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

KAUAI

ISSUANCE OF A CONSTRUCTION RIGHT OF ENTRY TO THE U.S. ARMY CORPS OF ENGINEERING (USACE) FOR USES RELATED TO DREDGING, TEMPORARY DEWATERING AND STAGING AREAS, NAWILIWILI HARBOR, KAUAI

LEGAL REFERENCE:

Sections 171-11, 171-13, and 171-55, Hawaii Revised Statutes, as amended.

APPLICANT:

U.S. Army Corps of Engineers, Honolulu District, ("Applicant"), an agency of the federal government of the United States.

CHARACTER OF USE:

To allow Applicant and its permitted agents (assignees, contractors, sub-contractors, and agents) the right to enter upon the premises to support construction of Nawiliwili Deep Draft Harbor Navigation Improvements, to construct temporary dewatering and staging areas for Nawiliwili Deep Draft Harbor as set forth in the plans and specifications held in the U.S. Army Corps of Engineers Honolulu District Office at Fort Shafter, Hawaii.

LOCATION:

Portion of government lands situated at 3242 Waapa Road, Lihue, Kauai, 96766, at Nawiliwili Harbor, Tax Map Key Nos. (4) 3-2-003:001, 002, 003, 023, 040 & (4) 3-2-004:002, 006, 018, 025, 026, 027, 028, 029, 030, 031, 032, 036, 037, 042, 043, 044, 048, 051, 052, 054, 057, 059, 061, 064, 065, 067, 072, and 074, as shown on the attached map labeled Exhibit "A".

AREA:
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The total area is 30.84 acres, more or less

CONSIDERATION:

Gratis.

ZONING:

State Land Use District: Urban
Kauai County Industrial

TERM:

Thirty-six (36) months, with the option to extend the term in increments of ninety (90) days until the scope of the work as described herein are complete.

COMMENCEMENT DATE:

To be determined by the Director of Transportation.

TRUST LAND STATUS:

5 (a)

CURRENT USE STATUS:

Commercial harbor and cargo-handling areas

LAND TITLE STATUS:

Owned by State of Hawaii; management and control of the property was transferred to the DOT by Executive Orders 509, 1178, 1270, 1332, 1481, 1525, 2205, 2532, and 3959.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This use is exempt from Office of Environmental Quality Control requirements pursuant to Sub-Chapter 11-200-8 of the Hawaii Administrative Rules that exempts the “operation, repairs, or maintenance of existing structures, facilities, equipment, or topographical features involving negligible or no expansion or change of use beyond that previously existing.”

A declaration of exemption from preparation of an environmental assessment has been made by the Director of Transportation for this proposed use.
APPLICANT REQUIREMENTS:

Applicant shall be required to comply with all permit terms, including all exhibits, addendums, and other lease documents, and specifically shall be required to:

1. At all times during the term of the revocable permit, comply with all applicable laws, statutes, ordinances, rules and regulations whether state, county, federal, which are now or hereafter may be in effect;

2. At its sole cost and expense, remove all property, tools, equipment, temporary improvements, machinery and unused or surplus materials, if any, and other property stored or placed upon the premises, and the ingress and egress thereto;

3. Use due care for public safety and shall be responsible for any damage or injury caused by its officers, employees and agents in the course and scope of their employment to the extent that its liability for such damage or injury has been determined by a court or otherwise agreed to. Permittee shall pay for such damage and injury to the extent permitted by law provided that an appropriation is enacted for that purpose;

REMARKS:

The DOT owns and controls the Nawiliwili Deep Draft Harbor and it is used for the berthing commercial vessels, and the loading and unloading of cargo from these vessels. The commercial harbor facilities include three piers with a total of 1,800 linear feet of berthing space and 16 acres of paved cargo yard area. The commercial harbor is protected by a rock-faced jetty and a 2,150-foot-long breakwater. The entrance channel is 600 feet wide and 2,400 feet long with a controlling depth of 40-feet. The Applicant supports the maintenance of the harbor entrance and navigation improvements and requires access to the property to support its maintenance project and work to construct temporary dewatering and staging areas for Nawiliwili Deep Draft Harbor as set forth in the plans and specifications held in the U.S. Army Corps of Engineers Honolulu District Office.
RECOMMENDATION:

That the Board authorize the DOT to issue a construction right-of-entry to the Applicant for the above stated purposes, subject to the terms and conditions as may be prescribed by the Director of Transportation to best serve the interests of the State.

Respectfully submitted,

JADE T. BUTAY
Director of Transportation

APPROVED FOR SUBMITTAL:

SUZANNE CASE
Chairperson and Member
Board of Land and Natural Resources