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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A89-651
)	
HASEKO (HAWAII), INC.)	OFFICE OF PLANNING AND
)	SUSTAINBLE DEVELOPMENT'S
)	RESPONSE TO PETITIONER HASEKO
)	(EWA), INC.'S MOTION FOR
)	APPROVAL OF JOB CREDITS; AND
To Amend the Agricultural Land Use)	CERTIFICATE OF SERVICE
District Boundary into the Urban Land Use)	
District for Approximately 403.008 Acres of)	
Land at Honouliuli, Ewa, Oahu, Hawaii, Tax)	
Map Key No.: 9-1-12: 5 (por.), 6 (por.), and)	
23 (por.))	
_____)	

**OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT'S RESPONSE TO
PETITIONER HASEKO (EWA), INC.'S MOTION FOR APPROVAL OF JOB CREDITS**

On September 20, 2022, Petitioner Haseko (Ewa), Inc. (Haseko) filed its Motion for Approval of Job Credits (Motion). The Office of Planning and Sustainable Development (OPSD) supports the approval of Petitioner's Motion.

I. PETITIONER'S REQUEST

Petitioner is requesting that the Land Use Commission (LUC) issue an Order approving a total of 572.75 job credits in conformance with Condition 1 of the Findings of Fact, Conclusions of Law, and Decision and Order, issued on October 17, 1990. This request is for credits reported from 1991 through 2020.

Condition 1, as amended by the LUC in the Order Granting Motion for Approval of Job Credits and Motion for Clarification and/or Modification of Condition, issued on February 8, 1994 (1994 Order):

1. *Petitioner shall generate one (1) non-tourism job, or the equivalent value thereof, for each hotel or hotel/condominium unit Petitioner is allowed to build. As used herein, "non-tourism related" means not related to hotels or residential condominiums intended for use as transient accommodations or recreational entertainment or other facilities and services used primarily by tourists. The "equivalent value" of a non-tourism related job is in the range of \$25,000 to \$50,000.*

Satisfaction of this condition shall occur at the time Petitioner obtains a building permit and may be accomplished by the payment of \$25,000 for each hotel or hotel/condominium unit intended for transient accommodation for which a building permit is issued or in the following manner (provided that, with respect to subparagraphs a, and b, below, Petitioner may not apply any credit accrued and earned under both subparagraphs for the same facility to satisfy this condition):

a. Jobs Generated Via Construction.

Development of residential, commercial, industrial, recreational, institutional or other non-tourism related facilities generated construction jobs not related to tourism. Petitioner, therefore, directly or through local affiliates, may receive one job credit for each 25 man-years of labor generated by qualified project, which may be either within or outside of the Petition Area. (Hereafter, Petitioner and/or its affiliates shall collectively be referred to as "Developer".) One man-year shall equal 1920 hours of work; labor generated by the construction of a project shall include all work performed by the Developer's team (architects, engineers, consultants, contractors and subcontractors) in the development and construction of a non-tourism related project.

Not more than 25% of Petitioner's total job-generation requirement may be satisfied in this manner.

b. Jobs Generated Via Development of Non-Tourism Related Projects.

New facilities provide the means and opportunity for the establishment and/or growth of businesses and the generation of new, non-tourism related jobs. Petitioner, therefore, may receive credit for the development of new non-tourism related projects or facilities, either within or outside of the Petition Area. Credit for jobs created by such new facilities will be calculated on the basis of the degree of integration of the intended use of the facility with the tourist industry. Credit for one (1) non-tourism related job shall be given for the specified amount of floor space in the following types of facilities.

<i>Type of Facility</i>	<i>Floor Space (square feet)</i>	<i>Credit</i>
<i>Office</i>	<i>200</i>	<i>100%</i>
<i>Warehousing/Storage</i>	<i>1,000</i>	<i>100%</i>
<i>Manufacturing</i>	<i>300</i>	<i>100%</i>
<i>Research facility (e.g. High-Tech)</i>	<i>150</i>	<i>100%</i>
<i>Recreation and Other Activity Centers</i>	<i>1,000</i>	<i>100%</i>
<i>Agricultural Facility (e.g. Greenhouses and Processing Plants)</i>	<i>1,000</i>	<i>100%</i>
<i>Retailing</i>	<i>300</i>	<i>60%</i>

c. Start-Up Capital, Business Incentives and Job Training.

Petitioner may receive one (1) job credit for (i) each \$50,000 invested by Petitioner in a start-up of a non-tourism related business (by way of equity or investment into a loan fund for such business), (ii) each \$25,000 in incentives provided to a new, non-tourism related businesses, and/or (iii) each \$25,000 contributed in training programs for non-tourism related jobs. Petitioner shall consult with OSP [now known as OPSD] to identify investments, incentives and training programs which qualify for credits under this category.

A minimum of 10% of Petitioner’s job-generation requirement shall be satisfied in this manner.

d. Earning Job Credits.

Credits for jobs generated under subparagraphs a. through c., above, shall not be eligible for satisfaction of this condition unless, within two years after they accrue, they are reported to the LUC in Petitioner’s annual report. Job credits shall be considered to have accrued under subparagraph a. when the Developer pays for the labor, under subparagraph b. when the certificate of occupancy is issued or such earlier date as may be approved by the LUC; and under subparagraph c. when the investment is made, the incentive is given, or the job training program is funded.

Petitioner’s annual report to the LUC shall discuss in detail its progress in earning job credits. Additionally, Petitioner shall provide OSP with information concerning the manner in which Petitioner’s claim for job credits is calculated as well as written certification by the Developer that all information provided is correct.

Job credits shall be considered earned only upon approval by the LUC. Petitioner may file a motion for approval of job credits with the LUC at such time as may be mutually agreeable between Petitioner and OSP, provided that said motion shall be

filed prior to the Petitioner obtaining a building permit for the construction of hotel or hotel/condominium units to which the job credits will be applied.

At the time Petitioner obtains a building permit, Petitioner shall satisfy this condition by depositing cash or posting a bond or letter of credit in a form satisfactory to OSP, in an amount equal to the product of \$25,000 multiplied by the number of hotel or hotel/condominium units for which a building permit is issued, less any job credits previously earned. As job credits are earned and applied in satisfaction of this condition, Petitioner may submit a motion to the LUC for the refund of the funds paid to OSP or a reduction of the bond or letter of credit issued in favor of OSP. Five (5) years after the date the building permit is issued, OSP shall have the right to retain cash or make claim on the bond or letter of credit in an amount equal to the product of \$25,000 multiplied by the number of hotel or hotel/condominium units for which the building permit is issued, less any job credits previously earned.

Prior to the expiration of the five-year period, Petitioner may seek an extension of time to satisfy its job-generation requirement. An extension may be granted upon such additional terms as may be appropriate, provided that Petitioner establishes substantial compliance with this condition and specifies the methods, means and time in which it intends to satisfy this condition.

Except for the limitations regarding subparagraphs a. and b. and the 10% minimum required by subparagraph c., Petitioner shall determine the manner in which the remainder of its job-generation requirement may be allocated.

All funds obtained by OSP under this condition shall be applied to any one or more of the programs specified in subparagraph c, above.

II. JOB CREDITS CALCULATION AND OPSD COMMENTS

In its Motion, Petitioner described the methodology and basis for the job credits calculation. Petitioner also indicated that a total number of 744.28 job credits were previously reported to the LUC within Petitioner's annual reports. On page 9 of its Motion, Petitioner explained that reductions to the job credits previously reported to the LUC were made to account for credits that were previously approved, credits that exceed the maximum limits, and credits withdrawn due to inability to verify. Petitioner's Exhibit 4, portions of Petitioner's annual reports, and Petitioner's Exhibit 5 provide a breakdown of the job credits. Now, Petitioner is requesting that 572.75 job credits be approved by the LUC to comply with Condition 1.

- a. Construction Job Credits Calculation. Of the 572.75 job credits, Petitioner is requesting approval for 236.13 construction job credits. Petitioner notes that the LUC

has already approved 1.37 construction job credits via the 1994 Order. According to Petitioner, the Petition Area is allowed a maximum of 950-hotel/hotel condominium units under a Unilateral Agreement with the City and County of Honolulu. As such, 237.50 construction job credits (950 units multiplied by 25 percent equals 237.50 job credits) is the maximum number of job credits that Petitioner may claim under the Agreement and Condition 1a. The previously approved 1.37 construction job credits and the requested 236.13 construction job credits total the 237.50 maximum limit. Thus, future hotel/hotel condominium units would not be able to utilize any additional construction job credits.

- b. Facility Job Credits Calculation. Petitioner is requesting approval for 229.06 facility job credits. The Ewa Pointe Marketplace, Seagull Schools preschool, and Hoakelei Country Club Clubhouse are complete and operating. These facilities, combined, account for 199.06 job credits. Petitioner also included the Hoakelei Country Club Golf Course towards satisfying the job credits requirement. Petitioner has indicated that per the calculation method described in Condition 1b., the approximately 272-acre golf course would be considered a recreational facility and the job credits could be calculated at 1 job per 1,000 square feet, or 1,185,920 square feet (approximately 272 acres) of golf course divided by 1,000 square feet for a total of 11,859.2 job credits. However, that number is excessive, so Petitioner is offering a more conservative approach by counting the actual number of full-time jobs that the golf course is providing to the community. Petitioner reasonably reports that 30 new full-time jobs were created for groundskeeping and maintenance of the golf course, and requests that this number be used for calculating credits. Thus, Petitioner is requesting approval for a total of 229.06 job credits, which would comply with Condition 1b. OPSD notes that future job credits could accrue under Condition 1b. which may allow additional job credits for hotel/hotel condominium units to be approved by the LUC over the requested 572.75 job credits.
- c. Training Job Credit Calculation. Petitioner is requesting approval of 107.56 training job credits. Petitioner can receive 1 job credit for each \$25,000 contributed to training programs for non-tourism related jobs. Petitioner has indicated that they have contributed over \$3.4 million towards job training to school organizations,

community groups, and scholarship programs, which were reported to the LUC in the annual reports. We note that the 1994 Order approved 1.10 training job credits. We also note that Petitioner has withdrawn 28.10 training job credits and is only requesting approval for 107.56 of the 136 training job credits that the Petitioner has reported (\$25,000 divided by \$3.4 million equals 136 job credits). The 107.56 job credits exceed the minimum 95 training job credits Petitioner is required to claim based on 950 total units. The proposed training job credits complies with Condition 1c. OPSD notes that future job credits could accrue under Condition 1c., which may allow additional job credits for hotel/hotel condominium units to be approved by the LUC over the requested 572.75 job credits.

III. OPSD RECOMMENDATION

OPSD recommends approval of Haseko's Motion for Approval of Job Credits to partially satisfy Condition 1 of the 1994 Order. OPSD concurs with Petitioner's methodology for calculating its job credits and appreciates the Petitioner's proposed reasonable calculation of the recreational (golf course) job credits. OPSD also concurs with the detailed descriptions, accurate calculations, and careful accounting of the Petitioner's requested job credits. OPSD recognizes that should the LUC approve of these job credits; the Petitioner will be allowed to begin building up to 575.22 hotel or hotel/condominium units. OPSD notes that Petitioner may in the future accrue and request approval from the LUC for an additional 374.78 ($950 - (2.47 + 572.75)$) job credits under Conditions 1b. and 1c. subject to any stated restrictions.

DATED: Honolulu, Hawaii, November 18, 2022.

OFFICE OF PLANNING AND
SUSTAINABLE DEVELOPMENT
STATE OF HAWAII

Mary Alice Evans

MARY ALICE EVANS
ACTING DIRECTOR

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Honouliuli, Ewa, Oahu, Hawaii, Tax Map)	
Key No.: 9-1-12: 5 (por.), 6 (por.), and 23)	
(por.))	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by regular mail.

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DATED: Honolulu, Hawaii, November 18, 2022.

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