

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96819

February 24, 2023

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

Land Board Members:

SUBJECT: Continuation of Revocable Permit Parking Concession to Secure Parking LLC, for Management of Vehicular Parking in the Designated Areas Located Within the Maalaea Small Boat Harbor, Wailuku, Maui, Hawaii, Identified by Tax Map Keys: (2) 3-6-001:002 (por.) and (2) 3-8-014:028

And

Declare Project Exempt from Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules

APPLICANT:

Secure Parking LLC

LEGAL REFERENCE:

Sections Chapter 171-13, -55, Hawaii Revised Statutes, as amended and SLH 2022, Act 163

LOCATION:

Portions of Government lands situated at Maalaea Small Boat Harbor ("Maalaea"), Wailuku, Maui, Hawaii, Identified by Tax Map Keys: (2) 3-6-001:002 (por.) and (2) 3-8-014:028, as shown on map labeled **Exhibit A-1 and A-2**, and attached hereto.

AREA:

Maalaea Small Boat Harbor vehicle parking areas.

Item J-1

ZONING:

State Land Use District: Urban
County of Maui CZO: Business–Resort, M1–Light Industrial, Park, Public Use

TRUST LAND STATUS:

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

CURRENT USE STATUS:

The Premises is presently encumbered by Secure Parking Hawaii LLC, Revocable Permit No. 125.

CHARACTER OF USE:

Vehicle parking management, including, but not limited to, managing DOBOR's parking plan, issuing parking permits, parking violation enforcement, towing vehicles when necessary and participating in the required post-tow hearings.

MONTHLY RENTAL:

All gross receipts generated by the parking operation shall be collected by the permittee. The permittee shall pay the Division of Boating and Ocean Recreation ("DOBOR") an amount equal to Five Thousand and 00/100 Dollars (\$5,000) or Sixty Percent (60%) of gross receipts monthly, whichever is greater.

SECURITY DEPOSIT:

\$10,000.00

COMMENCEMENT DATE:

March 1, 2023, through February 29, 2024.

DCCA VERIFICATION FOR PROPOSED REVOCABLE PERMITEE:

Place of business registration confirmed:	YES <u>X</u>	NO <u>__</u>
Registered business name confirmed:	YES <u>X</u>	NO <u>__</u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u>__</u>

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR) and the Exemption List for the Department of Land and Natural Resources, reviewed and

concurring by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an Environmental Assessment pursuant to General Exemption Type 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing," Part 1, Item No. 44, which states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

BACKGROUND:

At its meeting on February 25, 2022, under agenda Item J-2, the Board approved the issuance of a revocable permit ("RP") to Secure Parking Hawaii LLC for management of vehicle parking at the Maalaea Small Boat Harbor from March 1, 2022, through February 28, 2023.

On June 27, 2022, Act 163 (2022) was enacted.

Act 163 (2022) in relevant part, "exempts certain operations of ground transportation services and parking lot operations at small boat harbors from the sealed bid requirements." This allows DOBOR to negotiate directly with a parking management company to run the parking operation at the Maalaea Small Boat Harbor. See **Exhibit B**.

Staff has begun the process to directly negotiate a contract with a parking management company. It plans to post a Request for Interest (RFI) on HlePRO to solicit interest from parking vendors. Staff will then select a vendor, with whom to conduct negotiations, from the responses generated from the RFI. Once a contract has been negotiated and approved as to form by the Department of the Attorney General, staff will return to the Board for approval.

The applicant is current on their rent payments and has demonstrated good stewardship of the Maalaea Small Boat Harbor parking facility.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, 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.
2. Based on the testimony and facts presented, the Board finds that approving the RP under conditions and rent set forth herein will serve the best interests of the state.

February 24, 2023

3. Authorize the continuation of Revocable Permit 125 to Secure Parking LLC covering the subject area for management of vehicular parking at Maalaea Small Boat Harbor under the following terms and conditions: i) the term of the revocable permit will be one (1) year beginning March 1, 2023, through February 29, 2024; ii) the monthly rental shall be five thousand dollars (\$5,000.00) or sixty percent (60%) of monthly gross receipts, whichever is greater; iii) manage DOBOR's parking plan; iv) issue parking permits; v) parking violation enforcement; vi) tow vehicles when necessary; vii) participate in post-tow hearings; and viii) other responsibilities related to the management of the parking area, and further subject to the following:
- a. The standard terms and conditions of the most current revocable permit form, as may be amended from time-to-time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



EDWARD R. UNDERWOOD, Administrator
Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL:



DAWN N. S. CHANG, Chairperson
Board of Land and Natural Resources

Attachments:

- A-1 Site Map
- A-2 Site Map
- B SLH 2022, Act 163

Exhibit A-1

Maalaea Small Boat Harbor



Exhibit A-2

Maalaea Small Boat Harbor



EXHIBIT B



GOV. MSG. NO. 1264

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 27, 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 27, 2022, the following bill was signed into law:

HB1432 HD1 SD2 CD1

RELATING TO CONCESSIONS ON PUBLIC
PROPERTY.

ACT 163

Sincerely,

A handwritten signature in black ink, reading "David Y. Ige".

DAVID Y. IGE
Governor, State of Hawai'i

EXHIBIT B

ORIGINAL

Approved by the Governor

on JUN 27 2022

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

ACT 163
H.B. NO. 1432
H.D. 1
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO CONCESSIONS ON PUBLIC PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that section 102-2,
2 Hawaii Revised Statutes, provides that concessions on public
3 property are to be granted by sealed top-dollar bid, with
4 limited exceptions.

5 Section 102-2, Hawaii Revised Statutes, also allows some
6 concessions to be exempt from bidding requirements because a
7 person or entity offering the most money may not be the best
8 suited or qualified to meet the government's goals to preserve
9 public-owned assets, such as parks, or may not be best suited or
10 qualified to serve the needs of the public, including the
11 enhancement of customer and visitor experiences. Thus, the
12 legislature finds that the controlling factors in the award of
13 concessions should not be limited to pricing or whether a
14 concession is operated by a for profit or nonprofit entity.

15 The legislature also finds that requiring concessionaires
16 to incur construction costs pose challenges. While public
17 leases may be granted for up to sixty-five years, concession



1 contracts may not exceed fifteen years, making it difficult for
2 agencies to find concessionaires who are willing to invest in
3 the necessary capital improvements to provide satisfactory
4 concession services to visitors and residents of the State. It
5 is difficult for potential concessionaires to generate
6 sufficient revenues to support operations while amortizing the
7 concessions' construction and other costs at the current lease
8 and contract lengths of fifteen years. Accordingly, the
9 legislature believes that it is in the public's best interests
10 to provide flexibility and to authorize the increase of the
11 maximum length of a concession contract. Furthermore, a
12 determination as to whether a county park is environmentally,
13 culturally, historically, or operationally unique for the
14 purpose of determining whether a concession should be exempt
15 from sealed bidding requirements should be made by the director
16 of parks and recreation of the respective county.

17 The purpose of this Act is to facilitate the provision of
18 concession services to the public by:

19 (1) Increasing the maximum length of concession contracts;



- 1 (2) Exempting certain operations of ground transportation
2 services and parking lot operations at small boat
3 harbors from the sealed bid requirements;
4 (3) Exempting concessions for beach or ocean-related
5 recreational services from the sealed bid
6 requirements, with certain conditions;
7 (4) Providing that a county director of parks and
8 recreation has sole discretion to designate which
9 county parks are environmentally, culturally,
10 historically, or operationally unique for purposes of
11 determining whether a concession at the park is exempt
12 from the sealed bid requirements; and
13 (5) Expanding the exemption from the sealed bid
14 requirements for concessions at county zoos, botanic
15 gardens, or county parks that are designated by the
16 respective county director of parks and recreation, in
17 the director's sole discretion, as environmentally,
18 culturally, historically, or operationally unique;
19 provided that the concessions are awarded to
20 responsible offerors whose proposals are the most



1 advantageous, rather than solely to certain nonprofit
2 corporations.

3 SECTION 2. Section 102-2, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) Except as otherwise specifically provided by law, no
6 concession or concession space shall be leased, let, licensed,
7 rented out, or otherwise disposed of either by contract, lease,
8 license, permit, or any other arrangement, except under contract
9 let after public notice for sealed bids in the manner provided
10 by law; provided that the duration of the grant of the
11 concession or concession space shall be related to the
12 investment required but in no event to exceed [~~fifteen~~] twenty-
13 five years for the initial term, and if amended, any then
14 remaining term plus any agreed extension thereof awarded or
15 granted by the government agency making a lease or contract or
16 other arrangement relating to a concession; provided further
17 that and subject to approval by county council resolution, the
18 [~~fifteen-year~~] twenty-five-year limit shall not apply to
19 nonprofit corporations organized pursuant to chapter 414D.



1 (b) The bidding requirements of subsection (a) shall not
2 apply to concessions or space on public property set aside for
3 the following purposes:

4 (1) For operation of ground transportation services and
5 parking lot operations at airports[~~r~~] and small boat
6 harbors, except for motor vehicle rental operations
7 under chapter 437D;

8 (2) For lei vendors;

9 (3) For airline and aircraft operations;

10 (4) For automated teller machines and vending machines,
11 except vending machines located at public schools
12 operated by blind or visually handicapped persons in
13 accordance with section 302A-412;

14 (5) For operation of concessions set aside without any
15 charge;

16 (6) For operation of concessions by handicapped or blind
17 persons; except concessions operated in the public
18 schools by blind or visually handicapped persons in
19 accordance with section 302A-412;

20 (7) For operation of concessions on permits revocable on
21 notice of thirty days or less; provided that no such



- 1 permits shall be issued for more than a one year
2 period;
- 3 (8) For operation of concessions or concession spaces for
4 a beach service association dedicated to the
5 preservation of the Hawaii beach boy tradition,
6 incorporated as a nonprofit corporation in accordance
7 with state law, and whose members are appropriately
8 licensed or certified as required by law;
- 9 (9) For operation of concessions or concession spaces
10 providing for beach or ocean-related recreational
11 services; provided that the concessions are awarded to
12 the responsible offeror whose proposal is determined
13 to be most advantageous, taking into consideration
14 prices and evaluation factors set forth in the request
15 for proposals;
- 16 ~~[(9)]~~ (10) For operation of concessions at county zoos,
17 botanic gardens, or ~~[other]~~ county parks ~~[which]~~ that
18 are designated by the respective county director of
19 parks and recreation, in the director's sole
20 discretion, as environmentally, culturally,
21 historically, or operationally unique and are



1 supported~~(7)~~ by nonprofit corporations incorporated in
2 accordance with state law solely for purposes of
3 supporting county aims and goals of the zoo, botanic
4 garden, or ~~[other]~~ designated county park, and
5 operating under agreement with the appropriate agency
6 solely for ~~[such]~~ those purposes, aims, and goals;

7 (11) For operation of concessions at county zoos, botanic
8 gardens, or county parks that are designated by the
9 respective county director of parks and recreation, in
10 the director's sole discretion, as environmentally,
11 culturally, historically, or operationally unique;
12 provided that the concessions are awarded to the
13 responsible offeror whose proposal is determined to be
14 the most advantageous, taking into consideration
15 prices and evaluation factors set forth in the request
16 for proposals;

17 ~~[+10+]~~ (12) For operation of concessions that furnish goods
18 or services for which there is only one source, as
19 determined by the head of the awarding government
20 agency in writing; provided that the written
21 determination shall be included in the contract file;



1 ~~(+11+)~~ (13) For any of the operations of the Hawaii health
2 systems corporation and its regional system boards;
3 ~~(+12+)~~ (14) For airport operation of concessions; ~~{+}~~and~~{+~~
4 ~~+{+13+}~~ (15) For the operations of the natural energy
5 laboratory of Hawaii authority."

6 SECTION 3. Section 171-56, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§171-56 Contract or license for concessions or concession**
9 **space.** The board of land and natural resources may, subject to
10 chapter 102, dispose of concessions, as defined in chapter 102,
11 and shall enter into contracts or issue licenses for such
12 concessions; provided that the duration of the contract or
13 license shall be related to the investment required, but in no
14 event to exceed ~~[fifteen]~~ twenty-five years."

15 SECTION 4. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 5. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval.

APPROVED this 27th day of June , 2022



GOVERNOR OF THE STATE OF HAWAII



HB No. 1432, HD 1, SD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 03, 2022
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

H.B. No. 1432, H.D. 1, S.D. 2, C.D. 1


THE SENATE OF THE STATE OF HAWAII

Date: May 3, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate
of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2022.



President of the Senate



Clerk of the Senate