CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **37 (2016), CD2**

A BILL FOR AN ORDINANCE

RELATING TO THE EXECUTIVE BRANCH OF THE CITY.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to update Chapter 2 of the Revised Ordinances of Honolulu 1990 to reflect changes in the names and functions of the executive branch of the city.

SECTION 2. The title of Chapter 2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Chapter 2. <u>The Mayor and</u> Executive Agencies – Additional Powers, Duties and Functions"

SECTION 3. Chapter 2, Article 1, Revised Ordinances of Honolulu 1990, is amended by adding a new Section 2-1.2 to read as follows:

"**<u>Sec. 2-1.2 Annual energy evaluation.</u>**

<u>Within 60 days following the end of each fiscal year, beginning with the fiscal year ending June 30, 2009, and each year thereafter, the mayor shall submit to the council a written report detailing the city's:</u>

<u>(1) Electricity, gasoline, diesel, and biodiesel consumption and costs during the previous fiscal year; and</u>

<u>(2) Progress in implementing energy conservation policies, programs, and projects.</u>"

SECTION 4. Section 2-3.1, Revised Ordinances of Honolulu 1990 ("Additional powers, duties and functions") is amended by amending subsection (d) to read as follows:

"(d) Settlement of Claims.

(1) By Corporation Counsel. Have the power to adjust, settle, compromise or submit to arbitration, any action, causes of action, accounts, debts, claims, demands, disputes and matters in favor of or against the city or in which the city is concerned as debtor or creditor, now existing or which may hereafter arise, not involving or requiring payment in excess of $5,000.00[,]; provided the money to settle claims generally has been

appropriated and is available therefor; and provided further, that a quarterly report of all settlements shall be filed with the council within 15 days after the end of each quarter.

(2) Outstanding Claims For or Debts Owed to the City. The corporation counsel shall determine whether or not any claim for the city or any debt owed to the city not in excess of $1,000.00 is collectible. If the corporation counsel determines that any claim for the city or any debt owed to the city is not collectible, the corporation counsel is authorized to advise the director of [finance] budget and fiscal services that any claim for the city or any debt owed to the city shall be stricken from the director of [finance's] budget and fiscal services' records and such claim for the city or such debt owed to the city is extinguished.

(3) Private Claims Adjustment Service. Any private claims adjustment service which has been awarded a contract to provide coverage for liability by established bid procedures and where the deductible amount of any insurance is to be paid out of city funds, has the power to adjust, settle, compromise or submit to arbitration, any action, causes of action, accounts, debts, claims, demands, disputes, and matters against the city for any injury or death to a person or damage to property; provided that before such service can commit the payment of any claim in excess of $15,000.00, it shall be first presented to the corporation counsel for approval."

SECTION 5. The title of Chapter 2, Article 4, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 4. Department of [Finance] Budget and Fiscal Services"

SECTION 6. Section 2-4.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-4.1 Refund of license fees authorized.

(a) Legislative Findings and Declaration of Intent. The council finds that:

Whenever a business license fee has been paid improperly or paid under circumstances when it need not have been paid or otherwise paid in excess of the amount required by law and such payments have been either voluntary,

involuntary, the result of a mistake of law or of fact or any combination thereof and the payor has derived no benefit from the payment of such fee, there exists a moral obligation on the part of the [City and County of Honolulu] city to refund said payment or such amount as represents the illegal excess collected over that required by law.

(b) Director of [Finance] Budget and Fiscal Services Authorized to Refund--When. Upon the written request of the payor received within six months from the date of the erroneous payment, the director [of finance] may refund license fees or so much thereof as represents the illegal excess collected over the amount required to be collected by law or regulation when paid under the following conditions; when such fees need not have been paid but were in fact paid voluntarily or involuntarily, under a mistake as to the applicable law or mistake of fact provided that the payor has not derived any benefit from the payment of the license fee. If such a benefit has been derived therefrom as in the case of a payment made pursuant to a law or regulation subsequently declared by a court of competent jurisdiction to be invalid, only the amount of the fee, which when prorated over the term of the license represents the balance of the term for which the license fee was paid subsequent to the decision invalidating the law or regulation under which payment was made, shall be refunded; provided further, that notwithstanding the receipt of any benefits by the payor, payments made involuntarily as defined in subsection (d) [of this section] shall be refunded in their entirety.

(c) Limitations. The authority granted the director [of finance] in subsection (b) [of this section] shall not extend to the payment of any other claims based on an asserted moral obligation.

(d) Involuntary Payment. For the purposes of this article, involuntary payments shall be deemed to be those payments made under protest to prevent interference with or the closing of the payor's business or the arrest of such person. Similarly, payment made under the threat of force or procured by fraud shall be deemed involuntary."

SECTION 7. Section 2-4.2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"**Sec. 2-4.2 Additional powers, duties, and functions[.] of the director of budget and fiscal services.**

(a) Collection. The director [of finance] shall be the chief accounting officer of the city and shall:

(1) Collect and receive moneys due to or receivable by the city and issue receipts therefor or authorize other executive agencies to do so under conditions prescribed by the director [of finance]; and

(2) Have the responsibility of writing off uncollectible debts or accounts of $1,000.00 or less for moneys due the city, upon recommendation of or with the concurrence of the corporation counsel.

(b) Payment--Check or Electronic Means.

(1) In all instances where money due the city is paid by check or electronic means, and the payment subsequently is dishonored by a bank or other financial institution when presented for collection, a service fee shall be assessed against the payor. The service fee shall be established and may be amended by the director [of finance]. The service fee shall be incorporated into the rules of the department of [finance] budget and fiscal services and shall not exceed the reasonable costs of the city relating to the processing and collection of dishonored checks, or electronic payments.

(2) Personal checks shall not be accepted by the city in payment of moneys due the city of less than one dollar.

(3) The director [of finance] may accept payments of city taxes and other amounts owed to the city made by electronic means, which in the director's discretion are determined acceptable to the city.

If any payment by electronic means tendered for payment of any taxes or other amounts owed to the city is not paid by the bank, credit card company, or other financial institution, the person for whom such payment was tendered shall remain liable for the payment of the taxes or other amounts owed to the city, including the service fee established pursuant to [paragraph] subdivision (1), the same as if such payment had not been tendered.

(4) The director [of finance] may establish, where allowable, convenience and service fees for payments made by electronic means to be added to the amounts owed to the city. The convenience and service fees shall be

adopted by rules of the department of [finance] budget and fiscal services and shall not exceed the reasonable costs of the city relating to the processing of the payments.

(5) For purposes of this subsection, payments made by "electronic means" [shall] include payments made by automated clearing house (ACH) transactions, fedwires, credit cards, charge cards, debit cards, stored value cards, and other electronic payment technology not yet developed.

(c) Change Orders. The director shall report in writing to the council whenever:

(1) The city approves change orders for a city-financed construction project where the change orders result in an increase in project costs, which in aggregate exceed one of the following amounts:

(A) Seven percent of the original construction contract award, for construction projects involving renovations to existing buildings, structures, or facilities; or

(B) Five percent of the original construction contract award, for construction projects involving new buildings, structures, or facilities.

The director's report to the council on the change orders shall include the amount of the original contract award, the amount appropriated for construction of the project, the amount of the appropriation for construction allocated for contingencies, the total number and total dollar amount of the change orders and the reason or reasons for the change orders. The director shall report to the council within 30 days of the approval of the change order or orders [which] that result in the dollar amount of the change orders exceeding the limits set forth in paragraph (A) or (B), as the case may be. For the purposes of this subsection, a "contract award" means any separate award to a contractor for construction work to be done for a city-financed construction project, and a "city-financed construction project" means a project for which $500,000.00 or more in city funds have been appropriated; provided that funds originally from the state or federal government shall not be counted towards the $500,000.00 threshold.

(2) The actual completion date of a city-financed construction project, as defined in subdivision (1), occurs 90 days or more after its scheduled

completion date, as set forth in the contract for the construction of the project. The director's report on the aforementioned projects shall include for each project the scheduled completion date, the actual completion date, the number of days that the project was overdue and the reason or reasons for the delay in completing the project. The director shall report to the council within 30 days of the completion of a project that was overdue by 90 days or more.

(d) Annual Review of Fees and Charges.

(1) The director shall annually review all city fees and charges and recommend to the council whether to increase, decrease, or maintain the current amount of each fee and charge. Each recommendation shall be accompanied by a statement of the reason or reasons why the particular fee or charge should be increased, decreased, or maintained at the current level and the projected amount by which city revenues would increase or decrease as a result of the recommended increase or decrease in each fee or charge.

(2) The director's written recommendations, along with the appropriate proposed ordinance, if any, shall be submitted to the council each year at the same time that the city administration submits the annual executive operating and capital budgets.

(3) All changes in the city's fees and charges recommended by the director shall be reflected in the executive operating budget's projection of revenues for the upcoming fiscal year."

SECTION 8. Section 2-5.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-5.1 General.

The director of [finance] budget and fiscal services shall establish a risk management program to identify and control the city's exposure to liability. The program shall be administered by the department of [finance.] budget and fiscal services."

SECTION 9. Section 2-5.3, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-5.3 Purchase of insurance.

The policies of insurance purchased pursuant to and in accordance with the director of [finance's] budget and fiscal services' risk management program shall be procured from companies authorized to do business in the State of Hawaii and according to the applicable laws and ordinances on competitive bidding."

SECTION 10. Chapter 2, Article 6, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 6. Department of [Personnel.] Human Resources

Sec. 2-6.1 Director of [personnel] human resources -- Additional powers, duties and functions.

The director shall:

(a) [prepare] Prepare and recommend to the civil service commission reasonable regulations to carry out applicable provisions of the charter[.]; and

(b) Examine all applicants for employment and all officers and employees of the city pursuant to any applicable ordinance, civil service laws, and rules and regulations then in effect.

Sec. 2-6.2 Functions of the safety program administrator.

The functions of the safety program administrator are assigned to the department of [personnel.] human resources."

SECTION 11. Chapter 2, Article 7, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 7. Department of [Data Systems] Information Technology

Sec. 2-7.1 Qualifications.

The director of [data systems] information technology shall have had:

(a) A minimum of five years of experience in an electronic data processing position, including experience with third generation concepts and hardware to include teleprocessing;

(b) At least three [years] years' experience out of the five [years] years' experience in an administrative and managerial capacity; and

(c) At least one year of experience out of the three years of experience in a comprehensive management capacity for the development, implementation and operation of business applications on a large scale computer system."

SECTION 12. The title of Chapter 2, Article 8, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 8. Department of [Public Works] Facility Maintenance"

SECTION 13. Section 2-8.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-8.1 Divisions.

The department of [public works] facility maintenance shall be divided under the chief engineer into the following divisions:

(a) Division of Automotive Equipment Service. The division of automotive equipment service, under the [supervision] direction of a [superintendent] division chief, shall:

(1) Have charge of the municipal garage and be responsible for the acquisition, custody, repair, [and] maintenance, and disposal of all [garage, shop and] automotive vehicles and equipment assigned to and used by [the department of public works of the city,] all city departments except the police department, fire department, board of water supply, and the Honolulu Authority for Rapid Transportation, and except such stationary machinery as may more practicably be maintained by the division or department having control thereof.

(2) Furnish when needed all parts, accessories, gasoline, distillate, fuel oil, lubricants, and tires necessary for the repair of all such automobiles, equipment, trucks, [shovels,] cranes, graders, sweepers, eductors, mixers, [compressors] tankers, trailers, large riding tractor mowers, and rollers.

(3) Furnish or assign when needed for [the] use [of] by other city departments [of the city], on a rental basis, such vehicular equipment as may be available to it from time to time.

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(4) Have charge of the municipal corporation yard or yards occupied by the division and any other place for the storing or housing of all such vehicular equipment belonging to the city.

(5) By proper methods [keep a check upon] monitor the use of all vehicular equipment belonging to or under the jurisdiction of the city and from time to time report all instances of accidents or apparent abuse of such equipment to the department or division head concerned and to the chief engineer and the mayor. For the purpose of this subdivision, vehicular equipment belonging to or under the jurisdiction of the department of parks and recreation shall be deemed as belonging to or under the jurisdiction of the city.

(6) Municipal Automobiles to Be Kept in Garage. All automobiles belonging to the city and under the jurisdiction of the division of automotive equipment service shall be kept at the municipal corporation yard when not in the actual service of the city, except such automobiles as the director and chief engineer may specifically authorize to be kept elsewhere.

(7) Repairs. All repairs upon any such automobile, equipment, truck, [shovel,] crane, grader, sweeper, eductor, mixer, [compressor,] tanker, trailer, large riding tractor mower, roller, or machinery belonging to the city shall be made at the municipal garage to the fullest extent that the facilities of the garage permit, except repairs made in an emergency. The municipal garage shall also make repairs upon and furnish gasoline, oils, parts and accessories for equipment coming under the jurisdiction and control of other departments, excepting only the board of water supply, [department of parks and recreation,] police department, [and] fire department, and the Honolulu Authority for Rapid Transportation, and it may, upon request, furnish such repairs, gasoline, oils, parts, and accessories for such excepted departments.

(8) Accounting Records. It shall be the duty of the [superintendent] division chief to keep a system of accounting records as shall be approved by the director of [finance] budget and fiscal services and the council so as to properly charge against the proper division, department, or fund the cost of the service rendered and facilities and equipment furnished by the division of automotive equipment service and said cost shall be so charged.

(9) Reports by [Superintendent.] Division Chief. The [superintendent] division chief shall make a full report to the chief engineer and the council not later than the 15th day of the month following the close of each quarter of all of the affairs of the [superintendent's] division chief's division, including therein, among other things, work done and equipment and stock on hand, and equipment purchased and disposed of during such quarter. The report shall be made in such form and manner as shall be approved by the director of [finance] budget and fiscal services and the council.

(10) Fees or Rates Applicable to Automotive Equipment Charges. The fees or rates applicable to automotive equipment shall reflect the actual cost of services performed or contracted for, goods provided and overhead.

(11) Limitation. This subsection shall not be construed as authorizing the division of automotive equipment service to control the routing and direction of equipment while in use by another division or department.

The powers, duties, and functions provided to the division of automotive equipment service by this subsection shall not apply to motor vehicles used for the city bus system or special transit service. For the purpose of this limitation, "city bus system" and "special transit service" mean the same as defined under Section 13-1.1.

[(b) Division of Land Survey and Acquisition. The division of land survey and acquisition, under the supervision of a director, shall be responsible for surveys, title searching, appraising and negotiation for acquisition of lands and easements for rights-of-way for street widening and extensions, sewers, water, drainage and other public uses.

(c) Division of Refuse Collection and Disposal. The division of refuse collection and disposal, under the supervision of a superintendent, shall be responsible for refuse collection and disposal operations and such other duties as may be assigned by the chief engineer.

(d)](b) Division of Road Maintenance. The division of road maintenance, under the supervision of a director, shall be responsible for the construction and maintenance of roads, streets, highways, footpaths, storm drain facilities, and bridges.

[(e) Division of Engineering. The division of engineering, under the supervision of a director, shall be responsible for:

(1) Engineering services for public works and improvement district functions other than for sewers;

(2) The filing and safekeeping of engineering drawings and maps for the department of public works;

(3) Planning and regulating the numbering of all buildings in the city; and

(4) Reviewing private subdivision plans and inspecting the construction of said subdivisions.]

(c) Division of Public Building and Electrical Maintenance. The division shall:

(1) Repair, maintain, and renovate all:

(A) City buildings and appurtenant structures;

(B) Street, park, mall, outdoor, and other city lighting and electrical facilities; and

(C) Communication facilities under the jurisdiction of the department;

(2) Provide daily custodial and utility services for city buildings;

(3) Manage city employees' parking and motor pool services; and

(4) Manage security services for Honolulu Hale, Kapolei Hale, the Frank F. Fasi Municipal Building and other city facilities."

SECTION 14. Section 2-8.2, Revised Ordinances of Honolulu 1990, is repealed:

["**Sec. 2-8.2 Used oil recycling program.**

(a) The department of public works shall establish a used oil recycling program. Under the program, the department, by January 1, 1990, shall:

(1) Establish and operate at least one used oil collection center; and

(2) Conduct used oil recycling education and promotion activities.

In addition, the department may establish and provide a curbside used oil collection service, but only after establishment of at least one used oil collection center and commencement of the used oil recycling education and promotion activities.

(b) For the purpose of this section, "used oil" means a petroleum based oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

(c) The department shall establish at least one used oil collection center, at which used oil, generated from other than commercial or industrial activities, shall be accepted from individuals. Each center shall be established on the grounds of a solid waste disposal facility, wastewater treatment plant, wastewater pump station, corporation yard or other facility under the jurisdiction of the department, or at privately operated service stations designated by the department. Establishment shall be contingent upon a finding by the department that the used oil collection activity shall not unduly interfere with or endanger the employees or operations of the other facility. In the operation of the used oil collection center, the department shall not:

(1) Accept used oil from any business or any individual who has generated the used oil from commercial or industrial activities;

(2) Impose any charge on an individual for accepting used oil from the individual; or

(3) Pay any amount to an individual for accepting the used oil from the individual, except from funds appropriated by the council for the payment of incentives to encourage individuals to turn in used oil.

(d) The department shall conduct used oil recycling education and promotion activities, which shall include, but not be limited to, the following:

(1) Promotion of public awareness of the hazards and detrimental effects which may result from disposal of used oil in the solid waste disposal system and wastewater treatment and disposal system;

(2) Promotion of public awareness of the hazards and detrimental effects which may result from release of used oil into the environment, especially the groundwater;

(3) Promotion of public awareness of the businesses and facilities to which used oil may be transported for lawful disposal; and

(4) Provision of information to businesses generating used oil of federal, state and city laws and rules concerning disposal of the used oil.

(e) The department may establish a curbside used oil collection service, under which used oil shall be collected by the department from private dwellings and multi-unit residential buildings. If established, the department periodically on scheduled days, shall collect containers of used oil which are placed within the sidewalk area. The department shall establish the procedures for the collection of used oil, which shall be separate from the procedures for collection of refuse. Under no circumstances shall the department collect used oil from businesses, nor shall the department impose a charge for collection of the used oil.

(f) Used oil accepted or collected by the department shall be disposed of under arrangement with a holder of a permit under HRS Chapter 342N, to transport, market or recycle used oil. The city may pay a fee or charge to the used oil transporter, marketer or recycler under an arrangement to transport, market or recycle the used oil. To keep that fee or charge to a minimum, the department may transport any collected or accepted used oil to the facility of the used oil transporter, marketer or recycler.

(g) In the implementation of the used oil recycling program, the department shall comply with all applicable federal and state laws and rules. If a permit from the federal or state government is required to undertake any activity under the program, the department shall obtain the necessary permit."]

SECTION 15. Section 2-8.3, Revised Ordinances of Honolulu 1990 ("Adopt-a-block graffiti and litter removal program"), is amended by amending subsection (b) to add a new definition to read as follows:

""Chief engineer" means the chief engineer of the department of facility maintenance."

SECTION 16. Chapter 2, Article 8, Revised Ordinances of Honolulu 1990, is amended by adding a new Section 2-8.4 to read as follows:

"**Sec. 2-8.4 Street lighting to be energy efficient.**

All new and replacement municipal street lighting fixtures installed by the department shall equal or exceed the energy efficiency of low pressure sodium lighting

fixtures, unless waived by the chief engineer in accordance with rules adopted pursuant to HRS Chapter 91."

SECTION 17. Chapter 2, Article 9, Revised Ordinances of Honolulu 1990 ("Building Department"), is repealed.

SECTION 18. Chapter 2, Article 10, Revised Ordinances of Honolulu 1990 ("Department of Health"), is repealed.

SECTION 19. Section 2-12.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-12.1 Powers, duties and functions.

The director of transportation services shall:

(a) [Install, maintain and repair the civil defense siren warning system and the fire alarm and police communication systems, other than radio.

(b)] Be authorized to issue permits for the movement of vehicles, equipment or other objects of excessive weight, width, or height as prescribed by law.

[(c)](b)Be responsible for the collection of revenue from on-street and off-street parking meters and for the construction and maintenance of multideck parking lots.

[(d)](c)Plan, develop, promote and coordinate:

(1) Ridesharing programs, which [shall] include, but are not [be] limited to, carpool, vanpool, taxipool and buspool programs. The director shall assist organizations interested in promoting ridesharing programs, arrange for contracts with private organizations to manage and operate the programs, and assist in the formulation of ridesharing arrangements. "Ridesharing programs" include informal arrangements in which two or more persons ride together in a motor vehicle to and from work or school; and

(2) Other transportation systems management programs, which [shall] include, but are not [be] limited to, alternate work hours programs and bicycling programs.

[(e)](d)Prepare a bikeway system and master plan for urban Honolulu to be submitted to the council for approval, and thereafter prepare and submit for council approval

revisions to the plan at least every five years after the adoption of the plan by the council. The bikeway system in the plan shall, at a minimum, connect the following principal bicycle destinations: Waikiki, Diamond Head, the University of Hawaii and Manoa Valley, Punchbowl, the Hawaii Capital Special District, Chinatown, Aloha Tower, the state Waterfront Park and redevelopment area, Ala Moana Beach Park, the airport area, and military bases.

[(f) Be responsible for studies, planning, design, supply, construction, operation and maintenance of the automated fixed guideway rapid transit system. The director shall study and plan for an integrated mass transit system, consisting of the rapid transit system with the city bus system as the feeder bus component.

(g)]<u>(e)</u> Be responsible for the:

(1) Planning, administration and coordination of programs and projects [which] <u>that</u> are:

(A) Proposed to be funded, wholly or partially, under the federal Urban Mass Transportation Act of 1964, as amended, the Federal Aid Highway Act of 1973, as amended, or any other federal law or regulation; and

(B) Required to be transmitted by the city to the Oahu metropolitan planning organization.

In the planning, administration and coordination of the programs and projects, the director shall consult with the [planning] department[.] <u>of planning and permitting.</u> When deemed appropriate, the director may assign the responsibility for planning and administering a particular program or project to the [planning] department[.] <u>of planning and permitting.</u>

(2) Receipt of federal funds for the programs and projects and:

(A) Expenditure of those federal funds appropriated to the department of transportation services; and

(B) With respect to those federal funds appropriated to the [planning] department[,] <u>of planning and permitting,</u> apportionment of the funds to that department for expenditure.

(3) Preparation of the short-range transit plan and any update. The "short-range transit plan" means the same as defined under Section 4-2.1.

(f) Manage and maintain all commercial parking facilities except facilities that are attached or adjacent to a building or project managed by another city agency."

SECTION 20. Section 2-12.2, Revised Ordinances of Honolulu 1990, is repealed:

["**Sec. 2-12.2 Street lighting to be energy efficient.**

All new and replacement municipal street lighting fixtures installed by the department of transportation services from July 1, 1992, shall equal or exceed the energy efficiency of low pressure sodium lighting fixtures, unless waived by the director of transportation services in accordance with rules adopted pursuant to HRS Chapter 91."]

SECTION 21. Chapter 2, Article 13, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 13. Department of [Auditoriums] Enterprise Services

Sec. 2-13.1 Powers, duties and functions.

The director of the department of [auditoriums] enterprise services shall:

(a) Have the authority to negotiate contracts for:

(1) Concessions in or on; or

(2) [the]The renting, [or] leasing, or licensing of;

property under the control of the department [of auditoriums, including contracts for concessions], including the auditorium, cultural, entertainment, and recreational facilities assigned to the department, pursuant to [the rental policy established by the council;] Chapter 28; provided, that all such contracts shall be executed by the director of [finance.] budget and fiscal services.

(b) Have the authority to manage, control, and operate the facilities of the municipal auditorium complex and the Waikiki Shell complex of the city, including the right of custody, repair, and maintenance of all property and equipment assigned to and used by the department [of auditoriums]."

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SECTION 22. Chapter 2, Article 14, Revised Ordinances of Honolulu 1990 ("Department of Land Utilization Central Coordinating Agency for Oahu"), is repealed.

SECTION 23. Section 2-17.1, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by amending the definition of "Temporary position count" to read as follows:

""Temporary position count" means the number of temporary, full-time equivalent positions which are authorized for each activity by law. Temporary positions shall include those positions defined in Revised Charter [Sections 6-603 (f) and (g).] subsections 6-1103(f) and (g)."

SECTION 24. Section 2-18.8, Revised Ordinances of Honolulu 1990 ("Park land acquisition—Report"), is amended by amending subsection (a) to read as follows:

"(a) No funds for the acquisition of five acres or more of land for a park or expansion of a park shall be included, by either the council or the mayor, in the executive capital budget or any amendment thereto, unless the director of parks and recreation, after consultation with the department of design and construction, department of enterprise services, or other applicable department(s), has transmitted to the city council a report which sets forth the anticipated cost of operating and maintaining the proposed park and states the major assumptions underlying the report, including assumptions relating to anticipated uses of the park, particularly the anticipated uses of the land to be acquired. In lieu of the report, the information on the anticipated cost of operating and maintaining the proposed park, including the assumptions relating to anticipated park uses, may be provided by the department of planning and permitting at the time a proposal to amend a [development plan public facilities map or] public infrastructure map to add a park symbol is submitted to the council. For the purposes of this section, a "park" includes the areas and facilities listed in the definition of a "public park" in Section 10-1.1, including a city golf course, regardless of the city department or agency that will control, maintain, and manage the areas and facilities."

SECTION 25. Chapter 2, Article 20, Revised Ordinances of Honolulu 1990 ("Acquisition of Property by Eminent Domain"), is repealed.

SECTION 26. Section 2-21.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-21.1 Established.

There shall be a municipal reference and records center headed by a director of municipal reference and records who shall be appointed and may be removed by the mayor. The municipal reference and records center shall be in the [office of the mayor.] department of customer services."

SECTION 27. Chapter 2, Article 22, Revised Ordinances of Honolulu 1990 ("Annual Review of Fees and Charges"), is repealed.

SECTION 28. The title of Chapter 2, Article 23, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 23. Department of [Wastewater Management] Environmental Services"

SECTION 29. Section 2-23.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-23.1 Powers, duties and functions.

The director of the [wastewater management] department of environmental services shall:

(a) [Administer the planning, design and construction]Advise the director of design and construction concerning the planning and design of wastewater facilities.

(b) Oversee the operation and maintenance of sewer lines, treatment plants, and pumping stations.

(c) Monitor the collection, treatment, and disposal of wastewater.

(d) Provide chemical treatment and pumping of defective cesspools.

(e) Develop and administer solid waste collection, processing, and disposal systems including a comprehensive curbside recycling system.

[(e)](f) Promulgate rules and regulations as necessary to administer and enforce requirements established by law.

[(f)](g) Perform such other duties as may be required by law."

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SECTION 30. Chapter 2, Article 23, Revised Ordinances of Honolulu 1990, is amended by adding a new Section 2-23.2 to read as follows:

"**Sec. 2-23.2 Used oil recycling program.**

(a) The department of environmental services shall establish a used oil recycling program. Under the program, the department, by January 1, 1990, shall:

(1) Establish and operate at least one used oil collection center; and

(2) Conduct used oil recycling education and promotion activities.

In addition, the department may establish and provide a curbside used oil collection service, but only after establishment of at least one used oil collection center and commencement of the used oil recycling education and promotion activities.

(b) For the purpose of this section, "used oil" means a petroleum based oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

(c) The department shall establish at least one used oil collection center, at which used oil, generated from other than commercial or industrial activities, shall be accepted from individuals. Each center shall be established on the grounds of a solid waste disposal facility, wastewater treatment plant, wastewater pump station, corporation yard or other facility under the jurisdiction of the department, or at privately operated service stations designated by the department. Establishment shall be contingent upon a finding by the department that the used oil collection activity shall not unduly interfere with or endanger the employees or operations of the other facility. In the operation of the used oil collection center, the department shall not:

(1) Accept used oil from any business or any individual who has generated the used oil from commercial or industrial activities;

(2) Impose any charge on an individual for accepting used oil from the individual; or

(3) Pay any amount to an individual for accepting the used oil from the individual, except from funds appropriated by the council for the payment of incentives to encourage individuals to turn in used oil.

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(d) The department shall conduct used oil recycling education and promotion activities, which shall include, but not be limited to, the following:

(1) Promotion of public awareness of the hazards and detrimental effects which may result from disposal of used oil in the solid waste disposal system and wastewater treatment and disposal system;

(2) Promotion of public awareness of the hazards and detrimental effects which may result from release of used oil into the environment, especially the groundwater;

(3) Promotion of public awareness of the businesses and facilities to which used oil may be transported for lawful disposal; and

(4) Provision of information to businesses generating used oil of federal, state and city laws and rules concerning disposal of the used oil.

(e) The department may establish a curbside used oil collection service, under which used oil shall be collected by the department from private dwellings and multi-unit residential buildings. If established, the department periodically on scheduled days, shall collect containers of used oil which are placed within the sidewalk area. The department shall establish the procedures for the collection of used oil, which shall be separate from the procedures for collection of refuse. Under no circumstances shall the department collect used oil from businesses, nor shall the department impose a charge for collection of the used oil.

(f) Used oil accepted or collected by the department shall be disposed of under arrangement with a holder of a permit under HRS Chapter 342J, to transport, market or recycle used oil. The city may pay a fee or charge to the used oil transporter, marketer or recycler under an arrangement to transport, market or recycle the used oil. To keep that fee or charge to a minimum, the department may transport any collected or accepted used oil to the facility of the used oil transporter, marketer, or recycler.

(g) In the implementation of the used oil recycling program, the department shall comply with all applicable federal and state laws and rules. If a permit from the federal or state government is required to undertake any activity under the program, the department shall obtain the necessary permit."

SECTION 31. Section 9-1.5, Revised Ordinances of Honolulu 1990 ("Limitations to collection by refuse crews"), is amended by amending subsection (a) to read as follows:

"(a) Any soil, rock, concrete, explosives, liquids, radioactive materials, construction debris, demolition debris, commercial cooking oil waste, or commercial FOG waste; except that used oil may be collected under a curbside collection service established pursuant to Section [2-8.2;]2-23.2;"

SECTION 32. Chapter 2, Article 24, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 24. Department of Planning and Permitting

Part A. Council Proposals to Revise or Amend the General Plan, a Development Plan, the Zoning Ordinances, and the Subdivision Ordinance

Sec. 2-24.1 Applicability.

This [article] part shall apply to council proposals to revise or amend:

(1) The general plan;

(2) A development plan;

(3) The zoning ordinances, except as otherwise provided by Section 21-9.100-3(b); and

(4) The subdivision ordinance.

Sec. 2-24.2 Definitions.

As used in this article:

"Council proposal" means any proposal set forth in Section [2-24.1.]2-24A.1.

"Development plan" means a development plan for a particular area within the city, as described in Revised Charter Section 6-1509, and sometimes referred to as a sustainable communities plan, codified in Chapter 24.

"Director" means the director of planning and permitting.

"Director's alternative" means any ordinance or resolution proposed by the director as an alternative to a council proposal as provided in Section 2-24.4.

"General plan" means the general plan for the city, as described in Revised Charter Section 6-1508.

"Revised charter" means the Revised Charter of the City and County of Honolulu 1973, as amended.

"Subdivision ordinance" means the city's ordinance governing the subdivision and consolidation of land, as described in Revised Charter Section 6-1515.1, codified as Chapter 22.

"Zoning ordinance" means:

(1) The land use ordinance, codified as Chapter 21; and

(2) An ordinance designating and redesignating land to one or more of the zoning districts specified in the land use ordinance.

Sec. 2-24.3 Initiation by the council.

(a) A council proposal shall be initiated by adoption of a resolution by the council directing the director to process the proposal. The resolution shall state the reason for the proposal and shall attach a draft ordinance or resolution, as appropriate, setting forth the revision or amendment. Upon introduction of a resolution for a council proposal, the city clerk shall transmit a copy of the resolution to the director.

(b) Prior to the adoption of the resolution pursuant to subsection (a), the director shall assist the council in the preparation of the council proposal by:

(1) Advising the council, within 30 days of the submission to the director of the introduced resolution, on the accompanying documentation, if any, needed to satisfy the director's usual requirements for the commencement of processing of the type of proposal being considered (general plan amendment, development plan amendment, land use ordinance amendment, or rezoning of land) in the same manner as if proposed by the director. Any specification of required documentation shall be in sufficient detail to enable production of the documentation by third parties contracted by the council pursuant to subdivision (2);

(2) Providing documents and information in the possession and control of the department of planning and permitting, as requested by any councilmember, including but not limited to maps; provided, however, that this subdivision shall not require the director to prepare arguments, justifications, or analyses in favor of the council proposal. Requested documents shall be submitted to the council within 30 days of the submission to the director of a written request from any councilmember. The council may contract with third parties for the preparation of any documentation, and shall submit copies of such documentation to the director for the director's review; and

(3) Advising the council on the sufficiency of any documentation prepared by the council or its contractor to accompany the proposal within 30 days of submission of the documentation to the director.

The director's assistance in the preparation of the council proposal pursuant to this subsection shall not be construed as the director's support for or approval of the council proposal. The director's failure to advise the council on the necessary documentation or the sufficiency thereof within the deadlines specified above shall constitute a waiver by the director of any objection for insufficient accompanying documentation. Any supporting documentation shall be attached to and be deemed an integral part of the resolution adopted.

(c) Upon adoption of a resolution initiating a council proposal, the city clerk shall transit copies of the resolution to the director and, in the case of council proposals set forth in Sections 2-24.1(1), (2), and (3), the planning commission, along with a writing setting forth the date by which the director's report and accompanying proposed ordinance or resolution are required to be submitted to the planning commission or the council, as applicable, under the deadlines set forth in Sections 2-24.4(a) and (b).

Sec. 2-24.4 Processing by the department.

(a) Council proposals to revise or amend the general plan, any development plan, or a zoning ordinance. Within 270 days of the adoption of the resolution initiating a council proposal to revise or amend the general plan, any development plan, or a zoning ordinance, the director shall submit a report, accompanied by the proposed ordinance or resolution, to the planning commission. If the director proposes an alternative ordinance or resolution for consideration by the planning commission, both versions shall be attached to the director's report in a form sufficient for introduction in the council.

(b) Council proposal to revise or amend the subdivision ordinance. Within 270 days of the adoption of the resolution initiating a council proposal to revise or amend the subdivision ordinance, the director shall submit a report, accompanied by the proposed ordinance, to the council. If the director proposes an alternative ordinance, both versions shall be attached to the director's report in a form sufficient for introduction in the council.

(c) Extension of Deadline. Notwithstanding the foregoing, if the director finds that the council proposal involves complex issues that require additional time for review, the director may request a 60-day extension of the deadline as follows:

(1) Within the existing deadline, the director shall submit to the council a request for an extension of the deadline and an interim report describing the status of the director's processing of the council proposal and the reasons that additional time is needed for processing.

(2) The council may approve or deny the proposed extension by adoption of a committee report or resolution. If the council fails to take final action on the proposed extension within 60 days after receipt of the director's request, the extension shall be deemed denied. The city clerk shall advise the director and, for council proposals set forth in Sections 2-24.1(1), (2), and (3), the planning commission, in writing of the council's action on the director's extension request. If the council approves the extension, the clerk shall also advise the director and, for council proposals set forth in Sections 2-24.1(1), (2), and (3), the planning commission, in writing of the new date by which the director's report and accompanying proposed ordinance or resolution are required to be submitted to the planning commission.

(3) If an extension of the deadline is approved by the council, the director may thereafter request subsequent extensions of the deadline in accordance with the procedures described [above] <u>in subdivisions (1) and (2)</u>.

Sec. 2-24.5 Processing by planning commission.

(a) The planning commission shall commence processing of a council proposal to revise or amend the general plan, any development plan, or a zoning ordinance, upon the first to occur of:

(1) Submission of the director's report and proposed ordinance or resolution; or

(2) The director's failure to transmit the report and proposed ordinance or resolution by the deadline required by this [article,] part, including any extensions approved by the council pursuant to Section 2-24.4(c).

(b) The planning commission shall hold a public hearing on the council proposal and any director's alternative within 45 days of the commencement of processing. Within 30 days of the close of the public hearing, the planning commission shall transmit through the mayor to the council the director's report, if any, council proposal, and any director's alternative, with its recommendations. If the director has proposed an alternative ordinance or resolution, the planning commission shall make recommendations on both the council proposal and the director's alternative. The mayor shall submit the director's report, if any, council proposal, any director's alternative, and planning commission recommendations to the council within 30 days of receipt of the same from the planning commission.

Sec. 2-24.6 Action by council.

(a) If the planning commission disapproves a council proposal to revise or amend the general plan, any development plan, or a zoning ordinance, or recommends a modification thereof not accepted by the council, or fails to make its report within a period of either 30 days after the close of its public hearing or 90 days after the commencement of processing by the commission pursuant to Section 2-24.5(a), whichever occurs first, the council may nevertheless consider and adopt such council proposal, but only by the affirmative vote of at least two-thirds of its entire membership.

(b) If the director disapproves a council proposal to revise or amend the subdivision ordinance, or recommends a modification thereof not accepted by the council, or fails to submit [his or her] the report and proposed ordinance to the council within the required deadline specified in Section 2-24.4(b), including any extensions approved by the council pursuant to Section 2-24.4(c), the council may nevertheless consider and adopt such council proposal, but only by the affirmative vote of at least two-thirds of its entire membership.

Sec. 2-24.7 Determination of submission date.

(a) For the purposes of this [article,]part, a document shall be deemed submitted to the recipient when the document is received by the recipient.

(b) The director shall cause the date and time of receipt by the department of planning and permitting of any of the following documents to be promptly

stamped on the first page of the document, and notify the council in writing of the date of receipt:

(1) Any correspondence from the city clerk transmitting a copy of any introduced resolution for a council proposal pursuant to Section 2-24.3(a);

(2) Any correspondence from the council or any councilmember regarding the nature, preparation, or sufficiency of supporting documentation for the council proposal pursuant to Section 2-24.3(b); and

(3) Any correspondence from the city clerk transmitting a copy of any adopted resolution initiating a council proposal pursuant to Section 2-24.3(c).

(c) The planning commission shall cause the date and time of receipt by the commission of any director's report on a council proposal, and accompanying proposed ordinance or resolution, to be promptly stamped on the first page of the report, and notify the council in writing of the date of receipt.

(d) The city clerk shall promptly stamp the date and time of receipt by the council of any report or recommendation from the director or the planning commission, and accompanying proposed ordinance or resolution, on the first page of the report or recommendation.

(e) If the date and time of receipt of a document is not stamped on a document, the document shall be deemed to be received by the recipient one day after the date set forth on the transmittal letter.

Sec. 2-24.8 Severability.

If any provision of this [ordinance,]part or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this [ordinance]part which can be given effect without the invalid provision or application, and to this end, the provisions of this [ordinance]part are severable.

Part B. Central Coordinating Agency for Oahu

Sec. 2-24.9 Authority and purpose.

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This part is adopted pursuant to authority conferred by HRS Chapter 46. The purpose of this part is to improve the coordination and efficiency of the land use and planning control systems.

Sec. 2-24.10 Designation.

Pursuant to HRS Chapter 46, as amended, the department of planning and permitting is designated the central coordinating agency for the City and County of Honolulu.

Sec. 2-24.11 Powers, duties and functions.

The department of planning and permitting as the central coordinating agency shall:

(a) Maintain and continuously update a repository of all laws, rules, and regulations, procedures, permit requirements and review criteria of all federal, state, and city and county agencies having control or regulatory powers over land development projects within the city and county and shall make said repository and knowledgeable personnel available to inform any person requesting information as to the applicability of the same to a particular project within the city.

(b) Study the feasibility and advisability of utilizing a master application form to concurrently file applications for an amendment to a general plan and development plan, change in zoning, special management area permit and other permits and procedures required for land development projects in the city and county to the extent practicable with one master application.

(c) Maintain and continuously update a master file for the city of all applications for building permits, subdivision maps, and land use designations of the state and city.

(d) When requested by the applicant, the central coordinating agency shall endeavor to schedule and coordinate, to the extent practicable, any referrals, public informational meetings or any public hearings with those held by other federal, state and/or city and county commissions or agencies pursuant to existing laws pertaining to the city.

(e) Assist the council in proposing amendments to Chapter 21 (LUO) as permitted by RCH Section 6-1513, by gathering and preparing the necessary supporting

documentation sufficient to satisfy the usual requirements to commence processing the amendments.

Sec. 2-24.12 Rules and regulations.

The central coordinating agency shall compile the repository and adopt necessary rules pursuant to HRS Chapter 46, as amended. Drafts of rules and regulations to be promulgated by said agency to implement the functions specified in Section 2-24.11 shall be presented to the city council for its review prior to its finalization.

Sec. 2-24.13 Applicability.

All state and city and county departments, divisions, agencies and commissions, with control or regulatory powers over land development projects within the city shall cooperate with the central coordinating agency in making available and updating information regarding laws, rules and regulations, procedures, permit requirements and review criteria they enforce upon land development projects. The term "agency" shall be as defined by HRS Chapter 91.

Sec. 2-24.14 Appeals.

Appeals from actions by the director of planning and permitting in the administration of the rules and regulations adopted pursuant to this part shall be heard and decided by the city council. An appeal shall be sustained only if the council finds that the director's action was based on an erroneous finding of material fact, or that the director had acted in an arbitrary or capricious manner, or had manifestly abused the director's discretion.

Sec. 2-24.15 Validity.

The validity of any word, section, clause, paragraph, sentence, part or provision of Sections 2-24.9 to 2-24.14 shall not affect the validity of any other part of the aforesaid sections which can be given effect without the invalid part or parts.

Part C. Additional Powers, Duties and Functions

Sec. 2-24.16 Additional powers, duties, and functions.

(a) The director shall be charged with the supervision, direction, and control of:

(1) The administration and enforcement of the building code, and all statutes and ordinances relating to the work of the department of planning and permitting.

(2) Inspecting, supervising, regulating, and approving the construction, alteration, repair and moving of buildings, structures and certain accessories related thereto, such as electrical, plumbing and gas systems, as are prescribed by the building code and other statutes and ordinances related to the work of the department of planning and permitting.

(3) Reviewing private subdivision plans and inspecting the construction of said subdivisions.

(b) Reports and Records. The director shall:

(1) Submit reports to the mayor, upon request, in addition to the submission of an annual report, covering the work of the department of planning and permitting during the preceding period. The director shall incorporate in the report a summary of recommendations as to desirable amendments to the building code and other related ordinances that the director administers and enforces; and

(2) Keep a permanent, accurate account of all fees and other moneys collected and received, the names of the persons upon whose account the same were paid, and the date and amount thereof as authorized by the director of budget and fiscal services.

(c) Valuation. The determination of value or valuation under any of the provisions of the building code shall be made by the director.

(d) Right of Entry. Upon presentation of proper credentials, the director or the director's duly authorized representatives may enter at reasonable times any building, structure or premises in the city to perform any duty imposed upon such persons by the building code.

(e) Stop Order. Whenever any building work is being done contrary to the provisions of the building code or any other statutes or ordinances related to the work of the department of planning and permitting, the director may order the work stopped by notice, in writing, served on any person engaged in the doing or causing such work to be done, and such person shall forthwith stop such work until authorized by the director to proceed with the work.

(f) For the purposes of this part, except as otherwise indicated, "director" means the director of the department of planning and permitting."

Sec. 2-24.17 House numbering.

(a) Authorization. The director or the director's designated assistant shall plan and regulate the numbering of all buildings in the city.

(b) Method in Rural Areas. The director or such person's designated assistant in numbering buildings in areas outside of the districts of Honolulu, Pearl City, Lanikai, Kailua, Wahiawa, the city of Kapolei, and any urban areas specifically designated by the director as exempt from the provisions of this subsection shall adhere in all respects to the following system of numeration. The first digit of the building number shall correspond with the zone number of the appropriate tax map of the City and County of Honolulu; the second digit of the building number shall correspond to the section number of the tax map. The remaining digits of the building number shall be assigned in a manner to be determined by the director or such person's designated assistant.

(c) Numbering of Entrances. All main entrances to buildings shall be numbered, and the director or the director's designated assistant shall assign to each building its proper number or numbers and furnish free of charge to the owner a certificate designating each number and location.

(d) Duty of the Property Owner.

(1) It shall be the duty of every person owning any building within the city to number the same or cause the same to be numbered correctly within 60 days after receipt of the certificate designating the assigned number, and to remove or efface any wrong number upon such building.

(2) All numbers shall be placed in such manner as to be readily seen from the street, roadway or lane, shall be of different color from the background on which they are placed, and shall be at least two inches in height. The number shall be placed in a permanent manner, chalk or other effaceable material not being permitted.

(3) All buildings shall be numbered at the expense of the owner.

(4) An owner of a building may supplement the building numbers required by this section with numbers on the curb fronting the building. Curb numbers shall be painted on the curb fronting the respective building in an area as

close to the middle of such curb frontage as possible, measured from property line to property line, or, where a driveway exists, in the area immediately adjacent to the driveway, or in any other such manner as to make clear to which building the numbers refer. The numbers shall only be allowed in addition to the numbers required by this section and shall be painted in a manner to be determined by the director.

(e) Penalty for Tearing, Defacing or Changing Number. Any person tearing down, defacing, or changing any number put up in accordance with this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than $10.00 and not less than one dollar.

(f) Penalty for Failure to Conform to Requirements of Numbering. Any owner of a building in the city who neglects to number such buildings as provided in this section or who shall place, maintain, or allow to remain thereon any number other than that assigned by the director or the director's designated assistant after being notified in writing by the director or assistant, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five dollars nor more than $20.00, and a further penalty of like sum for every two weeks thereafter that such property owner shall neglect or refuse to properly number such house or building or efface an improper number."

SECTION 33. Chapter 2, Article 25, Revised Ordinances of Honolulu 1990 ("Oahu Civil Defense Agency"), is amended to read as follows:

"Article 25. [Oahu Civil Defense Agency] Department of Emergency Management

Sec. 2-25.1 [Civil defense administrator.] Director of Emergency Management.

(a) The [civil defense administrator] director of emergency management shall serve in that capacity on a full-time basis.

(b) The [civil defense administrator] director of emergency management shall be subject to the civil service laws.

(c) Except as provided herein, the [civil defense administrator] director of emergency management shall not be made subordinate to or answerable to any person or department with respect to state or city civil defense matters other than the mayor or the managing director. [With respect to state civil defense matters, the civil defense administrator shall be the first assistant to the state deputy director of civil defense for the city, subject to state law.]

(d) The director of emergency management shall install, maintain and repair the civil defense siren warning system and the fire alarm and police communication systems, other than radio."

SECTION 34. Section 2-26.3, Revised Ordinances of Honolulu 1990 ("Written contract required"), is amended by amending subsection (a) to read as follows:

"(a) No private attorney retained as special counsel pursuant to Revised Charter, Section 5-204.3, to represent the city, an officer, employee or agency of the city, shall be paid for legal services rendered except pursuant to a formal written contract. The contract shall be dated and signed by the private attorney retained, by the director of [finance,] budget and fiscal services, and by the corporation counsel [as approved], who shall approve as to form and legality. The contract shall also contain the signature of the officer, employee or head of the agency being represented by the private attorney, or in the case of special counsel representing the city or the city council, the signature of the chair of the council, as confirmation that the attorney has been selected by the officer, employee, agency or city."

SECTION 35. Section 2-28.1, Revised Ordinances of Honolulu 1990 ("Definitions") is amended by amending the definition of "executive agency" to read as follows:

""Executive agency" means [the following:

(1) Office of the managing director, department of the prosecuting attorney, department of the corporation counsel, department of the budget, planning department, department of finance, department of personnel, department of public works, fire department, police department, department of the medical examiner, department of health, department of land utilization, department of housing and community development, department of transportation services, department of parks and recreation, department of data systems, building department, department of auditoriums, department of wastewater management, and department of community and social resources; and] any agency of the executive branch of city government, excluding the board of water supply and the Honolulu Authority for Rapid Transportation.

[(2) Office of information and complaint, municipal reference and records center, civil defense agency, Royal Hawaiian Band, and any other agency

administratively attached to or placed within the mayor's or managing director's office.]"

SECTION 36. Section 2-26.1, Revised Ordinances of Honolulu 1990 ("Applicability"), is amended by amending subsection (b) to read as follows:

"(b) The provisions of this article shall not apply to private attorneys retained:

(1) To represent the mayor or any councilmember in impeachment proceedings as provided by Revised Charter, Section 5-204.3;

(2) Pursuant to the city's consultant contract procedures;

(3) As special deputies appointed by the corporation counsel with the approval of the city council to represent the city pursuant to Revised Charter, Section 5-204.1;

(4) As special counsel employed by the council to represent the council pursuant to Revised Charter, Section 3-107.5;

(5) To defend police officers and fire fighters as provided in state law;

(6) By the Honolulu liquor commission to act as an adviser to or represent the commission or any of its employees or investigators in litigation; or

(7) By the department of water [supply] to act as an adviser to or represent the department in litigation."

SECTION 37. Section 2-28.2, Revised Ordinances of Honolulu 1990 ("Prohibition on take-home use of city motor vehicle by executive agency head or deputy head—Exceptions"), is amended by amending subsection (b) to read as follows:

"(b) The prohibition of subsection (a) shall not apply to the following:

(1) The police chief or any deputy police chief;

(2) The fire chief or deputy fire chief;

(3) The medical examiner or first deputy medical examiner; and

(4) The [civil defense agency administrator.] director of emergency management."

SECTION 38. The title of Chapter 2, Article 29, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 29. Department of [Housing and Community Development] Community Services"

SECTION 39. Section 2-29.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-29.1 Definitions.

For the purpose of this article, "department" means the department of [housing and community development.]community services."

SECTION 40. Section 2-30.1, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by adding two new definitions of "department" and "director" to read as follows:

""Department" means the department of budget and fiscal services."

""Director" means the director of budget and fiscal services."

SECTION 41. Section 2-30.2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-30.2 Review and competitive procurement of personal services contracts.

(a) The director [of finance] shall review all employer-employee contracts requested by an executive agency prior to contract execution and determine whether the contract is appropriate or whether the personal services to be procured would be more appropriately procured by a contract with an independent contractor. This determination shall be made in accordance with written guidelines established by the director [of finance] for all executive agencies regarding the types of personal services that shall be competitively procured.

(b) If the director [of finance] determines that a proposed employer-employee contract is more appropriately procured by a contract with an independent

contractor, the director [of finance] shall so notify the executive agency making the request and determine the proper method of procurement.

(c) No employer-employee contract requested by an executive agency shall be entered into without the approval of the director [of finance]."

SECTION 42. Section 2-30.3, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-30.3 Public notice of employer-employee contracts.

The [chief budget officer] director shall post or cause to be posted a public notice of the request to enter into an employee-employer contract not less than seven days before final approval of the request. The notice shall be posted in an area accessible to the public."

SECTION 43. Section 2-30.4, Revised Ordinances of Honolulu 1990 ("Reporting of employer-employee contracts"), is amended by amending subsections (a) and (b) to read as follows:

"(a) Within 30 days following the end of each fiscal year, the [chief budget officer] director shall submit to the council and file with the city clerk a report regarding all employer-employee contracts of the executive agencies of the city during the fiscal year just ended. An employer-employee contract shall be included in the report for the fiscal year if: (1) the contract was executed, extended, amended or renewed during the fiscal year, or (2) the city made any payments pursuant to such contract during the fiscal year.

(b) The report required by subsection (a) shall be organized by the executive agency requesting the employer-employee contract and, for each contract, shall include the following information:

(1) The executive agency that procured the services of the contractor;

(2) A brief statement of the nature of the personal services provided to the city under the contract and justification for procuring such services through an employer-employee contract;

(3) The name of the contractor;

(4) A statement of the qualifications of the contractor to provide the contracted services;

(5) A statement of whether the information provided relates to the original contract or to an amendment, extension or renewal of the contract;

(6) The total amount of compensation to be paid to the contractor;

(7) A statement of whether the contractor is working on a full- or part-time basis, and if the latter, the amount of hours per week that the contractor is working;

(8) The time period and duration of the contract;

(9) A statement of which subsection of Revised Charter Section [6-303] 6-1103 provided the basis for the contract, amendment, renewal, or extension;

(10) A statement as to whether, in the immediately preceding fiscal year, the contractor was engaged in the same or any other employer-employee contract with the city;

(11) A statement as to whether, in the immediately preceding fiscal year, the executive agency engaged the same or a different contractor to perform the same or similar services for the agency;

(12) A statement as to whether funds are included in the city's executive budget [program and/or] ordinance for the current fiscal year for the same or similar contract, and if so, whether the contract is with the same contractor."

SECTION 44. Section 2-30.5, Revised Ordinances of Honolulu 1990 ("Public record-keeping requirements"), is amended by amending subsection (a) to read as follows:

"(a) The [budget] department shall keep a record of all employer-employee contracts, by executive agency, for a period of at least five years. Each record shall contain at least the following information:

(1) The executive agency that procured the services of the contractor;

(2) The type of services provided by the contractor;

(3) The name of the contractor;

(4) The total amount of compensation paid the contractor; and

(5) The time period and duration of the contract."

SECTION 45. Section 2-31.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-31.1 Adoption of official seals and logotypes.

(a) Executive agencies of the City and County of Honolulu are authorized to adopt official seals or logotypes. A copy of any official seal or logotype adopted by a city agency shall be filed with the office of the city clerk within 30 days of its adoption. For the purposes of this article, "logotype" includes any trade name, trademark, service mark, nickname, motto, slogan, abbreviation, word, logo, logogram, logographic, logotype, symbol, design, graphic depiction, or other work or designation that may be associated with the [City and County of Honolulu] <u>city</u> or an executive city agency, facility, property, operation, or activity.

(b) The seals and logotypes may be used only for:

(1) [official] <u>Official</u> governmental purposes;

(2) [city-sponsored] <u>City-sponsored</u> articles or activities when the sponsorship of the article or activity and the use of the seal or logotype on the article or for the activity is approved by the director [of finance]; or

(3) [revenue-raising]<u>Revenue-raising</u> activities authorized pursuant to subsections (c) and (d).

(c) The [city] department [of finance], to the extent deemed necessary and practicable, shall register any official seal or logotype adopted by an executive city agency with the State of Hawaii and take any additional measures required by law to ensure the city's exclusive ownership of the seal or logotype. As the exclusive owner of an agency's seal or logotype, the city, through the department [of finance], may enter into contracts with private parties for the manufacture, fabrication, production, reproduction, marketing, distribution, and sale of articles or materials imprinted with the agency's seal or logotype for the purpose of raising revenues or securing goods, materials, supplies or equipment at no or reduced costs for the city, nonprofit city support or friends group or city employee organizations. Any goods, materials, supplies or equipment received under this

article shall not be deemed to be a gift or donation within the meaning of Revised Charter of Honolulu Section 13-113.

(d) The city may provide for an exclusive or nonexclusive license to use an agency's official seal or logotype; provided that, in contracting for an exclusive license for the use of an agency's seal or logotype, the director [of finance], to the extent feasible, shall follow procedures similar to the procurement procedures provided for in HRS Chapter 103D and the rules adopted pursuant thereto; and provided, further, that such procedures need not be applied to any exclusive license granted to a nonprofit city support or friends group or city employee organization. In granting a license, the director [of finance] shall establish an appropriate duration for the license. Any license for exclusive use of an agency's official seal or logotype shall not preclude the use of the agency's official seal or logotype for official governmental purposes.

(e) The department [of finance] shall maintain a copy of all contracts relating to the use of an official seal or logotype of an executive city agency and make them available for public inspection.

(f) The [city] director [of finance] shall provide a report to the city council on or before January 1 of each year relating to official seals and logotypes registered pursuant to subsection (c).

(g) For the purposes of this article, "department" means the department of budget and fiscal services," and "director" means the director of budget and fiscal services."

SECTION 46. Section 2-31.2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 2-31.2 Unauthorized use of seals and logotypes--Penalty.

Whoever knowingly manufactures, fabricates, produces, reproduces, markets, distributes, sells, or purchases for sale any article or material imprinted with the official seal or logotype of a city executive agency or knowingly displays the official seal or logotype of a city executive agency, or any facsimile thereof, in any display, advertisement, poster, or circular for the purpose of conveying or in a manner reasonably calculated to convey a false impression of sponsorship or approval by the City and County of Honolulu or any executive agency thereof, except for a city-sponsored article, material or activity approved by the director [of finance] in accordance with this article, shall be guilty of a misdemeanor."

A BILL FOR AN ORDINANCE

SECTION 47. Chapter 2, Revised Ordinances of Honolulu 1990, is amended by adding a new Article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article __. Department of Design and Construction

Sec. 2-__.1 General.

The department of design and construction shall be responsible for:

(a) The planning, engineering, design, and construction of city buildings, structures and grounds, except as otherwise provided by the charter or ordinance;

(b) Surveys, title searching, appraising and negotiation for acquisition of lands and easements for rights-of-way for street widening and extensions, sewers, water, drainage, and other public uses; and

(c) Planning, engineering, design, and construction services and expertise as needed for public works and improvement district functions other than for sewers.

Sec. 2-__.2 Notice of proposed condemnation action.

Whenever the city proposes to acquire real property by means of the right and power of eminent domain, the city shall mail a notice to every owner and lessee of record of the property whenever the city council is being requested to authorize condemnation of the property. [Said] The notice shall be mailed to the owners' and lessees' last known addresses no later than the date a request is transmitted to the council for authorization, pursuant to HRS Section 101-13, to institute condemnation proceedings against the owners and claimants of the property sought to be condemned.

Sec. 2-__.3 Green building standards for city facilities.

(a) Qualifying city facilities shall comply with LEED™ Silver, in the version most recently adopted by the U.S. Green Building Council, as a minimum design standard.

(b) As used in this section, "qualifying city facilities" means facilities with a floor area greater than 5,000 square feet, the design of which is appropriated in the executive capital budgets for the fiscal years 2008 and thereafter. The term

excludes wastewater treatment, solid waste, and other facilities for which LEED™ certification is not available or facilities for which the director of design and construction has determined that compliance with LEED™ Silver would be infeasible or inappropriate."

SECTION 48. Except for those sections enacting entire new articles, ordinance material to be repealed is bracketed and new material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.

A BILL FOR AN ORDINANCE

SECTION 49. This ordinance takes effect upon approval.

INTRODUCED BY:

Ernest Y. Martin

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DATE OF INTRODUCTION:

May 11, 2016
Honolulu, Hawaii

_____
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

_____
Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

_____
KIRK CALDWELL, Mayor
City and County of Honolulu