

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF STATE PARKS
Honolulu, Hawai'i 96813

June 23, 2017

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

O'ahu

Request per HRS § 171-43.1 (2013) a direct negotiation with Pacific Historic Parks, an eleemosynary organization, for a Proposed Three-Year Lease for the Operation of an Interpretive and Merchandising Kiosk in Diamond Head State Monument, O'ahu.

REQUEST:

Approve a Direct Negotiation with Pacific Historic Parks to Operate an Interpretive and Merchandising Kiosk in Diamond Head State Monument, O'ahu.

LEGAL REFERENCE:

HRS § 171-43.1 (2013)

LOCATION:

Premises situated at Diamond Head State Monument, under Executive order NO. 3699, identified as the kiosk, shown in Exhibit "A" and Exhibit "B", both attached hereto and made parts hereof, Tax Map Key: (1) 3-1-042:Portion of 006.

AREA:

Approximately 1,540 sq. ft.

TRUST LAND STATUS:

Section 5(x) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: Yes _ No _

CURRENT USE STATUS:

Tenant operating the Diamond Head Visitor Center.

CHARACTER OF USE:

The Tenant shall use or allow the premises leased to be used solely for souvenir merchandise educational in nature and related to Diamond Head State Monument and for interpretive program purposes.

LEASE TERM:

Three (3) years

COMMENCEMENT DATE:

May 1, 2017

ANNUAL RENT SCHEDULE:

Year one – 15% of gross receipts
Year two – 16% of gross receipts
Year three – 17% of gross receipts

METHOD OF PAYMENT:

Monthly payments

RENTAL INCREASES:

One percent (1%) per annum as shown in the annual rent schedule

PERFORMANCE BOND:

\$5,000.00

CHAPTER 343 ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject property was published in the OEQC's Environmental Notice on November 9, 2001 with a finding of no signification impact (FONSI).

DCCA VERIFICATION:

Place of business registration confirmed: YES NO
Registered business name confirmed: YES NO
Good standing confirmed: YES NO

APPLICANT REQUIREMENTS:

None

BACKGROUND:

The Board of Land and Natural Resources (BLNR) at its January 11, 2013 meeting (Exhibit C) authorized direct negotiations with Pacific Historic Parks (PHP) to manage the merchandizing and interpretive kiosk in the Diamond Head State Monument (DHSM). At the May 24, 2013 BLNR meeting (Exhibit D), PHP was deemed qualified as a sole source under HRS § 102-2 (b) (10) (2013). General Lease NO. SP0521 (Exhibit F) between the State of Hawaii and PHP was executed on April 25, 2014. The lease expired April 30, 2017 however, PHP continues to operate the Diamond Head Visitor Center (DH Visitor Center) to prevent an interruption in business that would adversely affect the visitor experience at DHSM.

DISCUSSION:

DSP desires to continue its strong working relationship with PHP. Throughout its term, PHP has balanced both the merchandizing and interpretative elements of the DH Visitor Center. PHP has expanded its ability to design, produce and sell merchandise that compliments the interpretive elements of DHSM.

HRS § 171-43.1 (2013) Lease to eleemosynary organizations, provides for direct negotiation with a 501(c)(3). Provided that the "lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service." PHP has provided DSP with evidence of its status as a 501(c)(3) (Exhibit E) and its core mission as stated in its Bylaws (Exhibit G) is the development and implementation of educational and interpretive programs and activities. The commitment to its Charter can be seen in the current merchandise lineup available at DH Visitor Center was developed by PHP to be educational in nature and related to DHSM. PHP has handled the complexity, gained knowledge of visitor needs and demands, shown a proven history of performance, developed more experience in interpreting DHSM and the production of related materials.

DSP believes the visitors of DHSM will be best served by continuing the relationship with PHP.

RECOMMENDATION:

The Division of State Parks is requesting that the Board of Land and Natural Resources:

1. Determine that Pacific Historic Parks is qualified as an eleemosynary organization under the provision of HRS § 171-43.1 (2013).
2. Authorize the Chairperson or her representative to negotiate and approve terms of a three (3) year lease with Pacific Historic Parks for the management of a

merchandizing and interpretative kiosk in Diamond Head State Monument, subject to review and approval by the Deputy Attorney General.

3. Authorize the Chairperson to prescribe other terms and conditions as may best serve the interests of the State.

Respectfully Submitted,



Curt A. Cottrell
Administrator, Division of State Parks

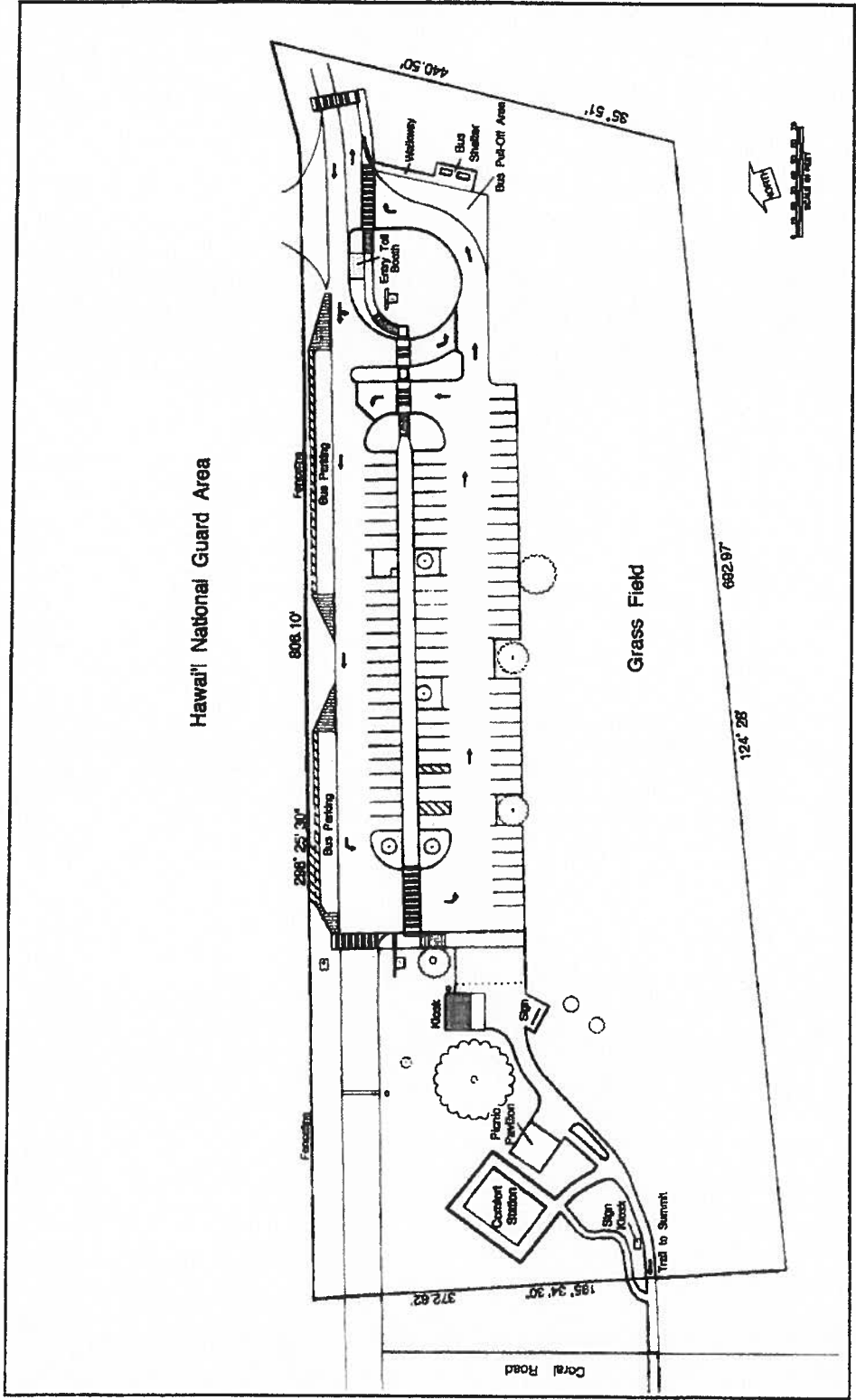
APPROVED FOR SUBMITTAL:



Suzanne Case
Chairperson
Department of Land & Natural Resources

Attached:

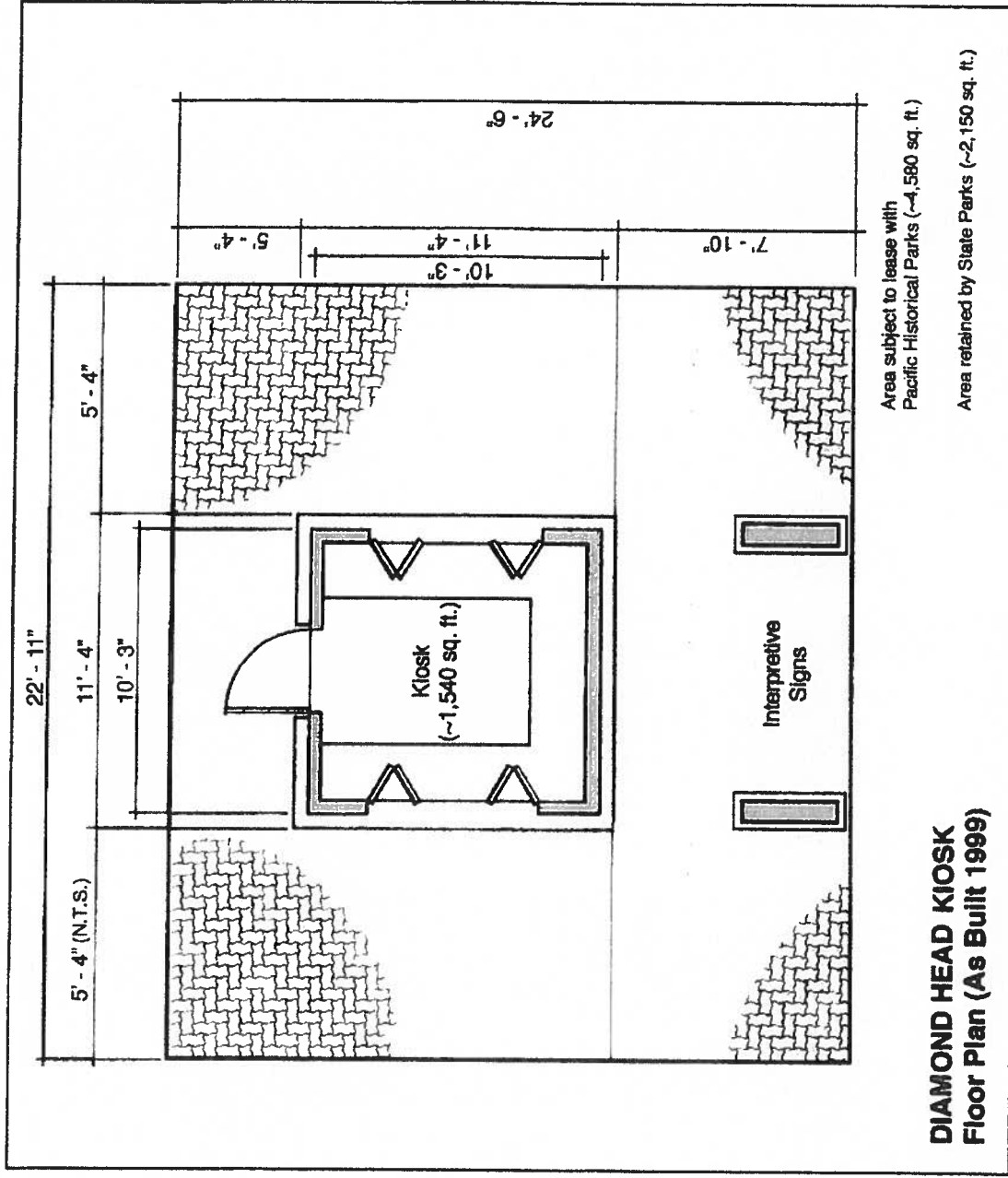
- Exhibit A Site map
- Exhibit B Kiosk floor plan
- Exhibit C January 11, 2013 Board Submittal
- Exhibit D May 24, 2013 Board Submittal
- Exhibit E Certificate of Vendor Compliance
- Exhibit F General Lease NO. SP0521
- Exhibit G Bylaws of Pacific Historic Parks



Map of the visitor entry area of Diamond Head State Monument showing the location of the kiosk.

PRELIM. APPRD.
Department of the
Attorney General

EXHIBIT "A"



PRELIM. APPR'D.
Department of the
Attorney General

EXHIBIT "B"

Plan view of the kiosk showing the area that is subject to the lease with Pacific Historic Parks

EXHIBIT C

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF STATE PARKS**

January 11, 2013

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: Requesting Approval for the Department of Land and Natural Resources' Division of State Parks to enter into a Memorandum of Agreement (MOA) with Pacific Historic Parks, and to Authorize the Chairperson to Negotiate and Approve a Three Year Lease for a Pilot Project for the Operation of an Interpretive and Merchandising Kiosk in Diamond Head State Monument, Oahu.

Authority: Chapters 171-43 and 184 Hawaii Revised Statutes

BACKGROUND INFORMATION

The Division of State Parks (DSP) has been operating Diamond Head State Monument (DHSM) as a public park since 1977. DHSM is arguably one of the most iconic geologic features in the State of Hawaii and its unique topographic profile has been the subject of countless photographs, movie backdrops, posters, postcards, etc. This remnant volcanic feature is the definitive background of world famous Waikiki. In 2012, visitor patronage oftentimes exceeded 3,000 people per day, making DHSM one of the most heavily visited destinations in the State, along with the Nu'uauu Pali State Wayside, Hanauma Bay Nature Preserve and World War II Valor in the Pacific National Monument (Pearl Harbor).

DSP has engaged in numerous capital improvement projects at DHSM over the past decade (\$9 M from 2001 to date) including improvements to the park entrance and parking lot, rockfall mitigation for public safety on the summit trail, a new comfort station, stabilization of the historic summit trail and ledge outside the Fire Control Station, lighting the pedestrian tunnel and the spiral staircase along the interior tunnel trail, and a newly completed summit loop trail section. Current CIP funds are being applied to a new exterior linear park, which is of great benefit to the DHSM patronage and the local community for recreation, but will also add to DSP's maintenance responsibility and impact operating budgets.

For several years during the early 1990's, DSP had significant management challenges associated with unauthorized and illicit vendors soliciting t-shirts, water, flashlights for the pedestrian tunnel along the trail, certificates to document the hike, etc. CIP improvements that added lighting to the tunnel have eliminated the need for flashlights, and authorized concessions via vending machines and lunch wagon that sell soda and water has eliminated the demand for these illicit sales/vendors. The promulgation and application of Hawaii Administrative Rules relating to the sale and distribution of

literature has also nearly eliminated the other illicit activities – vastly improving the ambient quality of DHSM and improving the user's experience. However, there is remnant of this activity in DHSM that is difficult to enforce that on occasion, includes individuals soliciting DHSM patrons for money related to services or products. In addition to its illegality, this activity continues to be a detriment to the overall quality of the experience for DHSM patrons. But, based on the continued presence – it also indicates that DHSM patrons are interested in purchasing souvenirs of their experience. This is also evidenced by private websites that sell products associated with DHSM imagery.

Pilot Project

DSP has been engaged in a series of new revenue generating activities to offset decades of budget cuts and increased operating costs. In relation to DHSM and the issues cited above, DSP has been considering options on how to initiate the following three critical goals:

1. **Eliminate the vestigial illicit vendors and therefore enhance the quality of the visitor's experience.**
2. **Create a venue to sell and distribute quality DSP souvenir merchandise at DHSM and also to improve the interpretive services at DHSM.**
3. **Increase new revenue to supplement the fundamental operating costs of the Division.**

Methods

1. A Request for Bids to stock and operate the existing and small Interpretive Kiosk inside DHSM has been considered. This would simply involve a solicitation for bids for a concession to sell DSP approved designs for items such as T-shirts, water bottles, certificates, pins, etc. However, while fairly straightforward in execution - this is just basic sales. While this approach would maximize DSP revenue based on a bidding process, it would offer no interpretive element to enhance the visitor experience as they prepare to ascend the trail to the summit or exit the crater. As a new activity in a popular visitor destination, the concession would likely require frequent monitoring by DSP for quality control.

2. For the past several months, DSP has been in dialogue with both Pacific Historic Parks (PHP), a not-for-profit organization which has been operating a gift shop and providing interpretive services at Pearl Harbor for the National Park Service for 33 years, and with the Diamond Head State Monument Foundation (DHSMF) – which has expressed an interest in supporting both DHSM Master Plan development and increased interpretive services in DHSM.

Based on these discussions, evaluating the skill, extensive experience and track record of PHP (Exhibit A), and the desire to establish a high quality enterprise for the iconic DHSM, DSP is now interested in establishing a 3 year relationship with PHP to accomplish the 3 critical goals outlined above.

Attached is a draft Memorandum of Agreement (Exhibit B) with PHP to establish a working partnership and to also establish a template for a three year lease of both the Interpretive Kiosk and ancillary storage space within the crater of DHSM (Exhibit 3) Thus far, the terms proposed for this 3 year pilot project includes that DSP receives 10 percent of PHP gross income and extends no funds to support the creation of the project. PHP will staff the Kiosk, design and purchase all merchandise, create and print and distribute interpretive information approved by DSP (in addition to existing DSP interpretive materials), create an Internet site for online merchandising, and manage other administrative costs associated with the operation of a storefront. PHP and the DHSMF have expressed the interest to create an ancillary MOA between their two organizations whereas a smaller percentage of gross revenue is allocated to DHSMF for the establishment of one additional Interpretive Technician to supplement both DSP and PHP interpretive staff.

While this arrangement is not as robust in terms of gross revenue – the quality and improvement of the visitor’s experience, utilizing the skill and expertise demonstrated by PHP at Pearl Harbor, in addition to their confirmed ability to engage in additional fund raising through grant processes, **makes this partnership a balance between new additional income for DSP and continued improvement of the quality of the visitor experience at DHSM.**

DSP is interested in entering into an MOA with PHP to establish a working relationship, and also enter into a 3 year lease for the operation of the Interpretive Kiosk and ancillary storage space within DHSM, and coordinate with the DHSMF when they have obtained funding, for an additional Interpretive staff position for DHSM.

Chapter 343 – Environmental Assessment:

DSP believes that this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under Chapter 343, Hawaii Revised Statutes (HRS) and §11-200-8(a)(1), Hawaii Administrative Rules (HAR) and within exemption Class 1, Numbers 2, 3 and 6 of the DSP Exemption List which exempts operations involving negligible or no expansion or change of use beyond that previously existed within park boundaries [February 5, 1976]. The proposed use will be within an existing visitor information/interpretive Kiosk which is designed for and has been used as a point of contact for park visitors and initially, as an entrance fee collection booth.

RECOMMENDATION

The Department is requesting that the Board:

1. Declare that after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS and Chapter 11-200 HAR, this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Authorize the Chairperson to execute an MOA with PHP, subject to the review and approval by a Deputy Attorney General.
3. Authorize the Chairperson to negotiate and approve the terms of a 3 year lease with PHP for the management of a merchandizing and interpretive kiosk in DHSM, subject to review and approval by the Deputy Attorney General
4. Authorize the Chairperson to prescribe other terms and conditions as may best serve the interests of the State.

Respectfully submitted,



DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Chairperson

Attached: **Exhibit A – PHP Bio**
 Exhibit B – Draft MOA
 Exhibit C - Map of Interpretive Kiosk and storage area

Exhibit A

PACIFIC HISTORIC PARKS

Organizational History

Founded in 1979 and incorporated in the State of Hawaii, Pacific Historic Parks (formerly Arizona Memorial Museum Association) is a non-profit 501(c) (3) organization and a Cooperating Association that works with the National Park Service to support and fund educational programs, museum displays and exhibits, and interpretive programs for the USS *Arizona* Memorial. Over the years, PHP's involvement with the National Park Service has grown and today, they support four National Parks throughout the Pacific: World War II Valor in the Pacific National Monument at Pearl Harbor, Hawaii; Kalaupapa National Historical Park, Molokai; American Memorial Park, Saipan; and War in the Pacific National Historical Park, Guam. Their new name Pacific Historic Parks (PHP) better reflects their scope of support with the National Park Service and provides them the opportunities to expand to other large Parks within Hawaii and the Pacific.

On December 7, 2010, the World War II Valor in the Pacific National Monument (USS *Arizona* Memorial) proudly celebrated the grand opening of the new Pearl Harbor Visitor Center. Pacific Historic Parks led this fundraising effort for eight years, as generous and dedicated supporters came together with many outstanding corporations and concerned government entities to collect the necessary \$56 million. The new Pearl Harbor Visitor Center includes a centralized ticketing desk for all Pearl Harbor historic sites, a new Education & Research Center, a newly designed bookstore, renovated theaters and two museum galleries with state-of-the-art, interactive displays and exhibits. Later an additional \$4 million was raised to add four new parking lots for this destination. The USS *Arizona* Memorial continues to be the most visited destination in the state, with annual attendance of approximately 1.7 million visitors.

Currently Pacific Historic Park employs 68 individuals: 3 at Saipan, 5 on Guam, two at Kalaupapa and the balance at the Pearl Harbor Visitor Center and our corporate offices at Ka Uka, Waipahu. The Board of Directors provides Pacific Historic Parks direction and vision and the CEO/President is responsible for operations. Pacific Historic Park is organized into departments: Education, Membership, Publications, Marketing, Bookstore, Audio, Fundraising, Accounting, and Human Resources.

Mission

Pacific Historic Parks' core mission is the development and implementation of educational and interpretive programs and activities related to its partner sites. The mission of these programs is to promote the understanding, appreciation and preservation of the historical, social, cultural, political, and economic factors related to the history of Hawaii and the Pacific.

Services Provided to Parks

Pacific Historic Parks provides a wide range of activities for its Parks that include:

1- Book and Gift Stores

Pacific Historic Parks operates the book and gift stores in four National Park Service Parks. All merchandise sold in these stores has been preapproved by the Superintendent at each site. Pacific Historic Parks handles all aspects of the gift stores, including product development, buying, warehousing and selling of the merchandise. The largest of Pacific Historic Parks' stores is at Pearl Harbor which generates approximately \$5 million dollars each year. A percentage of net profits from their book and gift stores are given to the Parks in the form of Direct and Indirect Financial Aid, which contributes directly to each Park's interpretive and educational programs.

2- Website Services

Pacific Historic Parks' Webmaster updates information for each Park and maintains the Pacific Historic Site Website. Pacific Historic Parks also operates an online store for the Park sites we represent. In addition, customers use a toll free number for ordering theme related merchandise of each Park.

3- Public Relations, Sales and Marketing Assistance

Pacific Historic Parks' sales and marketing department assists their Parks with public relations, contracting of the audio tour with the travel industry, advertising in Visitor Publications, and representing each Park with the local tour operators, transportation companies, concierges and travel desk networks. Audio tours are available in six foreign languages.

4- Membership Management

Pacific Historic Parks creates and manages its Parks' Membership lists, e-mail updates and quarterly membership mailings. Their membership program allows each of the Parks to raise money annually and to keep our supporters up-to-date on events.

5-Fundraising and Preservation Efforts:

Pacific Historic Parks seeks grants to enhance their education and preservation efforts at each Park. In 2012, PHP is actively seeking donations of \$700K for the refurbishment of the USS *Arizona* Memorial. Additionally, Pacific Historic Parks assisted the National Park Service in Guam with their renovations of the entire War In the Pacific museum exhibits.

6- Special Event Commemoration

Pacific Historic Parks also fundraises and assists each Park for special events and holidays such as Dec 7th in Pearl Harbor and Liberation Day in Guam.

Interpretive and Education Programs:

Pacific Historic Parks provides educational and interpretive services through a variety of efforts: on-site educational tours; publications, interpretive materials; Teacher Workshops; educational outreach and the international Witness to History video teleconferencing program.

1-Audio Tour

In 2011, Pacific Historic Parks introduced a new audio tour at the Pearl Harbor Visitor Center. The new audio tour is narrated by the actress Jamie Lee Curtis and guides visitors through the two new world class museums, The Road to War and The Attack. Designed to complement the intensive historical interpretation found throughout the Pearl Harbor Visitor Center, the audio tour includes interesting historical facts from Park Historian Daniel Martinez as well as oral histories from Pearl Harbor Survivors. A percentage of net profits from the audio tour are given to the Parks in the form of Direct and Indirect Financial Aid, which contributes directly to each Park's interpretive and educational programs.

2- School Programs

The School Visit Program arranges on-site tours and presentations for students of all ages. The visit to the Memorial and its museum has a meaningful impact on students as they experience firsthand what they learn in the classroom. The new National Park Service Keiki and Junior Ranger program booklets for Pearl Harbor were designed and produced by Pacific Historic Parks and enable children of all ages to explore the museum and help them better understand the focus of the park. Pacific Historic Park funds and assists with the educational programs for the schools in Guam and Saipan.

3- Teacher's Workshops

Since 2004, Pacific Historic Parks and the National Park Service have partnered in a Teacher's Workshop. Over the years, hundreds of teachers from around the world have convened in Hawaii to learn more about Pearl Harbor to enhance their classroom curricula.

4- The Witness to History Program

The Witness to History Program utilizes video-teleconferencing to connect classes with Pearl Harbor Survivors, National Park rangers, and historians in Hawaii. The program has received awards including the 2006 American Association of Museums MUSE Award for the use of technology in educational outreach to schools throughout North America and the Pacific.

5- Publication of Literature and Theme Related Books

PHP's Publications and Communications Division creates and publishes newsletters, books, maps and other literature related to the history and events that are pertinent to each of the four Parks.

Summary

For the past three decades, Pacific Historic Parks has had a long and successful track record in assisting National Park Service's Parks with financial aid, operating its gift stores, fund raising, grant writing, membership, special projects and maintaining their interpretive programs. Today Pacific Historic Parks is ready to expand these services to the State of Hawaii Parks and to provide the services needed for the Diamond Head State Monument.

Exhibit B

**MEMORANDUM OF AGREEMENT
BETWEEN
THE STATE OF HAWAII,
DEPARTMENT OF LAND AND NATURAL RESOURCES,
DIVISION OF STATE PARKS
AND
PACIFIC HISTORIC PARKS**

FOR

**THE PLANNING, MANAGEMENT AND OPERATION OF
AN INTERPRETIVE AND MERCHANDISING KIOSK AT
DIAMOND HEAD STATE MONUMENT**

This Memorandum of Agreement (“MOA”) is entered into, by and between the State of Hawaii, Department of Land and Natural Resources, Division for State Parks (DSP) and Pacific Historic Parks (PHP) for the purpose of planning, managing and operating an interpretive and merchandising kiosk (Kiosk) at Diamond Head State Monument (DHSM), Oahu.

ARTICLE I. BACKGROUND AND OBJECTIVES

WHEREAS: It is the purpose and intent of DSP to engage in planning, developing, and managing outdoor recreation areas and the operation, restoration, acquisition, interpretation and maintenance of State parks including historical and archaeological sites, and scenic and natural resources under the jurisdiction of the Division.

WHEREAS: DSP directs investigations and reviews, evaluates and recommends areas for recreational potentials and historical importance; determines standards and priorities for park, outdoor recreation and historic site development projects; directs the planning and conducting of studies to determine trends in park, outdoor recreation and historic site use and public demand; presents submittals and recommendations to the Board.

WHEREAS: DSP establishes and maintains cooperative relationships with Federal, County, State and community organizations, with approval or upon instruction of the Chairperson; represents the department in meeting with civic organizations, government agencies and the general public on matters involving existing or potential state parks, outdoor recreation and historic sites.

WHEREAS: DSP evaluates park locations and other methods to determine appropriate actions to generate new sources of income and funding to enhance park user experience and develop sustainable park operations.

WHEREAS: DSP establishes and maintains a statewide interpretive plan which determines interpretive project priorities and selects parks of high interpretive value, develops interpretive information programs for various parks and/or park features, provides professional expertise in state park interpretive programs provided by the interpreters, including non-profit organizations and volunteers, and monitors these programs for their accuracy, provides general park information to the public, coordinates and oversees the construction and maintenance of interpretive facilities and devices, encourages community/interest groups and organizations to assist in park management and interpretation.

WHEREAS: DHSM has an estimated patronage of 3,000 visitors per day, and a history of illicit sales of various certificates and merchandise, and DSP is now prepared to establish an authorized venue in DHSM and on the Internet to sell DSP approved interpretive merchandise to provide value added products and service to patrons, eliminate vestigial illicit sales, and to generate new income for DSP.

WHEREAS: DSP has a small interpretive Kiosk with adequate adjacent space for the display of merchandise, and is prepared to allow for adjacent containerized space for storage.

WHEREAS: PHP is incorporated as a nonprofit organization with a stated purpose consistent with providing support and assistance to the interpretive, educational, and research activities of DSP and provides interpretive and educational materials to the visiting public.

WHEREAS: PHP has had an Agreement with the National Park Service for 33 years to conduct similar activity at Pearl Harbor (World War II Valor in the Pacific National Monument) and is interested in further collaboration with DSP in order to further effectuate its mission.

WHEREAS: It is the objective of the MOA between DSP and PHP to collaborate in order to provide DHSM visitors with enhanced and value added interpretive and educational materials to facilitate an expanded appreciation of DHSM.

WHEREAS: DSP and PHP, subject to approval by the Board of Land and Natural Resources, agree to execute a three (3) year Lease to effectuate these goals.

ARTICLE II. AUTHORITY

Hawaii Revised Statutes (HRS) Chapter 184
Hawaii Revised Statutes (HRS) Chapter 171

ARTICLE III. STATEMENT OF WORK

This MOA is to encourage and promote a new and cooperative relationship between DSP and PHP and establish the parameters that will be incorporated into a Lease for a merchandising

operation at the interpretive Kiosk at DSHM and to enable future cooperative relationships if or when they are warranted or may develop over the span of the next 3 years.

A. DSP AGREES TO:

Promote a sustainable business environment. This means DSP will (1) provide reasonably stable and reliable conditions in which PHP can operate effectively; (2) communicate, on a regular basis and in a timely manner, DSP operating plans that may affect PHP operations; (3) encourage innovation and new product lines that are within the Scope of Sales and that support the DSHM's interpretive mission; (4) streamline processes; and (5) be sensitive to sound PHP business practices.

Planning

1. Meet to identify and come to mutual agreement on priorities for the upcoming 3 years, evaluate progress toward achieving shared strategic goals, and clarify and implementing a process to identify and come to a mutual understanding on how to resolve potential problems in the relationship between DSP and PHP.
2. Mutually evaluate and discuss the need to consider an alternative space should the Kiosk become insufficient as a venue to support the sales of merchandise and detract from the visitor experience.
3. Execute a three (3) year Lease

Sales Activities

4. Collaboratively develop a required park-specific Scope of Sales statement between each park and PHP. Where there are both PHP and a concession operator(s), the DLNR must consider the contractual rights of the concession operator(s) when approving the Scope of Sales statement.
5. Approve, in writing, all PHP sales items sold based on appropriateness, park theme, audiences, interpretive value, accuracy, price points, and quality. Sales items may not encourage or depict inappropriate activities in parks, nor direct visitors to resources in closed areas. The DSP is the approving official.
6. Through the DSP periodic review of PHP sales activities, DSP will to ensure that DSP interests are addressed.

Interpretive Activities

7. Define the role of the PHP in providing interpretive activities in support of the DSP's mission.

8. Develop clear guidelines and standards for assessing the quality and nature of interpretive activity proposals.
9. Be involved in the planning, approval, training, monitoring and evaluation of all activities authorized under this Agreement.

Facilities, Equipment, and Construction

10. Provide PHP with a suitable sales area and other facilities to enable PHP to conduct business. Reserve the right to relocate, amend or withdraw any such facilities (upon reasonable notice) in order to meet the needs of the DSP. Sales operations within DHSM will occur only in the sales areas designated by the lease.
11. Develop a maintenance and operations plan with the PHP for facilities assigned to PHP.
12. Reserve the right to conduct inspections of provided facilities whenever the DSP deems appropriate or necessary.
13. Provide PHP with general maintenance, repair service and utilities of the Kiosk.

Donations, Fundraising, and Aid to DSP

14. Apply a reasonable and prudent process that is in the DSP's best interest for PHP to fundraise for the benefit of the DSP. As an example, PHP will pursue grants for a Visitor Center within the DHSM, will be the first project initiated by PHP.
15. Consider for acceptance all single donations, or a planned series of donations, of money and/or in-kind goods or services to DSP.
16. Follow reasonable and prudent process with respect to cause-related marketing.
17. Use "Aid to DSP" to support the interpretive, educational, scientific, and historical projects and programs that the DSP determines are needed and are consistent with its mission.
18. Recognize PHP for programs, projects, and publications funded by PHP.
19. Determine jointly with PHP the appropriate level of aid to DSP based upon the nature and extent of PHP activities and the needs of DSP.
20. Complete in a timely manner PHP donated and funded projects, with funding accountability to PHP, and a report as defined by PHP upon request. Where PHP policy allows unused funds to be carried into a new fiscal year and DSP chooses to carry these

funds into a new fiscal year, the DLNR must notify PHP in a timely manner of its intent to use those funds in future years.

B. PHP AGREES TO:

Policy, Authorities, Agreement

1. Comply with the policies set forth in the MOA and Lease.
2. Possess a signed MOA to operate in DHSM or when acting in its capacity as a partner selling goods and services outside the State Park System, including Internet sales.
3. Provide training and assistance, when appropriate, for activities that the DSP does together with PHP.

Working with DSP

4. Notify DSP of PHP board of directors meetings. PHP is encouraged to invite appropriate DSP representatives to board meetings and to appropriate committee meetings.
5. Authorize its employees to undertake no government functions or activity on behalf of DSP beyond routine visitor information services unless specifically authorized by DSP.
6. Allow PHP employees, when determined eligible, to serve as Volunteers-in-Parks (VIP) to perform park projects (i.e., park clean-up) under the supervision of DSP employees. Such volunteers' time should be counted as DSP VIP hours and not reported as PHP "Aid to DLNR" on the annual report submission.
7. Require that PHP employees who engage in public contact wear a distinctive uniform or other indication of their role as a partner which clearly distinguishes them from DSP employees. PHP employees may not wear the DLNR or other government uniform.

Sales Activities

8. Assure that PHP sales support the purposes of PHP as stated in their articles of incorporation.
9. Operate only in the sales areas designated by the DSP in the Lease.
10. Collaboratively develop a required park-specific Scope of Sales statement with DSP
11. Obtain written approval for all sales items sold under the MOA.

12. Display a sign at sales locations that identifies the sales outlet as a non-profit activity of the DSP approved and authorized entity for the DHSM. The sign will include an explanation that PHP aids the DLNR by supporting park interpretive, educational, historical, and scientific activities.
13. Inform DSP when considering operating an off-site sales outlet for another governmental entity.
14. Submit a complete list of sales items to the DSP staff for annual review and written approval.
15. Sell only approved items that do not violate the conservation principles of the DSP.
16. Conform to DLNR donor recognition guidance for corporate sponsorships appearing in items produced for sale by PHP. Items must not contain advertising for a business, brand, product or DLNR.
17. Assure that paid advertising in sales items (i.e., journals with advertising) must be incidental to the interpretive value or message of an item. Advertising or vendor information may not imply endorsement by the DLNR.
18. Abide by any additional terms as stipulated in a Lease

Interpretive Activities

19. Operate the sales area within a park only in the sales areas designated by the DSP and the Lease. A list of locations within a park that the DSP designates for PHP use must be attached to the Lease. PHP will retain copies of the facility assignment(s).

ARTICLE IV. TERM OF MOA

The MOA will be effective for a period of three years from the date of final signature unless it is terminated earlier by one of the parties in accordance with the terms of the MOA. The MOA may be renewed for an additional three-year period that is concurrent with the Lease and upon written agreement of the parties prior to expiration. The MOA may be modified and revised with mutual agreement by both parties.

ARTICLE V. KEY OFFICIALS

These are not the signing officials of this MOA, but are the contact officials for this MOA.

DSP Daniel Quinn,
 Administrator

PHP Brad Wallis,
 President/CEO

ARTICLE VI. LIABILITY

PHP shall:

- (A) Procure comprehensive general liability insurance from a responsible company or companies with a minimum limitation of One Million Dollars (\$1,000,000) per person for any one claim, and an aggregate limitation of Three Million Dollars (\$3,000,000) for any number of claims arising from any one incident. The policies shall name the State of Hawaii as an additional insured, shall specify that the insured shall have no right of subrogation against the State of Hawaii for payments of any premiums or deductibles due thereunder, and shall specify that the insurance shall be assumed by, be for the account of, and be at the insured's sole risk. Prior to beginning the work authorized herein, the Cooperating PHP shall provide the DLNR with confirmation of such insurance coverage; and
- (B) Pay the State of Hawaii, DSP, the full value for all damages to the lands or other property of the State of Hawaii caused by such person or organization, its representatives, or employees; and
- (C) Indemnify, save and hold harmless, and defend the State of Hawaii against all fines, claims, damages, losses, judgment, and expenses arising out of, or from, any omission or activity of such person, organization, its representatives, or employees.

ARTICLE VII. SUSPENSION AND TERMINATION

DSP reserves the right to suspend the MOA when, in the DSP's sole judgment, suspension is necessary to prevent fraud or malfeasance, to protect public health and safety, or to prevent harm to DSP resources.

If either party fails to observe any of the terms and conditions of this MOA the other party may terminate this MOA for cause. Prior to termination, a written notice must be given of the alleged breach with a cure period provided to address the alleged breach. Should the recipient party fail to take appropriate action to cure the breach, then a thirty (30) days written notice of termination may be given, or such other alternative action agreed to by the parties.

The DSP may terminate this MOA for the convenience of the government, at any time. To the extent practicable, before the DSP terminates for convenience, DSP agrees to evaluate its relationship with PHP including consulting with PHP board chair, and determine that termination of the Agreement is in the best interest of the State of Hawaii. PHP shall receive written confirmation of the termination within 5 working days following the termination.

ARTICLE VIII. REQUIRED CLAUSES

A. **NON-DISCRIMINATION:** The parties shall abide by the provisions of Executive Order 11246, as amended; shall be in compliance with the requirement of Title VI of the Civil Rights Act of 1964, as amended (78 Stat.252; 42 U.S.C.§2000d et. seq.); Title V, section 504 of the Rehabilitation Act of 1973 (87 Stat. 394, 29 U.S.C. §794, as amended), the Age Discrimination Act of 1975 as amended (89 Stat. 728; 42 U.S.C. §6101); and with all other federal laws and regulations prohibiting discrimination on the grounds of race, color, national origin, disability, religion, or sex in employment and in providing our facilities and DLNRs to the public.

B. **SEVERANCE OF TERMS AND COMPLIANCE WITH APPLICABLE LAW:** The parties shall comply with all applicable laws and regulations. This MOA is subject to all laws, regulations and rules governing DSP administered property, whether now in force or hereafter enacted or promulgated. Nothing in the MOA shall be construed as in any way impairing the general powers of the DSP for supervision, regulation, and control of its property under such applicable laws, regulations and rules.

If any term or provision of this MOA is held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions. Meeting the terms of this MOA shall not excuse any failure to comply with the Lease and all applicable laws and regulations, whether or not these laws and regulations are specifically listed herein.

ARTICLE IX. SPECIAL PROVISIONS

None

ARTICLE X. AUTHORIZING SIGNATURES

Approved as to Form

Deputy Attorney General

Agreed between the parties this__ day of _____ 20_____.

**STATE OF HAWAII
DEPARTMENT OF LAND AND
NATURAL RESOURCES**

PACIFIC HISTORIC PARKS

Chairperson, Board of Land and Natural Resources

Chairperson, Board of Directors

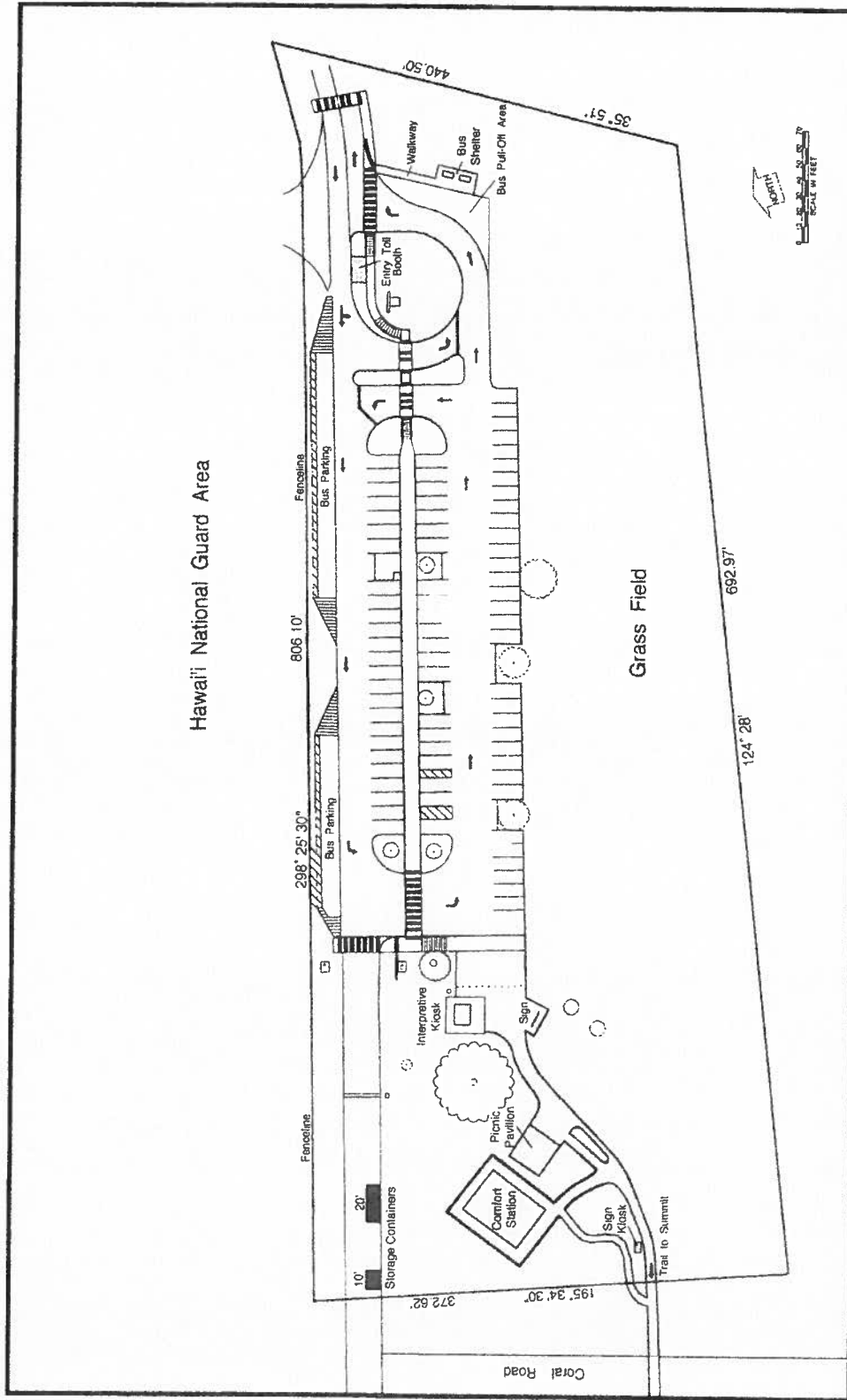


EXHIBIT C
 Map of the visitor entry area of Diamond Head State Monument showing the location of the interpretive kiosk and storage containers.

EXHIBIT D

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF STATE PARKS
Honolulu, Hawai'i 96813

May 24, 2013

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

O'ahu

Request for a Sole Source Approval for a Proposed Three-Year Lease for the Operation of an Interpretive and Merchandising Kiosk in Diamond Head State Monument, O'ahu and the determination that the exception in Chapter 102-2(b)(10) applies to Pacific Historic Parks.

REQUEST:

Sole Source Approval of Pacific Historic Parks (PHP) for a Memorandum of Agreement and Three Year Lease to Operate an Interpretive and Merchandising Kiosk in Diamond Head State Monument (DHSM), Oahu.

LEGAL REFERENCE:

Chapters 102-2(b) (10), 171-43, and 184, Hawaii Revised Statutes

BACKGROUND:

At the January 11, 2013 Board of Land and Natural Resources meeting (see Exhibit A), the Board approved the Department entering into a Memorandum of Agreement (MOA) and lease with PHP and authorized the Chair to execute the MOA and negotiate and approve the terms of a lease to operate an Interpretive and merchandising kiosk within Diamond Head State Monument.

As stated in the approved January 11 Board submittal, the Division of State Park's (DSP) goal at DHSM is three tiered:

1. Eliminate the vestigial illicit vendors and therefore enhance the quality of the visitor's experience; and
2. Establish a venue and with a partner to sell and distribute DSP souvenir merchandise, provide interpretive staff for enhanced interpretive information to visitors and create and distribute interpretive materials associated with DHSM; and
3. Establish (and increase) new revenue sources to supplement operating costs of the Division of State Parks.

DISCUSSION:

DSP submitted the subject MOA previously approved by the Board to the Attorney General for review and approval and the response was that the project and relationship appeared to be a concession and warranted a formal bidding process as stipulated under Chapter 102 HRS. However, the A.G. further declared that the Department, through the Board, may approve that this relationship and project qualifies under the sole source exemption under Hawaii Revised Statutes (HRS), Chapter 102-2 (b) (10);

“ For operation of concessions that furnish goods or services for which there is only one source, as determined by the head of the awarding government agency in writing that shall be included in the contract file”

The A.G. further stipulated that The Board, as the head of the awarding governing agency, could determine the above. Based upon this consultation with the Office of the Attorney General, DSP staff agrees that if this project was a straightforward retail and merchandising operation, an MOA would not have been generated and a request for approval to conduct a formal bidding process would have been presented to the Board for its consideration.

The January 11, 2013 Board submittal reflects that a bidding process was one of the other considered options – **if the intent is to only sell merchandise**. The Board minutes of this meeting reflects concurrence that to provide quality products and enhanced interpretive service was superior to simply generation of new income via the sale of merchandise.

In regards to the bidding process, DSP has the capacity to develop a bidding specification on the sales of a line of desirable products. However, the goal is to also enhance the visitor's expertise based on the model PHP has perfected from over 30 years of collaboration with the National Park Service at World War II Valor in the Pacific National Monument (Pearl Harbor). This is a unique service PHP provides, and replication in the marketplace is not available.

The A.G. indicated that while this project is not a procurement of service matter under Chapter 103D HRS, the procurement code's Hawaii Administrative Rule, Chapter 3-122-81 provides guidance as to what a “sole source” means within the context of Chapter 102-2(b) (10): (c): Justification for a sole source purchase must establish that the good, service, or construction has a unique feature, characteristic, or capability essential to the agency to accomplish its work and is available from only one supplier or source.”

The distinctive element in this project is that DSP is interested in an entity that has **both** the interpretive capacity and experience in a globally renowned, high visitation venue with the skill and interpretive products to enhance the visitor's experience via a variety of methods – and - the ability to design, produce and then to also sell merchandise that compliments the interpretive elements.

There is one other organization in Hawaii similar to PHP in its mission and skill set: "Hawaii Pacific Parks Association" (HPPA), located on Maui and the Big Island and has a comparable relationship as PHP with the National Park Service. However the HPPA focus and expertise is on NPS features more of natural and cultural significance. HPPA was contacted by DSP staff and they indicated they have no interest in establishing a relationship with DSP for any parks of historical World War significance on Oahu.

Therefore the current recommendation to the Board for consideration and approval is of PHP for the sole source selection and was based upon several primary reasons:

- "171-43.1 – Lease to eleemosynary organizations. The lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service." **PHP's core mission as stated in Exhibit A is the development and implementation of educational and interpretive programs and activity related to its partners sites.** While the merchandising reflects a commercial nature – it is the intent of both PHP and DSP to develop products that provide commemorative souvenirs specific to DHSM and to concurrently develop and enhance the interpretive and service related elements related to DHSM.
- **The over 30 year relationship and history PHP has with the National Park Service at World War II Valor in the Pacific National Monument** – the equally unique, famous, and heavily used historic visitor destination at Pearl Harbor. There is no other organization on Oahu that has a long term, successful and comparable relationship at a high visitation historic park of national significance. The commensurate record of establishing, managing and fundraising via an interpretive model and merchandising element is unique to PHP.
- **Concurrently selling merchandise and creating interpretive information including: audio tours, school programs, teacher's workshops, and the publication of literature and theme related books.** As an example of this collaborative venture – PHP staff are already prepared to immediately translate the current DHSM brochure produced by DSP into Japanese, Chinese, Korean, and other languages as necessary – as they have done at Pearl Harbor. This action is independent of the merchandising element and reflects the partnership that is to be established via the MOA.
- **The ability of PHP to fund raise via its grant writers and other sources.** The MOA includes a specific identified target of collecting additional funding sources to support the design of a visitor center at a currently being identified location within DHSM. This is unrelated to the merchandising element of the proposed lease – the MOA is an instrument that defines a broader relationship and varying deliverables. PHP demonstrated this ability in their collaboration on fund raising (over 50 million dollars) with the National Park Service on major re-design and World War II Valor in the Pacific National Monument.

For the reasons cited above, DLNR advocates that the goal of DSP to sell merchandise and add to the visitor's interpretive experience via a lease, coupled with establishing a collaborative relationship via the MOA, requires a relationship more complex than simply establishing the sale of merchandise.

This complexity, knowledge of visitor needs and demand, experience in interpreting a historic location and the production of related materials to do so, renders PHP as being the only entity that has the unique qualifications and experience to execute this project. This is due to its successful relationship with the National Park Service at a heavily used visitor destination creating a unique combination of both the development of interpretive material, related programs and the production of merchandise – to fulfill its mission and this variety of purpose. DLNR believes that the sole source provision of Chapter 102-2 (b) (10) applies to PHP.

RECOMMENDATION:

The Board determines that:

1. PHP is qualified as a sole source under the provision of HRS, Chapter 102-2 (b) (10).

Respectfully Submitted,

Daniel S. Quinn
Administrator, Division of State Parks

APPROVED FOR SUBMITTAL:

William J. Aila, Jr.
Chairperson
Department of Land & Natural Resources

Attached: January 11, 2013 Board submittal



EXHIBIT E

STATE OF HAWAII
STATE PROCUREMENT OFFICE

CERTIFICATE OF VENDOR COMPLIANCE

This document presents the compliance status of the vendor identified below on the issue date with respect to certificates required from the Hawaii Department of Taxation (DOTAX), the Internal Revenue Service, the Hawaii Department of Labor and Industrial Relations (DLIR), and the Hawaii Department of Commerce and Consumer Affairs

Vendor Name: PACIFIC HISTORIC PARKS

Issue Date: 06/02/2016

Status: Compliant

Hawaii Tax#: W40411966-02

FEIN/SSN#: XX-XXX4501

UI#: XXXXXX0376

DCCA FILE#: 41191

Status of Compliance for this Vendor on issue date:

Form	Department(s)	Status
A-6	Hawaii Department of Taxation Internal Revenue Service	Compliant Compliant
COGS	Hawaii Department of Commerce & Consumer Affairs	Compliant
LIR27	Hawaii Department of Labor & Industrial Relations	Compliant

Status Legend:

Status	Description
Exempt	The entity is exempt from this requirement
Compliant	The entity is compliant with this requirement or the entity is in agreement with agency and actively working towards
Pending	The entity is compliant with DLIR requirement
Submitted	The entity has applied for the certificate but it is awaiting approval
Not Compliant	The entity is not in compliance with the requirement and should contact the issuing agency for more information

EXHIBIT F

LAND COURT SYSTEM) REGULAR SYSTEM
Return by Mail () Pickup () To:

Total Number of Pages:
Tax Map Key No. (1) 3-1-042:Portion of 006

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. SP0521

between

STATE OF HAWAII

and

PACIFIC HISTORIC PARKS, a Hawaii nonprofit corporation

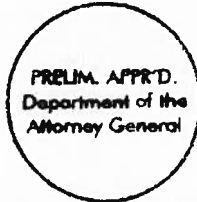


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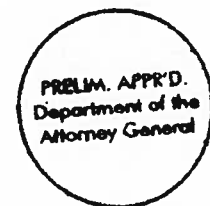
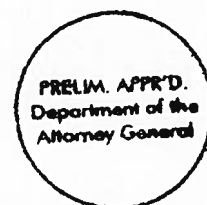


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STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. SP0521

THIS LEASE, made this 25th day of April, 2014, by and between the STATE OF HAWAII, hereinafter referred to as the "Lessor," by its Board of Land and Natural Resources, called the "Board," and PACIFIC HISTORIC PARKS, a Hawaii nonprofit corporation, whose address is 94-1187 Ka Uka Boulevard, Waipahu, Hawaii 96797, hereinafter referred to as the "Lessee."

WITNESSETH:

The Lessor, pursuant to Section 171-43.1, Hawaii Revised Statutes, and for and in consideration of the rent to be paid and of the terms, covenants and conditions herein contained, all on the part of the Lessee to be kept, observed and performed, does lease unto the Lessee, and the Lessee does lease from the Lessor the premises situate at Diamond Head State Monument, under Executive Order No. 3688, identified as the kiosk, shown in Exhibit "A" and Exhibit "B," both attached hereto and made parts hereof, Tax Map Key No. (1) 3-1-042:Portion of 006.

TO HAVE AND TO HOLD the leased premises unto the Lessee for the term of three (3) years, commencing on the 1st day of May, 2014, up to and including the 30th day of April, 2017, unless sooner terminated as hereinafter provided, the Lessor reserving and the Lessee yielding and paying to the Lessor at the Office of the Department of Land and Natural Resources, Honolulu, Oahu, State of Hawaii, an annual rental as provided hereinbelow, without notice or demand, in monthly installments as follows:

Percentage rent shall be payable monthly in arrears, without notice or demand, no later than twenty five (25) days after the close of each and every month, as follows:

A. Percentage Rent shall be calculated as follows:

4% of gross revenues for the first six months,
6% of gross revenues for the second six months,
12% of gross revenues for the remainder of the term,
unless 10% is agreed to by Lessor and Lessee in writing dated the first month of the remaining twenty-four month period under the lease.

B. Gross revenue. The term "gross revenues" shall mean the total amount received or realized by, or accruing to, the Lessee of all sales from the operation of the onsite kiosk, sales and internet sales of souvenir merchandise educational in nature and related to the Diamond Head State Monument, including but not limited to other sales, including those through vending machines and other coin-operated devices, for cash or credit, of services, materials, and other merchandise made pursuant to the privileges authorized in this lease.

C. Sales accountability. Lessee shall record at the time of sale, in the presence of the customer, all receipts from sales or other transactions whether for cash or credit or otherwise, in cash register(s) (including computerized cash registers or other similar electronic devices) serviced in Honolulu by an established agency. Mechanical cash register(s) shall have a non-resettable cumulative total, a detail audit tape, a transaction number with a four-digit capacity, an indicator readily visible to customers as to the amount rung, and a seven-digit cumulative capacity or greater, with a four-digit overrun counter. Lessee shall furnish Lessor a statement from an established agency that the transaction number, the cumulative total, and the overrun counter have been sealed in a manner approved by the Lessor. If Lessee uses computerized cash registers or other similar electronic devices, such system shall accurately record all sales at the premises and shall be no more subject to tampering than mechanical cash register(s). The cash register(s) (including any computerized cash registers or other similar electronic devices) shall also have other features as may be required by Lessor. Lessor shall have the right to approve the number of cash registers to be installed. Upon the installation or removal of any cash register (including any computerized cash register or other similar electronic device) used in the premises, Lessee shall immediately furnish to Lessor notice in writing stating make, model number, serial number and cumulative total reading and overrun counter reading of the cash register(s) (including any computerized cash register or other similar electronic device). Lessee shall issue to each customer a receipt or sales slip for each transaction, which transaction must be recorded on serially numbered sales slips, cash register tapes or, in the case of electronic devices, electronic storage media having usual and customary properties designed to protect the integrity of the sales data.

D. Procurement of goods, equipment, and services. In computing financial information for every purpose in this lease, the Lessee agrees that there will be no diversion or concealment of profits in the operations authorized hereunder by means of

arrangements for procurement of equipment, merchandise, supplies, or services from sources controlled by or under common ownership with the Lessee or by any other device.

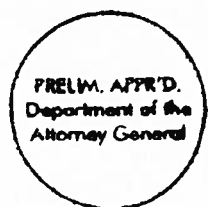
E. Accounting records and reports. The Lessee shall maintain accounting records in accordance with generally accepted accounting practices. The Lessee shall submit, no later than the 25th day of each month, a report showing in accurate detail the amount of its gross revenues for the immediate prior month, together with all claimed exclusions. Additionally, the Lessee shall submit annually, not later than sixty (60) days after the 31st day of December, a written statement certified as correct by the Lessee, or by a person duly authorized by the Lessee to so certify, showing in accurate detail the amount of its gross revenues during the preceding lease year, together with all claimed exclusions. Such written statement must also be duly verified or certified by an independent Certified Public Accountant. The statements shall be in a form and style, and contain those details and breakdowns as the Lessor may require.

Without prejudice to any remedies herein provided for default, if the Lessee shall fail to timely furnish any required report or certification or verification, the Lessor may have the report prepared on the Lessee's behalf, at the sole cost and expense of the Lessee, by an accountant selected by the Lessor. The Lessee shall furnish to the accountant all records requested for the purpose of preparing the reports, and the Lessee shall pay to the Lessor all expenses incurred by the Lessor in securing the reports.

F. Audit. The Lessor shall have the right to verify and audit all reports from the books, correspondence, memoranda, and other records of the Lessee and of the records pertaining thereto of a proprietary or affiliated company, if any, during the term of this lease and for such time thereafter as necessary to accomplish this verification and audit, but only to the extent that such reports, correspondence, memoranda and other reports concern this lease and/or Lessee's business operated from the premises.

The Lessor shall have access to and the right to examine any pertinent books, documents, papers, and records related to this lease during the term of this lease and following the termination of this lease, as necessary.

If an audit discloses that the Lessee has underpaid the percentage rent due for any period, Lessor shall notify the Lessee in writing of such deficiency and upon such notification

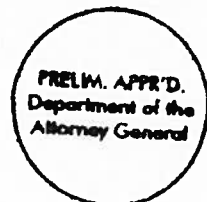


the deficient amount shall be immediately due and payable by the Lessee. If an audit by Lessor's accountant or by a licensed independent certified public accountant retained by Lessor shall disclose that rent has been underpaid by five percent (5%) or more for any period under examination, Lessor, in addition to any other remedies available in this lease or otherwise, shall be entitled to reimbursement of all costs and expenses incurred in completing any such audit in addition to any deficiency (together with applicable interest, service charge and other charges) revealed or disclosed.

G. Financial statements and balance sheets. On or before the 120th day following the close of the Lessee's fiscal year, the Lessee shall submit financial statements of the concession operation, including a balance sheet.

H. Rent disputes. Any dispute between the Lessee and the Lessor on the computation of the rent to be paid under this lease shall be determined and decided by the Chairperson of the Board of Land and Natural Resources of the State of Hawaii.

I. Interest on delinquent payments. The interest rate on any and all unpaid or delinquent payments to the Lessor shall be at one percent (1%) per month.

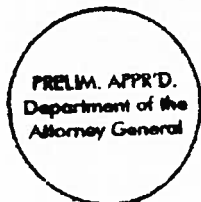


RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals and waters. (a) All minerals as hereinafter defined, in, on or under the premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove the minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of the minerals by any means whatsoever, including strip mining. "Minerals," as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, including all geothermal resources, in, on, or under the land, fast or submerged; provided, that "minerals" shall not include sand, gravel, rock or other material suitable for use and used in general construction in furtherance of the Lessee's permitted activities on the premises and not for sale to others. (b) All surface and ground waters appurtenant to the premises and the right on its own behalf or through persons authorized by it, to capture, divert or impound the same and to occupy and use so much of the premises required in the exercise of this right reserved; provided, however, that as a condition precedent to the exercise by the Lessor of the rights reserved in this paragraph, just compensation shall be paid to the Lessee for any of Lessee's improvements taken.

2. Ownership of improvements. The ownership of all improvements of whatever kind or nature, including but not limited to fences and stockwater system(s) located on the land prior to or on the commencement date of this lease, excluding those improvements constructed during the term of this lease unless provided otherwise.

SUBJECT TO the rights of native tenants and to regulatory rights and ownership rights (if any) of the State of Hawaii established pursuant to state law including chapter 6E, Hawaii Revised Statutes, over prehistoric or historic remains found in, on, or under the land.



THE LESSEE COVENANTS AND AGREES WITH THE LESSOR AS FOLLOWS:

1. Payment of rent. The Lessee shall pay the rent to the Lessor at the times, in the manner and form provided in this lease and at the place specified above, or at any other place the Lessor may from time to time designate, in legal tender of the United States of America.

2. Taxes, assessments, etc. The Lessee shall pay or cause to be paid, when due, the amount of all taxes, rates, and assessments of every description as to which the premises or any part, or any improvements, or the Lessor or Lessee, are now or may be assessed or become liable by authority of law during the term of this lease; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only those installments, together with interest, which becomes due and payable during the term of this lease.

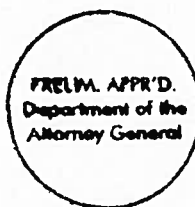
3. Covenant against discrimination. The use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin, religion, marital status, familial status, ancestry, physical handicap, disability, age or HIV (human immunodeficiency virus) infection.

4. Sanitation. The Lessee shall keep the premises and improvements in a strictly clean, sanitary and orderly condition.

5. Waste and unlawful, improper or offensive use of premises. The Lessee shall not commit, suffer or permit to be committed any waste, nuisance, strip or unlawful, improper or offensive use of the premises or any part, nor, without the prior written consent of the Lessor, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees now growing on the premises.

6. Compliance with laws. The Lessee shall comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state and federal laws applicable to the premises, now in force or which may be in force.

7. Inspection of premises. The Lessee shall permit the Lessor and its agents, at all reasonable times during the lease term, to enter the premises and examine the state of its repair and condition.



8. Improvements. The Lessee shall not at any time during the term construct, place, maintain and install on the premises any building, structure or improvement of any kind and description except with the prior written approval of the Chairperson and upon those conditions the Chairperson may impose, including any adjustment of rent, unless otherwise provided in this lease. The Lessee shall own these improvements until the expiration or other termination of the lease, at which time the ownership shall at the option of the Lessor, remain and become the property of the Lessor or shall be removed by Lessee at Lessee's sole cost and expense.

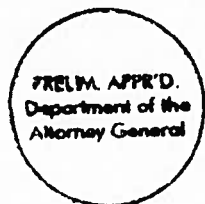
Upon termination and/or expiration of the lease and if desired by the Lessor, the Lessee at its expense, shall remove any and all improvements installed or constructed upon the premises and restore said premises to a condition satisfactory to the Lessor.

9. Repairs to improvements. The Lessee shall, at its own expense, keep, repair, and maintain the buildings and improvements now existing or hereafter constructed or installed on the premises in good order, condition and repair, reasonable wear and tear excepted.

10. Liens. The Lessee shall not commit or suffer any act or neglect which results in the premises, any improvement, or the leasehold estate of the Lessee becoming subject to any attachment, lien, charge, or encumbrance, except as provided in this lease, and shall indemnify, defend, and hold the Lessor harmless from and against all attachments, liens, charges, and encumbrances and all resulting expenses.

11. Character of use. The Lessee shall use or allow the premises leased to be used solely for souvenir merchandise educational in nature and related to the Diamond Head State Monument and for interpretive program purposes. Products such as t-shirts, caps, and other apparel, etc. which are not clearly educational, will be sold with educational hang tags that will enhance their educational value.

12. Assignments, etc. The Lessee shall not transfer, assign, or permit any other person to occupy or use the premises or any portion or transfer or assign this lease or any interest, either voluntarily or by operation of law, and any transfer or assignment made shall be null and void; provided that with the prior written approval of the Board the assignment and transfer of this lease or any portion may be made only if it is to a non-profit corporate successor of the Lessee.



13. Subletting. The Lessee shall not rent or sublet the whole or any portion of the premises.

14. Indemnity. The Lessee shall indemnify, defend, and hold the Lessor harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: 1) any act or omission on the part of Lessee relating to Lessee's use, occupancy, maintenance, or enjoyment of the premises; 2) any failure on the part of the Lessee to maintain the premises and sidewalks, roadways and parking areas adjacent thereto in Lessee's use and control, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of the Lessee to maintain the premises in a safe condition; and 3) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the Lessee's non-observance or non-performance of any of the terms, covenants, and conditions of this lease or the rules, regulations, ordinances, and laws of the federal, state, municipal or county governments.

15. Costs of litigation. In case the Lessor shall, without any fault on Lessor's part, be made a party to any litigation commenced by or against the Lessee (other than condemnation proceedings), the Lessee shall pay all costs, including reasonable attorney's fees, and expenses incurred by or imposed on the Lessor; furthermore, the Lessee shall pay all costs, including reasonable attorney's fees, and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the premises, or in the collection of delinquent rental, taxes, and any and all other charges.

16. Liability insurance. The Lessee shall procure and maintain, at its cost and expense and acceptable to the Lessor, in full force and effect throughout the term of this lease, comprehensive general liability insurance, or its equivalent, with an insurance company or companies licensed or authorized to do business in the State of Hawaii with an AM Best rating of not less than "A-" or other comparable and equivalent industry rating, in an amount of at least \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate, and with coverage terms acceptable to the Chairperson of the Board. The policy or policies of insurance shall name the State of Hawaii as an additional insured and a copy shall be filed with the State of Hawaii, Department of Land and Natural Resources. The insurance shall cover the entire premises, including all buildings, improvements, and grounds and all roadways or sidewalks on or

adjacent to the premises in the use or control of the Lessee.

The Lessee, prior to entry and use of the premises or within fifteen (15) days from the effective date of this lease, whichever is sooner, shall furnish the Lessor with a certificate(s) showing the policy(s) to be initially in force, keep the certificate(s) on deposit during the entire lease term, and furnish a like certificate(s) upon each renewal of the policy(s). This insurance shall not be cancelled, limited in scope of coverage, or nonrenewed until after thirty (30) days written notice has been given to the Lessor. The Lessor may at any time require the Lessee to provide Lessor with copies of the insurance policy(s) that are or were in effect during the lease period.

The Lessor shall retain the right at any time to review the coverage, form, and amount of the insurance required by this lease. If, in the opinion of the Lessor, the insurance provisions in this lease do not provide adequate protection for the Lessor, the Lessor may require Lessee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. The Lessor's requirements shall be reasonable but shall be designed to assure protection for and against the kind and extent of the risks which exist at the time a change in insurance is required. The Lessor shall notify Lessee in writing of changes in the insurance requirements and Lessee shall deposit copies of acceptable insurance policy(s) or certificate(s) thereof, with the Lessor incorporating the changes within thirty (30) days of receipt of the notice.

The procuring of the required policy(s) of insurance shall not be construed to limit Lessee's liability under this lease nor to release or relieve the Lessee of the indemnification provisions and requirements of this lease. Notwithstanding the policy(s) of insurance, Lessee shall be obligated for the full and total amount of any damage, injury, or loss caused by Lessee's negligence or neglect connected with this lease.

It is agreed that any insurance maintained by the Lessor will apply in excess of, and not contribute with, insurance provided by Lessee's policy.

17. Bond, performance. The Lessee shall, at its own cost and expense, within fifteen (15) days from the effective date of this lease, procure and deposit with the Lessor and thereafter keep in full force and effect during the term of this lease a good and sufficient surety bond, conditioned upon the full and faithful observance and performance by Lessee of all the

terms, conditions, and covenants of this lease, in an amount of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). This bond shall provide that in case of a breach or default of any of the lease terms, covenants, conditions, and agreements, the full amount of the bond shall be paid to the Lessor as liquidated and ascertained damages and not as a penalty.

18. Lessor's lien. The Lessor shall have a lien on all the buildings and improvements placed on the premises by the Lessee, on all property kept or used on the premises, whether the same is exempt from execution or not and on the rents of all improvements and buildings located on the premises for all Lessor's costs, attorney's fees, rent reserved, for all taxes and assessments paid by the Lessor on behalf of the Lessee, and for the payment of all money provided in this lease to be paid by the Lessee, and this lien shall continue until the amounts due are paid.

19. Mortgage. Lessee shall not mortgage, hypothecate, or pledge the premises, any portion, or any interest in this lease.

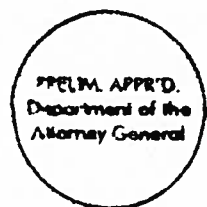
20. Breach. Time is of the essence in this agreement. If the Lessee shall fail to pay the rent, or any part thereof, at the times and in the manner provided in this lease and this failure shall continue for a period of more than thirty (30) days after delivery by the Lessor of a written notice of breach or default and demand for cure, by personal service, registered mail or certified mail to the Lessee and to each holder of record having a security interest in the premises, or if the Lessee shall become bankrupt, or shall abandon the premises, or if this lease and premises shall be attached or taken by operation of law, or if any assignment is made of the Lessee's property for the benefit of creditors, or if Lessee shall fail to observe and perform any of the covenants, terms, and conditions contained in this lease and on its part to be observed and performed, and this failure shall continue for a period of more than sixty (60) days after delivery by the Lessor of a written notice of breach or default and demand for cure, by personal service, registered mail or certified mail to the Lessee at its last known address and to each holder of record having a security interest in the premises, the Lessor may, subject to the provisions of Section 171-21, Hawaii Revised Statutes, at once re-enter the premises, or any part, and upon or without the entry, at its option, terminate this lease without prejudice to any other remedy or right of action for arrears of rent or for any preceding or other breach of contract; and in the event of termination, at the option of the Lessor, all buildings and improvements shall remain and

become the property of the Lessor or shall be removed by Lessee; furthermore, Lessor shall retain all rent paid in advance to be applied to any damages.

21. Condemnation. If at any time, during the term of this lease, any portion of the premises should be condemned, or required for public purposes by any county or city and county, the rental shall be reduced in proportion to the value of the portion of the premises condemned. The Lessee shall be entitled to receive from the condemning authority (a) the value of growing crops, if any, which Lessee is not permitted to harvest and (b) the proportionate value of the Lessee's permanent improvements so taken in the proportion that it bears to the unexpired term of the lease; provided, that the Lessee may, in the alternative, remove and relocate its improvements to the remainder of the premises occupied by the Lessee. The Lessee shall not by reason of the condemnation be entitled to any claim against the Lessor for condemnation or indemnity for leasehold interest and all compensation payable or to be paid for or on account of the leasehold interest by reason of the condemnation shall be payable to and be the sole property of the Lessor. The foregoing rights of the Lessee shall not be exclusive of any other to which Lessee may be entitled by law. Where the portion taken renders the remainder unsuitable for the use or uses for which the premises were leased, the Lessee shall have the option to surrender this lease and be discharged and relieved from any further liability; provided, that Lessee may remove the permanent improvements constructed, erected and placed by it within any reasonable period allowed by the Lessor.

22. Right to enter. The Lessor or the County and their agents or representatives shall have the right to enter and cross any portion of the premises for the purpose of performing any public or official duties; provided, however, in the exercise of these rights, the Lessor or the County shall not interfere unreasonably with the Lessee or Lessee's use and enjoyment of the premises.

23. Inspection by prospective bidders. The Lessor shall have the right to authorize any person or persons to enter upon and inspect the premises at all reasonable times following a published notice for its proposed disposition for purposes of informing and apprising that person or persons of the condition of the lands preparatory to the proposed disposition; provided, however, that any entry and inspection shall be conducted during reasonable hours after notice to enter is first given to the Lessee, and shall, if the Lessee so requires, be made in the company of the Lessee or designated agents of the Lessee;



provided, further, that no authorization shall be given more than two years before the expiration of the term of this lease.

24. Acceptance of rent not a waiver. The acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant, or condition of this lease, nor of the Lessor's right of re-entry for breach of covenant, nor of the Lessor's right to declare and enforce a forfeiture for any breach, and the failure of the Lessor to insist upon strict performance of any term, covenant, or condition, or to exercise any option conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any term, covenant, condition, or option.

25. Extension of time. Notwithstanding any provision contained in this lease, when applicable, the Board may for good cause shown, allow additional time beyond the time or times specified in this lease for the Lessee to comply, observe, and perform any of the lease terms, conditions, and covenants.

26. Justification of sureties. Any bonds required by this lease shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and qualified to do business in the State of Hawaii, or by not less than two personal sureties, corporate or individual, for which justifications shall be filed as provided in Section 78-20, Hawaii Revised Statutes; provided, however, the Lessee may furnish a bond in like amount, conditioned as aforesaid, executed by it alone as obligor, if, in lieu of any surety or sureties, it shall also furnish and at all times thereafter keep and maintain on deposit with the Lessor security in certified checks, certificates of deposit (payable on demand or after a period the Lessor may stipulate), bonds, stocks or other negotiable securities properly endorsed, or execute and deliver to the Lessor a deed or deeds of trust of real property, all of a character which is satisfactory to Lessor and valued in the aggregate at not less than the principal amount of the bond. It is agreed that the value of any securities which may be accepted and at any time thereafter held by the Lessor shall be determined by the Lessor, and that the Lessee may, with the approval of the Lessor, exchange other securities or money for any of the deposited securities if in the judgment of the Lessor the substitute securities or money shall be at least equal in value to those withdrawn. It is further agreed that substitution of sureties or the substitution of a deposit of security for the obligation of a surety or sureties may be made by the Lessee, but only upon the written consent of the Lessor and that until this consent is granted, which shall be discretionary with the Lessor,

no surety shall be released or relieved from any obligation.

27. Waiver, modification, reimposition of bond and liability insurance provisions. Upon substantial compliance by the Lessee with the terms, covenants, and conditions contained in this lease on its part to be observed or performed, the Lessor at its discretion may in writing, waive or suspend the performance bond or improvement bond requirements or both or may, in writing, modify the particular bond(s) or liability insurance requirements by reducing its amount; provided, however, that the Lessor reserves the right to reactivate the bonds or reimpose the bond(s) or liability insurance in and to their original tenor and form at any time throughout the term of this lease.

28. Quiet enjoyment. The Lessor covenants and agrees with the Lessee that upon payment of the rent at the times and in the manner provided and the observance and performance of these covenants, terms, and conditions on the part of the Lessee to be observed and performed, the Lessee shall and may have, hold, possess, and enjoy the premises for the term of the lease, without hindrance or interruption by the Lessor or any other person or persons lawfully claiming by, through, or under it.

29. Surrender. The Lessee shall, at the end of the term or other sooner termination of this lease, peaceably deliver unto the Lessor possession of the premises in a clean and orderly condition, together with all improvements existing or constructed thereon or Lessee shall remove such improvements, at the option of the Lessor. Furthermore, upon the expiration, termination, or revocation of this lease, should the Lessee fail to remove any and all of Lessee's personal property from the premises, after notice thereof, the Lessor may remove any and all personal property from the premises and either deem the property abandoned and dispose of the property or place the property in storage at the cost and expense of Lessee, and the Lessee does agree to pay all costs and expenses for disposal, removal, or storage of the personal property. This provision shall survive the termination of the lease.

30. Non-warranty. The Lessor does not warrant the conditions of the premises, as the same are being leased as is.

31. Hazardous materials. Lessee shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. Lessee shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto

the premises any such materials except to use in the ordinary course of Lessee's business, and then only after written notice is given to Lessor of the identity of such materials and upon Lessor's consent which consent may be withheld at Lessor's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by Lessee, then the Lessee shall be responsible for the reasonable costs thereof. In addition, Lessee shall execute affidavits, representations and the like from time to time at Lessor's request concerning Lessee's best knowledge and belief regarding the presence of hazardous materials on the premises placed or released by Lessee.

Lessee agrees to indemnify, defend, and hold Lessor harmless, from any damages and claims resulting from the release of hazardous materials on the premises occurring while Lessee is in possession, or elsewhere if caused by Lessee or persons acting under Lessee. These covenants shall survive the expiration or earlier termination of the lease.

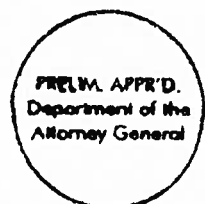
For the purpose of this lease "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

32. Hawaii law. This lease shall be construed, interpreted, and governed by the laws of the State of Hawaii.

33. Exhibits - Incorporation in lease. All exhibits referred to are attached to this lease and hereby are deemed incorporated by reference.

34. Headings. The article and paragraph headings herein are inserted only for convenience and reference and shall in no way define, describe or limit the scope or intent of any provision of this lease.

35. Partial invalidity. If any term, provision, covenant or condition of this lease should be held to be invalid, void or unenforceable, the remainder of this lease shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.



SPECIAL CONDITIONS:

36. Fire and extended coverage insurance. The Lessee, at its cost and expense, shall procure and maintain at all times during the term of this lease, fire and extended coverage insurance with an insurance company(s) licensed to do business in the State of Hawaii, insuring all buildings and improvements erected on the land leased in the joint names of Lessor and Lessee, with the standard mortgage clause for Mortgagee, if any, as their interest may appear, in an amount equal to the replacement cost of the facilities and shall pay the premiums at the time and place required under the policy.

In the event of total or partial loss, any proceeds derived from the policy(s) shall be used by the Lessee for rebuilding, repairing, or otherwise reinstating the same buildings in a good and substantial manner according to plans and specifications approved in writing by the Board; provided, however, that with the approval of the Lessor, the Lessee may surrender this lease and pay the balance owing on any mortgage and the Lessee shall then receive that portion of the proceeds which the unexpired term of this lease at the time of the loss or damage bears to the whole of the term, the Lessor to be paid the balance of the proceeds.

The Lessee shall furnish the Lessor on or before the commencement date of this lease, a certificate showing the policy(s) to be in full force and effect and shall furnish a like certificate upon each renewal of the policy(s). Each certificate(s) shall contain or be accompanied by an assurance of the insurer not to cancel the insurance, limit the scope of the coverage, or fail or refuse to renew the policy(s) until after thirty (30) days written notice has been given to the Lessor.

All rights or claims of subrogation against the State of Hawaii, its officers, employees, and agents are waived.

37. Non-use and abandonment. If the Lessee shall, at any time for a continuous period of one (1) year, fail or cease to use said premises for the purposes stated in Paragraph 12 herein, or abandon all or any portion of said premises, this lease shall cease and terminate.

38. Audit and examination of books, etc. Lessee shall at all times maintain full and accurate records relating to Lessee's operations and activities upon and in connection with said leased premises. Lessor reserves the right to audit, examine, and to make copies of all Lessee's books, accounts,

records, and receipts, during regular working hours upon reasonable notice given by Lessor.

39. Termination by either party. The Lessor and Lessee, by mutual agreement, may terminate this lease at any time without cause, provided that the Lessor and the Lessee are not in breach of any condition herein at the time of the mutual agreement to terminate. This provision can be waived by the parties, provided such waiver is in writing and signed by both parties.

40. Clearances. The Lessee shall be responsible for obtaining all necessary federal, state or county clearances.

41. Certification of tax exemption. The Lessee shall be certified to be tax exempt under Sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The premises shall be used by the Lessee for the purposes for which its charter was issued and for which it was certified by the Internal Revenue Service.

42. Time of essence. Time is of the essence in all provisions of this lease.

43. Historic preservation. In the event any historic properties or burial sites, as defined in section 6E-2, Hawaii Revised Statutes, are found on the premises, the Lessee and the Lessee's agents, employees and representatives shall immediately stop all land utilization or work or both and contact the Historic Preservation Office in compliance with chapter 6E, Hawaii Revised Statutes.

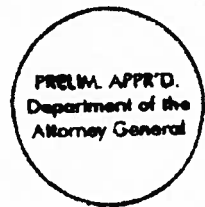
44. Phase I environmental site assessment. Prior to the termination of this lease or the assignment of the leasehold, Lessee shall conduct a Phase I environmental site assessment and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency and the Department of Land and Natural Resources. Any assignment or voluntary termination by the Lessee will not be approved by the Board of Land and Natural Resources unless this evaluation and abatement provision has been executed. This provision shall survive and continue in effect after termination of this lease.

45. Training of employees. The Lessee's employees will be trained, in coordination and through the State of Hawaii, Department of Land and Natural Resources, Division of State Parks' Interpretive Program staff, on Diamond Head State Monument

orientation, which includes natural and cultural history, the role of the State of Hawaii, Department of Defense and Civil Defense in their utilization of other sensitive locations with the Diamond Head State Monument, along with the standard and frequently asked questions relating to navigation in Honolulu from visitors when State of Hawaii, Department of Land and Natural Resources, Division of State Parks' staff ("DSP") are on site.

As time and funds allow, the Lessee will also proceed with the development of the site specific educational offerings such as Smart Phone Apps and/or an audio tour, which again, will be developed in coordination with DSP Interpretive Program staff.

46. Cross-Default and Simultaneous Termination. If either this lease or the related Memorandum of Agreement between Lessor and Lessee dated _____, 2014 shall terminate for any reason, then the other agreement shall terminate simultaneously therewith, and an event of default under one of such agreements shall be deemed an event of default under the other agreement.



Definitions.

1. The use of any gender shall include all genders, and if there is more than one lessee, then all words used in the singular shall extend to and include the plural.

2. As used in this lease, unless clearly repugnant to the context:

(a) "Chairperson" means the Chairperson of the Board of Land and Natural Resources of the State of Hawaii or his successor.

(b) "Lessee" means and includes the Lessee, its officers, employees, invitees, successors or permitted assigns.

(c) "Holder of record of a security interest" means a person who is the owner or possessor of a security interest in the land leased and who has filed with the Department of Land and Natural Resources and with the Bureau of Conveyances of the State of Hawaii a copy of this interest.

(d) "Premises" means the land leased and all buildings and improvements now or hereinafter constructed and installed on the land leased.

(e) "Waste" includes, but is not limited to, (1) permitting the premises, or any portion, to become unduly eroded or failure to take proper precautions or make reasonable effort to prevent or correct the erosion; (2) permitting a substantial increase in noxious weeds in uncultivated portions of the premises; and (3) failure to employ all of the usable portions of the premises.

(f) "Days" shall mean calendar days, unless otherwise specified. _____

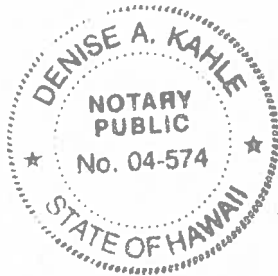
IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources, to be hereunto affixed and the parties hereto have caused these presents to be executed the day, month and year first above written.

STATE OF HAWAII

Approved by the Board of Land and Natural Resources at its meeting held on May 24, 2013.

By *William J. Aila, Jr.*
WILLIAM J. AILA, JR.
Chairperson
Board of Land and Natural Resources

LESSOR



PACIFIC HISTORIC PARKS, a Hawaii nonprofit corporation

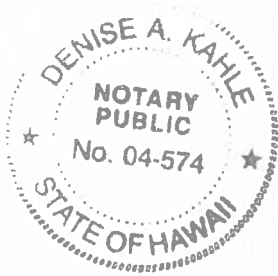
By *Neil A. Sheehan*
NEIL A. SHEEHAN
Its Chairman

LESSEE

APPROVED AS TO FORM:

Pamela K. Matsukawa
PAMELA K. MATSUKAWA
Deputy Attorney General

Dated: 4/15/14

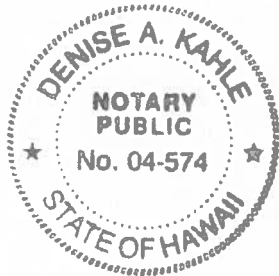


NOTARY CERTIFICATION
DENISE A. KAHLE, 1st Circuit
Date: 4/18/14 # Pages: 20 +
Doc. Description: Exhibits A & B
DLNR - General Lease # SP052
Denise A. Kahle
NOTARY SIGNATURE



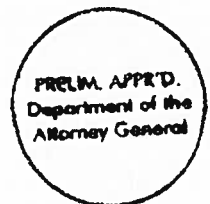
STATE OF HAWAII)
) SS.
COUNTY OF Honolulu)

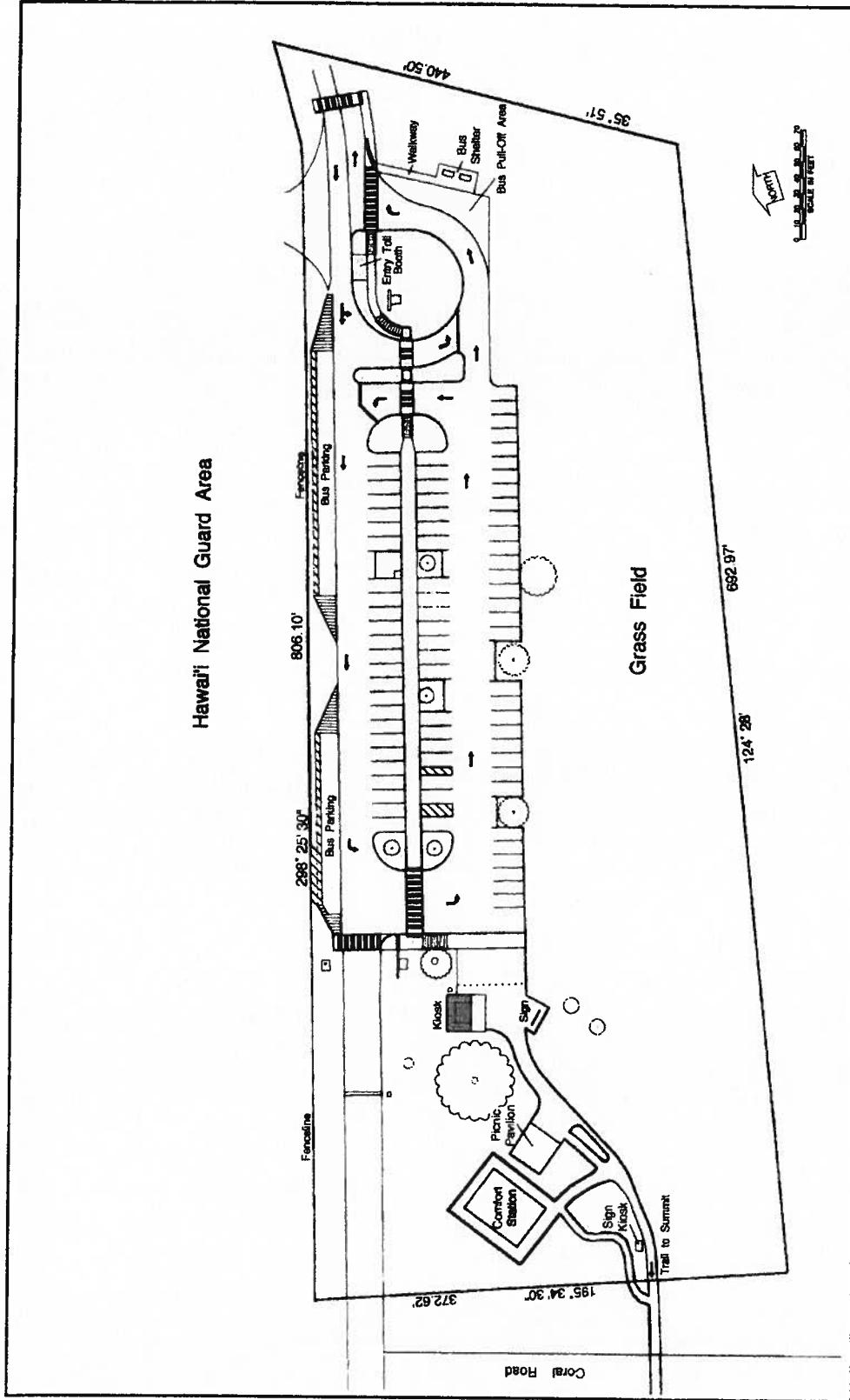
On this 18th day of April, 2014,
before me appeared Neil A. Sheehan and
_____ to me personally known, who,
being by me duly sworn, did say that ~~they are~~ ^{he is} the Chairman
and _____, respectively of PACIFIC HISTORIC PARKS, a
Hawaii nonprofit corporation, and that said instrument was signed
in behalf of said corporation by authority of its Board of
Directors, and the said Neil A. Sheehan and
_____ acknowledged said
instrument to be the free act and deed of said corporation.



Denise A. Kahle
Notary Public, State of Hawaii

Denise A. Kahle
My commission expires: 10/10/16





Map of the visitor entry area of Diamond Head State Monument showing the location of the kiosk.

PRELIM. APPROV.
Department of the
Attorney General

EXHIBIT "A"

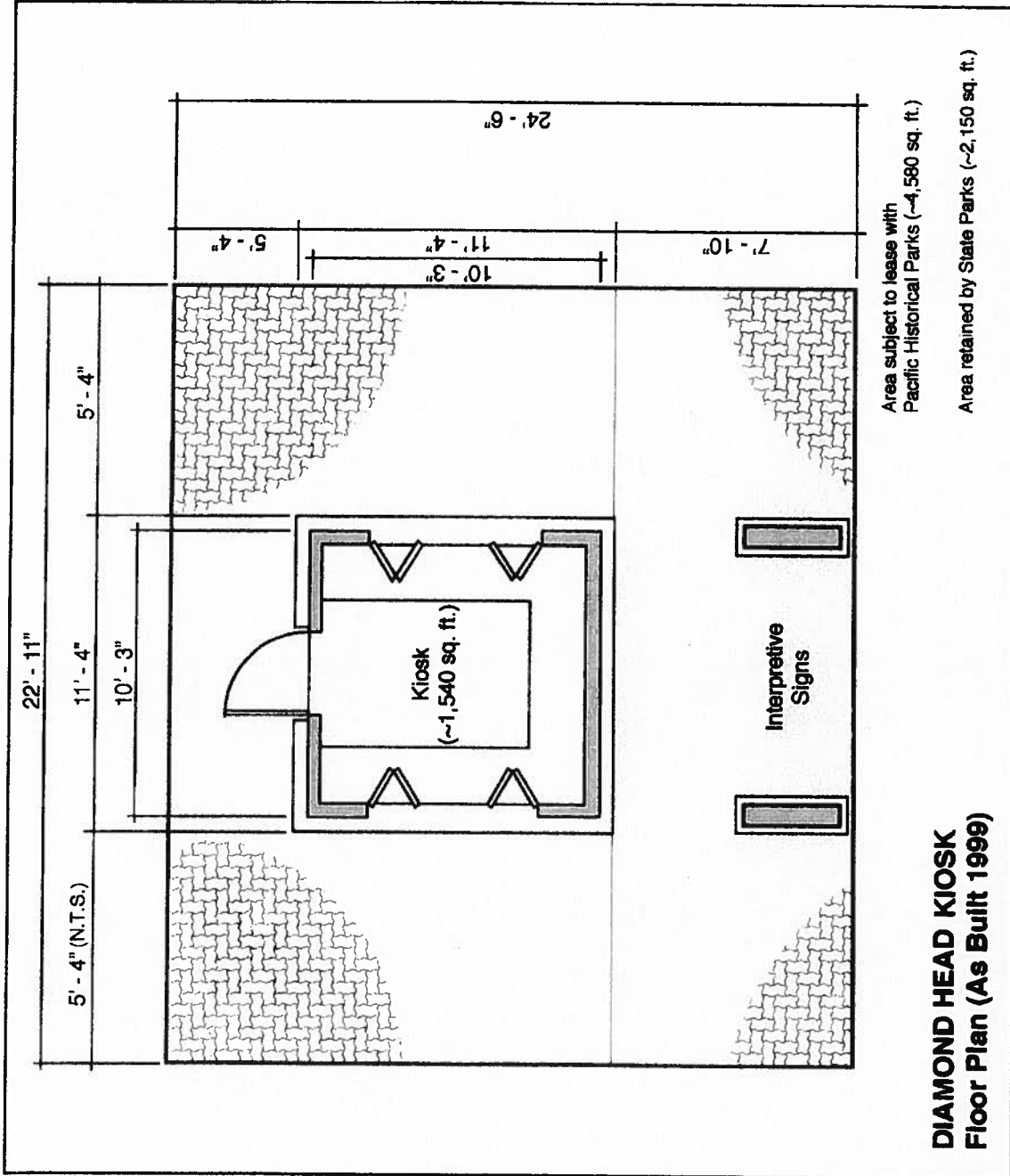


EXHIBIT "B"

Plan view of the kiosk showing the area that is subject to the lease with Pacific Historical Parks

EXHIBIT 6

**BYLAWS
OF
PACIFIC HISTORIC PARKS**

**ARTICLE I.
PURPOSES; NONPROFIT CHARACTER**

Section 1.1 Purposes. The purposes of the Corporation shall be as specifically set forth in Article III of the Charter of Incorporation of the Corporation.

Section 1.2 Nonprofit Character. The Corporation shall be a nonprofit corporation. The Corporation shall not authorize or issue shares of stock. No dividend shall be paid and no part of the income or earnings which may be derived from its operations, in pursuance of the purposes of the Corporation, shall be distributed to or inure to the benefit of any Director or Officer of the Corporation, or any private individual, but shall be used to promote the purposes of the Corporation.

**ARTICLE II.
PRINCIPAL OFFICE; PLACE OF MEETINGS; SEAL**

Section 2.1 Principal Office. The principal office of the Corporation shall be maintained at such place within or without the State of Hawaii, and the Corporation may have such other offices within or without the State of Hawaii, as the Board of Directors of the Corporation shall determine.

Section 2.2 Place of Meetings. All meetings of the Board of Directors shall be held at the principal office of the Corporation, unless some other place is stated in the call. Any meeting, regular or special, of the Board of Directors may be held by conference telephone or similar communication equipment as long as all Directors participating in the meeting can hear one another, and all such Directors shall be deemed to be present in person at the meeting.

Section 2.3 Seal. The Corporation may have a corporate seal as the Board of Directors shall determine.

**ARTICLE III.
MEMBERS**

Section 3.1 Members. Any person who is interested in promoting, fostering and furthering the purposes of the Corporation shall be eligible for membership. The Board of Directors shall have the power to establish one or more categories of individual and entity memberships who provide financial and other contributions to the Corporation in support of the Corporation's purposes, programs and activities. Members shall not have any voting or other rights or duties with respect to the governance or operations of the Corporation. Members may be provided with opportunities to participate in selected activities and programs undertaken by the Corporation as determined from time to time by the Board of Directors. The Board of Directors shall ensure at all times that such categories of memberships and the manner in which such categories are established and operate do not adversely affect the nonprofit character and tax-exempt status of the Corporation.

Section 3.2 Voting Power. All voting rights and powers in the Corporation shall be vested solely in the Board of Directors pursuant to Article IV of these Bylaws.

II.

The initial location of the principal office of the corporation shall be: Building 367, Naval Station, Pearl Harbor, P. O. Box 6067, Honolulu, Hawaii, 96818.

III.

The corporation shall be organized for the following purposes:

(1) To function as a National Park Cooperating Association designated by the Regional Director of the National Park Service or other competent authority and authorized to cooperate with the National Park Service by the U. S. Congress, Public Law 633, approved August 7, 1946.

(2) To promote scientific, educational, historical and interpretive activities of the National Park Service.

(3) To promote programs of research in the areas administered by the National Park Service and to further the aims of the interpretive programs in said areas.

(4) To assist in the gathering and preservation of scientific information and of objects and documents important to said areas.

(5) To assist in the development and maintenance of libraries and museums in said areas.

(6) To assist the National Park Service in the acquisition of non-Federal lands within said areas.

(7) To publish and distribute information concerning the Arizona Memorial Museum and World War II in the Pacific.

IV.

The duration of the corporation shall be perpetual.