

THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
OF THE STATE OF HAWAII

In re Application of

THE TRUSTEES OF THE ESTATE OF
BERNICE PAUAHI BISHOP

Applicant

to Amend the Master Plan Permit, File
No. PL MASP 13.2.8, Issued by Hawaii
Community Development Authority on
September 2, 2009

MASTER PLAN PERMIT NO. PL MASP 13.2.8

KAK 21-005

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

On February 16, 2021, Trustees of the Estate of Bernice Pauahi Bishop, dba Kamehameha Schools (“Applicant”), submitted an application (“Application”) for an amendment to the Master Plan Permit (“PL MASP 13.2.8” or the “Master Plan Permit”) pursuant to Chapter 206E of the Hawaii Revised Statutes (“HRS”) and Hawaii Administrative Rules (“HAR”) Chapter 15-22 and HAR Chapter 15-219. The Master Plan Permit was issued to Applicant for the Kaiaulu O Kakaako Master Plan (“KKMP”) covering approximately 29 acres of land in the Kakaako Community Development District (“Kakaako”).

The Hawaii Community Development Authority (“HCDA” or the “Authority”), having heard and examined the testimony, evidence, and argument of counsel during the hearing, along with Applicant’s Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit Amendment, filed on February 16, 2021, hereby makes the following Findings of Fact (“FOF”), Conclusions of Law (“COL”), and Decision and Order (D&O”).

FINDINGS OF FACT

Any Findings of Fact not ruled upon by the Authority by adoption herein or rejected by clearly contrary Findings of Fact are hereby denied and rejected.

Background

1. On September 2, 2009, the Authority approved the KKMP and issued the Master Plan Permit PL MASP 13.2.8.

2. The Tax Map Key numbers of the Land Blocks covered by the Master Plan Permit are as follows:

Block A: 2-1-030: 051, 053, 055, and 056

Block B: 2-1-054: 025, 027, 028, and 032

Block C: 2-1-054: 001

Block D: 2-1-053: 032

Block E: 2-1-055: 041, 042, 043, 045, 046, 047, and 052

Block F: 2-1-055: 006, 026, 038, 048, 049, 050, and 051

Block G: 2-1-055: 001, 002, 018, 032, 033, 034, 035, and Lana Lane (between Auahi Street and Ala Moana Boulevard)

Block H: 2-1-056: 010, and Koula Street (between Auahi Street and Ala Moana Boulevard)

Block I: 2-1-056: 014, 015, 016, and Ohe Lane (between Auahi Street and Ala Moana Boulevard)

3. The Master Plan Permit is vested under HAR Chapter 15-22 (the “Vested Rules”), which was in effect at the time the Permit was approved.

4. As required by the 2009 Decision and Order, Applicant and the Authority entered into the Kakaako Master Plan Development Agreement on October 6, 2009.

5. On June 20, 2011, Applicant and the Authority entered into Supplement No. 1 to Master Plan Development Agreement for KKMP (“Supplement No. 1”), which provided that a

portion of the reserved housing requirements of the KKMP may be satisfied by the conversion and sale of units in the Pagoda Terrace apartment complex.

6. On August 8, 2012, the Authority approved an amendment to the Master Plan Permit reflecting the revisions in Supplement No. 1, and addressing additional details regarding reserved housing, open space design guidelines, initial street improvements, and transactions that Applicant was considering at the time.

7. Since the approval of the Master Plan Permit, Applicant and development partners have redeveloped four blocks of the KKMP on the Ewa side of the KKMP area, which include development permits MUZ 120-11 (680 Ala Moana), KAK 13-033 (The Collection), KAK 13-051 (Salt), KAK 13-151 (Keauhou Place and Keauhou Lane), KAK 14-012 (400 Keawe and the Flats at Puunui), and KAK 19-031 (H Mart).

The Application and Proceedings Before the Authority

8. On February 16, 2021, Applicant submitted the Application seeking the following five amendments to the Master Plan Permit:

A. Applicant requests an extension of the effective period of the Master Plan Permit for a minimum of five additional years.

B. Applicant requests the Authority to allow: (1) the joint development of Blocks F and G as one development lot, and (2) confirm that Applicant may transfer towers and floor area from Block F to Block D, and between other blocks within the KKMP area.

C. Applicant requests confirmation that there will be no impact on the balance of the KKMP in the event a project is developed under HRS chapter 201H (“Chapter 201H”) within the KKMP area.

D. Applicant requests an increase in the maximum permitted floor area, pursuant to the allowable density under the Vested Rules, under the KKMP to account for the addition of Koula Street as developable area.

E. Applicant asks the Authority to confirm that the KKMP allows flexibility in the number and type of dwellings provided in the KKMP. (PET FOF #8, as amended)

9. Attached to the Application were Exhibits 1–9 and the Declaration of Serge M. Krivatsy.

10. On February 17, 2021, the Authority sent to Applicant a letter entitled “Completeness Review and Automatic Approval for Kamehameha Schools Application to Amend the Permit (PL MASP 13.2.8) for the Kaiaulu O Kakaako Master Plan” advising Applicant that the Application was complete and that all required information had been provided.

11. On February 23, 2021, the Notice of Public Hearings for the Application was published in the Honolulu Star-Advertiser, The Garden Island, Hawaii Tribune-Herald, West Hawaii Today, and Maui News in accordance with the HRS § 206E-5.6.

12. The Notice stated that, in accordance with the Governor’s February 12, 2021 Eighteenth Proclamation Related to the COVID-19 Emergency (“Eighteenth Emergency Proclamation”), specifically Section VI (B), ordering the suspension of specific provisions of certain laws including HRS Chapter 92, “public agency meetings and records” and social distancing guidelines issued by state and federal public health agencies in an effort to contain community spread of the ongoing COVID-19 Virus, the public hearings would be convened virtually via Zoom.

13. In accordance with the provisions of HRS § 206E-5.6, HCDA notified the President of the Senate and the Speaker of the House of Representatives of the Hawaii State Legislature of the Notice of Public Hearings.

14. HCDA notified elected officials and the following federal, state, and county agencies, and the utility companies of the Application.

Federal

- United States Postal Service

State of Hawaii

- Department of Education
- Department of Transportation
- Department of Transportation, Highways Division
- Department of Transportation, Airports Division
- Department of Health

City and County of Honolulu

- Department of Transportation Services
- Department of Planning and Permitting
- Honolulu Board of Water Supply
- Office of Climate Change, Sustainability, and Resiliency
- Department of Environmental Services
- Honolulu Authority for Rapid Transportation
- Honolulu Police Department
- Honolulu Fire Department

Utility Companies

- Hawaiian Electric Company, Inc.
- Hawaii Gas
- Hawaiian Telcom, Inc.
- Charter Communications

15. The deadline to petition for intervention in the proceeding was March 15, 2021. Notice of the deadline was published. No petition for intervention was received.

16. A prehearing conference in this proceeding was held on March 18, 2021, at 3:30 p.m., via Zoom. Calvert G. Chipchase, Esq. and representatives of Petitioner appeared.

17. On March 19, 2021, the Authority entered a Pre-Hearing Order, which set a deadline for Petitioner to provide the Authority with a final witness list, a final exhibit list, and all exhibits by March 25, 2021. (PET FOF #16)

18. On March 25, 2021, Applicant submitted its final witness list, final exhibit list, Exhibits 1–13, the Supplemental Declaration of Serge M. Krivatsy, the Declaration of Nathaniel Kinney, the Declaration of Paul Brewbaker, Ph.D., and the Declaration of Rob Iopa.

19. Prior to the contested case hearing on April 7, 2021, the Authority received public comments from the Pacific Resource Partnership, the Hawaii Laborers' Union Local 368, Hawaii Food & Wine Festival, and four individuals. All public comments were in support of the proposed amendments to the Master Plan Permit.

20. The Authority also received comments from the Honolulu Fire Department, the City and County of Honolulu Department of Planning and Permitting, and the State of Hawaii Department of Transportation.

April 7, 2021 Public Hearing

21. On April 7, 2021, pursuant to the Notice, the contested case hearing on the amendment to the Master Plan Permit was held virtually via Zoom. Calvert Chipchase, Esq. and Jarrett Dempsey, Esq. appeared for Applicant.

22. Petitioner submitted, and the Hearings Officer accepted into the record, Applicant's Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13; the Declaration of Serge M. Krivatsy; the Supplemental Declaration of Serge M. Krivatsy; the Declaration of Nathaniel Kinney; the Declaration of Paul Brewbaker, Ph.D.; and the Declaration of Rob Iopa.

No.	Description
	Declaration and Supplemental Declaration of Serge Krivatsy
	Declaration of Nathaniel Kinney
	Declaration of Paul Brewbaker, Ph.D
	Declaration of Rob Iopa
1	Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit. September 2, 2009.
2	Master Plan Development Agreement for the Kaiaulu o Kakaako Master Plan. October 6, 2009.
3	Supplement No. 1 to Master Plan Development Agreement. June 20, 2011.
4	Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit Amendment. August 8, 2012.
5	Proposed Master Plan Amendment. February 2021.
6	Kaiaulu o Kakaako Master Plan. November 26, 2008.
7	Excerpt from the Ward Neighborhood Master Plan. April 2, 2008.
8	Tax Plat of Koula Street.
9	City and County of Honolulu Resolution 20-50 Regarding Koula Street. February 19, 2020.
10	Map of Koula Street with metes and bounds description. March 6, 2021.
11	Title Guaranty Report Regarding Koula Street. April 2, 2014.
12	Table 7-1 from Mauka Area Plan regarding Kakaako Mauka Area Roads.
13	Curriculum Vitae of Paul H. Brewbaker, PhD.

23. The Authority qualified witnesses Mr. Krivatsy, Mr. Kinney, Dr. Brewbaker and Mr. Iopa as experts in their designated areas of expertise.

24. Applicant called Walter Thoemmes (Managing Director of KS' Commercial Real Estate Division), Serge M. Krivatsy (Director of Planning and Development of KS' Commercial Real Estate Division), Nathaniel Kinney (the Executive Director of the Hawai'i Construction Alliance), Paul Brewbaker, Ph. D. (economist), and Rob Iopa (President of WCIT Architecture) as witnesses.

25. Mr. Thoemmes and Mr. Krivatsy provided live testimony and answered questions from the Authority.

26. Applicant presented a PowerPoint presentation during the testimony of Mr. Thoemmes and Mr. Krivatsy.

27. The remaining witnesses rested on the testimony in their declarations and were available to take questions from the Authority.

28. Following Applicant's presentation of its case, the Authority heard testimony from Christopher Delaunay of the Pacific Resource Partnership in support of the proposed amendments.

29. Thereafter, the Authority closed the evidentiary portion of the contested case hearing, subject to receipt of the PowerPoint presentation as Exhibit 14.

30. On April 12, 2021 Applicant submitted the PowerPoint presentation as Exhibit 14.

HAR § 15-22-206 Master Plan Review and Extension

31. Pursuant to HAR § 15-22-206, the Authority may amend and extend the KKMP provided there is a review of compliance with the terms and conditions of the approved master plan. Pursuant to HAR § 15-22-205(e), the Authority may extend the Master Plan Permit for an

effective period not to exceed fifteen years if the Authority determines that the Master Plan Permit is being implemented to its satisfaction.

32. Applicant describes the first phase of the KKMP as “Increment I” and the second and final phase as “Increment II.” Under the current KKMP for both Increments, the Applicant proposed to provide a total of 2,750 total dwelling units (20 percent as reserved housing), a maximum of 2,072,453 square feet of commercial space, and approximately 126,463 square feet of open space. As part of Increment I, Applicant has developed 1,336 residential units, 556 units of affordable and/or workforce housing meeting the HCDA’s affordable housing guidelines; approximately 184,000 square feet of commercial space; and more than 65,000 square feet of open space.

33. As a part of the current KKMP, the Applicant proposed to provide a mixed-used development for each master plan project. Residential projects within Increment I are accompanied by commercial space, which is typically located on the ground floor.

34. As a part of the current KKMP, the Applicant proposed to provide approximately 140,174 square feet of public facilities dedication. To date, the Applicant has provided 47,015 square feet of public facilities that are associated directly with Increment I developments and has established a public facility dedication credit of approximately 58,853 square feet, with an additional 15,000 square feet in dispute.

35. Applicant’s progress in implementing the KKMP is provided in the following table:

Description	KKMP Requirement	KKMP Provided To-Date	Progress
Total Floor Area	Max 6,498,650 sf	1,706,469 sf	Under Allowable
Residential Area	Max 4,426,197 sf	1,522,469 sf	Under Allowable
Commercial Area	Max 2,072,453 sf	184,273 sf	Under Allowable
Total Dwelling Units	2,750 ⁴	1,336	49%
A – Keauhou Lane	--	209	--
A – Keauhou Place	--	423	--
B – 400 Keawe	--	95	--
B – Flats at Puunui	--	88	--
E – Collection	--	467	--
F – 680 Ala Moana	--	54	--
Reserved Housing Units ⁵	550 (20%)	556 ¹	>100%
A – Keauhou Lane	--	209	--
A – Keauhou Place	--	85	--
B – 400 Keawe	--	20	--
B – Flats at Puunui	--	88	--
F – 680 Ala Moana	--	54	--
Rycroft Terrace ²	--	100	--
Open Space	126,463 sf	65,116 sf	51%
Public Facilities ³	140,174 sf	105,868 sf	76%
Recreation Space	151,250 sf	70,510 sf	46%

Note 1: Total reserved housing units includes Rycroft Terrace (located outside Kakaako)

Note 2: 162 units at Rycroft Terrace were dedicated as reserved housing, but KS only received 100-unit credit

Note 3: The 105,868 sf provided includes 58,853 sf of public facilities credit

Note 4: The total number of dwelling units is an estimate and may be exceeded.

Note 5: The final ratio will depend on the number of dwelling units that are constructed.

36. Based on the above findings, the Applicant provides that Increment I of the KKMP has been implemented in compliance and consistency with the approved Master Plan Permit.

37. Applicant seeks an extension of the KKMP of a minimum of five years. During the April 7, 2021 public hearing, Applicant stated a KKMP time extension beyond five years would be beneficial if the Authority so decides.

38. The Applicant provided evidence that the KKMP is being implemented in a satisfactory manner justifying the request for a time extension of the KKMP.

39. The proposed amendments are sought in order to facilitate the development of the remaining blocks (Blocks C, D, G, H, and I) as Increment II.

Koula Street

40. Applicant has determined that it owns the portion of Koula Street between Ala Moana Boulevard and Auahi Street.

41. Applicant has obtained a preliminary title report confirming that it owns this portion of Koula Street.

42. The portion of Koula Street owned by Applicant has an area of 12,174 square feet.

43. The City and County of Honolulu staff has agreed to abandon any implied easement rights over the portion of Koula Street that is owned by Applicant through a resolution. The resolution is currently under review by City and County agencies.

44. Table 7-1 of the Mauka Area Plan (2011) identifies Koula Street for possible closure.

45. Figure 9 of the Mauka Area Plan (2005) does not identify Koula Street as a major local street.

46. Page 32 of the Mauka Area Plan (2005) notes that existing streets not needed for traffic flow or access may be closed.

Economic Impact

47. Paul Brewbaker, Ph.D. estimated the economic impact of the general scenarios presented in pages C-14 through C-17 of Applicant's Master Plan Amendment, which was attached as Exhibit 5 to the Application.

48. Dr. Brewbaker concluded that the following economic impacts in present values would result from the implementation of Increment II:

A. Under a baseline scenario (Scenario 1) without 201H projects: approximately \$1.89 billion in output, \$600 million in earnings, \$117 million in State taxes, and an average of 1,645 annual jobs over six years (one job for one year).

B. Under a scenario (Scenario 2) including an additional 460,000 square feet of floor area including one 201H project: approximately \$2.14 billion in output, \$700 million in earnings, \$130 million in State taxes, and an average of 1,900 annual jobs.

C. Under a scenario (Scenario 3) including an additional 1 million square feet of floor area including two 201H projects: approximately \$2.54 billion in output, \$800 million in earnings, \$150 million in State taxes, and an average of 2,200 annual jobs.

D. Permanent cumulative present value City and County of Honolulu residential property tax receipts in constant dollars over thirty years: \$74 million (Scenario 1); \$84 million (Scenario 2); \$101 million (Scenario 3).

E. Permanent cumulative maintenance and operations impacts over thirty years:

i. Scenario 1: \$841 million in output, \$278 million in earnings, \$51 million in State taxes, and an annual average of 158 jobs.

ii. Scenario 2: \$976 million in output, \$323 million in earnings, \$59 million in State taxes, and an annual average of 183 jobs.

iii. Scenario 3: \$1.14 billion in output, \$377 million in earnings, \$69 million in State taxes, and an annual average of 213 jobs.

49. The joint development of Blocks F and G as one development lot is necessary in order for the project to comply with HAR § 15-22-203(b)(1)(D). Applicant estimates that the joint development of Blocks F and G will result in a Floor Area Ratio (“FAR”) of 2.559. The record supports these requested amendments.

50. The record supports the remaining requested amendments to the Master Plan Permit.

CONCLUSIONS OF LAW

1. The Authority has jurisdiction to issue master plan permits and approve master plan amendment applications pursuant to HRS §§ 206E-7 and 206E-33 and pursuant to HAR §§ 15-22-202 and -206(d).

2. Master plan permit amendments are deemed approved if no decisions are made granting or denying them within 200 days from the date HCDA determines the Application was complete. HAR § 15-22-23(a)(1). The 200-day deadline commenced on February 17, 2021, when the Application was deemed complete. The Application will be deemed approved if no decision is made granting or denying it by September 5, 2021.

3. Pursuant to HAR § 15-22-205(e), the Authority may extend a master plan if the master plan is being implemented to the satisfaction of the Authority. In no event may the effective period of a master plan exceed fifteen years.

4. Extending the KKMP for ten additional years is reasonable and appropriate pursuant to HAR § 15-22-205(e).

5. Pursuant to HAR § 15-22-203(b)(1), the transfer of density between KKMP blocks is permissible.

6. The joint development of Blocks F and G is consistent with the 2005 Mauka Rules. The estimated FAR is consistent with the 2005 Mauka Area Rules.

7. HRS § 201H-38 provides:

The Hawaii Housing Finance and Development Corporation may develop on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects that shall be exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, de-

velopment and improvement of land, and the construction of dwelling units thereon.

8. The exemption set forth in HRS § 201H-38 extends to projects developed in areas under the jurisdiction of the Authority. Therefore, projects developed under HRS § 201H-38 are eligible for certain exemptions from a master plan that was approved under the Authority's rules.

9. Consequently, the development of a 201H project within the KKMP would have no impact on the remaining area of the KKMP, and the overall development potential of the remainder of the KKMP would be calculated based on the maximum allowable floor area ratio of the remaining area that is not developed under HRS Chapter 201H.

10. HAR § 15-22-205(f) permits the Authority to allow a petitioner to meet public facilities dedication requirements by allowing a petitioner to dedicate land areas anywhere within a master planned area subject to certain requirements. Applicant's request that public facilities provided on the same block as a potential 201H project shall not be impacted or removed from the KKMP and may be used to satisfy corresponding obligations in the KKMP is consistent with this section, the Mauka Area Plan, and Authority rules.

11. The closure of Koula Street is consistent with the 2005 Mauka Area Plan as it is not shown as a mapped street on the Figure 9, Roadway Plan in the 2005 Mauka Area Plan.

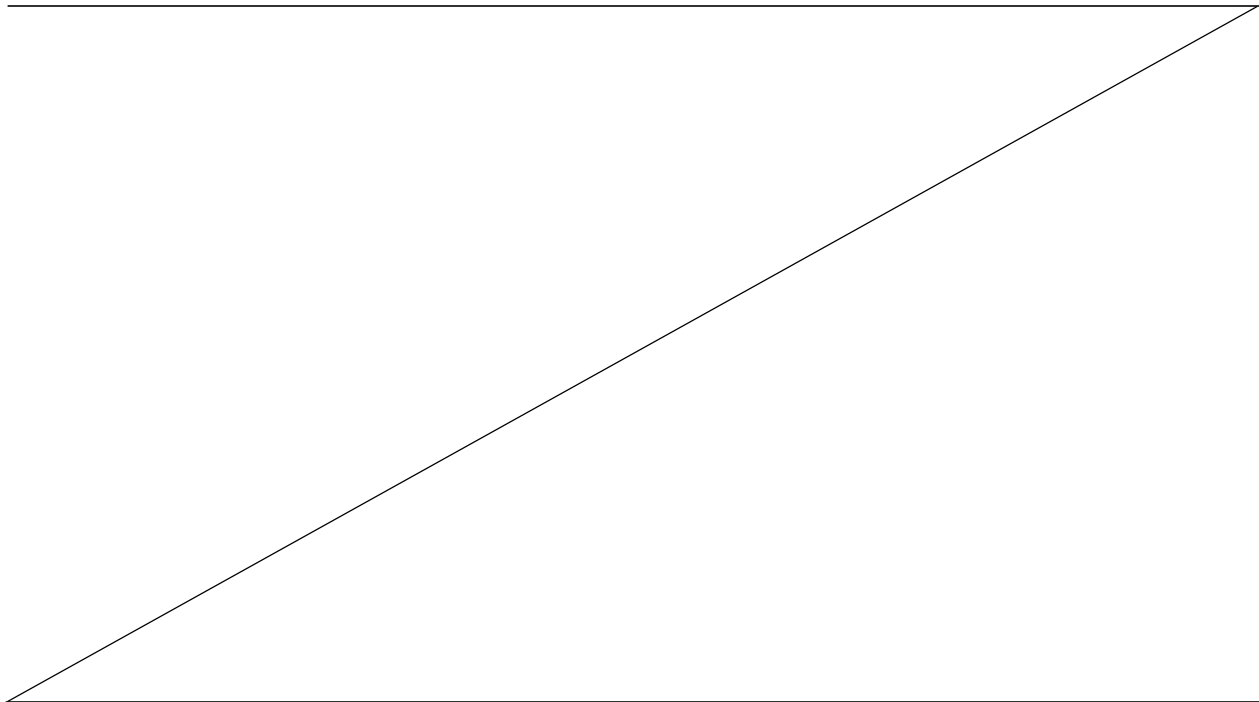
12. HAR § 15-22-200 provides that a purpose of the 2005 Mauka Area Rules is to allow for greater flexibility in the development of lots within master planned areas than would otherwise be possible through the normal lot-by-lot development approach. Applicant's request to allow for flexibility in the number of units permissible in the KKMP area, provided that such units are developed in accordance with all applicable rules and laws, including the maximum FAR for the KKMP, is consistent with HAR § 15-22-200.

13. Pursuant to HAR § 15-22-205(b), and upon consideration of HRS Chapter 206E, HAR Chapters 15-22 and 15-219, and the record before the Authority, the Authority finds and concludes that the requested amendments to the Master Plan Permit are consistent with the provisions of the 2005 Mauka Area Plan and HAR Chapter 15-22 Vested Rules.

RULINGS ON PROPOSED FOF AND COL

If any conclusions of law shall be determined to be findings of fact, it is intended that every such conclusion of law shall be construed as a finding of fact. Conversely, if any of the above findings of fact shall be determined to be conclusions of law, it is intended that every such finding of fact shall be construed as a conclusion of law.

Any proposed FOF or COL not already ruled upon by HCDA by adoption herein, or rejected by clearly contrary FOF or COL herein, is hereby denied and rejected.



DECISION AND ORDER

Based on the foregoing FOF and COL, and upon consideration of all applicable statutes, rules and regulations; the evidence, testimony and argument presented by the Applicant; and all other evidence appearing in the record, the Authority concludes that the Application to amend the KKMP satisfies the requirements of HRS Chapter 206E, the Vested Rules, and the vision and intent of the applicable Mauka Area Plan for a master plan permit.

Pursuant to HRS § 15-22-206, the Authority has reviewed the Master Plan Permit progress and determines that the Applicant is implementing the KKMP to the satisfaction of the Authority.

IT IS HEREBY ORDERED that the Application to amend the Master Plan Permit is APPROVED, subject to the following conditions:

1. The Master Plan Permit is extended by a period of ten years beyond its current expiration date of September 1, 2024 and shall be valid until September 1, 2034.
2. Applicant and its development partners shall be permitted to jointly develop Blocks F and G of the KKMP. Such joint development shall be subject to further approval by the HCDA at the planned development permit stage pursuant to HAR § 15-22-80.
3. Applicant shall be permitted to transfer density and towers between Blocks F and D and between other blocks within the KKMP provided that: (1) Applicant does not exceed the maximum permitted floor area ratio for the KKMP and (2) the density and tower transfer are in compliance with the 2005 Mauka Area Plan and Vested Rules.
4. Upon issuance of HRS 201H-38 exemption from the Hawaii Housing Finance and Development Corporation and upon issuance of the permit required to commence construction of a 201H project, the 201H project, including its associated tower(s), floor area, and unit count,

shall be excluded from the KKMP. The development potential of the remaining area in the KKMP shall then be recalculated such that the 201H project will not affect the development of the remaining area within the KKMP. Community benefits provided in conjunction with any 201H project, including but not limited to the central plaza and the Cooke Street park-to-park promenade, shall not be impacted or removed from the KKMP and may be used to satisfy the public benefit obligations in the KKMP.

5. The 40' wide park-to-park promenade on both sides of Cooke Street, from Pohukaina Street to Ala Moana Boulevard, shall be provided regardless of the Applicant, or its development partner(s), developing a 201H project on land blocks adjoining Cooke Street. The park-to-park promenade conceptual design guidelines shall be submitted for review by the HCDA Executive Director prior to commencing construction on the first development on any of the land blocks adjoining Cooke Street.

6. Construction of the park-to-park promenade shall occur incrementally as each land block on which the park-to-park promenade will be located (Blocks C, D, G and H) is redeveloped. Construction of the park-to-park promenade shall be initiated upon the redevelopment of any of the land blocks on which the park-to-park promenade will be located (Blocks, C, D, G and H) and shall be completed in its entirety within the earlier of (1) the completed redevelopment of all of the land blocks on which the park-to-park promenade will be located (Blocks C, D, G and H) or (2) September 1, 2031. If the park-to-park promenade has not been completed within the period established by this condition, KS shall record against the land blocks on which the park-to-park promenade will be located a covenant running with the land, that will require KS to complete the park-to-park promenade and dedicate the area of the park-to-park promenade via a perpetual easement for public use before the expiration of the master plan permit. KS shall

have the right to improve and maintain the park-to-park promenade in any manner that does not materially impact the public's use. If a covenant is recorded against the land, KS shall submit a copy to the Authority.

7. Construction of the central plaza, with a minimum of 25,000 square feet of open space, shall be completed by the earlier of (1) the redevelopment of the land block on which the central plaza will be located or (2) September 1, 2031. If the central plaza has not been completed within the period established by this condition, KS shall record against the land block on which the central plaza will be located a covenant running with the land that will require KS to complete the central plaza and dedicate the area of the central plaza via a perpetual easement for public use before the expiration of the master plan permit. KS shall have the right to improve and maintain the central plaza in any manner that does not materially impact the public's use. If a covenant is recorded against the land, KS shall submit a copy to the Authority. The central plaza may be provided on Block D, C, G or H. The central plaza design shall be submitted for review by the HCDA Executive Director prior to commencing construction of it.

8. Upon the City's approval of the resolution abandoning any implied easement rights over the portion of Koula Street owned by the Applicant, the KKMP allowable floor area shall be increased by 42,609 square feet (3.5 x 12,174 square feet of land area) to account for Applicant's ownership of Koula Street.

9. Any additional reserved housing and public facilities dedication requirements arising out of the implementation of the amended Master Plan Permit shall be provided in accordance with the provisions of the Vested Rules.

10. A publicly accessible pedestrian connection shall be provided between the developments on Blocks H and I to provide pedestrian access between Ala Moana Boulevard and Auahi Street.

11. Applicant shall submit the approved update to the KKMP to the Authority in the form and substance of its Exhibit 5 to the Application within ninety (90) days of the filing of this D&O or prior to submitting the first Planned Development Permit application for Increment II, whichever comes first.

12. Applicant shall address the recommendations of the Hawaii Department of Transportation (“DOT”) set forth in DOT’s letter of March 18, 2021 in a manner to be agreed upon between Applicant and DOT. Once agreement with DOT is reached, the Applicant shall provide a copy of the agreement to the HCDA Executive Director within 60 days from the date of the agreement.

13. Applicant shall comply with all applicable Federal, State, and City and County of Honolulu laws, statutes, ordinances, rules and regulations in connection with the implementation of the Master Plan.



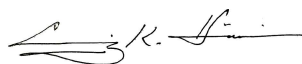

14. The Executive Director of the Authority is authorized to enter into any amendment to the Master Plan Development Agreement consistent with this Order.

15. Prior to submitting the first Planned Development Permit application for Increment II, the Applicant shall record a memorandum of this Order with the Bureau of Conveyances, and any amendment to the Master Plan Development Agreement in a form and with content to be reasonably prescribed by the Executive Director of the Authority, and the terms and conditions of thereof shall run with the land. Proof of such filing in the form of copies of the covenants certified by the appropriate agency shall be submitted to HCDA.

ADOPTION OF ORDER

The undersigned Members, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this June 2, 2021. This ORDER and its ADOPTION shall take effect upon the date this ORDER is approved by the Authority.

Done at Honolulu, Hawaii, June 2, 2021.

 _____ <i>Jason T Okuhama</i> _____  _____ <div>Excused</div> _____ <i>David Rodriguez</i> _____  _____ <i>Kevin G Sakoda</i> _____ <i>John P Whalen</i> _____  _____	Hawaii Community Development Authority (Kakaako Members) Chason Ishii Jason Okuhama Wei Fang Daniel Ito David Rodriguez, Designated Representative of the Director of Department of Transportation Craig Hirai, Director of Finance Department of Budget and Finance Kevin Sakoda John Whalen, Chairperson Phillip Hasha
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APPROVED AS TO FORM:

Kelly Suzuka

Deputy Attorney General

BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document will be served on the parties below by hand delivery or by certified mail with return receipt requested, as noted:

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Honolulu, Hawaii, June 2, 2021



Deepak Neupane, P.E., AIA
Executive Director