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WAIKOLOA HIGHLANDS, INC.

**BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I**

In the Matter of the Petition Of

WAIKOLOA MAUKA, LLC

To Amend the Agricultural Land Use District
Boundary Into the Rural Land Use District for
Approximately 731.581 Acres in South Kohala
District, Island of Hawaii, Tax Map Key No.
(3) 6-8-02:016 (por.)

DOCKET NO. A06-767

WAIKOLOA HIGHLANDS, INC.,
OFFICE OF PLANNING, STATE OF
HAWAI'I, AND PLANNING
DEPARTMENT, COUNTY OF
HAWAI'I'S JOINT STIPULATION TO
CONTINUE HEARING ON ORDER TO
SHOW CAUSE AND RESERVATION OF
RIGHTS

**WAIKOLOA HIGHLANDS, INC., OFFICE OF PLANNING, STATE OF HAWAI'I,
AND PLANNING DEPARTMENT, COUNTY OF HAWAI'I'S
JOINT STIPULATION TO CONTINUE HEARING ON
ORDER TO SHOW CAUSE AND RESERVATION OF RIGHTS**

IT IS HEREBY STIPULATED by and among WAIKOLOA HIGHLANDS, INC.
("WHI"), as successor-in-interest to Waikoloa Mauka, LLC, by and through its undersigned
counsel, the OFFICE OF PLANNING, STATE OF HAWAI'I, and the PLANNING
DEPARTMENT, COUNTY OF HAWAI'I, being parties who appeared in this matter to date and
served by the State of Hawai'i Land Use Commission's ("Commission") Order to Show Cause,

filed on July 3, 2018 ("OSC"), to continue the next hearing date on the OSC until the earlier to occur of the following:

1. WHI receives final approval from the County of Hawai'i of amendments to Zoning Ordinance No. 13-29, or
2. The Commission's first scheduled meeting in September of 2019, or any date thereafter as determined by the Commission.

The parties hereto enter into this Stipulation subject to the following reservations:

1. WHI shall not conduct any development activities on the land of the Petition Area from the date this Stipulation is approved by the Commission through the conclusion of the OSC proceedings in Docket No. A06-767; and
2. Notwithstanding any other provisions of this Stipulation, and without further action of any of the parties hereto, this Stipulation shall terminate and be of no further force and effect as of December 31, 2019; and
3. WHI shall retain the right and be allowed during the pendency of the OSC proceedings and thereafter to continue with one or more of the following activities on and relating to the land of the Petition Area: land use permitting at the State and County levels; fencing of the Petition Area; environmental and engineering studies for the Petition Area; fire prevention measures; and establishing a dry land forest nursery within the Petition Area to raise drought-resistant plants for landscaping of the Petition Area.
4. Nothing in this Stipulation waives WHI's right to argue in the OSC proceedings that WML and WHI have "substantially commenced" their use of the Petition Area in accordance with the representations made to the Commission and all such rights are hereby

specifically reserved herein. *See DW Aina Le'a Dev., LLC v. Bridge Aina Le'a, LLC*, 134 Hawai'i 187, 339 P.3d 685 (2014).

This Stipulation is made pursuant to Chapter 205, Hawai'i Revised Statutes ("**HRS**") and Title 15, Subtitle 3, Chapter 15 of the Hawai'i Administrative Rules ("**HAR**") §§ 15-15-42(2) (allowing for extensions of time to file pleadings by stipulation of the parties) and 15-15-93(c) (providing that any procedure in an order to show cause hearing may be modified or waived by stipulation of the parties).

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DATED: _____, Hawai'i on September _____, 2018.

STEVEN S.C. LIM

DEREK B. SIMON

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