

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

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

OAHU

ISSUANCE OF A RIGHT-OF-ENTRY AGREEMENT TO ROYAL CONTRACTING CO., LTD., AT KALAELOA BARBERS POINT HARBOR, OAHU, TAX MAP KEY NO. (1) 9-1-014:024 (P)

LEGAL REFERENCE:

Sections 171-6, 171-13, 171-17, 171-55, and 171-59, Hawaii Revised Statutes ("HRS"), as amended.

APPLICANT:

Royal Contracting Co., Ltd. ("Applicant"), is a domestic profit corporation whose business registration and mailing address is 677 Ahua Street, Honolulu, Hawaii 96819.

CHARACTER OF USE:

To remove and haul away coral material from designated Kalaeloa Barbers Point Harbor Coral Stockpiles 2 and 3 areas.

LOCATION:

Portions of governmental lands situated at Kalaeloa Barbers Point Harbor, Tax Map Key No. (1) 9-1-014:024 (P), as shown on the attached map labeled Exhibit A.

AREA: See attached Exhibit A

Approximately nine (9) acres, or 392,040 square feet of land.

CONSIDERATION:

Gratis

ZONING:

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

ITEM M-10

TERM OF RIGHT-OF-ENTRY:

Twelve (12) months. The Department of Transportation, Harbors Division (“DOT Harbors”), has the option to extend an additional thirty (30) calendar days. Extensions beyond the thirty (30) days will require approval from the Board.

COMMENCEMENT DATE:

To be determined by the Director of Transportation.

TRUST LAND STATUS:

Subsection 5(a) of the Hawaii Admission Act (non-ceded lands).

CURRENT USE STATUS:

The area is currently vacant.

LAND TITLE STATUS:

Acquired by DOT Harbors, through eminent domain proceedings by issuance of Governor’s Executive Order No. 3383.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

This action is exempt from Office of Environmental Quality Control (“OEQC”) requirements pursuant to Sub-Chapter 11-200.1, Hawaii Administrative Rules, which exempts the following:

“Exemption Class 1: 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.”

The DOT Harbors will submit its publication request of this Exemption Notice to the OEQC for publication on the 8th of each month.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Ensure that its contractors and sub-contractors shall obtain the following insurance during the term of the Right-of-Entry Agreement and naming DOT Harbors as additional insured:

- (a) Comprehensive General Liability and Property Damage Insurance with a combined minimum single limit of Two Million and No/100 Dollars (\$2,000,000.00) per occurrence for bodily injury and property damage.
 - (b) Contractor Automobile Liability and Protective Property Insurance with a combined minimum single limit of Three Million and No/100 Dollars (\$3,000,000.00) per occurrence for bodily injury and property damage.
 - (c) Workers' Compensation Insurance as required by applicable law. DOT Harbors will be named as additional insured.
2. Applicant shall provide a grading and drainage stabilization plan for acceptance by DOT Harbors that maintains the existing drainage patterns. This plan shall include pre- and post-stockpile topographic information that includes the area between John Wayne Access Road and the proposed Campbell Estates, Regional Drainage Channel; and the areas covering Stockpile 2 up to the mauka DOT Harbors' property line to the ocean. This plan shall be stamped by a Civil Engineer licensed in the State of Hawaii.

REMARKS:

The stockpiles situated at KBPH contain coral dredge spoils from the original development of KBPH. Over time, these stockpiles created pollution control problems for DOT Harbors in the management of dust control and prevention of storm water runoff into ocean waters. Ultimately, the State of Hawaii and the Department of Transportation were found to be in violation of the Clean Water Act.

As required by the 2014 Consent Decree between the United States and the Department of Transportation (Case 1:14-cv-00408-JMS-KSC Filed 11/05/14), the United States Environmental Protection Agency approved a Dredge Spoil Stockpile Management Plan for KBPH in January of 2015. The goal of this Dredge Spoil Stockpile Management Plan is to dispose of all stockpile materials as soon as possible to allow further development in accordance with the KBPH 2040 Master Plan.

To ensure compliance with the Consent Decree requirements, Applicant upon approval of its request, agrees to the following:

- Applicant shall provide inspection and monitoring services to ensure stockpiles are sealed once removal of material is completed.
- Applicant will not store tools, equipment, or material on site at KBPH.

- Applicant shall comply with all storm water regulatory requirements and provide monitoring reports on a bi-monthly basis (monitoring reports shall also verify the quantities of materials removed from the stockpiles).
- Prior to removal of any material, Applicant shall submit the following:
 - Best Management Practices Plan
 - Storm Water Prevention Plan
 - Post-Construction Mitigation Plan
 - Final Stockpile Depletion Plan to DOT Harbors for approval
- Upon completion of the removal, management, direction, and inspection, the Applicant shall provide verification that the project sites are stabilized in accordance with its submitted and approved plans, and in compliance with the terms of the Consent Decree.
- Applicant shall provide a grading and drainage stabilization plan to ensure that following removal of the coral, rainwater from the remaining site will not drain toward the harbor.

RECOMMENDATION:

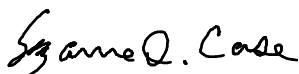
That the Board authorize the DOT Harbors to issue the Applicant a Right-of-Entry Agreement for the above-stated purposes, subject to the terms and conditions outlined above and incorporated herein by reference, and such terms and conditions as may be prescribed by the Director of Transportation to best serve the interests of the State.

Respectfully submitted,



JADE T. BUTAY
Director of Transportation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson and Member
Board of Land and Natural Resources

Att.: Exhibit A

