

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

October 23, 2020

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

O'ahu

SUBJECT: Request approval to Amend Revocable Permit No. SP0544, Diamond Parking Services, LLC, Permittee, Nu'uaniu Pali State Wayside, Nu'uaniu, Honolulu, O'ahu, Hawai'i, Tax Map Key: (1) 1-9-007:002 (portion).

The purpose of this amendment is to update the terms of the revocable permit to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and increase the monthly percentage rent.

APPLICANT:

Diamond Parking Services, LLC

LEGAL REFERENCE:

Hawai'i Revised Statutes Sections 171-6 and 55, as amended. Hawai'i Administrative Rules (HAR) Chapter 13-146, Section 13-146-6 (Fees), as amended.

LOCATION:

Portion of Government lands of Nu'uaniu, Honolulu, O'ahu, identified by Tax Map Key: (1)1-9-007:002 (portion), as shown on the map attached as **Exhibit A**.

AREA:

Approximately three acres of the seventy-three acres, more or less

ZONING:

| | |
|--------------------------|---|
| State Land Use District: | Conservation |
| County of Honolulu CZO: | P-1 Restricted Preservation District, R-10 Residential District |

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Encumbered by that certain Use and Occupancy Agreement between the State of Hawai'i, Department of Transportation and the Department of Land and Natural Resources, Division of State Parks for maintenance, use and repair for an area designated as the Nu'uuanu Pali State Wayside dated April 17, 1995.

BACKGROUND:

The Hawai'i Department of Land and Natural Resources' DSP is responsible for managing the use and protection of all lands, and historical and natural resources within the Hawai'i State Park System, established under Chapter 13-146, Hawaii Administrative Rules (HAR). The new fee schedule in Chapter 13-146 helps improve revenue-generating potential for the Division of State Parks (DSP) to better manage the Hawai'i State Park System that is composed of some of the State's most valuable, scenic, historic, culturally significant, and acclaimed natural and cultural resources.

The purpose of this request is to update the terms of the RP to adjust for DSP's new fee schedule.

REMARKS:

The current revocable permit currently provides for a rent of 70% of gross receipts per month. We are asking the Board to approve a ninety-nine percent (99%) of net operating income for the monthly rent.

Following the adoption of HAR13-146 Increase Fees, in the new fees would result in a windfall for the permit holder without adjustment to the rent.

The adjustment of the terms will help capture the windfall that results from the new fee schedule. Parks has worked with the permittee on the new monthly rent feels the Board can authorize the change.

The subject RP was issued pursuant to Section 171-55, HRS. The statutory language allows the Board to issue a permit, "... by direct negotiation without public auction, under conditions and rent which will serve the best interests of the State ..." Under the current circumstances, Parks believes that the statute provides grounds for the Board to modify the rent as warranted.

Staff recommends the Board approve a monthly rent of 99% of net operating income for the duration of the terms. The new rent will be effective thirty-days (30) from the approval by the Board. In addition, staff recommends Revocable Permit No. SP0544 incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6.

RECOMMENDATION: That the Board:

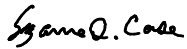
1. Approve the updated Revocable Permit No. SP0544 to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and;
2. Adjust the rent payable to ninety-nine percent (99%) of net operating income per month.

Respectfully Submitted,



Curt Cottrell, Administrator
Division of State Parks

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson
Board of Land and Natural Resources

