



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

FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

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

ASSUMPTION AND ASSIGNMENT OF STATE LEASE NO. DOT-A-13-0010
SHARP 29 CORPORATION TO CRAFT & STONE CONCEPTS, INC.
UALENA STREET, HONOLULU INTERNATIONAL AIRPORT
TAX MAP KEY: (1) 1-1-04:11

O'AHU

REQUEST:

Assumption and Assignment of State Lease No. DOT-A-13-0010 from Sharp 29 Corporation, as Lessee/Assignor, to Craft & Stone Concepts, Inc., as Assignee at Honolulu International Airport.

LEGAL REFERENCE:

Subsection 171-36(a) (5), Hawai'i Revised Statutes, as amended.

APPLICANTS:

LESSEE/ASSIGNOR: Sharp 29 Corporation, whose mailing address is 2909 Ualena Street, Honolulu, Hawai'i 96819.

ASSIGNEE: Craft & Stone Concepts, Inc., whose mailing address is 3219 Koapaka Street, Honolulu, Hawai'i 96818.

LOCATION AND TAX MAP KEY:

Portion of Honolulu International Airport, Honolulu, Island of Oahu, State of Hawaii, identified by Tax Map Key: 1st Division, 1-1-04:11.

AREA:

Area/Space No. 005-121, consisting of an area of approximately 8,960 square feet,
Building/Space No. 198-101, consisting of an area of approximately 2,374 square feet,
Building/Space No. 198-102, consisting of an area of approximately 798 square feet,
Building/Space No. 198-103, consisting of an area of approximately 4,680 square feet, and
Building/Space No. 198-104, consisting of an area of approximately 4,784 square feet, all
as delineated on the attached map labeled Exhibit A.

ZONING:

State Land Use District: Urban
City and County of Honolulu: I-2 (Industrial)

LAND TITLE STATUS:

Non-ceded - Direct purchase from private land owner.
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES __ NO X

CURRENT USE STATUS:

Land presently encumbered by Governor's Executive Order No. 3894, setting aside a
portion of Honolulu International Airport under the control and management of the State
of Hawaii, Department of Transportation, Airports Division (DOTA), for airport purposes.

The State of Hawaii acquired the subject property together with most of the remaining
properties (except one) along the ocean (makai) side of Ualena Street, between Lagoon
Drive and Paiea Street, in the mid 1990's from Loyalty Enterprises, Ltd.

CHARACTER OF USE:

Operation and maintenance of a stone fabricating business.

TERM OF LEASE:

Five (5) years, April 1, 2014 through March 31, 2019.

ANNUAL LEASE RENTAL:

Annual property lease rental, in the sum of \$115,368.00, payable in monthly installments
of \$9,614.00.

CONSIDERATION:

Not applicable.

PERFORMANCE BOND:

Sum equal to five times the monthly lease rental in effect.

CHAPTER 343, HRS - ENVIRONMENTAL ASSESSMENT:

Pursuant to Section 11-200-8(a), Environmental Impact Statement Rules of the Department of Health, State of Hawaii, this disposition is exempt from requirements regarding preparation of an environmental assessment, negative declaration, or environmental impact statement as required by Chapter 343, Hawaii Revised Statutes, as amended, relating to Environmental Impact Statements, because the proposed action falls within Exemption Class #1, Comprehensive Exemption List for the State of Hawaii, Department of Transportation, dated November 15, 2000, as approved by the Environmental Quality Council. Exemption Class #1 covers 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.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO _____
Registered business name confirmed:	YES <u>X</u>	NO _____
Good standing confirmed:	YES <u>X</u>	NO _____

REMARKS:

Sharp 29 Corporation dba Aloha State Sales (Sharp 29 or Debtor) is the Lessee at 2909 Ualena Street covered by State Lease No. DOT-A-13-0010 (Lease). Sharp 29 operates and maintains a stone countertop fabricating and installation business.

On October 22, 2015, Sharp 29 filed a petition for relief under Chapter 11 of the Bankruptcy Code, as a small business case, Case No. 15-02180. Sharp 29 provided the following information in its bankruptcy filing: 1) over the past several years, Sharp 29's sales decreased due to competition from cheaper Asian products and increased competition; and 2) a credit issue in the summer of 2015 from one of Sharp 29's biggest creditors caused Sharp 29's business to spiral downward.

As represented in the Debtor's filing: 1) in order to pay off its creditors, the Debtor had previously retained Finders, Keeper, Etc. dba Aloha Auctions (Aloha Auctions) to find buyers for its assets; and 2) after extensive efforts to find buyers, Aloha Auctions found a buyer with a similar business, Craft & Stone Concepts, Inc. (Craft or Buyer), whose offer of \$185,000.00 for certain physical property and vehicles (together with another buyer's offer for certain equipment) was the best disposition that the Debtor believed it could obtain.

As represented in the Debtor's filing, Craft also expressed interest in the Lease. Although Article XIX. (Termination by State) and Article XXIX. (Assignment and Subletting) of the Lease prohibits the transfer of ownership, and assignment and subletting, respectively, of the Lease, Section 365 of the Bankruptcy Code does provide for the assumption and assignment of real property leases as follows:

- (b)(1)(A) requires that the Debtor cure any existing default under the lease.
- (f)(1) provides that "Except as provided in subsections (b) and (c) of this section, notwithstanding a provision in an executor contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease under paragraph (2) of this subsection."
- (f)(2) provides that "The trustee may assign an executory contract or unexpired lease of the debtor only if-
 - (A) the trustee assumes such contract or lease in accordance with the provisions of this section; and
 - (B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease."

Pursuant to the provisions set forth in Section 365 of the Bankruptcy Code, DOTA conducted an analysis of the financial qualifications of the Buyer and its principal, Mr. Hung Pham, and believes that the Buyer and Mr. Pham are financially stable and qualified. The Buyer and/or Mr. Pham provided, or will provide as described below, adequate assurance of future performance of the Lease. DOTA has no objections to the assumption and assignment of the Lease to the Buyer for the remainder of the term of the Lease, subject to the following conditions:

- 1) An increase of the security deposit requirement under Article XXVI. (Performance Bond) from one-fourth (1/4) of the annual rent to five (5) times the monthly rent, and honoring a Personal Guaranty, dated November 12, 2015, in favor of DOTA, made by Mr. Pham, the Buyer's principal, guaranteeing adequate future performance of the terms of the Lease;

- 2) Approval by the Board of Land and Natural Resources; and
- 3) An order from the Bankruptcy Court approving the assumption and assignment of the unexpired leasehold interest under the Lease, free and clear of liens and encumbrances.

As the operation at the premises is already set up for a stone countertop fabricating and installation operation, the property is suited for another company with similar operations.

The assumption and assignment of the Lease from the Debtor to the Buyer will be in the best interest of the DOTA as it will continue the revenue stream generated by the lease rent for the property. A break in leasing the property would result in loss in revenue during the time it will take to find and qualify a new lessee and draft and finalize a new lease.

RECOMMENDATION:


That the Board approves and consents to the assumption and assignment of the Lease to Craft & Stone Concepts, Inc. upon: (1) terms and conditions herein outlined, which are by reference incorporated herein; (2) such other terms and conditions as may be prescribed by the Director of Transportation to best serve the interests of the State; and (3) review and approval of the Department of the Attorney General as to the form and content of a consent document, if any.

Respectfully submitted,

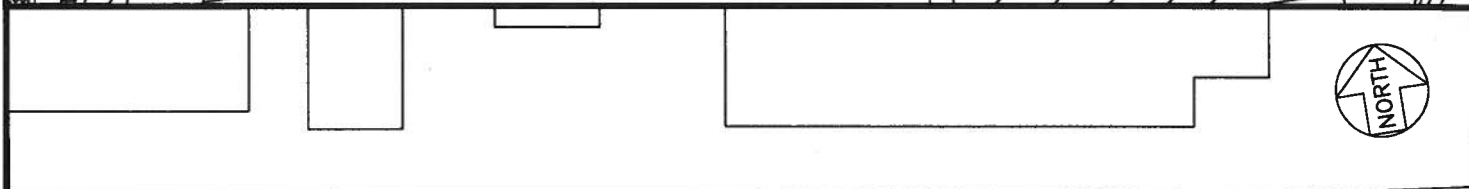
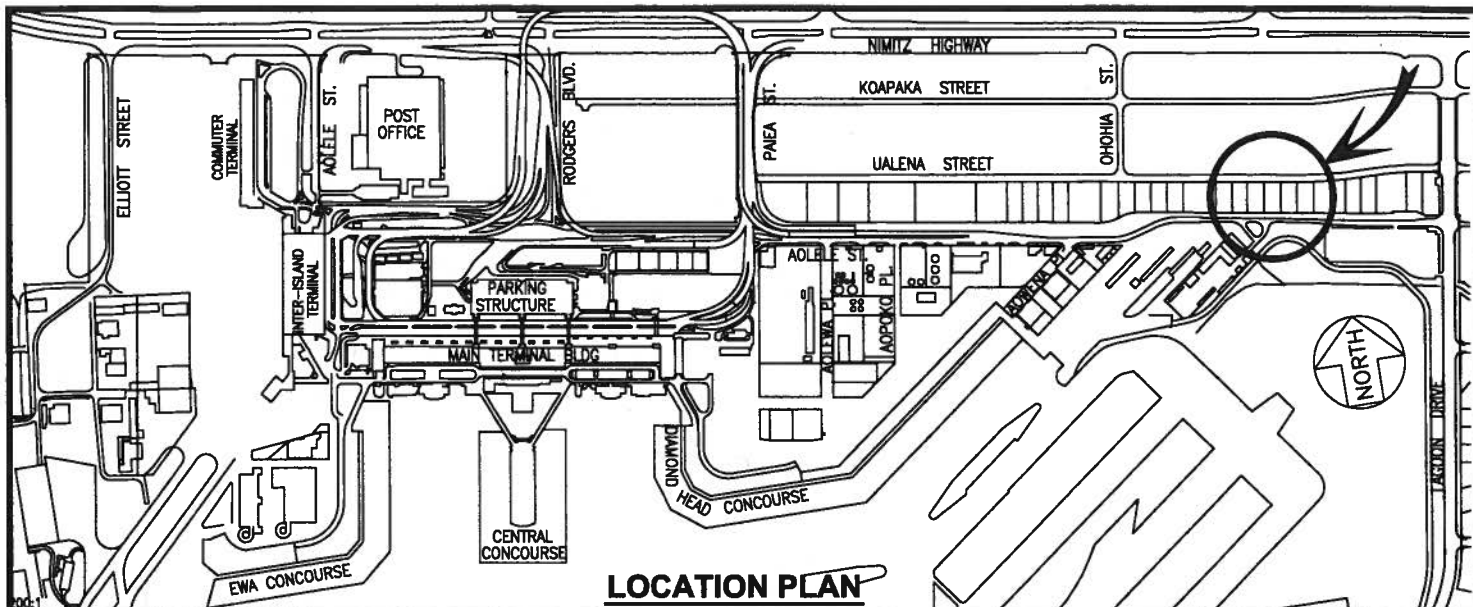


FORD N. FUCHIGAMI
Director of Transportation

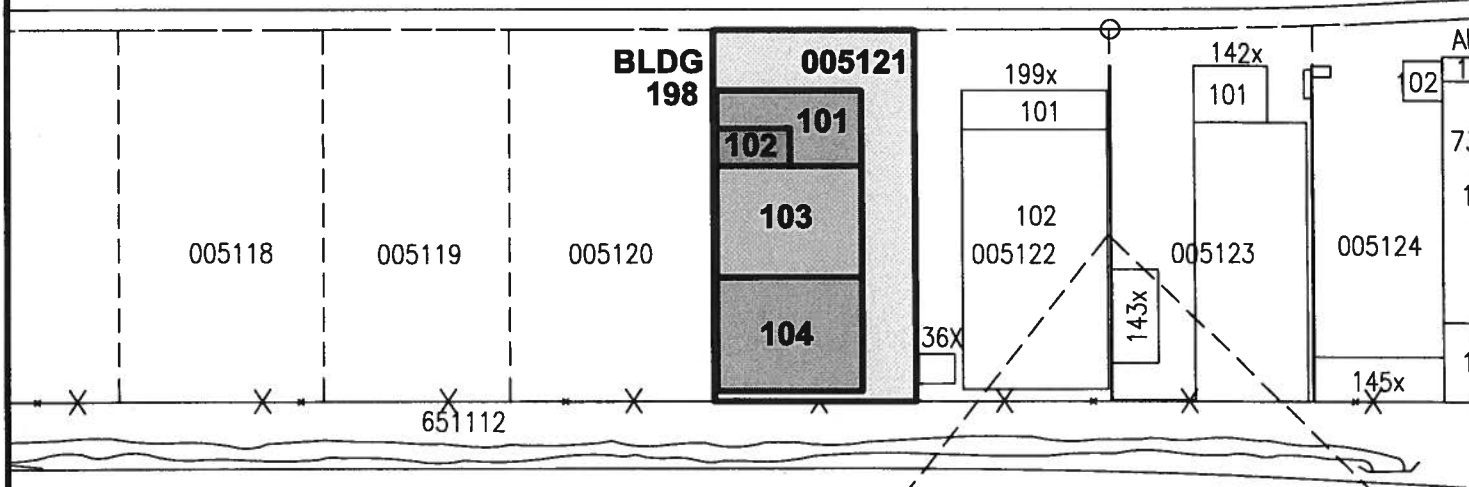
APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson and Member



UALENA STREET



AREA/SPACE	SQ. FT.
005 121	8,960

BLDG/ROOM	SQ. FT.
198 101	2,374
198 102	798
198 103	4,680
198 104	4,784

SCALE: 1" = 100'

DATE : DECEMBER 2012

EXHIBIT: **A**



Airports Division

2909 UALENA STREET

005121
BLDG 198

PLAT 16