

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

September 13, 2013

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

PSF No. 13OD-144

Oahu

Issuance of Right-of-Entry Permit to Hilton Hawaiian Village, LLC for Staging Area and Safety Zone Purposes between October 1, 2013 and March 31, 2014 at Duke Kahanamoku Beach, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:portion of 021

APPLICANT:

Hilton Hawaiian Village, LLC, a domestic limited liability company

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

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

AREA:

See map attached to **Exhibit 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:

Staging Area and Safety Zone Purposes.

TERM:

October 1, 2013 to March 31, 2014 (6 months)

RENTAL:

Lately, staff has been recommending an additional charge of \$500 for the safety zone around the firing site of the fireworks display, noting that the safety zone will pose a substantial interference with public use of the beach and near-shore waters during the event dates.

As described in the Remarks Section below, the requested safety zone, with the maximum radius of 150 feet, will be required during the first and last months of the requested period for the erection and dismantling of the scaffolding tower respectively. Notwithstanding the setting up of the safety zone, the remaining portions of the beach can provide adequate access to the beach and near-shore waters for the general public as noted from the application. Applying the daily rent for right-of-entry is likely cost prohibitive for the subject repair project¹. The requested areas will address the safety concerns during the installation work on the adjacent hotel property. Therefore, staff is willing to recommend the Board consider imposing a flat fee of \$2,000 for the subject request.

COLLATERAL SECURITY DEPOSIT:

None

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that

¹ The safety zone requires a semi-circle area with a radius of 50, 100, and 150 feet for the first three weeks for erection and the last three weeks for dismantling of the scaffolding. The corresponding areas would be 3,927, 15,708, and 35,343 square feet. Each of these areas would last one week. Applying the 10-cent per square-foot per day commercial rate to the request, the fee payable would be about \$79,000 for the requested 6-week period. This figure does not take into account the staging area and the vehicular access.

previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation.", as explained in **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:

Hilton Hawaiian Village, LLC. (“HHV”) plans to replace the iconic Rainbow Mural of the Rainbow Tower which was installed in 1968. A letter detailing the requested area and periods is attached as Exhibit B. In short, a scaffolding tower will be installed on the HHV’s property to facilitate the replacement project. During the erection of the scaffolding tower, HHV requests using portions of the Duke Kahanamoku Beach for safety zone purposes. The extent of the safety zone will vary over the course of the project and will correspond to the height of work on the tower, with a maximum of 150 linear feet radius makai of the Rainbow Tower. This safety zone, as outlined in yellow, is depicted on the map attached to Exhibit B. The safety zone is needed for the erection and dismantling of the scaffolding tower which will happen in October 2013 and March 2014 respectively.

A portion of the safety zone will be used by the contractor as the staging area for delivery and storage of material, while construction activities will be undertaken entirely within HHV’s property. The staging area will last through the entire right-of-entry period, from October 2013 to March 2014. The staging area is also shown on Exhibit B.

During the construction, public access to and from the shoreline will be maintained. HHV’s contractor will designate walkway, with overhead protection, as shown yellow on Exhibit B.

In addition, HHV requests the Board authorize HHV’s use of an area about 15 feet wide and 500 feet in length connecting the Ala Wai Small Boat Harbor parking lot and the work site. The vehicular access will only be used once daily between 6 to 8 am by a small utility truck, and HHV will restore the beach by grooming after the completion of the daily delivery route.

HHV and its contractor will provide security and monitor the public safety issue during the requested period.

HHV 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. No comments were requested from government or community agencies. Staff has no objections to the subject 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, 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. Authorize the issuance of a right-of-entry permit to Hilton Hawaiian Village, LLC for staging area and safety zone purposes covering the subject area for 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.

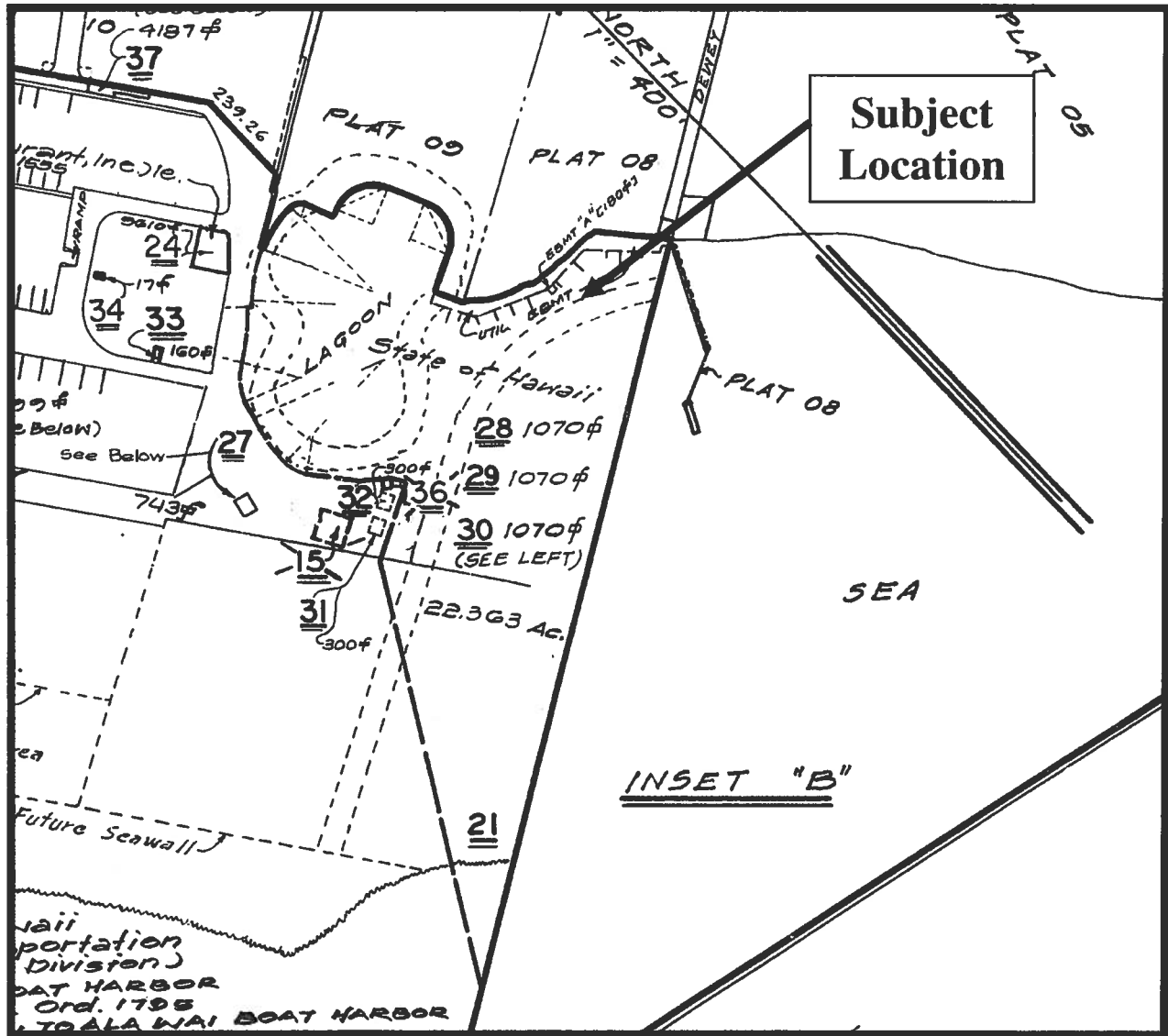
Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila Jr., Chairperson



TMK (1) 2-3-037:PORTION OF 21

EXHIBIT A



Gerard C. Gibson
Area Vice President

RECEIVED
LAND DIVISION
2013 AUG 19 AM 8:01
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

August 15, 2013

Barry Cheung
Oahu District Supervising Land Agent
Department of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

Re: Request for Non Exclusive Right of Entry on Duke Kahanamoku Beach and Duke Kahanamoku Lagoon October 1, 2013 through May 31, 2014, for removal of existing Rainbow Mural Tile and Installation of New Rainbow Mural Tile.

Aloha Mr. Cheung:

The iconic Rainbow Mural that has been a major part of Waikiki life since 1968 has to be replaced. A new porcelain tile Mural that is the same design is now ready for installation following the removal of the old tile. At a cost of over \$4 Million dollars Hilton has retained Swinerton Builders to build and install the new Rainbow Mural.

Therefore, Hilton Hawaiian Village Hotel, hereby requests a Non-Exclusive Right of Entry for the portion of Duke Kahanamoku Beach that is Makai of Hilton's Rainbow Tower and the area of Duke Kahanamoku Lagoon Beach that is adjacent to Rainbow Tower. "The area requested will be used by the contractor for delivery and storage of materials and as a safety zone, all construction activities will be conducted solely on Hilton property. The enclosed site plan shows the location of the beach areas and the approximate size of the two areas together with the schedule of the days requested. The dimensions (which vary with the natural topography of the ocean and lagoon shorelines) for our requested Non-Exclusive Right of Entry are set forth herein. The Site Plan and Agenda are attached.

Hilton Security will provide security for the project. Waikiki Beach Activities, Ltd. employees will assist Hilton as Beach Monitors. There will not be any amplified sound just the sound of the required tools.

Because of the materials and equipment and the scope of the project, a small utility truck will be required to complete the project. Therefore, we are requesting to use an area approximately 15 feet wide by 500 feet long running from the Makai Ala Wai Boat Harbor parking area to the Rainbow Tower. Use of this area would be restricted to approximately one hour in the early morning and one hour in the late afternoon. The sand will be groomed after each use and no damage to the area is anticipated, if there is the contractor will cure the damage.

Hilton and Hilton's contractor will provide the required liability insurance. Hilton's contractor will manage the construction and clean up the areas during and following completion the project.

Sincerely,

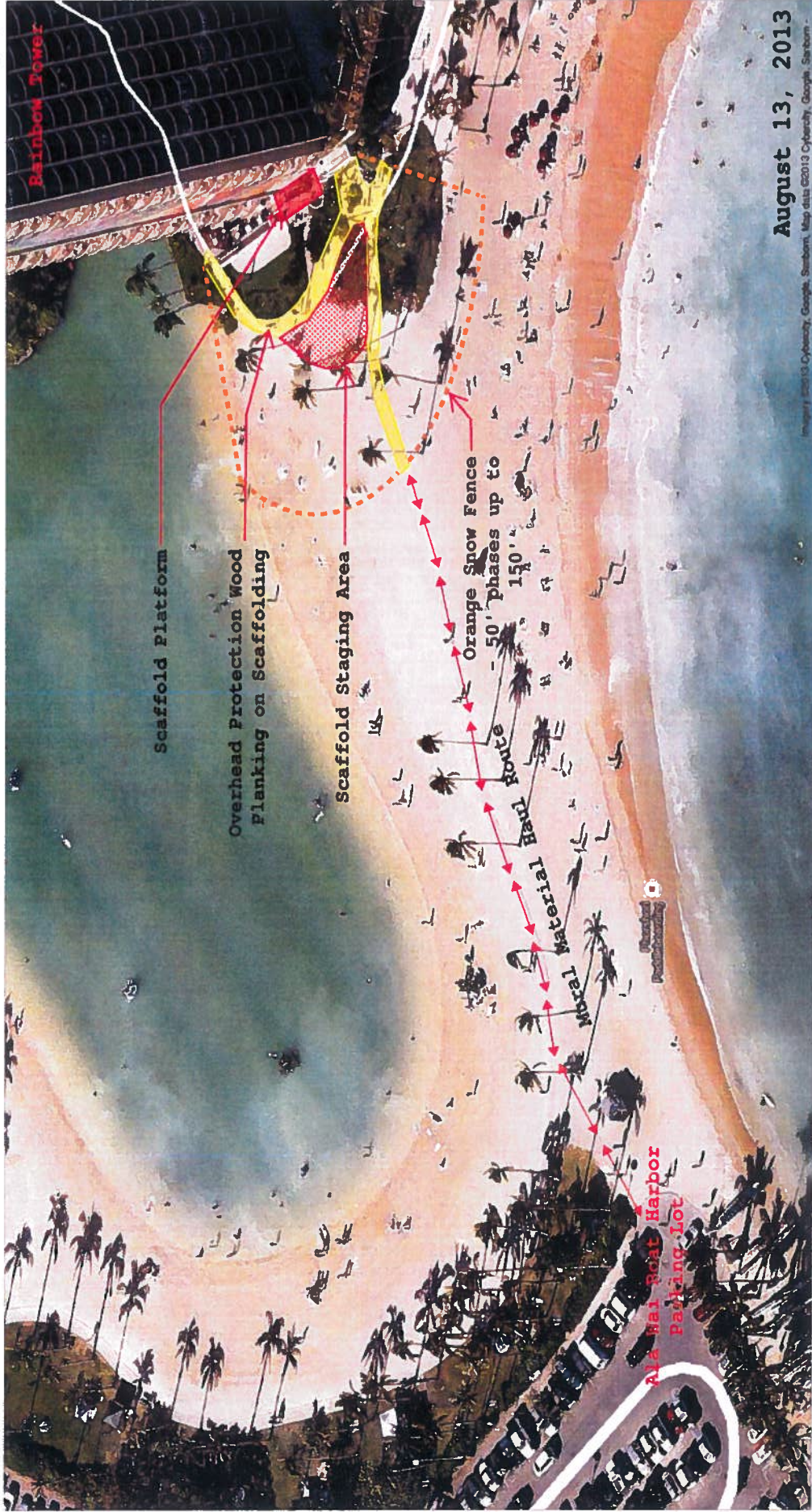
Gerard C. Gibson
AVP, Hilton Hawaii

EXHIBIT " B "



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Tel: 808 949 4321 Direct Line: 808 941 9226
Fax: 808 947 7800
email: jerry.gibson@hilton.com
Reservations: www.hilton.com or 1-800-HILTONS

SWINERTON BUILDERS - PROPOSED RAINBOW TOWER MURAL RESTORATION JOB SITE



August 13, 2013

Imagery ©2013 Cybersat, Google, Swinerton, Map data ©2013 Cybersat, Google, Swinerton

RLB Rdp Levett Bucknell

NOTE: PERMIT DATES ARE VALID : OCT 1, 2013 THROUGH MAY 31, 2014

Rainbow Tower Mural Restoration Project
Makai Side Orange Plastic Fence, Barricades Installation of Scaffolding



Scaffolding Erection on the Building			
Distance Out	Activity Description	Start Date	Finish Date
	Barricades	3-Oct-13	9-Oct-13
	Scaffolding Erection		
50' Out	Orange Plastic Fence	10-Oct-13	16-Oct-13
100' Out	Orange Plastic Fence	17-Oct-13	23-Oct-13
150' Out	Orange Plastic Fence	24-Oct-13	30-Oct-13
Complete	Remove Plastic Fence		31-Oct-13

Scaffolding Deconstruction on the Building			
Distance Out	Activity Description	Start Date	Finish Date
150' Out	Orange Plastic Fence	5-Mar-14	7-Mar-14
100' Out	Orange Plastic Fence	8-Mar-14	12-Mar-14
50' Out	Orange Plastic Fence	13-Mar-14	17-Mar-14
0' Out	Complete		18-Mar-14

Note: the construction zone fencing includes orange, plastic fencing and metal scaffolding with a plywood/planking top and plywood siding on the building side.

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Issuance of Right-of-Entry Permit to Hilton Hawaiian Village, LLC

Project / Reference No.: PSF 13OD-135

Project Location: Waikiki, Honolulu, Oahu, Tax Map Key (1) 2-3-037:portions of: 021

Project Description: Staging Area, Vehicular Access, and Safety Zone Purposes

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

The Board has permitted other beach activities permit in the past. The subject request will utilize portion of the beach similar to other prior permits. Applicant will provide security and other employee to monitor the public safety at the location. As such staff believes that the request would involve negligible or no expansion or change in use beyond that previously existing.

Consulted Parties Not Applicable

Recommendation: That the Board find 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.

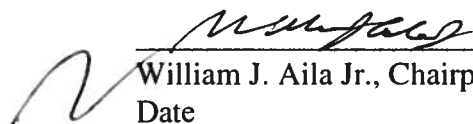

William J. Aila Jr., Chairperson
Date

EXHIBIT C