

PURCHASE AND SALE AGREEMENT

Between

Block G Ward Village, LLC,
a Delaware Limited Liability Company,
“Seller”

and

Hawaii Community Development Authority,
a body corporate and a public instrumentality of the State of Hawaii,
“Buyer”

Property:

610 Ward Avenue, Honolulu, Hawaii 96813 (TMK No. (1) 2-1-049: 063); and
873 Kapiolani Boulevard, Honolulu, Hawaii 96813 (TMK No. (1) 2-1-049: 080)

Honolulu, Hawaii

City and County of Honolulu

EXHIBITS

<u>Exhibit</u>	<u>Title</u>
A	Legal Description of Real Property
B	Schedule of Personal and Intangible Property
C	Due Diligence List
D	Tenant Notices
E	Bill of Sale
F	Assignment of Tenant Leases, Contracts and Intangibles
G	FIRPTA Certification
H	HARPA Certification
I	Inspection Insurance Requirements
J	Form of Deed
K	Certification of Use and Transfer of Supplemental Floor Area
L	Form of Estoppel Certificate (Tenant)
M	Form of Estoppel Certificate (Landlord)
N	Notice of Liens or Other Legal Actions to be Assessed Against Property
O	Amended and Restated Master Plan Development Agreement for the Ward Neighborhood Master Plan

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “Agreement”) is made on the _____ day of _____, 2024, but effective as of _____ (the “Effective Date”), by and between Block G Ward Village, LLC, a Delaware limited liability company (“Seller”) and HAWAII COMMUNITY DEVELOPMENT AUTHORITY, a body corporate and a public instrumentality of the State of Hawaii (“Buyer”).

In consideration of the mutual covenants and representations herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

ARTICLE 1 PURCHASE AND SALE

1.1 Purchase and Sale.

Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell and convey or assign (as applicable) to Buyer, and Buyer hereby agrees to purchase or assume (as applicable) from Seller (the “Sale”), the property described in this Section 1.1 (collectively, the “Property”).

- (a) **Real property.** All of the fee simple land located at: 1) 610 Ward Avenue, Honolulu, Hawaii 96813 and further designated as Tax Map Key No. (1) 2-1-049: 063; and 2) 873 Kapiolani Boulevard, Honolulu, Hawaii 96813 and further designated as Tax Map Key No. (1) 2-1-049: 080 (and also collectively referred to as “Land Block G”), all as further described in Exhibit A attached hereto (collectively, the “Real Property”), but excluding the Excluded Property (as defined below).
- (b) **Improvements.** All buildings and other improvements (the “Improvements”) located on the Real Property as of the date of the Effective Date including, but not limited to, surface parking.
- (c) **Leases and Contracts.** All leases (the “Leases”) of space in the Property and Seller’s interest therein and in refundable tenant deposits of any kind and all prepaid rent, if any, and to the extent assignable, the Contracts (as hereinafter defined).
- (d) **Fixtures and Personal Property.** All fixtures, equipment, machinery, supplies, manuals, books and records and other personal and intangible property, if any, owned by Seller and located on or about the Real Property and the Improvements and used in the ownership, use, leasing, maintenance or operation thereof (the “Personal Property”). Not later than ten (10) days prior to the expiration of the Approval Period (as hereinafter defined), Seller will establish an itemized list of the Personal and Intangible Property, to be approved by Buyer, which shall be attached hereto as Exhibit B.

1.2 **Excluded Property.**

The following property of Seller described in this Section 1.2 (the “Excluded Property”) is excluded from the sale of the Property to Buyer:

- (a) None.

1.3 **Special Conditions.**

- (a) **Assumption of management; Leases; Contracts.** Upon Closing, the Buyer shall be responsible for the operation and management of the Property. Buyer shall assume all of Seller’s rights, interests and obligations under the Leases and the Contracts.
- (b) **Use of Floor Area from Buyer’s Floor Area Bank.** Upon Closing, the Seller shall assign the 163,000 square feet of supplemental floor area provided by Buyer as the Purchase Price for Seller’s Property (the “Supplemental Floor Area”) to Victoria Ward, Ltd. (“VWL”), and VWL shall have the right, in its discretion, to use the Supplemental Floor Area for residential, commercial, and/or industrial uses in connection with an amended Mahana Ward Village planned development permit application (KAK 23-027) (the “Amended Mahana Ward Village Application”), which, inclusive of design adjustments to accommodate the Supplemental Floor Area and/or reasonable podium tolerances, shall be subject to the HCDA Executive Director’s processing, review and approval under the 2005 Mauka Area Rules.
- (c) **Tolling of Mahana Ward Village Initial Building Permit Deadline.** Upon the Effective Date, all deadlines in the Mahana Ward Village Decision and Order (KAK 23-027) and the deadline to issue the initial building permit for Mahana Ward Village pursuant to Hawaii Administrative Rules § 15-22-118 shall be deemed tolled from the date of the issuance of KAK 23-027 (September 6, 2023) until the final disposition by the HCDA Executive Director of the Amended Mahana Ward Village Application.
- (d) **Other uses for Supplemental Floor Area.** Notwithstanding the provisions of Sections 1.3(b) and 1.3(c) above, upon approval by the HCDA Executive Director (which approval shall not be unreasonably withheld, conditioned or delayed), or the HCDA board as applicable, VWL may use the Supplemental Floor Area for other development(s) or re-development(s) within the former Ward Master Plan or the Kaka’ako Community Development District in lieu of, or in addition to, Mahana Ward Village. Nothing herein shall preclude VWL, in its sole discretion, from transferring the floor area to a subsidiary of VWL or its corporate parent for such purposes.

- (e) **Certification of Supplemental Floor Area.** Upon closing, Buyer shall provide a written certification to Seller of the terms relating to the Supplemental Floor Area in the form attached hereto as Exhibit K.
- (f) **Execution of Amended and Restated Master Plan Development Agreement.** Upon closing, Buyer and Seller shall execute the Amended and Restated Master Plan Development Agreement for the Ward Neighborhood Master Plan in the form attached hereto as Exhibit O.
- (g) **Survival of Closing.** Seller's and Buyer's obligations set forth in Sections 1.3(b), 1.3(c), 1.3(d), 1.3(e), and 1.3(f) shall survive the Closing.

ARTICLE 2

ESCROW

2.1 **Escrow.** Upon the execution of this Agreement by Buyer and Seller, and the acceptance of this Agreement by Title Guaranty of Hawaii (the "Title Company" or "Escrow Holder"), in writing, this Agreement shall constitute the joint escrow instructions of Buyer and Seller to Escrow Holder to open an escrow, if not already opened, (the "Escrow") for the consummation of the sale of the Property to Buyer pursuant to the terms of this Agreement. Upon Title Company's written acceptance of this Agreement, Title Company is authorized to act in accordance with the terms of this Agreement. Prior to the Closing Date, Seller and Buyer each shall give appropriate joint written escrow instructions, consistent with this Agreement, to the Title Company for the Closing (as hereinafter defined) in accordance with this Agreement and upon giving such instructions such party need not be physically present at the Closing.

ARTICLE 3

PURCHASE PRICE

3.1 **Purchase Price.** The total purchase price (the "Purchase Price") for the Property shall be TWELVE MILLION TWO HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$12,225,000) in the form of ONE HUNDRED SIXTY-THREE THOUSAND (163,000) square feet of supplemental floor area from Buyer's floor area bank, which Seller may use and transfer as provided in more detail in Sections 1.3(b), 1.3(c), and 1.3(d).

The parties have fully negotiated the Purchase Price and agree that it is fair, adequate and sufficient consideration for this purchase.

ARTICLE 4

INSPECTION OF THE PROPERTY AND APPROVAL PERIOD

4.1 **Buyer's Due Diligence.** Buyer shall have sixty (60) days from the Effective Date to review and approve all aspects of the Property (the "Approval Period"), at the sole cost and expense of Buyer. The Approval Period may be extended by thirty (30) days (or such other period) by mutual written agreement of Buyer and Seller (the "Extended Approval Period" and if so extended, the "Approval Period" shall include the Extended Approval Period), prior to the expiration of the Approval Period. If Buyer is not satisfied in its sole discretion with its due

diligence investigations of the Property, Buyer may terminate this Agreement by giving written notice (the "Termination Notice") thereof to Seller on or before the expiration of the Approval Period. If Buyer is satisfied with the due diligence investigation, it shall notify Seller by giving written notice (the "Diligence Notice") on or before the expiration of the Approval Period. Failure to give a Termination Notice or Diligence Notice prior to the expiration of the Approval Period shall be deemed a rejection of the Property.

- (a) **Inspection.** Buyer shall have the right to commence Buyer's physical inspection of the Property immediately after the Effective Date upon twenty-four (24) hours prior written notice to Seller. Buyer's physical inspection of the Property shall be conducted during normal business hours at times mutually acceptable to Buyer and Seller. Inspection of any occupied interior units shall require seven (7) days written notice to Seller so that Seller may give six (6) days written notice to the tenants. No invasive testing or boring shall be done without the prior notification of Seller and Seller's written consent, which shall not be unreasonably withheld. Buyer's access is further conditioned on Buyer providing Seller with current certificates of insurance for all third parties accessing the Property listing Seller as an additional insured on all insurance policies evidencing that Buyer's agents or contractors performing inspections and testing have insurance in types and amounts specified in Exhibit I. Buyer and any State agencies are self-insured and shall not be required to provide certificates of insurance.
- (b) **Scope.** Seller shall provide Buyer with adequate opportunity to make such surveys, tests, studies and inspections of the Property as Buyer has, in Buyer's discretion, deemed necessary or advisable as a condition precedent to Buyer's purchase of the Property and to determine the physical, environmental and land use characteristics of the Property and its suitability for Buyer's intended use. All such surveys, tests, studies and inspections shall be at the sole cost and expense of Buyer. In addition to any surveys, tests, studies and inspections of the Property as Buyer shall require, Buyer's inspection shall include, without limitation, a complete and satisfactory physical review of the Property and its structural, plumbing and electrical systems, and other physical components by Buyer's architectural and engineering staff and/or Buyer's designated third party consultants. Buyer shall provide Seller with copies of any environmental reports commissioned by Buyer at no expense to Seller as permitted by law.
- (c) **Due Diligence Items.** Seller has, or will within ten (10) days of the Effective Date, make the following due diligence items (the "**Due Diligence Items**") available to Buyer which shall review such Due Diligence Items for approval within the Approval Period:
 - (i) The Leases;

- (ii) Copies of all current executory contracts entered into by Seller pertaining to or involving the Property, but expressly excluding all executory contracts for the provision of services to Seller in connection with the Property (the “Contracts”);
 - (iii) A rent roll (the “Rent Roll”) which contains an accurate and complete list of all presently effective Leases and listing each tenant, the monthly base rent payable, lease expiration date, refundable security deposit and any other refundable deposits or prepaid rent paid by such tenant, reflecting any rent due at the time the Rent Roll is prepared, and containing such other information as may be desired by Buyer; provided, however, Buyer shall comply with any Federal or State requirements, including Hawaii Revised Statutes Chapters 92 and 92F, to maintain the privacy requirements of Tenants’ personal and financial information contained on the Rent Roll; and
 - (iv) Documents, information and other materials as set forth in the Due Diligence List attached hereto as Exhibit C.
- (d) **Confidentiality.** All information provided by Seller to Buyer or obtained by Buyer relating to the Property in the course of Buyer’s review, including, without limitation, any Due Diligence Items, or environmental assessment or audit (collectively, the “Reports”) shall be treated as confidential information by Buyer and Buyer shall instruct all of its employees, agents, representatives and contractors as to the information’s confidentiality, to the extent such information can be treated as confidential by Buyer pursuant to law.
- (e) **Survey.** Seller shall, within five (5) days following the Effective Date, order and provide to Buyer, at Seller’s expense, an updated ALTA/ACSM survey of the Property to be prepared by a surveyor previously approved by the parties (the “Survey”).
- (f) **Title Commitment.** Within ten (10) days following the Effective Date, Buyer shall obtain from Title Company at its expense, a title commitment or report (the “Title Commitment”) to issue an ALTA Owner’s Policy of Title Insurance in the policy form and amount and with such endorsements as Buyer may designate, including Buyer’s Objections (as defined below) (the “Title Policy”) insuring Buyer’s title to the Property to be good and indefeasible as of the Closing, subject to only the Permitted

Encumbrances. A copy of the Title Commitment and legible copies of each of the documents of record reflected therein shall be furnished to the attorneys for Buyer and Seller at the respective addresses set forth in Section 9.1 hereof.

- (g) **Buyer's Objections.** Within five (5) business days of receipt of (1) the Survey, and (2) the Title Commitment, Buyer shall identify (a) any matter on the Survey affecting the Property that is unacceptable to Buyer, or (b) any exceptions that appear in the Title Commitment that are unacceptable to Buyer, and notify Seller in writing of such facts and the reasons therefor ("Buyer's Objections"). Buyer's Objections will specify the required policy form of the Title Policy and any endorsements to the Title Policy required by Buyer (collectively, the "Endorsements"). Within five (5) business days of receipt of Buyer's Objections, Seller shall give Buyer notice (the "Initial Response Notice") identifying any exceptions that Seller will cause to be removed prior to Closing. Notwithstanding the expiration of the Approval Period, Buyer shall then have ten (10) business days from receipt of the Initial Response Notice to either (i) terminate this Agreement by written notice to Seller or (ii) waive its prior notice as to the Buyer Objections which Seller has elected not to cure, in which event such exceptions shall be deemed Permitted Encumbrances. The title exceptions that Buyer approves or is deemed to have approved pursuant to the foregoing provisions of this paragraph are herein called "Permitted Encumbrances."
- (h) **Seller's Response.** Seller shall not be required to expend any money or bring any action or proceeding or do any other thing in order to cure any of Buyer's Objections, except that Seller shall convey the Real Property to Buyer free and clear of any Seller Lien(s) recorded against the Real Property. If Seller thereafter determines in good faith that it is unable to cure any title exception identified in the Initial Response Notice, Seller shall promptly give notice thereof to Buyer (the "Subsequent Response Notice"). Notwithstanding the expiration of the Approval Period, Buyer may, as its exclusive remedy, elect by written notice given to Seller within five (5) business days of receipt of a Subsequent Response Notice, either (a) to accept such title subject to the matters set forth in Seller's Subsequent Response Notice without any reduction or abatement of the Purchase Price, or (b) to terminate this Agreement.

4.2 **Conditions Precedent to Closing.** In addition to a complete and satisfactory due diligence investigation by Buyer, as described in Section 4.1 above, the obligations of Buyer to complete the transactions contemplated by this Agreement are conditioned upon the following

conditions precedent (collectively, the “Conditions Precedent”). The Conditions Precedent are intended solely for the benefit of Buyer and may only be waived by Buyer in writing.

- (a) All of Seller’s representations and warranties contained in or made pursuant to this Agreement shall be materially true and correct as of Closing.
- (b) The physical condition of the Property shall be substantially the same on Closing as on the Effective Date, unless such condition was altered by Buyer, reasonable wear and tear and loss by casualty (subject to the provisions of Section 6.9 below) excepted.
- (c) Seller shall have complied with all of Seller’s duties and obligations contained in this Agreement.
- (d) Buyer shall have received a title insurance commitment satisfactory to Buyer in which the title insurer agrees to issue an ALTA Extended Coverage Owner’s Policy (Form 1970-B, rev 10/17/70) with such endorsements as Buyer may require and an ALTA survey satisfactory to Buyer.
- (e) Notwithstanding any other provision contained herein, all (i) consensual indebtedness, mortgages, and liens of Seller recorded against the Property, and (ii) all non-consensual liens against Seller recorded against the Property shall have been removed (except for the Permitted Encumbrances).
- (f) Buyer shall have received an appraisal report regarding the Property from Medusky & Co., Inc., which shall indicate a value that is equal to or greater than the Purchase Price.

In the event any of the Conditions Precedent of this Agreement are not satisfied as shall be determined by Buyer, Buyer may, in its sole and absolute discretion, terminate this Agreement by written notice to Seller and, subject to the provisions of Article 7 below, this Agreement shall wholly cease and terminate and no party to this Agreement shall have any further claim against, or obligation to, any other party to this Agreement except for any provisions herein that recite that they survive such termination.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES

5.1 **Seller’s Representations and Warranties.** Seller represents and warrants to Buyer that as of the date it executes this Agreement and as of Closing:

- (a) Seller is duly organized, validly existing and in good standing under the laws of the state of its formation.

- (b) Seller is not a “foreign person” as defined in §1445 of the Internal Revenue Code of 1986, as amended; nor is Seller a “nonresident person” as such term is defined under the Section 235-68 of the Hawaii Revised Statutes.
- (c) To Seller’s actual knowledge, there are no actions, proceedings, litigation or governmental investigations or condemnation actions either pending or threatened against the Property (“Proceedings”). Seller shall promptly notify Buyer of any such proceedings or litigation of which Seller becomes aware.
- (d) Seller has the full power and authority to execute, deliver and perform its obligations under this Agreement.
- (e) To Seller’s actual knowledge, the Leases delivered to Buyer by Seller during the Approval Period are accurate in all material respects and are in full force and effect. To Seller’s knowledge, neither the Seller nor any Lessee is in default under the Leases. Seller has not previously assigned its rights under the Leases.
- (f) To Seller’s knowledge, there exist no material defaults, events which, with the giving of notice or passage of time, or both, would give rise to a termination right (i) by Seller as Landlord under the Leases, (ii) by any Lessee under the Leases or (iii) by any party to the Contracts.
- (g) To Seller’s actual knowledge, the Contracts delivered to Buyer by Seller during the Approval Period are accurate in all material respects and are in full force and effect. Seller has not previously assigned its rights under the Contracts.
- (h) This Agreement and all agreements, instruments and documents provided to be executed by Seller are and as of the Closing will be herein duly authorized, executed and delivered by and are and will be binding upon Seller.
- (i) No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or threatened against Seller, nor are any such proceedings contemplated by Seller.
- (j) Except as set forth on Exhibit N attached hereto and made a part hereof, Seller has not received any notice of any liens or other legal actions to be assessed or which anyone claims or has a right to claim against the Property.
- (k) To Seller’s knowledge, the Property complies with all applicable Federal, State and municipal laws, ordinances, rules and regulation, including, but

not limited to zoning and building codes, rules or regulations, fire codes, rules or regulations, and environmental laws, rules or regulations.

- (l) Seller has not retained any brokers or agents in connection with this agreement.

All representations and warranties of Seller contained herein shall survive the execution and delivery of this Agreement, the Assignment and the Closing for a period of six (6) months from the Closing, and any claim for breach thereof must be filed, if at all, within such six (6) month period. The aggregate liability of Seller with respect to all claims made by Buyer under this Section 5.1 of the Agreement shall be the lesser of actual damages or \$100,000.

5.2 **Buyer's Representations and Warranties.** Buyer represents and warrants to Seller that as of the date it executes this Agreement and as of Closing:

- (a) Buyer is a body corporate and a public instrumentality of the State of Hawaii.
- (b) Buyer has the full power and authority to execute, deliver and perform its obligations under this Agreement.
- (c) This Agreement and all agreements, instruments and documents herein provided to be executed by Buyer are and as of the Closing will be duly authorized, executed and delivered by and are and will be binding upon Buyer.

5.3 **Condition of the Property.**

Buyer acknowledges that Buyer has inspected and investigated the Property (or prior to the Closing will have inspected and investigated the Property) and has entered into this Agreement based upon such investigation and inspection and Buyer's right to conduct the inspection and investigation. Except as expressly provided in this Agreement or any documents or instruments delivered to Buyer at Closing, and the warranties set forth in the Deed, Buyer acknowledges that it is relying solely on its own investigation and inspection of the Property and not on any information provided for or on behalf of Seller with respect to the physical condition of the Property or its zoning, use, operation, income or compliance with laws (collectively the "Documents and Materials"), and Buyer acknowledges that Seller has provided the Documents and Materials on the express condition that Buyer make an independent verification of the accuracy of the information contained in the Documents and Materials. Except as expressly provided in this Agreement or any documents or instruments delivered to Buyer at Closing, the sale of the Property is made on an "As Is", "Where Is" and "With all Faults" basis as allowed by law and Buyer expressly acknowledges that, in consideration of the agreements of Seller and except as expressly provided in this Agreement, the warranties set forth in the Deed, or any documents or instruments delivered to Buyer at Closing, Seller has not made any warranty or representation, express or implied, or arising by operation of law, with respect to any matters concerning the Property, including, without limitation, the physical condition, the presence of

hazardous or toxic materials or substances (such as materials or substances that may now or in the future be determined to be hazardous or toxic by any state or federal environmental law or regulation), flood control, use zoning, income or legal compliance of the Property including, but not limited to, any warranty of suitability, habitability, condition, eligibility, merchantability or fitness for a particular purpose with respect to the Property or any portion thereof. The provisions of this paragraph shall survive the Closing.

ARTICLE 6 **CLOSING**

6.1 **Place and Date.** The Closing (the “Closing”) shall occur on [Closing Date], but in no event later than thirty (30) days after the expiration of the Approval Period (the “Closing Date”) at the offices of the Title Company, unless the parties mutually agree in writing upon another place, time or date, and at Seller’s or Buyer’s election, the Closing may be effectuated by forwarding all executed documents and other items necessary to effect the Closing to the Title Company, without the necessity of the parties actually being present at the office of the Title Company for the Closing.

6.2 **Conveyance of the Property.**

At Closing, Seller shall convey title to the Real Property to Buyer, subject only to (i) liens to secure payment of non-delinquent real property taxes and other governmental assessments, (ii) the rights of tenants under the Leases, (iii) all exceptions of record (other than Seller Liens), (iv) all matters identified on the Survey, (v) applicable zoning and building ordinances and land use regulations, or other governmental regulation restricting or regulating the use, occupancy and enjoyment of the Real Property, and (vi) the Permitted Encumbrances. The foregoing permitted exceptions to title are collectively referred to herein as the “Permitted Exceptions”; provided, however, that the Permitted Exceptions shall not include (a) any mortgages, financing statements, security agreements, judgments and other monetary liens, whether voluntary or involuntary, caused, permitted or suffered by Seller (each, a “Seller Lien”) or (b) any encumbrance identified in the Initial Response Notice that Seller agreed to remove at Closing. Any provision in this Agreement to the contrary notwithstanding, Seller shall have no obligation or liability to Buyer with respect to any of the Permitted Exceptions, whether or not all of the Permitted Exceptions are specifically referenced in the Deed.

6.3 **Possession.** Possession of the Property shall be delivered to Buyer at the Closing.

6.4 **Prorations.** All rents, other amounts payable by the tenants under the Leases, income, rent, utilities and all other operating expenses with respect to the Property for the month in which the Closing occurs, and real estate and personal property taxes and other assessments and any payments in lieu of taxes with respect to the Property for the year in which the Closing occurs, shall be prorated to the date of Closing. Prorations shall be made consistent with local

customs and practices, including, without limitation, proration of real estate taxes based on the fiscal year.

- (a) If the Closing shall occur before rents and all other amounts payable by the tenants under the Leases and all other income from the Property have actually been paid for the month in which the Closing occurs, the apportionment of such rents and other amounts and other income shall be upon the basis of such rents, other amounts and other income actually received by Seller. Subsequent to the Closing, if any rents and other income are actually received by Buyer for periods prior to the Closing, all amounts applicable to periods prior to the Closing shall immediately be paid by Buyer to Seller, with the balance, if any, applied in the discretion of Buyer. Buyer shall make a good faith effort and attempt to collect any such rents and other amounts and other income not apportioned at the Closing for the benefit of Seller; provided, however, that Buyer shall not be required to expend any funds or institute any litigation in its collection efforts. Nothing in this paragraph shall restrict Seller's right to collect delinquent rents directly from a tenant by any legal means.
- (b) Buyer shall be entitled to a credit for all security and other deposits held by Seller as of the Closing Date with respect to the Leases being assigned to Buyer at Closing.
- (c) If the Closing shall occur before the actual amount of utilities and all other operating expenses with respect to the Property for the month in which the Closing occurs are determined, the apportionment of such utilities and other operating expenses shall be upon the basis of a reasonable estimate by Seller and approved by Buyer of such utilities and other operating expenses for such month. Subsequent to the Closing, when the actual amount of such utilities and other operating expenses with respect to the Property for the month in which the Closing occurs are determined, the parties agree to adjust the proration of such utilities and other operating expenses and, if necessary, to refund or repay such sums as shall be necessary to effect such adjustment.

6.5 **Closing Costs.** Buyer shall pay, on Closing, recording fees (other than recording fees associated with the removal of encumbrances to title) and one-half (1/2) of any escrow fees and other customary charges of Title Company, the cost of the ALTA Owner's Policy of Title Insurance and such endorsements as Buyer may designate. Seller shall pay, on the Closing, the

cost of conveyance taxes due in connection with the sale of the Property and one-half (1/2) of any escrow fees and other customary charges of Title Company.

6.6 **Seller's Deliveries at Closing.** At the Closing, Seller shall deliver the following:

- (a) **Evidence of Authority.** Such organizational and authorizing documents of Seller as shall be required by the Title Company to evidence Seller's authority to consummate the transactions contemplated by this Agreement.
- (b) **Warranty Deed (Exhibit J).** A Warranty Deed for the Real Property (the "Deed") in the form attached hereto as Exhibit J duly executed and acknowledged by Seller conveying the Real Property to Buyer.
- (c) **Rent Roll.** A rent roll for the Property (the "Closing Rent Roll") dated as of Closing and certified by Seller listing each tenant, the monthly base rent payable, lease expiration date, refundable security deposit and any other refundable deposits or prepaid rent paid by such tenant, reflecting any rent due at the time of closing, and containing such other information as is contained on the Rent Roll.
- (d) **Leases.** The originals of all the Leases in the possession of Seller or Seller's property management company (to be delivered in place at the Property). Buyer shall receive a credit at closing for the security deposits (i.e., all amounts due to tenants under the Leases), and a prorated amount of rent due under the Leases for the month in which the Closing occurs, as provided for in Section 6.4.
- (e) **Keys and Plans.** Keys and/or codes to all locks and security devices or systems, and all plans and specifications for the Property, if in the possession of Seller or its property manager, shall be delivered to Buyer's representative at the Property.
- (f) **Contracts.** The originals of all the Contracts, if any, in the possession of Seller shall be delivered in place at the Property.
- (g) **Estoppel Certificates (Exhibit L).** Estoppel Certificates, signed by each tenant. Notwithstanding the foregoing, obtaining an Estoppel Certificate from each tenant shall not be a Condition Precedent to Buyer's obligation to Close the purchase of the Property.
- (h) **Estoppel Certificate (Exhibit M).** An Estoppel Certificate, signed by Seller as to the Tenant Leases.
- (i) **FIRPTA and HARPA Affidavits (Exhibits G and H, respectively).** Affidavits sworn to by Seller, as required by both federal and State of Hawaii law, as amended, to the effect that Seller is not a "foreign person"

as that term is defined under FIRPTA and is not a “nonresident person” as such term is defined under HARPA.

- (j) **Conveyance Tax Certificate**. The Conveyance Tax Certificate for the transfer of the Real Property, executed by Seller.
- (k) **Tenant Notices**. Subject to Section 6.8(a), the Tenant Notices, executed by Seller.
- (l) **Amended and Restated Master Plan Development Agreement (Exhibit O)**. The Amended and Restated Master Plan Development Agreement required by Section 1.3(f) of this Agreement duly executed by Seller in the form attached hereto as Exhibit O.
- (m) **Other Seller Deliveries**. Such other instruments, affidavits and tax returns as are customarily executed by Seller of an interest in real property.

6.7 **Buyer’s Deliveries at Closing**. At the Closing, Buyer shall deliver to Title Company for delivery to Seller, the following:

- (a) **Certification (Exhibit K)**. The written certification by Buyer required by Section 1.3(e) of this Agreement duly executed by Buyer in the form attached hereto as Exhibit K.
- (b) **Evidence of Authority**. Such organizational and authorizing documents of Buyer as shall be reasonably required by the Title Company, authorizing Buyer’s acquisition of the Property pursuant to this Agreement and the execution of this Agreement and any documents to be executed by Buyer at the Closing.
- (c) **Warranty Deed (Exhibit J)**. The Deed in the form attached hereto as Exhibit J duly executed and acknowledged by Buyer.
- (d) **Amended and Restated Master Plan Development Agreement (Exhibit O)**. The Amended and Restated Master Plan Development Agreement required by Section 1.3(f) of this Agreement duly executed by Buyer in the form attached hereto as Exhibit O.
- (e) **Other Buyer Deliveries**. Such other instruments, affidavits and tax returns as are customarily executed by Buyer of an interest in real property.

6.8 **Documents to be Executed by Seller and Buyer.** Seller and Buyer shall also execute and deliver to the Title Company the following original, fully executed documents at Closing:

- (a) Tenant Notices. Signed notice form from which notices to each tenant of the Property will be prepared and delivered by Buyer, in the form attached to this Agreement as Exhibit D (the “Tenant Notice”), notifying such tenants that the Property and all security deposits and last month’s rent paid have been transferred to Buyer, that Buyer has assumed responsibility therefore and is responsible for and is holding the security deposit and last month’s rent deposited or paid by tenant, as applicable, that all future rent shall be paid to Buyer, and otherwise complying with any applicable law or regulation. Notwithstanding the foregoing, obtaining a Tenant Notice from each Tenant shall not be a Condition Precedent to Buyer’s obligation to Close the purchase of the Property.
- (b) Bill of Sale and Assignment and Assumption in the form attached to this Agreement as Exhibits E and F, respectively.
- (c) Closing statements prepared by the Title Company reflecting all payments, prorations, charges, and costs of transfer.

6.9 **Risk of Loss.** If between the Effective Date and the Closing (i) the Improvements are materially damaged or (ii) the Property or any material portion thereof is taken or threatened by eminent domain, Seller shall promptly, and in any event prior to the Closing, notify Buyer of same. Buyer may elect, by written notice delivered to Seller within fifteen (15) days after receipt of such notice to terminate this Agreement without further liability to Buyer and neither party shall have any further obligation to the other hereunder except for the Surviving Obligations. In the event that the Closing Date is less than fifteen (15) days after receipt of such notice regarding material damage or threatened eminent domain the Closing Date shall be extended as necessary to permit Buyer the full fifteen (15) days to determine whether or not it will terminate this Agreement. As used herein “material damage” or “material portion” means damage or a taking, as applicable, the costs of which in Buyer’s reasonable judgment is Fifty Thousand Dollars (\$50,000) or more for repair. If Buyer does not so terminate, (i) in the case of material damage, Seller shall assign to Buyer at the Closing its right to recover under any insurance policies covering such damage and shall pay to Buyer (or credit against the Purchase Price) at the Closing the amount of the deductible or other self-insured retention, if any, and the amount, if any, of the uninsured portion of the casualty, and (ii) in the case of an actual taking of a material portion of the Property, Seller shall assign to Buyer at the Closing Seller’s entire right, title and interest in the proceeds thereof. If between the date hereof and the Closing Date the Improvements suffer damage, other than reasonable wear and tear, which is not material, Buyer shall continue to be required to purchase the Property hereunder without offset against the Purchase Price, however, Seller shall assign to Buyer at the Closing Seller’s right to collect any and all insurance proceeds available for the repair of such damage, and Seller shall pay to Buyer (or credit against the Purchase Price) the amount of any deductible or other self-insurance retention and the amount, if any, of the uninsured portion of the casualty. In the case of a Proceeding that detrimentally

affects the value of the Property, the Purchase Price shall be adjusted to account for the dollar amount by which the Property is reduced in value as a result of such Proceeding.

ARTICLE 7
DEFAULT

7.1 **Liquidated Damages.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IF BUYER HAS NOT TERMINATED THIS AGREEMENT PRIOR TO THE EXPIRATION OF THE APPROVAL PERIOD AND IF THE SALE OF THE PROPERTY TO BUYER IS NOT CONSUMMATED DUE TO A DEFAULT OF BUYER, BUYER AND SELLER AGREE THAT BUYER SHALL IMMEDIATELY PAY TO SELLER, THE SUM OF TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), AS SELLER’S LIQUIDATED DAMAGES. THE PARTIES AGREE THAT IT WOULD BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO ASCERTAIN THE ACTUAL DAMAGES SUFFERED BY SELLER AS A RESULT OF BUYER’S FAILURE TO COMPLETE THE PURCHASE OF THE PROPERTY PURSUANT TO THIS AGREEMENT, AND THAT UNDER THE CIRCUMSTANCES EXISTING AS OF THE DATE OF THIS AGREEMENT, THE LIQUIDATED DAMAGES PROVIDED FOR IN THIS SECTION REPRESENTS A REASONABLE ESTIMATE OF THE DAMAGES WHICH SELLER WILL INCUR AS A RESULT OF SUCH FAILURE,.

THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY. THE PARTIES HAVE SET FORTH THEIR INITIALS BELOW TO INDICATE THEIR AGREEMENT WITH THE LIQUIDATED DAMAGES PROVISION CONTAINED IN THIS SECTION.

SELLER’S INITIALS		BUYER’S INITIALS
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7.2 **Buyer’s Sole Remedy.** In the event Seller fails to perform any act required to be performed by Seller pursuant to this Agreement on or before the Closing, then Buyer shall execute and deliver to Seller written notice of such breach, which notice shall set forth complete information about the nature of the breach. Seller shall have a period of ten (10) days to cure such breach. If such breach remains uncured beyond the ten (10) day period described above, then Buyer’s sole and exclusive remedy shall be to cancel this Agreement and Buyer shall be entitled to recovery of its out of pocket costs.

ARTICLE 8
OPERATING COVENANTS

8.1 **Maintenance of Property.** Between the Effective Date and the Closing, Seller shall maintain the Property in the same order, condition and repair, reasonable wear and tear excepted, shall perform all work required to be performed by the landlord under the terms of any

Lease, shall make all repairs, maintenance and replacements to the Property and any Personal Property consistent with past operating practices, and shall operate the Property in material compliance with all applicable laws, rules and regulations and otherwise in the same manner as before the making of this Agreement, as if Seller were retaining the Property. Any Personal Property that is removed shall be replaced by Seller with personal property or such asset of at least equal quality and utility.

8.2 **Leasing.** Seller shall use commercially reasonable efforts until Closing to lease any vacant space in a habitable condition, or space becoming vacant, to tenants utilizing the criteria Seller used prior to execution of this Agreement. Nothing contained here shall restrict the right of Seller to amend, modify and enforce such Leases in the ordinary course of business, nor shall anything herein restrict the right of Seller to enter into or extend any Contract in the ordinary course of business as long as such Contract can be terminated, without penalty or payment, upon not more than thirty (30) days' notice.

8.3 **Leasing Reports.** From the Effective Date until the Closing or earlier termination of this Agreement, Seller shall provide to Buyer, upon request, but no more than monthly, a leasing status report containing such information concerning occupancy, the terms of any new leases and information about tenants as Buyer shall reasonably request.

8.4 **Seller Cooperation.** Seller shall cooperate and do all acts as may be reasonably required or requested by Buyer with regard to the fulfillment of any Condition Precedent set forth in Section 4.2 hereof and with regard to obtaining any necessary consent and approval to transfer the Property as contemplated hereunder, without material cost or expense to Seller. Seller hereby irrevocably authorizes Buyer and its agents to make all inquiries with and applications to any third party, including any governmental authority, as Buyer may reasonably require to complete its due diligence or to fulfill any such Conditions Precedent.

8.5 **No Modification to Title.** From and after the Effective Date, Seller shall not take any actions that would (i) create any additional, or modify, amend or terminate any existing, covenants, conditions, restrictions, easements, liens, rights, rights of way or other encumbrances affecting title to the Property, except in accordance with Section 4.1(e) above, or (ii) modify the current zoning, land use entitlements or permits affecting the Property, without in each case obtaining Buyer's prior written consent thereto, which consent shall not be unreasonably withheld.

8.6 **No Marketing.** From and after the Effective Date, Seller will cease all efforts to market the Property for sale either directly or through its agents and will not entertain or accept any offers to Purchase the Property or any interest therein.

ARTICLE 9 **MISCELLANEOUS**

9.1 **Notices.** All notices, demands and requests which may be given or which are required to be given by either party to the other, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be given by either: (a) personal

delivery to the address below, as evidenced by written receipt therefor, whether or not actually received by the person to whom addressed with a copy via email; (b) certified mail, return receipt requested, addressed to the intended recipient at the address specified below, whether or not actually received by the person to whom addressed with a copy via email; or (c) by a nationally recognized overnight delivery service such as FedEx, addressed to such party at the address specified below, whether or not actually received by the person to whom addressed with a copy via email. Such notices shall be deemed delivered on the date shown on the delivery receipt as the date of delivery, the date delivery was refused or the date the item was returned as undeliverable. For purposes of this Section 9.1, the addresses of the parties for all notices are as follows (unless changed by similar notice in writing given by the particular person whose address is to be changed):

If to Seller:

<p>Block G Ward Village, LLC:</p> <p>By Victoria Ward, Ltd, its Member</p> <p>Attention: Mr. Doug Johnstone</p> <p>Address: 1240 Ala Moana Blvd, Ste. 200</p> <p>Honolulu, HI 96814</p> <p>Telephone Number: (808) 791-2004</p> <p>Email: doug.johnstone@howardhughes.com</p>	<p>With a copy to:</p> <p>Attention: _____</p> <p>Address: _____</p> <p>_____</p> <p>Telephone Number: _____</p> <p>Email: _____</p>
---	--

If to Buyer:

<p>Hawaii Community Development Authority:</p> <p>Attention: Mr. Craig Nakamoto</p> <p>Address: 547 Queen Street</p> <p>Honolulu, HI 96813</p> <p>Telephone Number: (808) 594-0300</p> <p>Email: craig.k.nakamoto@hawaii.gov</p>	<p>With a copy to:</p> <p>Attention: Ms. Kelly Suzuka</p> <p>Address: 425 Queen Street</p> <p>Honolulu, HI 96813</p> <p>Telephone Number: (808) 586-1500</p> <p>Email: kelly.k.suzuka@hawaii.gov</p>
--	--

If to Title Company:

Title Company: Title Guaranty Hawaii	
Attention: _____	
Address: 235 Queen Street	
Honolulu, HI 96813	
Telephone Number: (808) 521-0213	
Email: _____	

9.2 **Real Estate Broker Commissions.** Buyer and Seller acknowledge that there are no brokers in connection with the Sale.

9.3 **Entire Agreement.** This Agreement embodies the entire agreement between the parties relative to the subject matter hereof, and there are no oral or written agreements between the parties, nor any representation made by either party relative to the subject matter hereof, which are not expressly set forth herein.

9.4 **Amendment.** This Agreement may be amended only by a written instrument executed by the party or parties to be bound thereby.

9.5 **Headings.** The captions and headings used in this Agreement are for convenience only and do not in any way limit, amplify, or otherwise modify the provisions of this Agreement.

9.6 **Time of Essence.** Time is of the essence of this Agreement; however, if the final date of any period which is set out in any provisions of this Agreement falls on a Saturday, Sunday, or legal holiday under the law of the United States or the State of Hawaii, then, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

9.7 **Governing Law.** This Agreement shall be governed by the laws of the State of Hawaii without regard to principles of conflicts of laws.

9.8 **Assignment.** This Agreement shall bind and inure to the benefit of Seller and Buyer and their respective heirs, executors, administrators, personal and legal representatives, successors and permitted assigns.

9.9 **Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this

Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never compromised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid, or unenforceable provision or by its severance from this Agreement.

9.10 **Electronic Distribution and Execution.** This Agreement and any amendment hereto may be distributed and executed by email or other electronic means, and a copy of this Agreement and any amendment thereto executed and distributed electronically shall be deemed fully binding and an original for all purposes.

9.11 **Attorneys' Fees.** In the event it becomes necessary for either party hereto to take legal action to enforce this Agreement or any provision contained herein, the party prevailing in such suit shall be entitled to recover, in addition to all other remedies or damages, as provided herein, reasonable attorneys' fees incurred in such legal action as allowed by law.

9.12 **Multiple Counterparts.** This Agreement may be executed electronically and via email in counterparts, each of which shall be an original, but all of which shall constitute one and the same Agreement.

9.13 **No Recordation.** Seller and Buyer hereby acknowledge that neither this Agreement nor any memorandum of affidavit thereof shall be recorded of public record in any county.

9.14 **No Third Party Beneficiaries.** This agreement is not intended, and shall not be deemed or construed, to confer any rights, powers or privileges on any person, firm, partnership, corporation, or other entity not a party hereto, except as otherwise expressly provided herein.

9.15 **No Party Deemed Drafter.** The parties agree that neither party shall be deemed to be the drafter of this Agreement and further that in the event that this Agreement is ever construed by a court of law, such court shall not construe this Agreement or any provision of this Agreement against either party as the drafter of this Agreement.

9.16 **No Partnership.** Seller and Buyer are not and shall not be considered joint venturers or partners and neither shall have the power to bind, obligate or represent the other except as and to the extent expressly set forth herein.

9.17 **Merger Provision.** Except as otherwise expressly provided herein, any and all rights of action of Buyer for any breach by Seller of any representation, warranty or covenant

contained in this Agreement shall merge with the instruments executed at Closing, shall terminate at Closing and shall not survive Closing.

9.18 **Exhibits.** The following exhibits attached hereto as incorporated herein as through fully set forth herein:

<u>Exhibit</u>	<u>Title</u>
A	Legal Description of Real Property
B	Schedule of Personal and Intangible Property
C	Due Diligence List
D	Tenant Notices
E	Bill of Sale
F	Assignment of Tenant Leases, Contracts and Intangibles
G	FIRPTA Certification
H	HARPA Certification
I	Inspection Insurance Requirements
J	Form of Deed
K	Certification of Use and Transfer of Supplemental Floor Area
L	Form of Estoppel Certificate (Tenant)
M	Form of Estoppel Certificate (Landlord)
N	Notice of Liens or Other Legal Actions to be Assessed Against Property
O	Amended and Restated Master Plan Development Agreement for the Ward Neighborhood Master Plan

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

SELLER:

BLOCK G WARD VILLAGE, LLC

A Delaware limited liability company

By: Victoria Ward, Limited, a Delaware corporation

Its: Member

By: Doug Johnstone

Its: Vice President

BUYER:

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

A body corporate and a public instrumentality of the State of Hawaii

By: Craig Nakamoto

Its: Executive Director

APPROVED AS TO FORM:

By: Kelly Suzuka

Deputy Attorney General

State of Hawaii

EXHIBIT A

Legal Description of Real Property

DRAFT

EXHIBIT B

Schedule of Personal and Intangible Property

1. None.

DRAFT

EXHIBIT C
Due Diligence List

DRAFT

EXHIBIT D

Tenant Notices

DRAFT

EXHIBIT E

Bill of Sale

BLOCK G WARD VILLAGE, LLC, a Delaware limited liability company (“**Assignor**”), for and in consideration of the sum of ten dollars (\$10.00) in hand paid by the Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii (“**Assignee**”) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, has granted, bargained, sold, assigned, transferred and delivered, and by these presents does hereby grant, bargain, sell, the following (the “**Personal Property**”):

1. All of the right, title and interest of Assignor in and to all furniture, furnishings, fixtures, equipment, machinery, maintenance vehicles and equipment, tools, parts, recreational equipment, carpeting, window treatments, stationery and other office supplies, and other tangible personal property of every kind and description situated in, on, over and under the land located on at: 1) 610 Ward Avenue, Honolulu, Hawaii 96813 (TMK No. (1) 2-1-049: 063); and 2) 873 Kapiolani Boulevard, Honolulu, Hawaii 96813 (TMK No. (1) 2-1-049: 080) (collectively, the “Property”) or the buildings, structures and improvements located on the Property (including, without limitation, all related common and limited common areas, facility(ies) and all other structures, driveways, sewer, water, drainage and other utility infrastructure or improvements located on the Property), or used in connection therewith, owned by Seller and which is not owned by tenants under any tenant leases for the Property, or any portion thereof, together with all replacements and substitutions therefor.
2. All of the right, title and interest of Assignor in and to all other personal property described in Exhibit “1” attached hereto.
3. The Personal Property shall be in an “AS-IS, WHERE-IS and WITH ALL FAULTS” CONDITION, under the Agreement, the terms of which are incorporated herein by this reference.

This Bill of Sale may be executed in counterparts and electronically, each of which shall be deemed an original regardless of the date of its execution and delivery. All of such counterparts together shall constitute one and the same document, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be duly executed as of _____, _____, 2024.

BLOCK G WARD VILLAGE, LLC, a Delaware limited liability company

By: Victoria Ward, Limited, a Delaware corporation

Its: Member

By: Doug Johnstone

Its: Vice President

“Assignor”

Approved as to Form:

HAWAII COMMUNITY DEVELOPMENT AUTHORITY, a body corporate and a public instrumentality of the State of Hawaii

Name: _____

Deputy Attorney General

By: _____

Its: _____

“Assignee”

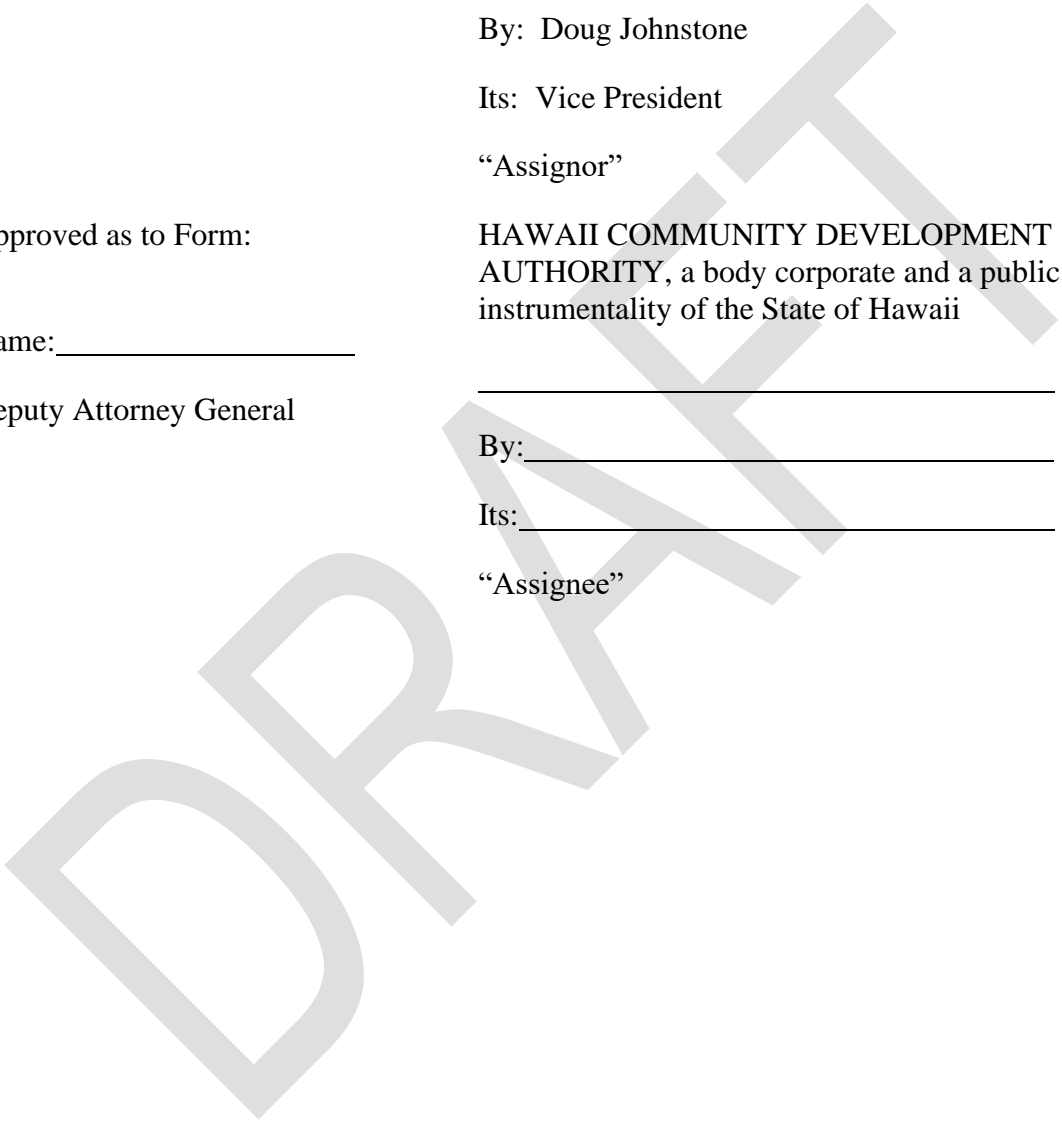


EXHIBIT F

Assignment of Tenant Leases, Contracts and Intangibles

This **ASSIGNMENT OF TENANT LEASES, CONTRACTS AND INTANGIBLES** (the “**Assignment**”) is made as of this ____ day of _____, 2024 by BLOCK G WARD VILLAGE, LLC, a Delaware limited liability company (“**Assignor**”) and HAWAII COMMUNITY DEVELOPMENT AUTHORITY, a body corporate and a public instrumentality of the State of Hawaii (“**Assignee**”).

RECITALS

Assignor is the owner of that certain real property (the “**Property**”) located at: 1) 610 Ward Avenue, Honolulu, Hawaii 96813 (TMK No. (1) 2-1-049: 063); and 2) 873 Kapiolani Boulevard, Honolulu, Hawaii 96813 (TMK No. (1) 2-1-049: 080), and the improvements located thereon, and Assignor owns or holds various contract rights and other intangibles related to the Property.

Assignor and Assignee have entered into that certain Purchase and Sale Agreement dated _____, as the same may be amended from time to time (the “**Purchase Agreement**”), pursuant to which the Assignor has agreed to sell, convey, transfer and assign to Assignee the Property described in the Purchase Agreement, including the Assigned Property, as defined and described below;

WHEREAS, in performance of its obligations under the Purchase Agreement, the Assignor desires to execute and deliver this Assignment to Assignee to assign to Assignee the Assigned Property; and

NOW, THEREFORE, for and in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **Definitions.** All of the capitalized terms in this Assignment shall have the same definitions and meanings as used in the Purchase Agreement.
2. **Assignment.** As of the Closing Date, Assignor hereby sells and assigns to Assignee all of its rights, title and interest in and to the following (collectively, the “**Assigned Property**”):
 - a. All tenant leases, including security deposits, or other leases affecting the Property, together with any amendments or modifications thereto, including, but not limited to those leases described in Exhibit “A” attached hereto and incorporated herein by reference (“**Tenant Leases**”);

- b. All service contracts and the other intangible personal property now or hereafter owned by Assignor in which Assignor otherwise has an interest and used in connection with or arising from the business now or hereafter conducted on or from the Property or any part thereof, including, without limitation, claims, choses in action, tax appeals, license and other contract rights, and any amendments or modifications thereto, including, but not limited to those contracts described in Exhibit “B” attached hereto and incorporated herein by reference (the “**Contracts**”);
 - c. A credit at Closing for all security deposits held by Assignor under the Tenant Leases;
 - d. All residual receipts and replacement, repair or maintenance reserve accounts and funds relating to the Property, but expressly excluding the Reserves (as defined in the Purchase Agreement);
 - e. All existing surveys, blueprints, drawings, plans and specifications (including, without limitation, structural, HVAC, mechanical and plumbing plans and specifications) and other documentation for or with respect to the Property or any part thereof; all construction drawings, soil tests, environmental reports; appraisals and police reports; all available tenant lists and data, correspondence with past, present and prospective tenants, vendors, suppliers, utility companies and other third parties, stationery, brochures, booklets, manuals and promotional and advertising materials concerning the Property or any part thereof; and such other existing books, records and documents (including, without limitation, those relating to ad valorem taxes and leases) used in connection with the operation of the Property or any part thereof; and
 - f. Any and all other Intangibles intended by the parties to be assigned as set forth in the Purchase Agreement.
3. Assignee’s Assumption of Obligations. Assignee will faithfully observe and perform all of the covenants and conditions that are contained in or relating to the Assigned Property, accruing on or after the Closing Date, which are or ought to be observed or performed by Assignor under the Assigned Property.
4. “AS-IS, WHERE-IS and WITH ALL FAULTS” CONDITION. Assignee hereby covenants with Assignor, on behalf of itself and its successors and assigns, that Assignor is selling and Assignee is purchasing the Property in an “AS-IS, WHERE-IS and WITH ALL FAULTS” CONDITION, under the Purchase Agreement between Assignor and Assignee, the terms of which are incorporated herein by this reference.
5. Miscellaneous.

- a. Full Force and Effect. Except as expressly set forth herein, the terms of the Tenant Leases and Contracts shall remain in full force and effect, unaltered by this Assignment.
- b. Governing Law. This Assignment shall be construed under and governed by the laws of the State of Hawaii.
- c. Attorneys' Fees. In the event of any controversy, claim or dispute between the parties hereto arising out of or relating to this Assignment, each party shall bear its own costs, including attorney's fees as allowed by law.
- d. Counterparts. This Assignment may be executed in counterparts and electronically, each of which shall be deemed an original regardless of the date of its execution and delivery. All of such counterparts together shall constitute one and the same document, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterpart.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be duly executed as of the day and year first above written.

BLOCK G WARD VILLAGE, LLC, a Delaware limited liability company

By: Victoria Ward, Limited, a Delaware corporation

Its: Member

By: Doug Johnstone

Its: Vice President

“Assignor”

Approved as to Form:

HAWAII COMMUNITY DEVELOPMENT AUTHORITY, a body corporate and a public instrumentality of the State of Hawaii

Name: _____

Deputy Attorney General

By: _____

Its: _____

“Assignee”

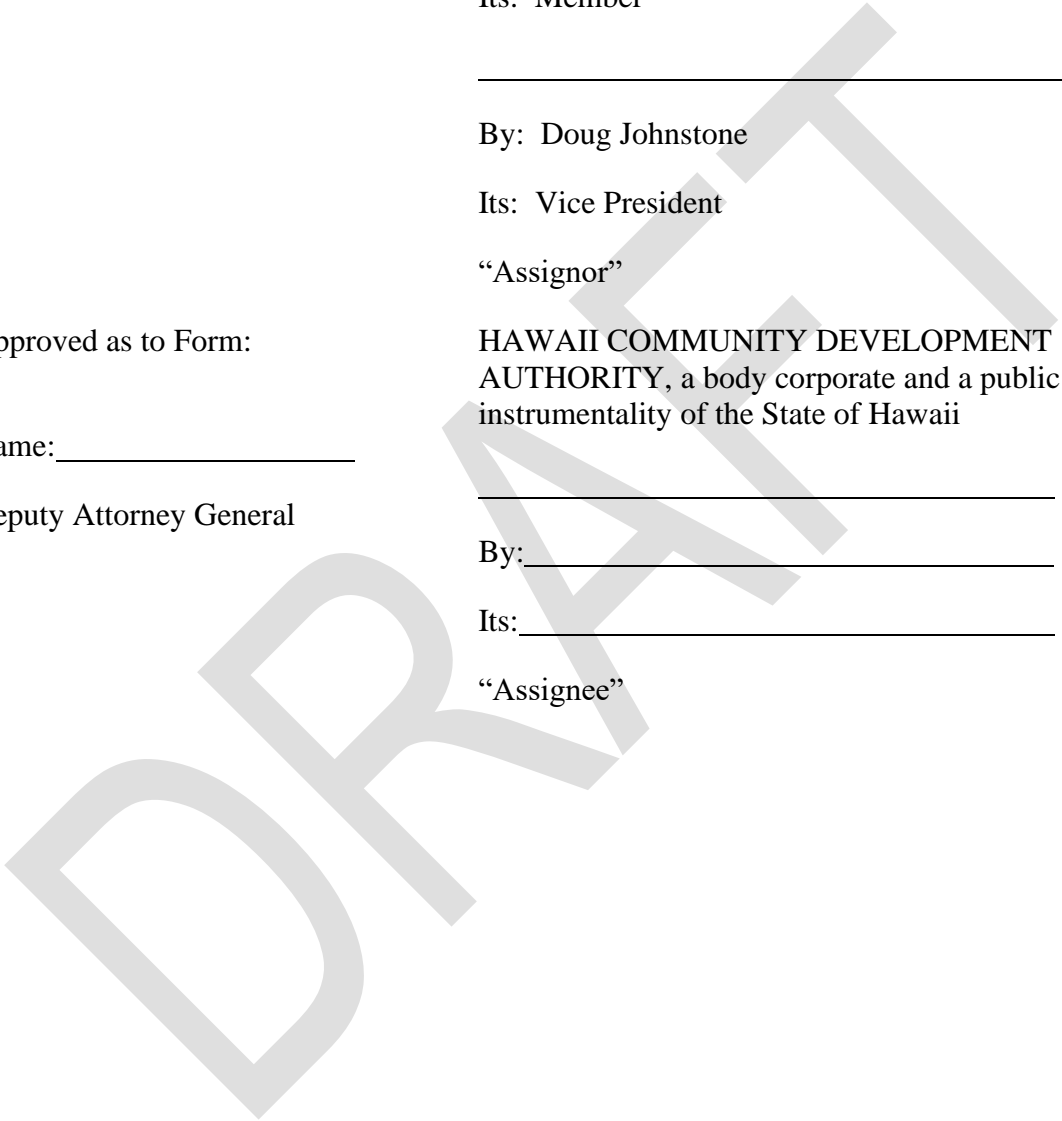


EXHIBIT "A"
TENANT LEASES

DRAFT

EXHIBIT "B"
CONTRACTS

DRAFT

EXHIBIT G

FIRPTA Certification

CERTIFICATE OF NONFOREIGN STATUS

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by BLOCK G WARD VILLAGE, LLC (“**Seller**”), the undersigned hereby certifies the following on behalf of Seller:

1. Seller is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Seller is not a disregarded entity as defined in Income Tax Regulations section 1.1445-2(b)(2)(iii);
3. Seller’s U.S. employer identification number is _____; and
4. Seller’s office address is _____.

Seller understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Seller.

Dated: _____.

BLOCK G WARD VILLAGE, LLC

A Delaware limited liability company

By: Victoria Ward, Limited, a Delaware corporation

Its: Member

By: Doug Johnstone

Its: Vice President

EXHIBIT H

HARPA Certification

FORM N-289
(REV. 2019)

STATE OF HAWAII — DEPARTMENT OF TAXATION

CERTIFICATION FOR EXEMPTION FROM THE WITHHOLDING OF TAX ON THE DISPOSITION OF HAWAII REAL PROPERTY

(To be completed by transferor/seller and given to transferee/buyer. The transferor/seller should NOT file Form N-289 with the Department of Taxation for approval.)

Section 235-68, Hawaii Revised Statutes (HRS), provides that a transferee/buyer of Hawaii real property must withhold tax if the transferor/seller is a nonresident person. To inform the transferee/buyer that withholding of tax is not required upon the disposition of Hawaii real property by _____ (name of transferor/seller), the undersigned hereby certifies the following:

Transferor/seller's identification number (Last 4 numbers of the SSN or FEIN) _____

Transferor/seller's address (home address for individuals, office address for corporations, partnerships, trusts, or estates)

The withholding of tax is not required upon the disposition of Hawaii real property because (check whichever box is applicable):

- 1 The transferor/seller is a resident person as defined in section 235-68, HRS. **Resident person** means any: (1) Individual included in the definition of "resident" in section 235-1, HRS; (2) Corporation incorporated or granted a certificate of authority under Chapter 414, 414D, or 415A, HRS; (3) Partnership formed or registered under Chapter 425 or 425E*, HRS; (4) Foreign partnership qualified to transact business pursuant to Chapter 425 or 425E*, HRS; (5) Limited liability company formed under Chapter 428, HRS, or any foreign limited liability company registered under Chapter 428, HRS; provided that if a single member limited liability company has not elected to be taxed as a corporation, the single member limited liability company shall be disregarded for purposes of section 235-68, HRS, and section 235-68, HRS, shall be applied as if the sole member is the transferor; (6) Limited liability partnership formed under Chapter 425, HRS; (7) Foreign limited liability partnership qualified to transact business under Chapter 425, HRS; (8) Trust included in the definition of "resident trust" in section 235-1, HRS; or (9) Estate included in the definition of "resident estate" in section 235-1, HRS.
***Note:** Chapter 425E, HRS, replaced chapter 425D, HRS, effective July 1, 2004.
- 2 That by reason of a nonrecognition provision of the Internal Revenue Code as operative under chapter 235, HRS, or the provisions of any United States treaty, the transferor/seller is not required to recognize any gain or loss with respect to the transfer. (See Instructions) (Complete A and B below.)

A. Brief description of the transfer:

B. Brief summary of the law and facts supporting the claim that recognition of gain or loss is not required with respect to the transfer:

- 3 For the year preceding the date of the transfer the property has been used by the transferor/seller as a principal residence, and that the amount realized for the property does not exceed \$300,000. (See Instructions)

_____ (name of transferor/seller) understands that this certification may be disclosed to the State of Hawaii, Department of Taxation by the transferee/buyer and that any false statement contained herein could be punished by fine, imprisonment, or both.

I declare, under the penalties set forth in section 231-36, HRS, that this certification has been examined by me, and to the best of my knowledge and belief, it is true, correct, and complete. In the case of corporations, partnerships, trusts, or estates, I further declare that I have authority to sign this document on behalf of _____ (name of transferor/seller).

Signed: _____

Print Name: _____

Title: _____

Date: _____

FORM N-289

EXHIBIT I

Inspection Insurance Requirements

Commercial General Liability Insurance, including but not limited to, Automobile Liability Insurance or Comprehensive General Liability Insurance, including contingent liability and contractual liability, for bodily injury and property damage liability covering all of the operations of Hawaii Community Development Authority's agents and contractors in forms satisfactory to Block G Ward Village, LLC, and with limits of liability which shall not be less than the following:

- \$1,000,000 bodily or personal injury per occurrence;
- \$1,000,000 automobile liability per accident;
- \$1,000,000 property damage per occurrence;
- \$2,000,000 combined single limit per occurrence; and
- \$2,000,000 yearly aggregate.

Hawaii Community Development Authority's agents and contractors shall provide an insurance binder to show compliance with this provision. Such Certificate of Insurance shall name BLOCK G WARD VILLAGE, LLC, its members, officers and board members as additional insureds with respect to liability arising out of activity and operations performed by Hawaii Community Development Authority's agents and contractors pursuant to this Agreement.

EXHIBIT J
Form of Deed

DRAFT

LAND COURT SYSTEM
After Recordation, Return by Mail () Pickup ()

REGULAR SYSTEM

Escrow No.: [Escrow No. Info.]

No. of Pages: [No. of Pages]

Tax Map Key Nos.: (1) 2-1-049: 063 & (1) 2-1-049: 080

WARRANTY DEED

THIS DEED, made this _____ day of _____, 2024, by and between BLOCK G WARD VILLAGE, LLC, a Delaware limited liability company, hereinafter called the “**Grantor**”, and HAWAII COMMUNITY DEVELOPMENT AUTHORITY, a body corporate and a public instrumentality of the state of Hawaii, whose mailing address is 547 Queen Street, Honolulu, Hawaii 96813, hereinafter called the “**Grantee**”,

WITNESSETH :

That for Ten Dollars (\$10.00) and other valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey unto the Grantee, as **Tenant in Severalty**, all of that certain real property described in Exhibit A, attached hereto and made a part hereof (the “**Land**”).

And the reversions, remainders, rents, issues and profits thereof and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with all buildings, improvements, rights, easements, privileges and appurtenances thereon and thereto belonging or appertaining or held and enjoyed therewith (all of the foregoing, together with the Land, are hereinafter collectively referred to as the “**Property**”), unto the Grantee according to the tenancy herein set forth, forever.

AND, in consideration of the premises, the Grantor does hereby covenant with the Grantee that the Grantor is seized of the Property herein described in fee simple; that said Property is free and clear of and from all liens and encumbrances, except for the lien of real property taxes not yet by law required to be paid, and except as may be specifically set forth herein; that the Grantor has good right to sell and convey said Property, as aforesaid; and, that the Grantor will WARRANT AND DEFEND the same unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

The conveyance herein set forth and the warranties of the Grantor concerning the same are expressly declared to be in favor of the Grantee, and the Grantee’s heirs, personal representatives, successors and assigns.

AND Grantee acknowledges and confirms that Grantee has inspected and investigated the Property, that Grantee acknowledges the physical condition of the Property, and accepts the same “AS IS” and “WHERE IS” as of the date hereof, without any representations or warranties whatsoever, either expressed or implied, by Grantor or any person acting for Grantor, as to, but not limited to, the Property’s suitability, habitability, condition, eligibility, merchantability or fitness for a particular purpose, condition, state of repair, operating order, safety, the presence of hazardous or toxic materials or substances (such as materials or substances that may now or in the future be determined to be hazardous or toxic by any state or federal environmental law or regulation), flood control, use, zoning, income, structural soundness, fitness for any particular purpose, or compliance with laws and/or regulations, including, but not limited, zoning or use, building or plumbing codes, or the status of development rights.

The terms “Grantor” and “Grantee,” as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, individuals, partnerships, trustees or corporations and their and each of their respective successors, heirs, personal representatives, successors in trust and assigns, according to the context thereof. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere herein.

This instrument may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties herein have executed these presents on the day and year first above written.

**(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE TO FOLLOW)**

BLOCK G WARD VILLAGE, LLC
a Delaware limited liability company

By: Victoria Ward, Limited, a Delaware corporation

Its: Member

By: Doug Johnstone

Its: Vice President

“Grantor”

STATE OF HAWAII)

CITY AND COUNTY OF CITY AND)
COUNTY OF HONOLULU)

SS.

On this ____ day of _____, 2024, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Notary Public in and for the
above named State and County

Name: _____

My commission expires: _____

Doc Date: _____	# Pages: _____
Name: _____	_____ Circuit
Doc. Description: _____	
_____ (Stamp or Seal)	
Notary Signature	
NOTARY CERTIFICATION	

**HAWAII COMMUNITY DEVELOPMENT
AUTHORITY**

Name:
Title:

“Grantee”

STATE OF HAWAII

)

:

SS.

CITY AND COUNTY OF CITY AND
COUNTY OF HONOLULU

)

On this _____ day of _____, 2024, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Notary Public in and for the
above named State and County

Name: _____

My commission expires: _____

Doc Date: _____ # Pages: _____

Name: _____ Circuit

Doc. Description: _____

_____ (Stamp or Seal)

Notary Signature

NOTARY CERTIFICATION

EXHIBIT A
Property Legal Description

DRAFT

EXHIBIT K

Certification of Use and Transfer of Supplemental Floor Area

[HCDA Letterhead]

[Date]

[VIA HAND DELIVERY AND EMAIL]

Mr. Doug Johnstone
Victoria Ward, Ltd.
1240 Ala Moana Boulevard, Suite 200
Honolulu, Hawai'i 96814

Re: Certification of Use and Transfer of Supplemental Floor Area

Dear Mr. Johnstone:

Pursuant to Sections 1.3(b), 1.3(c), 1.3(d), and 1.3(e) of the Purchase and Sale Agreement by and between Block G Ward Village, LLC as seller and the Hawaii Community Development Authority ("HCDA") as Buyer effective as of [Date] (the "Effective Date") for the sale of certain Property as defined and described therein (the "Agreement"), and in consideration of the closing of the transaction, the undersigned, as a duly authorized representative of HCDA, warrants, represents, and certifies to Victoria Ward, Ltd. ("VWL") that:

1. Pursuant to Section 1.3(b) of the Agreement, VWL, upon the assignment of the 163,000 square feet of Supplemental Floor Area that was provided by HCDA as the Purchase Price for the Property (the "Supplemental Floor Area"), shall have the right, in its discretion, to use the Supplemental Floor Area for residential, commercial, and/or industrial uses in connection with an amended Mahana Ward Village planned development permit application (KAK 23-027) (the "Amended Mahana Ward Village Application"), which, inclusive of design adjustments to accommodate the Supplemental Floor Area and/or reasonable podium tolerances, shall be subject to the HCDA Executive Director's processing, review and approval under the 2005 Mauka Area Rules;
2. Pursuant to Section 1.3(c) of the Agreement, upon the Effective Date, all deadlines in the Mahana Ward Village Decision and Order (KAK 23-027) and the deadline to issue the initial building permit for Mahana Ward Village pursuant to Hawaii Administrative Rules § 15-22-118 shall be deemed tolled from the date of the issuance of KAK 23-027 (September 6, 2023) until the final disposition by the HCDA Executive Director of the Amended Mahana Ward Village Application; and
3. Notwithstanding the provisions of Sections 1 and 2 above, upon approval by the HCDA Executive Director (which approval shall not be unreasonably withheld, conditioned or delayed), VWL may use the Supplemental Floor Area for other development(s) or re-development(s) within the former Ward Master Plan or the Kaka'ako Community

Development District in lieu of, or in addition to, Mahana Ward Village. Nothing herein shall preclude VWL, in its sole discretion, from transferring the floor area to a subsidiary of VWL or its corporate parent for such purposes.

The capitalized terms in this letter have the same meaning as those terms are defined in the Agreement. The provisions of this certification shall bind and inure to the benefit of HCDA and VWL and their respective successors, legal representatives and permitted assigns.

Sincerely,

Hawaii Community Development Authority, a body corporate and public instrumentality of the State of Hawaii

By: _____
Craig Nakamoto

Its: Executive Director

DRAFT

EXHIBIT L

Form of Tenant Estoppel Certificate

DRAFT

EXHIBIT M

Form of Landlord Estoppel Certificate

DRAFT

EXHIBIT N

Notice of Liens or Other Legal Actions to Be Assessed Against Property

1. None.

DRAFT

EXHIBIT O

**Amended and Restated Master Plan Development Agreement for
the Ward Neighborhood Master Plan**

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