of and decision making on all motions pending before the Planning Commission in this matter. The extension of time will give the parties an opportunity to discuss the proposed deadline, reach an agreement, and have an opportunity to draft and submit a joint proposed findings of fact, conclusions of law, and decision and order to the Planning Commission. See Declaration of Kamilla C. K. Chan (“Chan Dec.”) ¶¶ 4, 5 and 8.

Previously, ENV and KOCA took extremely different positions on the issue of a deadline for closure of the WGSL. At the conclusion of the contested case hearing on the 2011 Application, ENV sought to allow disposal of municipal solid waste at the WGSL until the WGSL reaches capacity, while KOCA demanded that the WGSL be completely closed on November 2, 2017. Thus, the fact that ENV and KOCA are willing to discuss the proposed

deadline represents significant progress in reaching an agreement on this important term. Chan Dec. ¶ 6.

ENV is committed to continuing the discussion about the proposed deadline, reaching an agreement, and working with the parties to prepare a joint proposed findings of fact, conclusions of law, and decision and order. Due to the nature of this proceeding, the complexities of this case, and the number of parties involved, ENV requests an extension to April 21, 2017, so that the parties may have adequate time to discuss the deadline and draft a joint proposed findings of fact, conclusions of law, and decision and order. An agreement on the proposed deadline and the submission of a joint proposed findings of fact, conclusions of law, and decision and order will promote judicial economy and avoid or reduce the possibility of competing proposals and objections thereto. Chan Dec. ¶¶ 7, 9-10.

**IV. REQUESTED RELIEF**

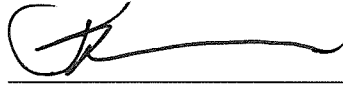
WHEREFORE, ENV respectfully requests that the Planning Commission grant this request for extension of time to April 21, 2017, to file the proposed findings of fact, conclusions of law, and decision and order, and for consideration of and decision making on all motions pending before the Planning Commission in this consolidated proceeding. Further, ENV

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respectfully requests that the Planning Commission consider hearing this Motion for Extension of Time on October 12, 2016, at 1:30 p.m., or as soon thereafter as may be practicable.

DATED: Honolulu, Hawaii, October 5, 2016.

DONNA Y. L. LEONG  
Corporation Counsel

By   
\_\_\_\_\_  
KAMILLA C. K. CHAN  
Deputy Corporation Counsel  
Attorneys for Applicant  
DEPARTMENT OF ENVIRONMENTAL  
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allowed at the WGSL after July 31, 2012.”

**DECLARATION OF KAMILLA C. K. CHAN**

I, KAMILLA C. K. CHAN, hereby declare the following:

1. I am an attorney duly licensed to practice law in the State of Hawaii and am employed by the City and County of Honolulu, Department of the Corporation Counsel as a Deputy Corporation Counsel.

2. My duties include handling various matters of representation on behalf of the Department of Environmental Services, City and County of Honolulu (“Applicant” or “ENV”), including the above-captioned proceedings.

3. After the Planning Commission ordered the consolidation of the above-captioned proceeding on August 17, 2016, ENV has continued to discuss issues relating to the Waimanalo Gulch Sanitary Landfill (“WGSL”) with Intervenors Ko Olina Community Association and Maile Shimabukuro (collectively, “KOCA”).

4. ENV has presented to KOCA a proposed deadline for the acceptance of municipal solid waste at the WGSL, subject to certain conditions.

5. KOCA has expressed an interest in discussing ENV’s proposed deadline.

6. Previously, ENV and KOCA took extremely different positions on the issue of a deadline for the closure of the WGSL. ENV sought to allow the disposal of MSW at the WGSL until the WGSL reaches capacity. (See Tr. 04/23/12 at 54:9-14.) KOCA, however, demanded that the WGSL be completely closed on November 2, 2017. (See Tr. 04/23/12 at 79:14-17.) The fact that ENV and KOCA are willing to discuss the proposed deadline represents significant progress in reaching an agreement on this important term.

7. ENV is committed to continuing the discussion about the proposed deadline, reaching an agreement, and working with the parties to prepare a joint proposed findings of fact, conclusions of law, and decision and order.

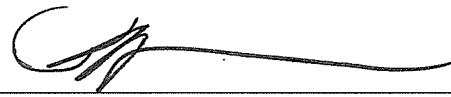
8. An extension of time is needed so that the parties may have an opportunity to discuss the proposed deadline and draft and submit a joint proposed findings of fact, conclusions of law, and decision and order to the Planning Commission.

9. Due to the nature of this proceeding, the complexities of this case, and the number of parties involved, ENV requests an extension to April 21, 2017, for the filing of the proposed findings of fact, conclusions of law, and decision and order, and for consideration of and decision making on all motions pending before the Planning Commission in this matter. The extension of time will give the parties an opportunity to discuss the proposed deadline, reach an agreement, and have an opportunity to draft and submit a joint proposed findings of fact, conclusions of law, and decision and order to the Planning Commission.

10. An agreement on the proposed deadline and the submission of a joint proposed findings of fact, conclusions of law, and decision and order will promote judicial economy avoid or reduce the possibility of competing proposals and objections thereto being filed with the Planning Commission.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawaii, October 5, 2016.



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KAMILLA C. K. CHAN

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CERTIFICATE OF SERVICE

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF HONOLULU'S MOTION FOR EXTENSION OF  
TIME was served upon the following by hand delivery on October 5, 2016:

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Honolulu, Hawaii 96813

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RICHARD D. WURDEMAN, ESQ.  
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Honolulu, Hawaii 96813

Attorney for Intervenor  
COLLEEN HANABUSA

DATED: Honolulu, Hawaii, October 5, 2016.

DONNA Y. L. LEONG  
Corporation Counsel

By 

KAMILLA C. K. CHAN  
Deputy Corporation Counsel  
Attorneys for Applicant  
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