

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

April 26, 2024

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

24OD-003  
  
Oahu

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach Every Friday From May 31, 2024 to April 25, 2025, 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, and Chapter 343, Hawaii Revised Statutes (HRS), as amended. Chapter 11-200.1, Hawaii Administrative Rules, 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:

Staging area (approximate)	500	square feet
<u>Safety zone (approximate)</u>	<u>173,494</u>	<u>square feet</u>
<b>Total area</b>	<b>173,994</b>	<b>square feet</b>

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 conduct of weekly aerial fireworks display.

TERM:

Between 4:00 p.m. and 9:00 p.m. on 53 successive Fridays, May 31, 2024 – April 25, 2025, as shown in **Exhibit B**.

RENTAL:

\$775.00 per event day for set-up, firing site area, and safety zone:

Rental per event day	\$775.00
<u>Number of event days</u>	<u>x 53</u>
<b>Total annual rental amount</b>	<b>\$41,075.00</b>

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (“HAR”) §§11-200.1-15 and -16, and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred on 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, which applies to “[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing.” Specifically, the subject request is exempt under Part 1, Item 44, which exempts “[p]ermits, 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 expected to have minimal or no significant effect on the environment and should be declared exempt from

the preparation of an environmental assessment. (**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:

Hawaii Explosives & Pyrotechnics, Inc. (HE) has been contracted by the Hilton Hawaiian Village (HHV) to continue conducting aerial fireworks displays every Friday evening for a period of 12 months from May 31, 2024, to April 25, 2025, at Duke Kahanamoku Beach. The present request is for issuance of a right-of-entry permit to continue the firework display that has been held at the same location every Friday night since 1991, with the exception of the statewide Covid shutdown period from March 2020 to March 2022.

By its letter dated January 3, 2024, HE is requesting the issuance of a right-of-entry permit (ROE) for aerial fireworks display at Duke Kahanamoku Beach occurring every Friday from May 31, 2024, through April 25, 2025, with the dates shown in **Exhibit B**.

At its meeting on May 12, 2023, under agenda item D-6, the Board considered the Applicant’s similar request for an ROE covering the period from May 2023 to May 2024. At the 2023 meeting, several Board members expressed that their assenting vote to the Applicant’s request was based on the Applicant’s submitted Sustainability Program and Impact Mitigation Report For the Friday Night Fireworks Display documents. These documents outlined the measures that the Applicant is taking to mitigate the environmental impacts of their fireworks shows and give back to the local community that supports the shows. Several Board members, including the Chairperson, also commented that they expect to see continuing progress toward mitigation and community outreach and partnerships.

As of the writing of this submittal, the Applicant has not presented Staff with information on its on-going efforts, despite several requests from Staff. However, the Applicant has expressed to Staff that it plans to present this information directly to the Board at the time the Board considers the present submittal. Staff has informed the Applicant that this Staff submittal and recommendation will not include discussion of the Applicant’s responsiveness to the Board’s request for continuing information and the Applicant did not object. Staff notes that all recommendations contained in the present submittal are contingent on a finding by the Board, in its discretion, that the Applicant has satisfactorily complied with the conditions and directions imposed by the Board at its May 12, 2023, meeting.

The Office of Conservation and Coastal Lands (OCCL) has been consulted on Staff's recommendation for approval and request for exemption pursuant to Chapter 343, HRS. OCCL stated that it is unable to comment on the recommended disposition or the recommended exemption because it has not had the opportunity to review information on the Applicant's updated corporate sustainability program or impact mitigation plan.

Additionally, at the May 12, 2023, Board meeting, the Chairperson requested that Staff investigate two issues, the appropriate rental amount and the appropriate type of land disposition for this annual ROE permit, and present recommendations to the Board in the present submittal. The Chairperson expressed that DLNR has an obligation, when authorizing use of public resources, to maximize the benefit received in exchange for the use for the benefit of the State and its people. Staff has investigated and provides the following recommendations.

#### Rental Amount

At its meeting on June 9, 2017, under agenda item D-14, the Board approved a charge of \$250 per weekly event to cover the exclusive use of the firing site and safety zone, as shown in **Exhibit B**. The Applicant has been paying \$250 per event for each weekly firework show authorized under an annual ROE permit since that time. If the Applicant were paying the standard rental rate of \$0.10 per square foot for the 173,994 square foot area that encompasses the firing site, work zone, and safety fallout zone, the weekly rental amount would be \$17,399.40. Over the course of one year, the total rental amount under this calculation would be \$904,768.80. This standard rental calculation is clearly inappropriate for the type of use requested under the present submittal. The amount is prohibitively large for a small, family-owned local business and does not accurately reflect the Applicant's actual use of the State land area. The requested use does not involve permanent occupancy of or placement of permanent structures on State land. The majority of the State land subject to the Applicant's request is neither occupied nor directly used by the Applicant but is rather closed to all use for a short time for safety reasons immediately before, during, and immediately after the fireworks display.

The Applicant's launch site and work area is approximately 500 square feet and the safety/ fallout zone constitutes the remaining 173,494 square feet. The safety/ fallout zone is not occupied or subject to direct use by the Applicant, but rather is closed to the public during and for approximately thirty minutes before and thirty minutes after the four-minute fireworks show. Exclusion of the public for this one-hour period is necessary for safety but also imposes a substantial interference with public use of the beach.

Prior to the 2017 Board approval of the current rental amount for the weekly fireworks show, the Board approved a \$550 per event rental charge for one-time fireworks shows at its meeting on June 14, 2013, under agenda item D-5. Before

the 2013 Board decision, the Applicant was charged rent based on the standard \$0.10 per square foot formula for only the 500 square foot launch site and work area. In 2013, Staff opined and the Board agreed that applying the standard rent calculation to the entirety of the safety/ fallout zone was prohibitively expensive and not reasonable under the circumstances. The present submittal does not recommend any change to the \$550 per event rental charges for one-time fireworks shows outside of the annually-permitted weekly Friday night shows.

Staff recommends that the per event rental amount for the weekly Friday night fireworks show subject to the present submittal be increased to \$775, calculated as follows:

Launch site/ work area:	
\$0.10/ foot <sup>2</sup> x 500 feet <sup>2</sup> =	\$50
Safety/ fallout zone:	
\$0.10/ foot <sup>2</sup> x 173,994 feet <sup>2</sup> X 1/24 =	\$725
<b>Total</b>	<b>\$775</b>

This calculation uses the standard rate of \$0.10 per square foot for both the launch site/ work area and the safety/ fallout zone. The charge for the safety/ fallout zone is then prorated to reflect the one-hour period during which it is closed to the public. The rate for the launch site/ work area is added to the prorated charge for the safety/ fallout zone. Staff recommends use of this rental calculation because it is transparent, rational, and fair. It applies the standard rental calculation and prorates to reflect the Applicant's actual usage of the safety/ fallout zone.

Land Disposition:

The Board requested that Land Division make recommendations regarding the appropriate land disposition for the Applicant's annual permit request. Following research and consideration, Staff recommends that the annual disposition continue under a one-year right-of-entry permit.

Right-of-entry permits are the standard land disposition for short-term use or occupancy of State land, including uses that recur and those that necessarily exclude the public for a limited time. The Board has also consistently approved right-of-entry permits for other such regularly occurring uses at the subject location, including canoe and ocean swim races. Finally, at previous meetings to consider annual fireworks permits, the Board has expressed the wish for regular updates from the Applicant on efforts toward sustainability and mitigation of environmental concerns such as pollution and social concerns such as noise and public access to State land. Staff finds that returning to the Board once per year to reapply for an annual right-of-entry permit is appropriate under the circumstances because an annual right-of-entry permit inherently produces the opportunity for the Board to exercise continuing oversight of the requested use and to respond to innovations

and concerns that arise year to year.

RECOMMENDATION: That the Board, contingent upon a finding that the Applicant has satisfactorily complied with the conditions and directions imposed by the Board at its May 12, 2023, meeting under Agenda Item D-6:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and section 11-200.1-15, HAR, this project is expected to have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. 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 for regular Friday fireworks show, 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,



Rebecca L. Anderson  
Shoreline Specialist

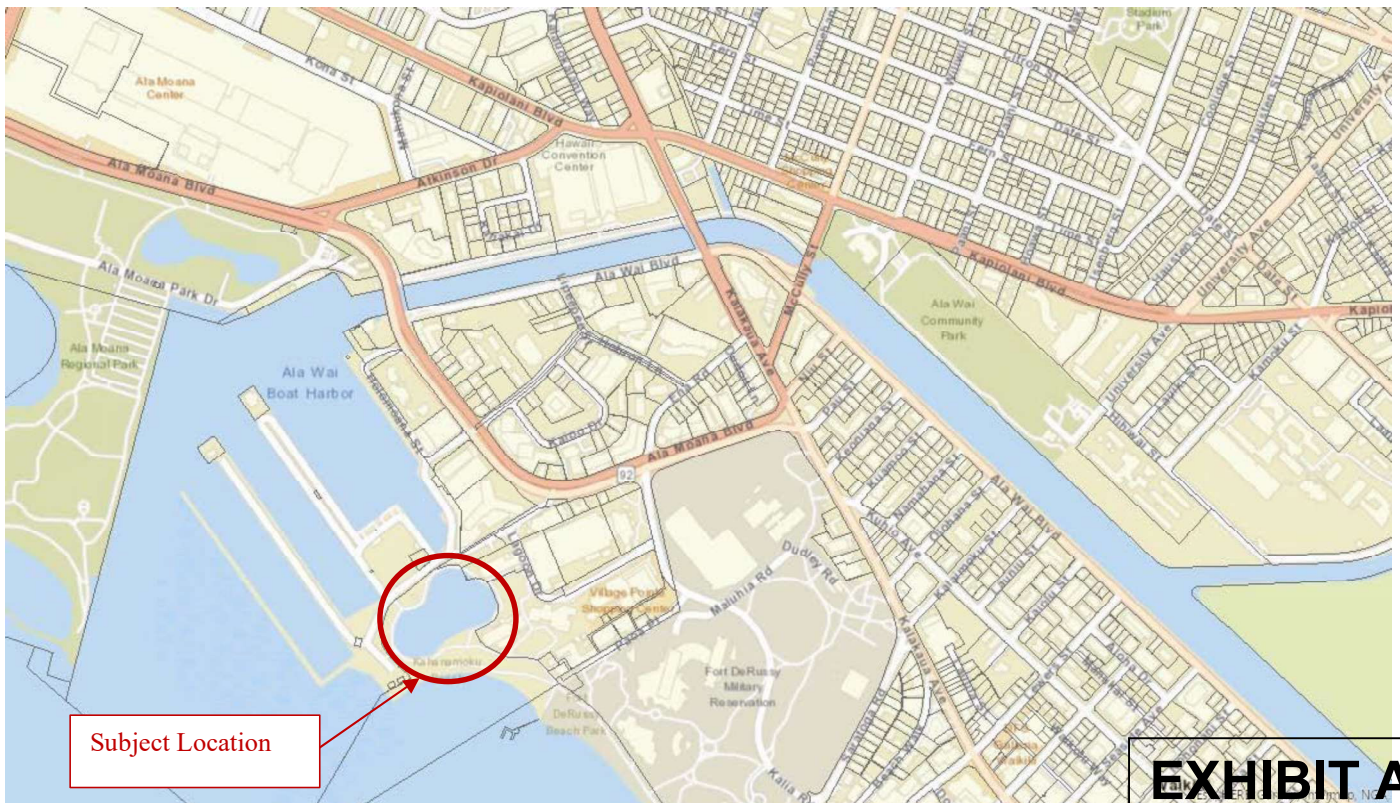
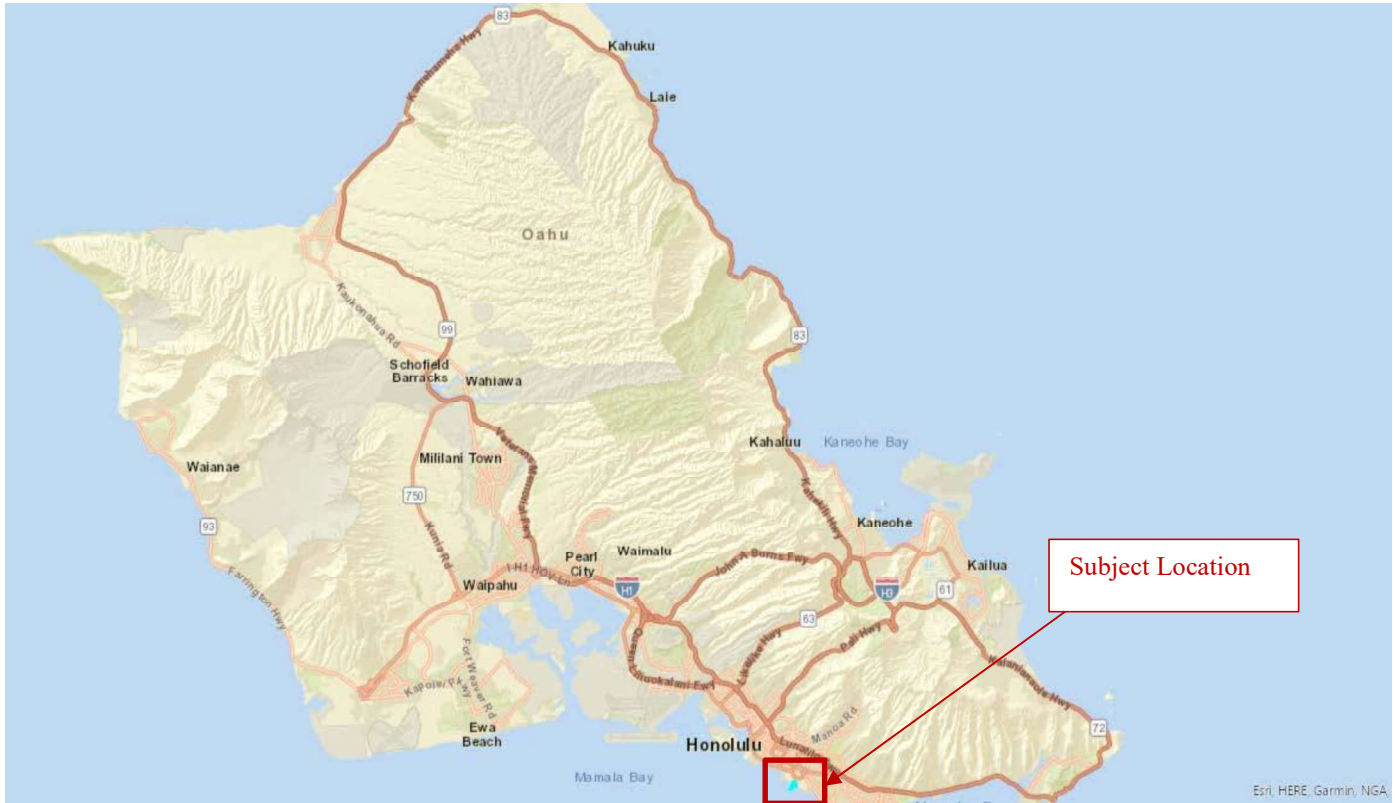
APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson



### Tax Map Key: (1) 2-3-037:portion of 021



**Tax Map Key: (1) 2-3-037:portion of 021  
Duke Kahanamoku Lagoon**





# Hawaii Explosives & Pyrotechnics, Inc.



P.O. Box 1244  
Keaau, HI 96749-1244  
[hepinc@hipyro.com](mailto:hepinc@hipyro.com)  
(808) 968-0600

January 3, 2024

Dawn N. S. Chang, Esq.  
BLNR Chairperson  
Department of Land & Natural Resources  
P.O. Box 621  
Honolulu, HI 96809

Dear Ms. Chang,

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 31, 2024 through April 25, 2025 = 53 Fridays

2024 - 2025					
MONTH	FRIDAYS				
May					31
June	7	14	21	28	
July	5	12	19	26	
August	2	9	16	23	30
September	6	13	20	27	
October	4	11	18	25	
November	1	8	15	22	29
December	6	13	20	27	
January	3	10	17	24	31
February	7	14	21	28	
March	7	14	21	28	
April	4	11	18	25	
May	2	9	16	23	30

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)

**EXHIBIT B**

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1-15, 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 31, 2024 to April 25, 2025, Waikiki, Honolulu, Oahu, TMK: (1) 2-3-037: portion of 021.

Reference No.: PSF# 24OD-003

Project Locations: Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portion of 021.

Project Description: Aerial Fireworks Display at Duke Kahanamoku Lagoon.

Chap. 343 Use of State Land  
Trigger(s):  
Exemption Class In accordance with Hawaii Administrative Rules (HAR) sections 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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 for "[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing." Specifically, the subject request is exempt under Part 1, Item 44, which applies to "[p]ermits, 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? No. Similar events occur at the same location from time to time. However, based on the multiple environmental clean-ups conducted after each display to remove debris from the lagoon area, 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.

Consulted Parties:

Office of Conservation and Coastal Lands (OCCL)  
concur with the proposed exemption.

Analysis:

The Board has permitted similar events in the past. The proposed activity is of a similar type and scope of beach activities that have periodically occurred and continue 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.