



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

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

OAHU

ISSUANCE OF A GRATIS CONSTRUCTION RIGHT-OF-ENTRY TO GRAIN CRAFT/PENDLETON FLOUR MILLS, LLC FOR DEMOLITION AND REMEDIATION WORK AT THE FLOUR MILL PROCESSING BUILDING, PIER 23, HONOLULU HARBOR, OAHU, TAX MAP KEY NOS. (1) 1-5-039: PORTION OF 022

LEGAL REFERENCE:

Sections 171-6, 171-11, 171-13, and 171-55, Hawaii Revised Statutes, as amended.

APPLICANT:

Grain Craft, the trade name for the Pendleton Flour Mills, LLC ("Applicant"), a foreign limited liability corporation, whose mailing address is 201 W. Main Street, Suite 103, Chattanooga, Tennessee, 37408. The Corporation Company, Inc. serves as the Applicant's agent and is located at 1136 Union Mall, Suite 301, Honolulu, Hawaii, 96813.

CHARACTER OF USE:

To allow Applicant and its permitted agents (assignees, contractors, sub-contractors, and agents), and specifically Island Demo, Inc., the right to enter upon and take possession of the premises for the purposes of demolition of certain structures, removal of abandoned nonoperational equipment, and the abatement and remediation of asbestos flooring.

LOCATION:

Portion of Government lands situated at 703 North Nimitz Highway, Honolulu, Hawaii 96817 at Piers 23/24, Honolulu Harbor, Honolulu, Oahu, as shown on the attached map labeled Exhibit "A." As stated below, said lands have been set aside to the State of Hawaii Department of Transportation ("DOT") by Executive Order 2931.

AREA:

Approximately 4,400 square feet, more or less.

ITEM M-5

CONSIDERATION:

Gratis. It is noted that the right-of-entry facilitates the demolition and remediation of a vacant building and, upon completion, the building and surrounding property may be repurposed to generate additional revenue for the DOT.

ZONING:

State Land Use Commission: Urban
City and County of Honolulu: I-3 Waterfront Industrial

TERM OF RIGHT-OF-ENTRY:

Four (4) months, with the option to extend the term in increments of thirty (30) days until the scope of work as described herein is complete.

COMMENCEMENT DATE:

To be determined by the Director of Transportation

CURRENT USE STATUS:

Vacant flour mill processing building

LAND TITLE STATUS:

Owned by State of Hawaii; management and control of the property was transferred to the DOT by Executive Order 2903.

TRUST LAND STATUS

Non-ceded; the property was acquired after 1959.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

A Declaration of Exemption from the preparation of an environmental assessment was made by the Director of Transportation on July 25, 2018, for the proposed right-of-entry use. This is exempt from Office of Environmental Quality Control requirements pursuant to Sub-Chapter 11-200-8 of the Hawaii Administrative Rules that exempts the following:

Exemption Class 8. Demolition of structures, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, Public Law 89-665, or Chapter 6E, Hawaii Revised Statutes.

1. Demolition of existing structures under Department of Transportation jurisdiction except seawalls and other coastal structures and those structures located on any historic

site as designated in the National Historic Preservation Act of 1966, Public Law 89-655, or Chapter 6E, Hawaii Revised Statutes.

APPLICANT REQUIREMENTS:

Applicant shall:

1. Ensure that their contractors, sub-contractors shall obtain the following insurance during the term of the right-of-entry and naming the DOT Harbors Division as additional insured:
 - (a) Bodily injury or property damage caused by Applicant's or its permitted agent's negligence in the form of a general liability insurance policy with a combined single limit of not less than \$1,000,000.00 for bodily injury and damage to property per occurrence, and \$2,000,000 in the aggregate.
 - (b) Automobile insurance for any vehicles used to access and are on the Premises with a minimum limit of not less than \$1,000,000.00 per occurrence and \$2,000,000 in the aggregate.
 - (c) All insurance required to be maintained by Applicant and its permitted agents hereunder shall be pursuant to policies in form and substance consistent with policies of similar type issued to businesses similar to Applicant and its permitted agents and issued by companies of sound and adequate financial responsibility, who are authorized to do business in the State of Hawaii, all as reasonably satisfactory to the State.
 - (d) Applicant shall name the State as an additional insured on the policies or provide other assurances, reasonably acceptable to the State, that Applicant's insurance policies shall be primary, not in excess of or pro rata and noncontributing as to and with any other insurance held or maintained by the State, for any injury or claim arising on the Premises due to Applicant's negligence or the negligence of its permitted agents. The "State" shall include the State's officers and employees acting within the scope of their duties.
 - (e) Applicant shall provide proof of all required insurance to the State either by production of the actual insurance policies or by an insurance certificate on an ACORD form or some other written form reasonably acceptable to the State, together with appropriate written evidence, reasonably satisfactory to the State, that the insurance premiums have been paid.
2. Applicant shall use due care for public safety and agrees to defend, hold harmless, and indemnify the State, its officers, agents, and employees, or any person acting for and on its behalf, from and against all claims or demands for damage, including claims for property damage, personal injury, or death, arising on, about or in connections with the exercise of the rights and privileges herein granted,

caused directly or approximately by any failure on the part of the Applicant in its use of the premises.

3. Applicant shall take all necessary steps to ensure that any of its work involving the premises will not cause any permanent damage to property or improvements situated on, adjacent to, or near the Premises.
4. The State grants Applicant a right to enter upon the lands herein described. Upon expiration of the right-of-entry, Applicant shall, at its sole cost and expense, restore the premises, and the ingress and egress thereto, to the condition it was in immediately prior to commencement of the right-of-entry, to the satisfaction of the State within a reasonable time after such expiration.
5. Applicant shall take all necessary steps to ensure that the work done on the premises does not interfere with any of the operational activities of any adjacent property owners or operations.
6. Applicant shall coordinate all activities with Staff of the DOT Harbors Division.
7. Applicant shall, at all times during the term of right-of-entry, comply with all applicable laws, statutes, ordinances, rules and regulations, whether State, County, or Federal, which are now or hereafter may be in effect.

REMARKS:

Leases H-79-1 and H-86-1 issued by the DOT Harbors Division to Pendleton Flour Mills were terminated effective December 31, 2014. Pursuant to these leases, Grain Craft/Pendleton Flour Mills, LLC are required to restore the premises by removing certain improvements, including the buildings, and all equipment on the leased premises.

The flour mill processing building is adjacent to Piers 22/23. The design of the facility and the weight limits of the piers do not allow for the use of heavy equipment and cranes required for the demolition of the building. Complete demolition of the building would interfere with adjacent and nearby maritime operations including cargo movement, a stevedore maintenance shop, a loading dock, and freight forwarding business.

In consideration of the aforementioned circumstances, and the Applicant's inability to adhere to the terms on restoration of the now-terminated leases, DOT Harbors Division agreed to a settlement with the Applicant which requires the removal of the equipment and the abatement of the asbestos floor tiles and mastic.

Once this work is complete, the building and surrounding property may be re-purposed to generate additional revenue for the DOT.

RECOMMENDATION:

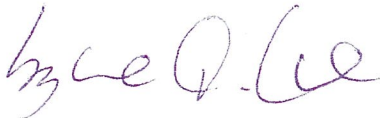
That the Board authorizes the issuance of a Right-of-Entry to the Applicant and its permitted agents covering the subject area for the purposes cited above, subject to the terms and conditions outlined above and incorporated herein by reference, and such terms and conditions as may be prescribed by the Director of Transportation.

Respectfully submitted,



for JADE T. BUTAY
Director of Transportation

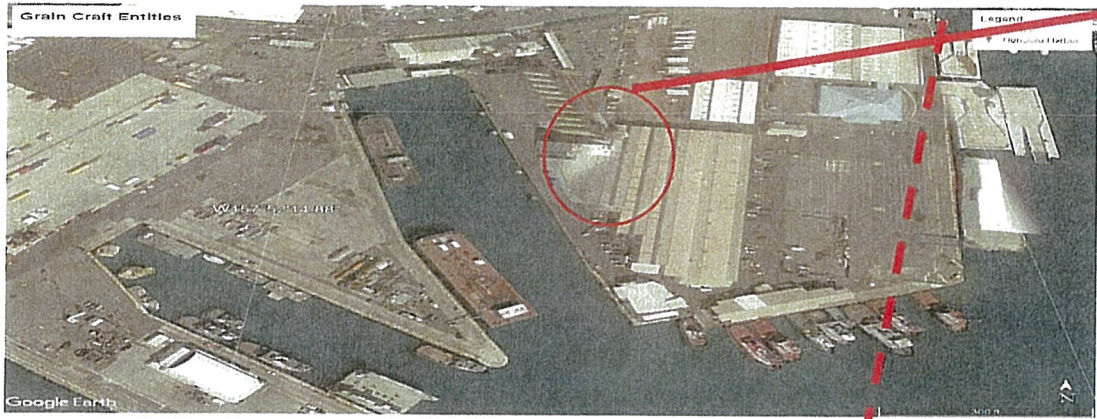
APPROVED FOR SUBMITTAL:



SUZANNE CASE
Chairperson and Member
Board of Land and Natural Resources

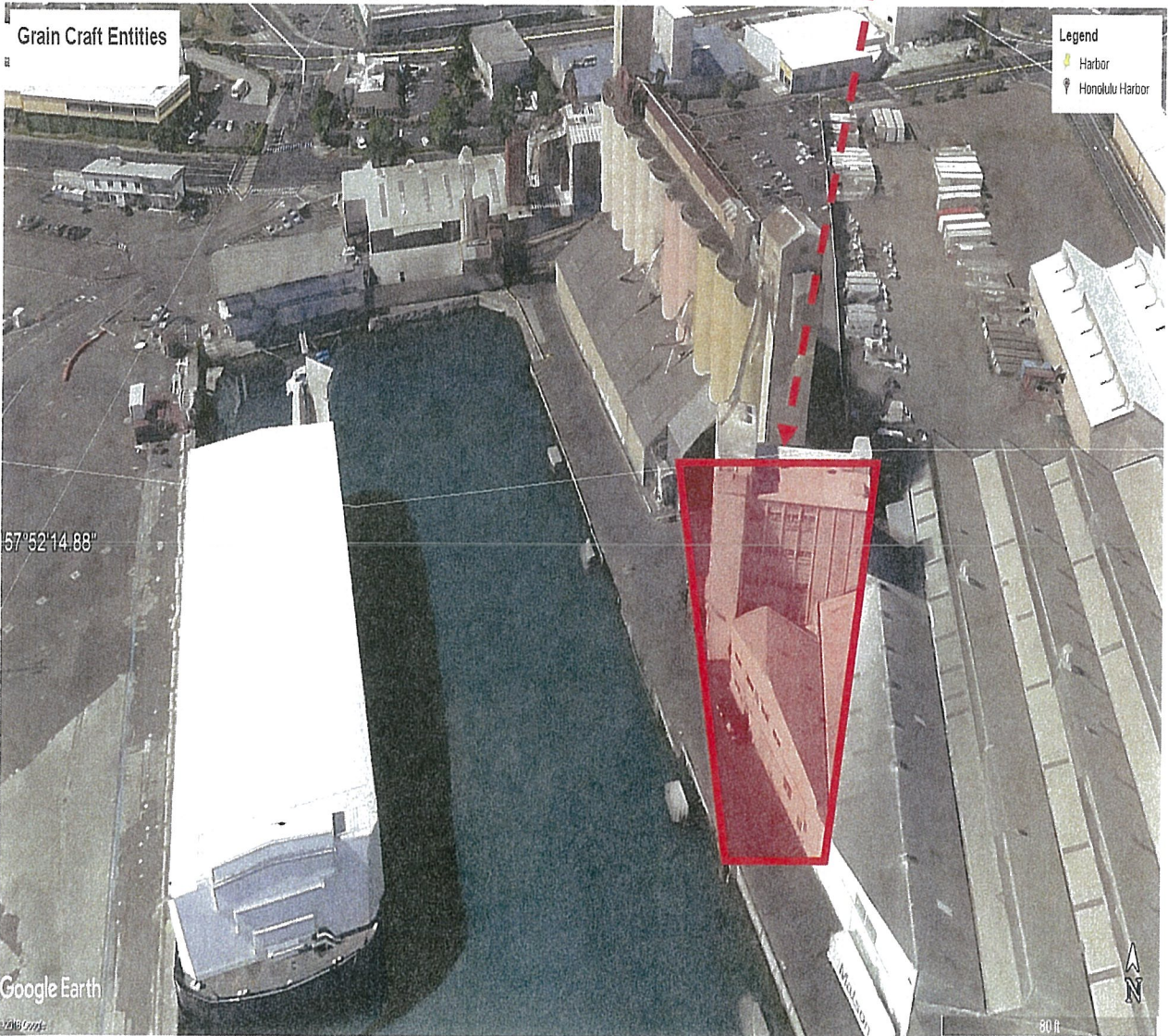
EXHIBIT A

Project Location – Pier 23, Honolulu Harbor, Oahu, Hawaii

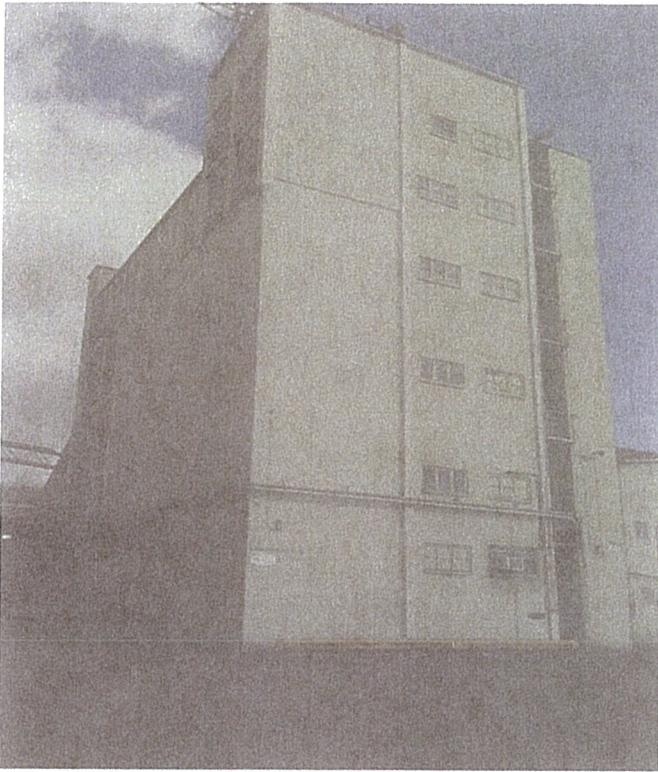


Subject:
Grain
Craft
Entities –
aka
Hawaii
Flour Mill

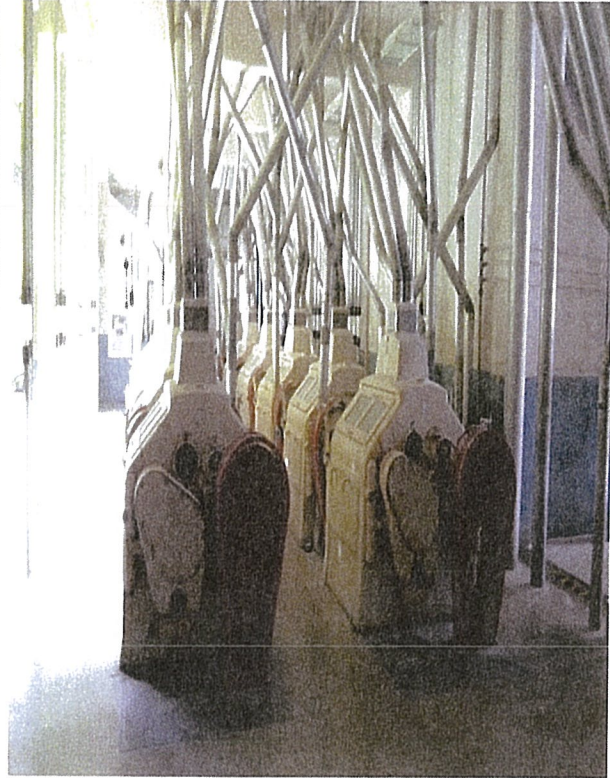
Flour Mill Building



Flour Mill Building – 7 floors



Elaborate pneumatic tube system 1st to 5th flr.



**Conveyor belt elevator System
from 1st to 5th floor**



Equipment Outside Mauka/Ewa corner

