

NEIL ABERCROMBIE
GOVERNOR



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

GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
FORD N. FUCHIGAMI
RANDY GRUNE
AUDREY HIDANO
JADINE URASAKI

IN REPLY REFER TO:

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

AMENDMENT NO. 2 OF STATE LEASE NO. DOT-A-98-0006
DOUGLAS AIRCRAFT, INC., WAIMEA KOHALA AIRPORT
TAX MAP KEY: (3) 6-7-001:PORTION OF 08

HAWAII

The Department of Transportation, Airports Division (DOTA) and Douglas Aircraft, Inc. (DAI) entered into State Lease No. DOT-A-98-0006 (Lease) beginning November 1, 1998, to develop, construct, operate and maintain a hangar facility at Waimea Kohala Airport (MUE), Island of Hawaii

REQUEST:

DAI, as Lessee under the Lease at MUE wishes to amend the Lease to reflect the beginning date of its five (5)-year lease rent reopening periods beginning on November 1, 2003 rather than September 1, 2003

LEGAL REFERENCE:

Subsection 171-59, Hawaii Revised Statutes, as amended

LESSEE:

Douglas Aircraft, Inc., a Hawaii corporation, having a mailing address at 67-1601 Mamalahoa Highway, Kamuela, Hawaii, 96743

AREAS:

Area/Space No. 001-102, containing a land area of approximately 3,000 square feet;
Area/Space No. 001-103A, containing a land area of approximately 7,000 square feet;
Area/Space No. 001-103B, containing a land area of approximately 6,000 square feet,
Area/Space No. 001-108, containing a land area of approximately 1,230 square feet,
Area/Space No. 001-109, containing a land area of approximately 50 square feet, all land areas as shown on the attached Exhibit "A"

ITEM M-13

LOCATION AND TAX MAP KEY:

Portion of Waimea Kohala Airport, Kamuela, Island of Hawaii, identified by Tax Map Key: 3rd Division, 6-7-001:Portion of 08

ZONING:

State Land Use District: Agricultural District
County of Hawaii: A-40A Agriculture

LAND TITLE STATUS:

Section 5(a) lands (“non-ceded” lands) of the Hawaii Admission Act
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. 4036, setting aside Waimea Kohala Airport under the control and management of the Department of Transportation, Airports Division, State of Hawaii, for airport Purposes.

CHARACTER OF USE:

Development, construction, operation, and maintenance of a hangar facility and fuel tank

TERM OF LEASE:

Twenty-five (25) years, commencing on November 1, 1998 and terminating on October 31, 2023

ANNUAL GROUND LEASE RENTAL:

\$6,165.76 per annum, payable in quarterly installments of \$1,541.44

REOPENING OF ANNUAL GROUND LEASE RENTAL:

Original: “For each of the four remaining five (5)-year lease periods totaling twenty (20) years, the annual rental shall be determined separately when due in accordance with Article IV (REOPENING OF RENT) herein, except that the rent for the Apron Space shall be based on the LESSOR’s monthly storage/parking fee for small aircraft applicable at the commencement of each five-year period for each aircraft spot within the Apron Space and the ground rate for each year of the second five (5)-year period beginning September 1, 2003, shall be no greater than a rate of 115% times the rate of the last year of the first (5)-year period, provided, however, should the process prescribed in said Article IV (REOPENING OF RENT) determine a ground rate less than the 115%, then the ground rate for the second five (5)-year period shall be that set by the procedures of said Article IV (REOPENING OF RENT), and the rental for each succeeding five (5)-year period, the third, fourth, and fifth five (5)-year periods shall be set for the ground rate and the Apron Space in the same manner as described in this sub-paragraph.”

As Amended: "For each of the four remaining five (5)-year lease periods totaling twenty (20) years, the annual rental shall be determined separately when due in accordance with Article IV (REOPENING OF RENT) herein, except that the rent for the Apron Space shall be based on the LESSOR's monthly storage/parking fee for small aircraft applicable at the commencement of each five-year period for each aircraft spot within the Apron Space and the ground rate for each year of the second five (5)-year period beginning November 1, 2003, shall be no greater than a rate of 115% times the rate of the last year of the first (5)-year period, provided, however, should the process prescribed in said Article IV (REOPENING OF RENT) determine a ground rate less than the 115%, then the ground rate for the second five (5)-year period shall be that set by the procedures of said Article IV (REOPENING OF RENT), and the rental for each succeeding five (5)-year period, the third, fourth, and fifth five (5)-year periods shall be set for the ground rate and the Apron Space in the same manner as described in this sub-paragraph."

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>
Good standing confirmed:	YES <u>X</u>	NO <u> </u>

REMARKS:

On September 11, 2008, the DOTA and DAI entered into a letter agreement changing the effective date of the rent reopenings contained in the Lease. The parties agreed the effective date of each five-year rental reopening period shall be November 1st instead of September 1st. The DOTA now seeks approval from the Board because it failed to document the letter agreement with an amendment approved by the Board.

RECOMMENDATION:

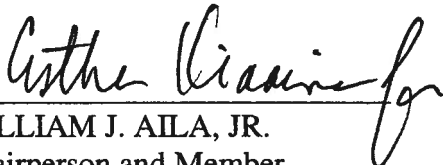
That the Board approves Amendment No. 2 of Lease as herein outlined, subject to: (1) such terms and conditions as may be prescribed by the Director of Transportation to best serve the interests of the State; and (2) review and approval of the Department of the Attorney General as to the form and content of Amendment No. 2 of the Lease.

Respectfully submitted,

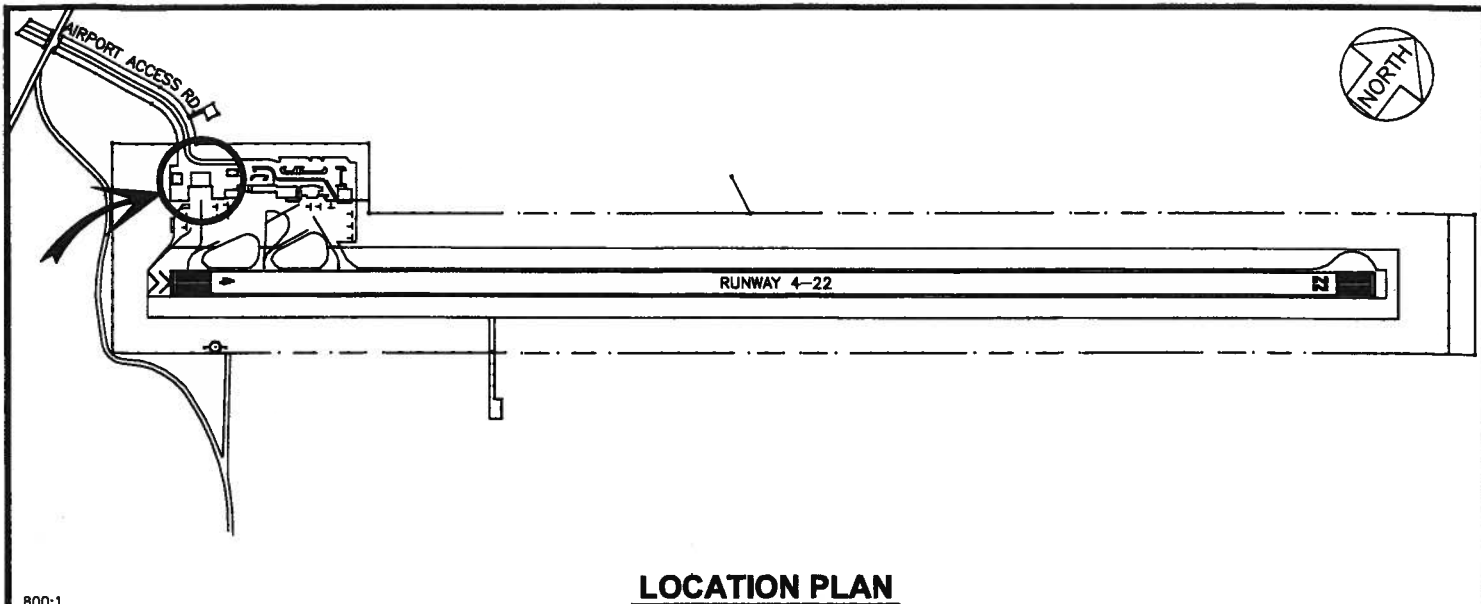


GLENN M. OKIMOTO, Ph.D.
Director of Transportation

APPROVED FOR SUBMITTAL:

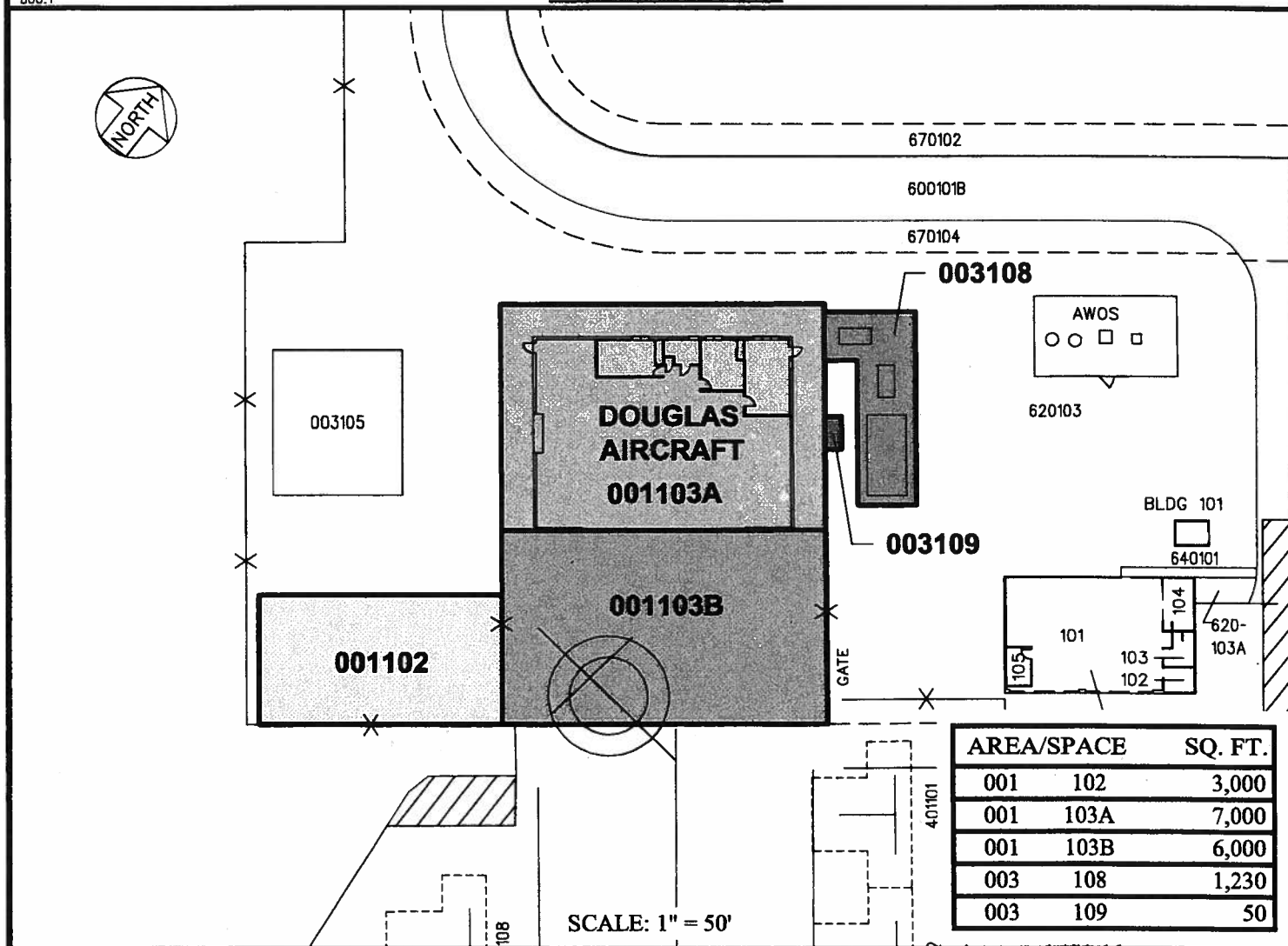


WILLIAM J. AILA, JR.
Chairperson and Member



800:1

LOCATION PLAN



DOT-A-98-0006

DATE : JANUARY 2014

EXHIBIT: **A**



DOUGLAS AIRCRAFT, INC.

LOTS

001102,
-103A,-103B,
003108,-109
PLATS A1, 41