

**EXHIBIT D**

MASTER PLAN DEVELOPMENT AGREEMENT

for the

WARD NEIGHBORHOOD

MASTER PLAN

HAWAII COMMUNITY DEVELOPMENT AUTHORITY  
State of Hawaii

and

VICTORIA WARD, LIMITED

and

BANK OF HAWAII,  
as Trustee under Trust Nos. 89433 and 89434,

and

FIRST HAWAIIAN BANK,  
as Trustee under Trust Nos. FHB-TRES 200601 and 200602

**MASTER PLAN DEVELOPMENT AGREEMENT**

**THIS MASTER PLAN DEVELOPMENT AGREEMENT** (“Agreement”) made this 30th day of December, 2010, by and among the **HAWAII COMMUNITY DEVELOPMENT AUTHORITY**, State of Hawaii (“State”), whose office address is 461 Cooke Street, Honolulu, Hawaii 96813 (“HCDA”); **VICTORIA WARD, LIMITED**, a Delaware corporation (“VWL”), whose address is 1240 Ala Moana Boulevard, Suite 601, Honolulu, Hawaii 96814; **BANK OF HAWAII**, a Hawaii corporation (“BOH”), whose address is 111 South King Street, Honolulu, Hawaii 96813, as trustee under (a) that certain Land Trust Agreement and Conveyance dated October 21, 2004 (Trust No. 89433) and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii on November 3, 2004, as Document No. 3188119, and (b) that certain Land Trust Agreement and Conveyance dated October 21, 2004 (Trust No. 89434) and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii on November 3, 2004, as Document No. 3188118 (each of the foregoing trusts for the benefit of affiliates of VWL, and hereinafter collectively referred to as the “Bank of Hawaii Trust”); **FIRST HAWAIIAN BANK**, a Hawaii corporation (“FHB”), whose address is 999 Bishop Street, Suite 900, Honolulu, Hawaii 96813, as trustee under (a) that certain unrecorded Land Trust Agreement dated September 20, 2006 (Trust No. FHB-TRES 200601), and (b) that certain unrecorded Land Trust Agreement dated September 20, 2006 (Trust No. FHB-TRES 200602) (each of the foregoing trusts for the benefit of affiliates of VWL, and hereinafter collectively referred to as the “First Hawaiian Bank Trust”). This Agreement covers the Ward Neighborhood Master Plan (“Ward MP”) for the development of certain lands in Kakaako under the authority of the Hawaii Revised Statutes, Chapter 206E, as amended, and Chapter 22, Title 15, Hawaii Administrative Rules, in effect on **January 14, 2009**.

I. PARTIES; NOTICES

HCDA: HAWAII COMMUNITY DEVELOPMENT AUTHORITY

Address: 461 Cooke Street  
Honolulu, Hawaii 96813  
Telecopier No. (808) 594-0299

Attention: Anthony J. H. Ching  
Executive Director

VWL: VICTORIA WARD, LIMITED

Address: 1240 Ala Moana Boulevard, Suite 601  
Honolulu, Hawaii 96814

Attention: Francisco Gutierrez

With a copy to: VICTORIA WARD, LIMITED

Address: c/o The Howard Hughes Corporation  
Attention: General Counsel  
13355 Noel Road, Suite 950  
Dallas, TX 75240

Address: c/o The Howard Hughes Corporation  
Attention: Christopher J. Curry  
12301 Wilshire Boulevard, Suite 206  
Los Angeles, CA 90025

Address: c/o The Howard Hughes Corporation  
Attention: Sandra D. Turner  
10000 West Charleston Boulevard, Suite 200  
Las Vegas, NV 89135

BOH: BANK OF HAWAII  
Address: 111 South King Street  
Honolulu, Hawaii 96813

Attention: Robin L. Nonaka, Vice President

FHB: FIRST HAWAIIAN BANK

Address: 999 Bishop Street, Suite 900  
Honolulu, Hawaii 96813

Attention: Kelley G.A. Nakano, Trust Officer

The parties include their respective successors, successors in trust and permitted assigns. All notices between and among the parties shall be in writing and shall be mailed certified mail, return receipt requested postage prepaid, sent by overnight courier or telecopied (with hard copy to follow immediately by certified mail or overnight courier) to the foregoing addresses. Notices shall be deemed delivered, if by certified mail, three business days after deposit in the U.S. Mail,

or, if by overnight courier, on the date of delivery or attempted delivery if delivery is refused. A party may change its address for the receipt of notices by giving written notice of such change to the other party.

## II. DEFINITIONS

The terms below, whenever used in this Agreement, shall have the following meanings:

- A. "Agreement" means this Development Agreement.
- B. "D&O" means the Findings of Fact, Conclusions of Law and Decision and Order issued by the HCDA on January 14, 2009 in this matter, as corrected by Nunc Pro Tunc Order dated May 6, 2009.
- C. "Development Rules" means Chapter 22, Title 15, Hawaii Administrative Rules in effect on January 14, 2009.
- D. "HRS" means the Hawaii Revised Statutes, as amended from time to time.
- E. "Ward MP" means the Ward Neighborhood Master Plan submitted by VWL that was approved by HCDA on January 14, 2009, with a clerical error contained therein corrected by Nunc Pro Tunc Order dated May 6, 2009, within the Kakaako Community Development District.

## III. BACKGROUND OF APPLICATION LEADING TO APPROVAL OF MASTER PLAN

- A. On April 2, 2008, VWL submitted for the Authority's consideration its application for the Ward MP.
- B. On October 15, 2008, a community meeting on the proposed Ward MP was held.
- C. On December 17-18, and 29, 2008, and January 14, 2009, the contested case hearing was held for the Ward MP.
- D. On January 14, 2009, HCDA, pursuant to the Development Rules pertaining to master plans, approved the Ward MP subject to certain conditions pursuant to its D&O, which is attached hereto as Exhibit A. Thereafter, HCDA issued the Master Plan Permit ("PL MASP 13.1.3").

- E. Other information and details leading up to the approval of the Ward MP are set forth in Findings of Fact #1 to #111 of the D&O.

IV. IDENTIFICATION OF LANDS COVERED UNDER THE DEVELOPMENT AGREEMENT

The Ward MP area consists of approximately 59.96 acres. Portions of the Ward MP land area are held in fee by (1) VWL, (2) BOH as trustee of the Bank of Hawaii Trust, and (3) FHB as trustee of the First Hawaiian Bank Trust. These portions are described on Exhibits A, B, or C, respectively, of the VWL Master Plan Permit Memorandum of Decision and Order which was recorded with the Bureau of Conveyances, State of Hawaii, on June 17, 2009 as Land Court Document No. 3869623 and Bureau of Conveyances Document No. 2009-093051.

V. AGREEMENT

HCDA and VWL hereby agree that:

- A. Development of the master plan lands identified in this Agreement shall be in conformance with the Development Rules, D&O, the PL MASP 13.1.3, and this Agreement.
- B. Implementation of the Ward MP and development projects subject to the Ward MP shall be subject to the following conditions:
  - 1. Effective Period of the Ward MP and Applicability of Development Rules.
    - a. Approval of the Ward MP shall be valid until January 14, 2024, which is 15 years from the issuance of the D&O on January 14, 2009. Extensions of the effective period may be requested by seeking a variance from HCDA based on a reasonable showing of good cause. See paragraphs 1 and 15 at pages 43 and 48 of the D&O, respectively.

- b. For the effective period of the Ward MP, the Development Rules shall be applicable to development of the master plan lands encompassed by the Ward MP. See page 42 of the D&O.
  - c. For the effective period of the Ward MP, the development will proceed in accordance with paragraphs 1 and 2 at pages 43-44 of the D&O.
  - d. In the event of any conflict among Development Rules, D&O, the PL MASP 13.1.3, and/or this Agreement, the conflict shall be resolved in a contested case hearing, and the decision of the HCDA in such hearing shall prevail.
2. Land Use and Development Parameters. The development of the master plan lands under the Ward MP shall proceed in conformance with the provisions of the Ward MP.
3. Phasing of Development. The initial and future phases of implementation of the Ward MP shall be in conformance with the provisions in the Ward MP and/or any supplemental development agreement(s) which might be entered into by VWL and the HCDA. The phasing and timing of development under the Ward MP is intended to be flexible to give VWL the ability to adapt to economic and market conditions.
- a. The initial phase is currently planned to occur on Land Block 1 and Land Block 3 as described in the Ward MP Applications. Prior to submitting the development permit application for the initial phase, VWL will prepare and submit to HCDA a historic building inventory, a cultural impact assessment, and archeological inventory survey plan accepted by the State, a regional traffic study, individual traffic impact assessments, and sustainability guidelines. If any of these required analyses, the economy, and/or market conditions cause changes to the initial phase and

its components, any changes to the initial phase shall be submitted to HCDA for review.

b. The development permit application for the initial phase shall include descriptions of the delivery, manner, and timing of reserved housing, dedication of public facilities, and public use easements.

4. Reserved Housing Credits

a. To encourage the early delivery of reserved housing within the Kakaako Community Development District in advance of the construction of market housing, the HCDA will effectuate a reserved housing credit account process that will apply to the Ward MP under the following circumstances:

- (1) if VWL and/or the beneficiaries of the Bank of Hawaii Trust and/or the First Hawaiian Bank Trust transfer or cause to be transferred Kakaako Community Development District land to the Authority or another entity identified by and at a rate approved by the Authority, and which shall be used to construct reserved housing;
- (2) if VWL and/or the beneficiaries of the Bank of Hawaii Trust and/or the First Hawaiian Bank Trust construct more reserved housing for any planned development in the Master Plan Area than is required for that project;
- (3) if a third-party entity has built more reserved housing in the Kakaako Community Development District than required under its development and transfers reserved housing credits to VWL and/or the beneficiaries of the Bank of Hawaii Trust and/or the First Hawaiian Bank Trust;

- (4) if VWL and/or the beneficiaries of the Bank of Hawaii Trust and/or the First Hawaiian Bank Trust participate in a joint venture that results in excess reserved housing in the Kakaako Community Development District; and/or
  - (5) as approved by Authority, if VWL and/or the beneficiaries of the Bank of Hawaii Trust and/or the First Hawaiian Bank Trust convert existing non-reserved housing, not in use by those intended to benefit by reserved housing, into reserved housing within the Kakaako Community Development District;
- b. VWL and/or the beneficiaries of the Bank of Hawaii Trust and/or the First Hawaiian Bank Trust may use their reserved housing credits to satisfy all or part of the Ward MP reserved housing requirements (including but not limited to its requirement to provide 10% (or one tenth) of its reserved housing requirement at 100% or below of the area median income if those credits are generated from the same area median income) and/or transfer their excess credits to a third-party.
  - c. The reserved housing credits shall be applied on a one-for-one basis.
5. Other Conditions. Conditions set forth in paragraphs 1 through 15 at pages 43-48 of the D&O are incorporated into this Agreement. Further, all terms and conditions of the D&O remain in full force and effect, and shall not be deemed terminated, waived, or modified in any way through the execution and/or performance of this Agreement.

VI. AMENDMENT OR MODIFICATION TO DEVELOPMENT AGREEMENT

No provision or term of this Agreement or any agreement contemplated herein between the parties hereto may be supplemented, amended, modified, waived, or terminated except in a



writing duly executed by both parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. Failure of a party to insist on strict compliance with any of the terms and conditions of this Agreement shall not be deemed as waiver of any such terms and conditions.

However, VWL and the HCDA may negotiate and execute an amended/modified or supplemental Master Plan Development Agreement that may address additional implementation issues.

## VII. MISCELLANEOUS PROVISIONS

- A. Enforceability; Applicability. Unless terminated or cancelled, this Agreement, amended Agreement, or modified Agreement, once entered into, shall be enforceable by any party thereto, or their successors in interest or assigns, notwithstanding any subsequent change in any Development Rule adopted by HCDA after January 14, 2009.
- B. Severability. If any one or more of the provisions contained in this Agreement shall be declared invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of any such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired.
- C. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties herein named and their respective permitted successors, successors in trust and permitted assigns.
- D. Headings. All headings used in this Agreement are for reference and convenience only. They shall not be considered in the construction and interpretation of the provisions stated in this Agreement.

- E. Written Agreement. This Agreement shall supersede and replace all prior agreements or portions insofar as such are inconsistent with this Agreement, written and oral, between the parties, concerning the Ward MP. This Agreement shall not be modified except by an instrument in writing executed and acknowledged by the parties.
- F. Time of Essence. Time is of the essence of this Agreement.
- G. Governing Law. The laws of the State of Hawaii shall govern the validity, construction and effect of this Agreement. This Agreement shall be interpreted in a manner which is consistent with the Development Rules in effect on January 14, 2009.
- H. Assignment. VWL shall notify HCDA of any sale or assignment of title to the Ward MP lands if it occurs prior to development of such property. The (i) Ward MP permit and (ii) this Agreement will be freely assignable or transferable by VWL, BOH and FHB with respect to their respective properties, provided that the assigning or transferring party promptly notifies HCDA in writing of such an assignment or transfer, and provided that the terms and conditions of the Ward MP permit and this Agreement will be binding on such successors, assigns and transferees.
- I. Cooperation. The parties shall cooperate with one another in effectuating this Agreement and agree to execute such further and additional mutually approved documentation required to facilitate and complete the actions contemplated in this Agreement.
- J. No Party Deemed Drafter. The parties agree that no party shall be deemed to be the drafter of this Agreement and that, in the event this Agreement is ever construed by a court of law, such court shall not construe this Agreement or any provision hereof against any party as drafter of this Agreement.
- K. Counterparts. This Agreement may be executed in any number of counterparts. Each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one Agreement.

L. Computation of Periods. All periods of time referred to in this Agreement shall include all Saturdays, Sundays and State or national holidays, unless the period of time specifies business days, provided that if the date or last date to perform any act or give any notice with respect to this Agreement shall fall on a Saturday, Sunday or State or national holiday, such act or notice shall be timely performed or given on the next succeeding day which is not a Saturday, Sunday or State or national holiday.

M. Trustees Not Personally Liable. This Agreement is made by each of BOH and FHB as trustees as aforesaid and not personally or individually, but solely as trustees as aforesaid, and it is expressly understood and agreed by and between the parties hereto, anything in this Agreement to the contrary notwithstanding, that each and all of the covenants, warranties, representations and agreements contained in this Agreement or in any amendments, hereto, are made and intended not as personal covenants, warranties, representations, undertakings and agreements of BOH and FHB or any of their officers, agents, or employees, but this Agreement is made by each of BOH and FHB solely as trustees as aforesaid and no personal liability or personal responsibility is assumed by, or shall at any time be asserted or enforced against either BOH or FHB, or their respective officers, agents or employees on account of any covenants, warranties, representations, undertakings or agreements contained in this Agreement or any amendments hereto, or otherwise, either express or implied, all such personal liability, if any, being hereby expressly waived and released; it being understood that all parties hereto or anyone claiming by, through or under such parties or claiming any rights under this Agreement or any amendments hereto shall look solely to the assets of the respective trusts established pursuant to the Bank of Hawaii Trust or the First Hawaiian Bank Trust for the enforcement or collection of any such liability.

In accordance with the terms of this Agreement and the exception clause of section 560:7-306(a) of the HRS, as amended, any liability of BOH which may arise as a result of BOH accepting or approving this instrument is a liability of the

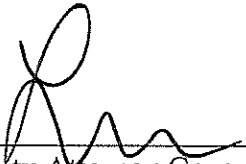
respective trust estates established under the Bank of Hawaii Trust described above and not the personal liability of BOH.

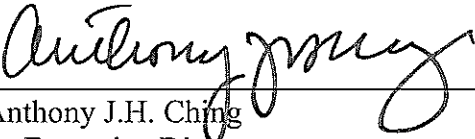
In accordance with the terms of this Agreement and the exception clause of section 560:7-306(a) of the HRS, as amended, any liability of FHB which may arise as a result of FHB accepting or approving this instrument is a liability of the respective trust estates established under the First Hawaiian Bank Trust described above and not the personal liability of FHB.

The parties have executed this Agreement effective as of the date first above written.

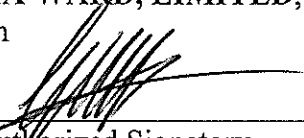
APPROVED AS TO FORM

HAWAII COMMUNITY DEVELOPMENT  
AUTHORITY

By:   
Deputy Attorney General  
State of Hawaii

By:   
Anthony J.H. Ching  
Its Executive Director

**VICTORIA WARD, LIMITED**, a Delaware corporation

By:   
Its Duly Authorized Signatory  
*GRANT HERWITZ*

**BANK OF HAWAII**, as Trustee as aforesaid

By: \_\_\_\_\_  
Name:  
Its:

By: \_\_\_\_\_  
Name:  
Its:

**FIRST HAWAIIAN BANK**, as Trustee as aforesaid

By: \_\_\_\_\_  
Name:  
Its:

respective trust estates established under the Bank of Hawaii Trust described above and not the personal liability of BOH.

In accordance with the terms of this Agreement and the exception clause of section 560:7-306(a) of the HRS, as amended, any liability of FHB which may arise as a result of FHB accepting or approving this instrument is a liability of the respective trust estates established under the First Hawaiian Bank Trust described above and not the personal liability of FHB.

The parties have executed this Agreement effective as of the date first above written.

APPROVED AS TO FORM

HAWAII COMMUNITY DEVELOPMENT  
AUTHORITY

By \_\_\_\_\_  
Deputy Attorney General  
State of Hawaii


By \_\_\_\_\_  
Anthony J.H. Ching  
Its Executive Director

**VICTORIA WARD, LIMITED**, a Delaware  
corporation

By: \_\_\_\_\_  
Its Duly Authorized Signatory

**BANK OF HAWAII**, as Trustee as aforesaid

By:   
Name: ROBIN L. NONAKA  
Its: VICE PRESIDENT

By:   
Name: RACHEL S. UEHARA  
Its: ASSISTANT VICE PRESIDENT

**FIRST HAWAIIAN BANK**, as Trustee as aforesaid

By: \_\_\_\_\_  
Name:  
Its:

respective trust estates established under the Bank of Hawaii Trust described above and not the personal liability of BOH.

In accordance with the terms of this Agreement and the exception clause of section 560:7-306(a) of the HRS, as amended, any liability of FHB which may arise as a result of FHB accepting or approving this instrument is a liability of the respective trust estates established under the First Hawaiian Bank Trust described above and not the personal liability of FHB.

The parties have executed this Agreement effective as of the date first above written.

APPROVED AS TO FORM

HAWAII COMMUNITY DEVELOPMENT  
AUTHORITY

By \_\_\_\_\_  
Deputy Attorney General  
State of Hawaii

By \_\_\_\_\_  
Anthony J.H. Ching  
Its Executive Director

**VICTORIA WARD, LIMITED**, a Delaware  
corporation


By: \_\_\_\_\_  
Its Duly Authorized Signatory

**BANK OF HAWAII**, as Trustee as aforesaid

By: \_\_\_\_\_  
Name:  
Its:

By: \_\_\_\_\_  
Name:  
Its:

**FIRST HAWAIIAN BANK**, as Trustee as aforesaid

By:  \_\_\_\_\_  
Name: **SCOTT H. ONO**  
Its: **VICE PRESIDENT**