

STATE OF HAWAI'I
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 Concession Contract No. IFB No. DLNR-SP-2017-01, Pro Park, Inc., Concessionaire, Diamond Head State Monument, Kapahulu, Waikiki, Honolulu, O'ahu, Hawai'i, Tax Map Key: (1) 3-1-042:026.

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

APPLICANT:

Pro Park, Inc.

LEGAL REFERENCE:

Hawai'i Revised Statutes Sections 171-6 and 55 as amended. Hawai'i Administrative Rules (HAR) Chapter 13-146, Section 13-146-5 and Section 13-146-6 (Fees), as amended.

LOCATION:

Portion of Government Land located in Diamond Head State Monument, Kapahulu, Waikiki, Honolulu, O'ahu, Hawai'i, Tax Map Key: (1) 3-1-042:026, as shown on the map attached as **Exhibit A**.

AREA:

Approximate five (5) acres, more or less

ZONING:

State Land Use District:	Conservation, Urban
County of Honolulu:	P-1 Restricted Preservation District, P-2 General Preservation 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 Governor's Executive Order 2000 setting aside land for state park purposes to be under the control and management of the State of Hawai'i, Department of Land and Natural Resources, Division of State Parks.

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 concession contract to adjust for DSP's new fee schedule.

REMARKS:

The current revocable permit currently provides for a rent of \$102,000.00 per month or 87% 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 and feels the Board can authorize the change.

The subject concession contract 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 Concession Contract No. IFB No. DLNR-SP-2017-01 incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6.

RECOMMENDATION: That the Board:

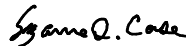
1. Approve the updated Concession Contract No. IFB No. DLNR-SP-2017-01 to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and;
2. Adjust the rent payable to ninety-nine percent (99%) of net operating income per month.

Respectfully Submitted,



Curt Cottrell, Administrator
Division of State Parks

APPROVED FOR SUBMITTAL:



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

Attachments: Exhibit A



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

CSF. NO. 13,60

April 3, 1962

DIAMOND HEAD STATE MONUMENT

PARCELS A, B, C and D

Kapa.hulu, Waikiki, Honolulu, Oahu, Hawaii

Being portions of L.P. 8165, Part Bon a portion of L.C.Aw. 8559-B Apana. 32 to William C. Lunalilo.

Being also portions of the land conveyed to the Minister of Interior by the Trustee of William C. Lunalilo Estate by Deed dated June 17, 1884, and recorded in Liber 88 on Pages 223 and 224 (Land Office Deed 136).

PARCEL A -- Beginning at the north corner of this parcel of land, the true azimuth and distance from U. S. Military Reservation Monument 10 being 41° 08' 50" 9.50 feet, and the coordinates of said point of beginning referred to Government Survey Triangulation station "LEAHI" being 3005.21 feet North and 565.90 feet East, as shown on Government Survey Registered Map H.T.S. Plat 2145-H, thence running by azimuths measured clockwise from True South:-

1. 320° 52" 91.30 feet a long Diamond Head Reservoir Lot, Governor's Executive Order 605;
2. 41° 08' 50" 130.00 feet a long Diamond Head Reservoir Lot, Governor's Executive Order 605;
3. 311° 08' 50" 430.00 feet a long Diamond Head Reservoir Lot, Governor's Executive Order 605;
4. 234° 49' 13" 318.81 feet a long Diamond Head Reservoir Lot, Governor's Executive Order 605;
5. 333° 08' 40" 80.00 feet a long Fort Ruger Military Reservation, Tract 1-C of Presidential Executive Order 10648 dated December 8, 1955;
6. 57° 15' 45" 1100.75 feet a long Parcel B, DIAMOND HEAD STATE MONUMENT, hereinbelow described;

- 7, 37° 30' 900.00 feet along Parcel B, DIAMOND HEAD STATE MONUMENT, hereinbelow described;
8. 30° 00' 765.00 feet along Parcel B, DIAMOND HEAD STATE MONUMENT, hereinbelow described to the middle of gulch;

Thence along the middle of gulch along Parcel D, DIAMOND HEAD STATE MONUMENT, for the next five (5) courses, the direct azimuths and distances between points in the middle of said gulch being:

- | | | | |
|-----|------|-----|--------------|
| 9. | 115° | 00' | 100.00 feet; |
| 10. | 174° | 39' | 47.70 feet; |
| 11. | 105° | 30' | 100.00 feet; |
| 12. | 116° | 00' | 130.00 feet; |
| 13. | 75° | 00' | 80.00 feet; |

14. 207° 13' 967.00 feet along Land Court Application 972 to u. s. Military Reservation Monument 12;
15. 224° 30' 931.86 feet along Land Court Application 972 to U. S. Military Reservation Monument 11;
16. 221° 08' 50" 841.34 feet along Land Court Application 1171 to the point of beginning and containing an Area of 26.081 Acres.

PARCEL B -- Beginning at Government Survey Triangulation Station "LE.ARI" (Diamond Head) situated at the highest point on the southwesterly rim of Diamond Head Crater, thence running by azimuths measure clockwise from True South:-

Along the rim of Diamond Head Crater, along Diamond Head Reservation, Governor's Executive Order 1997, for the first six (6) courses, the direct azimuths and distances between points on said rim of Diamond Head Crater being:

- | | | | |
|----|------|---------|-------------------------|
| 1. | 302° | 44' | 347.70 feet to a spike; |
| 2. | 304° | 13' 30" | 567.50 feet; |

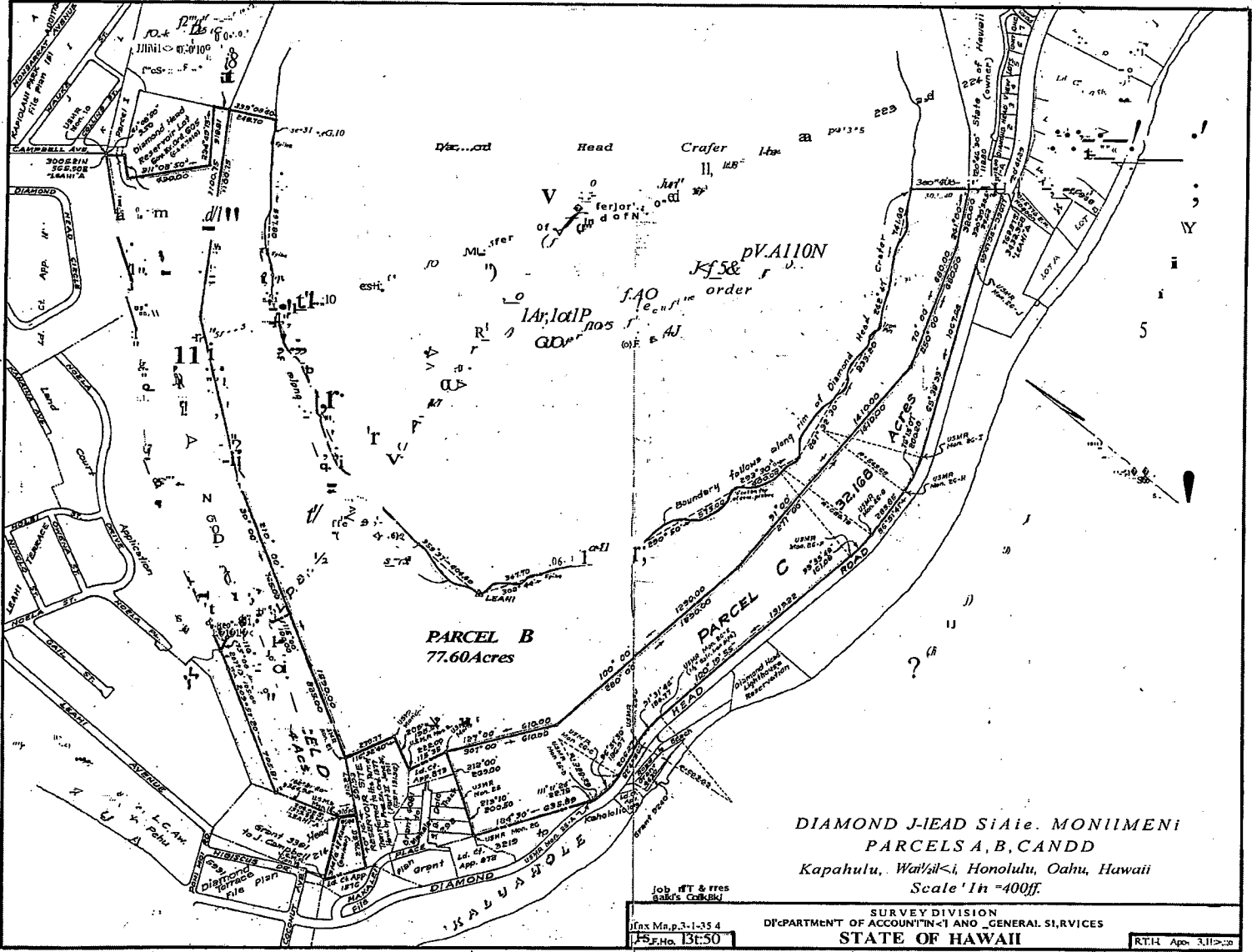
April 3, 1962

- 3 -

- | | | | |
|-----|------|---------|---|
| 3. | 290° | 50' | 575.00 feet to a "+"
cut on top of
concrete pillbox; |
| 4. | 293° | 30' | 400.00 feet; |
| 5. | 261° | 32' 30" | 833.20 feet to an iron pin; |
| 6. | 242° | 47' | 741.60 feet; |
| 7. | 320° | 46' 30" | 305.40 feet down slope along Diamond Head Reservation,
Governor's Executive Order 1997; |
| 8. | 61° | 00' | 320.00 feet along Parcel C, DIAMOND HEAD STATE
MONUMENT, hereinbelow described; |
| 9. | 70° | 00° | 680.00 feet along Parcel C, DIAMOND HEAD STATE
MONUMENT, hereinbelow described; |
| 10. | 91° | 00' | 1410.00 feet along Parcel C, DIAMOND HEAD STATE
MONUMENT, hereinbelow described; |
| 11. | 100° | 00' | 129().00 feet along Parcel C, DIAMOND HEAD STATE
MONUMENT, hereinbelow described; |
| 12. | 127° | 00° | 610.00 feet along Parcel C, DIAMOND HEAD STATE
MONUMENT, hereinbelow described to
u. s. Military Reservation Monument 24; |
| 13. | 115° | 35' | 222.00 feet along Land Court Application 873 to
u. s. Military Reservation Monument 23; |
| 14. | 205° | 21' 35" | 195.54 feet along Reservoir Site to U. S. Military
Reservation Monument 22; |
| 15. | 116° | 32' 40" | 279.77 feet along Reservoir Site to U. S. Military
Reservation Monument 21; |
| 16. | 210° | 00° | 1590.00 feet along Parcel D, hereinbelow described,
and Parcel A, hereinabove described; |
| 17. | 217° | 30' | 900.00 feet along Parcel A, DIAMOND HEAD STATE
MONUMENT, hereinabove described; |
| 18. | 237° | 15' 45" | 1100.75 feet along Parcel A, DIAMOND HEAD STATE
MONUMENT, hereinabove described; |
| 19. | 333° | 08' 40" | 248.70 feet up slope, along Diamond Head Reservation,
Governor's Executive Order 1997, to the
rim of Diamond Head Crater; |

Thence along the rim of Diamond Head Crater along Diamond Head Reservation,
Governor's Executive Order 1997, for
the next seven (7) courses, the direct
azimuths and distances between points
on said rim of Diamond Head Crater being:

- | | | | |
|-----|-----|-----|-------------------------|
| 20. | 58° | 31' | 126.10 feet to a spike; |
| 21. | 52° | 14' | 597.80 feet to a spike; |
| 22. | 41° | 00' | 385.00 feet; |



DIAMOND HEAD STATE. MONIEMENI
 PARCELS A, B, C AND D
 Kapahulu, Waialae, Honolulu, Oahu, Hawaii
 Scale 1" = 400ft.

Job #T & res
 Galt's C&P, U

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 STATE OF HAWAII

RT-11, App. 3, 11-20-20
 D4, B3-55 cf.

