

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 13, 2022

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

PSF No.22OD-022

Oahu

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach Every Friday From May 27, 2022 to May 19, 2023, Waikiki, Honolulu, Oahu, TMK: (1) 2-3-037:portion of 021.

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc., a Hawaii profit corporation.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 2-3-037:portion of 021, as shown on the map attached as **Exhibit A**.

AREA:

500 square feet, more or less, for set-up and firing site, plus a safety zone with a radius of approximately 250 feet around the firing site.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: Public Precinct

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Requested area is vacant and unencumbered.

CHARACTER OF USE:

Set up and conducting aerial fireworks display.

TERM:

Between 4:00 p.m. and 9:00 p.m. on the dates shown in **Exhibit B**.

RENTAL:

\$250.00 per event day – Set-up, Firing site area, and Safety Zone (see Remarks Section).

At its meeting on June 9, 2017, item D-14, the Board approved implementing a \$200 safety zone fee, in addition to the \$50 firing site fee, for the regular Friday firework shows.

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Section 11-200.1-15, Hawaii Administrative Rule (HAR), and the Exemption List for the Department of Land and Natural Resources reviewed and concurred 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, Part 1, Item 44, which states the “Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing”. The subject request is a de minimis action that will probably have minimal or no significant effect on the environmental and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR. See **Exhibit C**.

DCCA VERIFICATION:

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>

REMARKS:

As the State mandate on indoor and outdoor masking and distancing has sunset, Hawaii Explosives & Pyrotechnics, Inc. (HE) has been contracted by the Hilton Hawaiian Village

(HHV) to once again conduct aerial fireworks display every Friday for a period of 12 months from May 2022 to May 2023 at Duke Kahanamoku Beach. The subject request is a continuance of the same firework display held at the same location since the initial display over 25 years ago, exception being during the statewide Covid shutdown from March 2020 to March 2022.

By its letter dated March 30, 2022, HE is requesting the issuance of a right-of-entry permit (ROE) to resume the aerial fireworks display at Duke Kahanamoku Beach occurring every Friday from May 27, 2022, through May 19, 2023, with the dates shown in Exhibit B.

At its meeting on June 9, 2017, agenda item D-14, the Board approved a charge of \$200 be imposed to cover the exclusive use of the safety zone as shown in Exhibit A. Therefore, the total cost for this right-of-entry, covering 52 dates, which includes the staging area of \$50 (per event date) amounts to \$13,000.

Due to the State being shut down from the Covid pandemic, HE was forced to cancel 13 Friday night shows from March 20, 2019 to June 12, 2019 (see Exhibit B) from its last contract year (June 21, 2019 to June 12, 2020). HE paid \$13,000 for the June 2019 – June 2020 contract year. As such, the Applicant is requesting a refund in the form of credit for the 13 cancelled shows in the amount of \$3,250. The Applicant would like the credit to be applied to this ROE request. Therefore, the amount due will be:

$$\$13,000 - \$3,250 = \$9,750$$

Staff will work with the fiscal office on crediting HE for the cancelled shows and applying the credit amount to this ROE request.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions.

OCCL has no objections to the subject request and concurs with the exemption for an environmental assessment. Staff has no objection to this request.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15, 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 as a de minimis action.
2. Authorize a refund in the form of credit to Hawaii Explosives & Pyrotechnics, Inc. for cancelled shows from March 20, 2019 to June 12, 2019, in the amount of \$3,250. And, applying the credit towards this ROE request and the consideration due would be \$9,750.

3. Authorize the issuance of a right-of-entry permit to Hawaii Explosives & Pyrotechnics, Inc. on specified dates mentioned above covering the subject area for aerial fireworks display purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Cal Miyahara

Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:

Suzanne D. Case

RT

Suzanne D. Case, Chairperson



Exhibit A

Hawaii Explosives & Pyrotechnics, Inc.

P.O. Box 1244
Keeau, HI 96749-1244
hepinc@hipyro.com
(808) 968-0600



March 30, 2022

Calen Miyahara
DLNR Land Division
P.O. Box 621
Honolulu, HI 96809

Dear Mr. Miyahara,

Hawaii Explosives & Pyrotechnics, Inc. (HEP) is requesting renewal of a Right-of-Entry for Duke Kahanamoku Beach to provide fireworks display services in conjunction with the weekly Hilton Hawaiian Village Friday Night Fireworks. Details are as follows:

Event: Hilton Hawaiian Village Friday Night Fireworks, Duke Kahanamoku Beach
Dates: Friday Nights May 27, 2022 through May 21, 2023 = 52 Fridays

MONTH	2022 - 2023 FRIDAYS				
May				27	
June	3	10	17	24	
July	1	8	15	22	29
August	5	12	19	26	
September	2	9	16	23	30
October	7	14	21	28	
November	4	11	18	25	
December	2	9	16	23	30
January	6	13	20	27	
February	3	10	17	24	
March	3	10	17	24	31
April	7	14	21	28	
May	5	12	19		
					52

Exhibit B

Request for Right of Entry

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Display Firing Time: 8:00 p.m. (approximately) – June through August
7:45 p.m. (approximately) – September through May
Hours of Operation: Between 4:00 p.m. and 9:00 p.m. (each date)

We are requesting authorization to conduct all procedures associated with display operations to include:

- Closure, security, and monitoring of the display site and adjacent safety/fallout zone.
- Access to the firing site via small box truck carrying pyrotechnics and equipment.
- Positioning of mortar racks and firing equipment on the beach.
- Setup and wiring of pyrotechnics; display ignition from the specified area.
- Completion of all post-display operations as related to each pyrotechnic display.

Plan of Action

Duke Kahanamoku Beach firing site (Exhibit A):

At approximately 4:00 p.m., HEP personnel will close and secure an area (Work Zone - Green) surrounding the display firing site prior to unloading equipment and pyrotechnics. An estimated 500 square feet will be utilized for setting up equipment, which includes positioning racks containing 2.5" and 3" mortars, loading and wiring pyrotechnics into mortars, and all other applicable display operations.

A small box truck carrying pyrotechnics and equipment will enter the security area. For public safety and in keeping with best practices, the truck will be locked and serve as a protected temporary storage for pyrotechnic articles until it is time to fully install into our firing equipment. The box truck will remain on the beach during set up, firing, and throughout post display procedures.

Approximately thirty minutes prior to firing the display, the Work Zone will be expanded into a Safety/Fallout Zone (Yellow) - the beach area adjacent to the Ala Wai Boat Harbor parking lot, down to the ocean, along the Duke Kahanamoku Lagoon, to the area fronting the Ewa corner of the Rainbow Tower, and across the beach back down to the ocean - forming a semi-circle around the firing site. This will ensure safety from any fallout of pyrotechnics. This Safety/Fallout Zone will reopen approximately thirty minutes after the display has concluded, but not before the display operator gives the "All Clear" to the crew and security personnel. We feel these measures combined with the secured safety/fallout zone ensure a buffer between the public and the firing site in the event an incident should occur.

Standard Safety & Security Procedures

Hawaii Explosives & Pyrotechnics, Inc. practices safety and security procedures within industry standards to do our very best to minimize risk to the general public, tourists and hotel guests as we prepare for, fire, and clean up after our displays. This includes any COVID-19 mandates enacted by the State of Hawaii and/or City & County of Honolulu throughout the approved permit period. Our personnel and the private security officers are trained to be courteous to everyone while being firm in preventing entry into any potentially hazardous area and adhering to mandates. It is our ultimate goal to present each display in a manner that is absolutely safe, spectacular and enjoyable by everyone.

Credit for COVID-19 Closures

Due to mandates for public gatherings and closure of the Hilton Hawaiian Village Resort, several Friday Night Fireworks displays covered under the Right-of-Entry Permit PSF No.: 19OD-059 were canceled. The permit covered Fridays from June 21, 2019 through June 12, 2020. Payment of \$13,000.00 (\$250.00 x 52 weeks), Check #7034, was made on July 22, 2019.

Below please find a table indicating the 13 dates affected by the closure. We are requesting a "credit" totaling \$3,250.00 (\$250.00 x 13 weeks) for the canceled shows to be applied to the first 13 Friday events upon receipt of the approved ROE permit being applied for.

COVID-19 Closures in 2020					
MONTH	FRIDAYS				
March			20	27	
April	3	10	17	24	
May	1	8	15	22	29
June	5	12			

All other required permits will be obtained from appropriate agencies. Enclosed you will find the firing site location map and insurance. Should you have any questions, please feel free to contact me or my assistant, Paulette Smith, at (808) 968-0600.

Sincerely,


for Stephanie Pascual
Vice President

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title:	Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach Every Friday From May 27, 2022 to May 19, 2023, Waikiki, Honolulu, Oahu, TMK: (1) 2-3-037:portion of 021.
Reference No.:	PSF 22OD-022
Project Locations:	Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:portion of 021.
Project Description:	Aerial Fireworks Display every Friday night from May 27, 2022 to May 19, 2023.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with Section 11-200.1-15, Hawaii Administrative Rules and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, Part 1, Item 44, which states the "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing".
Cumulative Impact of Planned Successive Actions in Same Place Significant?	Yes, being the events occur each Friday night at the same location there will be successive actions in the same place on a weekly basis. However, based on the multiple environmental cleanups conducted after each display, to remove debris from the beach shoreline and offshore areas, staff believes that there would be no significant cumulative impact.
Action May Have Significant Impact on Particularly Sensitive Environment?	The requested area is a portion of State beach visited by tourists and residents, and is heavily impacted by human activity. Public access across the requested area is maintained by the Hilton Hawaiian Village staff. In addition, based on the analysis below, staff believes there would be no significant impact to sensitive environmental or ecological receptors.

Exhibit C

Consulted Parties:	Consulted with Office of Conservation and Coastal Lands who has no objections to the subject request and concurs with the exemption for an environmental assessment.
Analysis:	The Board has permitted similar events in the past. The proposed activity is of a similar type and scope of beach activities that periodically occurred and continues to occur on this and other beach areas across the State. Such activities have resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. Staff also believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.
Recommendation:	It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.