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STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE ADJUTANT GENERAL
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96816-4495

June 1, 2017

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

OAHU

Approval to Execute a Memorandum of Agreement with the Arc in Hawaii, for the use of a portion (25-parking stalls) of the State of Hawai'i, Department of Defense paved parking lot located at the intersection of Diamond Head Road and 22nd Avenue, Honolulu, Oahu, TMK 3-1-042: 041.

LEGAL REFERENCE:

Section 171-11 and 55, Hawai'i Revised Statutes.

APPLICANT / LESSEE:

The Arc in Hawaii, a public non-profit organization, whose principal place of business is 3989 Diamond Head Road, Honolulu, Hawai'i 96816.

LOCATION AND TAX MAP KEY:

Parking Lot at the intersection of Diamond Head Road and 22nd Avenue, Honolulu, Island of Oahu, identified by Tax Map Key: 1st Division, 3-1-042:041.

AREA:

Area of Use (see attached Exhibit A – 22nd Avenue Parking Lot Plan):

Parking Lot = 86 parking stalls
Proposed Use = 25 parking stalls

ZONING:

State Land Use District:	Urban District
City & County of Honolulu:	R-10 Residential District
Special District:	Diamond Head Special Design District

ITEM M-5

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admissions Act.

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

CURRENT USE STATUS:

Land presently encumbered by Governor's Executive Order No. 1997 dated April 9, 1962, setting aside the land to the Department of Defense for Diamond Head Reservation.

CHARACTER OF USE:

For the purpose of employee parking by the Arc in Hawaii.

TERM:

Five (5) years, on a one (1) year, month-to-month basis, renewable annually.

COMMENCEMENT DATE:

To be determined by the Adjutant General.

RENT:

Rent will be assessed in accordance with the following rate schedule to reimburse the DOD for the utility and "wear and tear" maintenance/repair costs relative to the use of the parking lot.

Parking (25-parking stalls): \$500.00/month

CHAPTER 343, HRS – ENVIRONMENTAL ASSESSMENT:

Pursuant to Section 11-200-S(a), Environmental Impact Statement Rules of the Department of Health, State of Hawai'i, this disposition is exempt from requirements regarding preparation of an environmental assessment, negative declaration, or environmental impact statement as required by Chapter 343, Hawai'i Revised Statutes, as amended, relating to Environmental Assessments, because the proposed action falls within Exemption Class #1 (Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing.), Comprehensive Exemption List for the Department of Defense, dated August 9, 2013, as approved by the Environmental Quality Control Council.

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

REMARKS:

This parking lot contains a total of 86 parking stalls, and is generally not used except for monthly individual training or annual training by the Hawaii National Guard (HING), and DOD mission activities such as those occurring at the Armory Facility (Building 300) located directly across the parking lot or at the DOD Headquarters located at 3949 Diamond Head Road. Use of the parking lot is also occasionally permitted to other requestors (on a non-interference basis) such as the film industry upon approval of a Hawaii Film Permit by the Department of Business, Economic Development and Tourism (DBEDT). The DOD is willing to allow the Arc in Hawaii to use of said property on a "non-interference" basis, for this purpose only.

The State of Hawaii, DOD is a community based organization. Therefore, the DOD's intent is to lend out facilities, in compliance with Hawaii Revised Statutes and Hawaii National Guard requirements, on a non-interference basis, to qualified entities within the community. The Arc in Hawaii is a 501(c) (3) not-for-profit organization, providing services for people with intellectual and developmental disabilities on Oahu. Their facility, located at 3989 Diamond Head Road, is adjacent to the DOD's Headquarters on one side, and the DOD's paved parking lot on the other. Due to their limited on-site parking availability, the Arc in Hawaii requests use of a portion of the DOD's parking lot for their staff parking.


Since the proposed parking use will require maintenance to the property and utility costs, the DOD intends on assessing the Arc in Hawaii a monthly fee of \$500. Also, since the property is located on ceded land, 20% of the fees collected will be remitted to the Office of Hawaiian Affairs (OHA) per Section 3 of Act 178, 2006 Session Laws of Hawaii and Executive Order 06-06. In addition, an appropriate percentage of the remaining fees collected will be remitted to the United States Property and Fiscal Office (USPFO) in accordance with the Master Cooperative Agreement regarding non-program income sites. The remainder of the fees collected will be deposited into the State's general fund in accordance with HRS §121-19.

Looking forward, the DOD intends to seek an amendment to HRS §121-19 in the supplemental year to request that "net" proceeds, as opposed to "gross" proceeds, from the rental fees collected, shall be deposited into the general funds of the State. This will allow the DOD to continue supporting the use of its facilities within the community without suffering a budgetary loss. Until the law is change, the DOD will deposit the remainder of the fees collected for the use of the property to the general funds of the State.


RECOMMENDATION: That the Board:

- A. 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 probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
- B. Consent to the execution of a Memorandum of Agreement between the Department of Defense and the Arc in Hawaii, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following:
 - 1. Review and approval by the Department of the Attorney General; and
 - 2. Such other terms and conditions as may be prescribed by the Adjutant General to best serve the interests of the State.

Respectfully submitted,


ARTHUR J. LOGAN
Major General, HING
Adjutant General

APPROVED FOR SUBMITTAL:


SUZANNE D. CASE
Chairperson and Member