



Lumpkin County, Georgia

Date: November 21, 2014

Agenda Item: Renew contract for Hanger C at Lumpkin County Airport

Item Description: Recommendation renew contract for hanger C

Facts & Historical

Information: In December of 2014 a contract were signed for the ground lease for Hanger C. This contract increased the price from \$1.10 per linear foot to \$1.85 per linear foot per month. This contract can be renewed for eight additional years if agreeable to both parties.

Potential Courses of Action:

- A. Renew contract at the current rate.
- B. Renew contracts at a different rate as determined by the BOC
- C. Do not renew the contract

Budget Impact:

- A. Renewing the contract at the current rate would have no impact on the budget.
- B. Renewing the contract at a different rate could impact the budget by increasing or decreasing the revenue based on what rate was chosen.
- C. Not renewing the contract would reduce revenue by \$999 annually.

Staff Recommendation: It is staff recommendation that Hanger C contracts be renewed at the current rate of \$1.85 per linear foot of taxiway frontage per month (option A) with the terms of the contract being for 1 year.

LUMPKIN COUNTY
HANGAR LEASE AGREEMENT 2014
EFFECTIVE CALENDAR YEAR - 2015
HANGAR "C"

STATE OF GEORGIA
COUNTY OF LUMPKIN

This AGREEMENT is being made and entered into with an effective date of January 1, 2015, by and between LUMPKIN COUNTY, a political subdivision of the State of Georgia, hereinafter referred to as "Lessor," and William "Bill" Owens, 285 Mountain View Drive, Dahlonega, Georgia 30533, hereinafter referred to as "Lessee".

Whereas Lessee wishes to lease from Lessor a certain tract or parcel of land at the Lumpkin County – Guy Wimpy Airport for the purpose of using and maintaining an existing hanger thereon to provide protective housing for Lessee's aircraft; and,

Whereas, Lumpkin County – Guy Wimpy Airport is maintained as public, service funded as a County function of government and not as a self-supporting commercial enterprise; and,

Whereas Lessor desires to promote economic development by encouraging such uses for the general welfare, and for aiding and assisting the reasonable growth of aviation in the County;

Now, Therefore, the parties hereto enter into the following agreement:

1. RENTAL FEE: LEASED PREMISES

In consideration of a fee in the amount of \$1.85 per linear foot of hangar frontage per month for the term of the lease, Lessor rents to Lessee the following described space (hereinafter referred to as "the leased premises"): Hangar space # "C" (consisting of 45 linear front feet) for the purpose of storing of aircraft (hereinafter referred to as "Lessee's aircraft").

2. TERM

a. Initial term of lease.

(1) Subject to early termination as hereinafter provided, the terms of this agreement shall be for an initial period beginning January 1, 2015, and ending at midnight on the 31st day of December, 2015.

(2) Said lease may be renewed annually for not more than eight additional full years following the 2014 year, unless earlier terminated as provided herein. It is understood and accepted by the parties hereto that Lumpkin County will evaluate the general value of hangar space on a square foot basis, and that the cost of lease renewal may be greater than the costs during the initial annual period.

(3) Lessor as governing authority of Lumpkin County reserves the right to terminate this lease at the completion of any annual lease term by giving notice on or before September 12 of that year.

(4) "Breakup" provisions.

(a) In the event that Lessor terminates this lease prior to the end of any annual period as set out above, Lessor shall pay to Lessee the amount of lease fees for the remainder of the year.

(b) In the event Lessor deems it necessary to terminate said lease at any time other than as provided for termination by notice as provided in subparagraph (3) above, the parties hereto agree that Lessor shall pay the amount set out in subparagraph (4) (a) above, plus twenty per cent (20%) of the amount as provided in said subparagraph (4)(a). The parties agree that such sum shall as liquidated damages and Lessee waives any additional claim against Lessor.

b. Additional Lease Term.

(1) Lessor further grants to Lessee an option to renew this lease as an annual renewable lease for nine additional years under the terms and conditions and subject to the rates, fees, and other charges, in effect at the time of renewal; the cost for such lease shall be at the established rate for hangar leases as set by Lumpkin County for the year of the performance of the lease.

(2) To exercise this renewal option, Lessee shall notify Lessor in writing of Lessee's intention to exercise the renewal option not later than July 1 next preceding the end of the initial lease period. Failure to give written notice of the intent to renew as provided in this paragraph shall constitute notice of intent to terminate as provided in the then terms of the existing lease.

(3) An extended lease as provided in 2.b.(1) may be set at the market rate at that time, as established by Lumpkin County based on the five closest general aviation airports of runway length 5000 feet or less and with no Fixed Base Operator on the field, or by such other method as the County may determine.

3. CONDITIONS OF MODIFICATION

Any modification or improvement of an existing hangar shall be completed in accordance with the following:

a. Hangar modification changes and specifications must be submitted in writing to Lessor and approved in writing by Lessor and conform to standard building codes, prior to beginning modification. For any subsequent changes from the approved modification, Lessor must approve such plans or changes in writing.

b. Construction on hangar must commence within thirty days and progress in a reasonable manner, and be completed within 120 days or completed 120 days prior to the end of the current lease, whichever first occurs. Building inspections by the Planning Department and the issuance of a Certificate of Occupancy shall be required as for general construction.

c. Lessee must clean the premises of building materials, debris, scraps, packing materials, and other trash within fourteen (14) days after construction or modification of the hangar is completed.

d. All construction must be completed with zero tolerance for danger to other aircraft and pilots; Lessee shall be personally responsible for any damage caused by simple negligence or higher level of negligence or disregard for safety.

4. ASSIGNMENT AND SUBLETTING

- a. Lessee shall have the right to assign or convey any of its rights under this agreement and any part thereof upon notice to Lessor of the name of the Sub-Lessee and the aircraft to be hangared therein. Lessee shall continue to be fully responsible for all acts or failures to act by Sub-Lessee and Lessee shall be subject to termination of this agreement due to acts of Sub-Lessee.
- b. A condition of said Sub-Lease, shall be that Lessee shall have the right to sublet or allow any other individual or entity to use or occupy the leased premises or any part thereof only provided that Lessee and Sub-Lessee house and maintain a minimum of one aircraft designated on the Lumpkin County Tax Digest.
- c. The hangar and any other buildings, fixtures, structures, or improvements constructed or placed upon the leased premises or any part thereof shall remain and be deemed the property of the Lessor, subject to the terms and conditions as provided herein.
- d. Lessor reserves the right to assign this lease to any other County Agency or entity.

5. RIGHTS AND DUTIES OF LESSEE

- a. Lessee shall not operate a commercial business on the leased premises without prior written consent of Lessor. ("Operate a business" does not include use of the aircraft as a part of an "off airport" business, but does include air charter or rental operations. "Operate a business" would include aircraft maintenance for third parties; it does not include any activity under the Experimental Aircraft Association or other home built activity, or maintenance by Lessee/owner of an aircraft.)
- b. Lessee shall keep and store aircraft in/on the above described leased premises. Lessee is, and agrees to be, responsible for keeping said aircraft properly secured.
- c. Lessee shall exercise diligent care during the handling and moving of aircraft.
- d. Lessee agrees to avoid run up of aircraft with propeller/jet blast toward hangars or other aircraft.
- e. Lessee agrees to observe and obey reasonable rules and regulations established by Lumpkin County with respect to use of the premises and aircraft usage and operation, provided, however, that such rules and regulations shall be consistent with safety, normal aircraft operating procedures, and rules and regulations of the Federal Aviation Administration with respect to the operation of airports and aircraft. Each Lessee is responsible for monthly review of current FAA safety information and for Air Safety information concerning airport operations, and for implementation and practice thereof.
- f. The premises shall be used only for the storage and use of aircraft and any equipment or materials for the use or maintenance of aircraft. Any such equipment or materials used for the maintenance of aircraft shall be secured inside said hangar or aircraft. No cars, boats, furniture, or other objects shall be stored on the premises; however, automobiles may be secured inside hangar while aircraft are in use.
- g. Aircraft stored in hangar shall be maintained in an airworthy condition or shall be in a reasonably progressive state of repair or construction. If aircraft is not airworthy or in a reasonably progressive state of repair or construction for a period in excess of ninety (90) days, then the Lessor may at its option terminate this lease.
- h. Lessee is responsible for all upkeep on and around the leased premises, and shall keep said areas free and clear of debris, trash, and other objects. Lessee shall not damage, destroy, or litter upon airport premises.

i. Lessee shall annually provide to Lumpkin County Manager a copy of the current liability insurance coverage. Failure to maintain a general liability policy, which shall include Lumpkin County as a named insured, shall constitute a breach of the terms of the lease. See below: 7. LIABILITY INSURANCE

j. The Lessor must approve all modifications or additions to the leased premises in writing prior to initiation of such modifications; all such modifications must be permitted by the Planning Department and inspected as for general construction within the County.

6. RIGHTS AND DUTIES OF LESSOR

a. Lessor may enter the leased premises upon twenty-four (24) hours' notice to Lessee for any purpose necessary or incidental to the performance of its obligations hereunder. Lessor shall have the right to move Lessee's aircraft (if not secured completely within hangar) from time to time, as required in the interest of efficient storage practices and allow access to other aircraft.

b. During the terms of this lease, Lessor shall maintain and keep in good repair so much of the airport premises as are not under the exclusive control of individual Lessees, including, but not limited to, any terminal building, vehicle parking areas, roadways, aprons, taxiways, runways, runway mowing, sewage and water facilities, all lighting, electrical, and electronic facilities, security fencing, and all such other facilities, appurtenances and services as are now or hereafter connected with the operation of Lumpkin County — Wimpy Airport.

c. Without waving Lessee's responsibility to provide upkeep and maintenance to the leased premises, Lessor reserves the right, in its discretion, to provide upkeep or maintenance to the leased premises.

d. Lessor reserves the right to perform any acts necessary for the safety of air traffic operations, and to take such steps as may be required to meet Federal Aviation Agency and Georgia aviation standards. The parties agree as a consideration of this lease that any such acts shall be considered the duty of a sovereign government and Lessee hereby waives any claims arising therefrom except as may be otherwise provided by law.

7. LIABILITY INSURANCE

a. Lessor shall not be liable for loss or damage to the hangar, any aircraft or any other personal property of Lessee or anyone else stored in or around the leased premises, whether due to fire, storm, theft, or otherwise. Lessor shall not be liable for any damage to the hangar, any aircraft or any other personal property resulting from upkeep or maintenance of the leased premises.

b. Lessor shall not be liable for any negligence other than the direct and gross negligence of the Lessor causing bodily injury or loss of life to Lessee or anyone brought or permitted upon the leased premises by the Lessee.

c. Lessee agrees to indemnify and hold harmless Lessor against all liability for injuries to persons or damage to property caused by Lessee's negligent use or occupancy of the leased premises.

d. Lessor shall not be liable for any injury, damage or loss occasioned by the negligence of Lessee or any of its agents.

e. Lessee shall give to Lessor prompt and timely notice of any claim made or suit instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect Lessor. This notice will include any and all claims which might be made against Lessee.

f. Lessor shall have the right to compromise and defend any claim made or suit instituted to the extent of its own interest. Lessee shall have the same rights and remedies provided hereunder with respect to claims, which may affect Lessee.

8. TERMINATION

a. If aircraft stored in hangar is not airworthy or in a reasonably progressive state of repair or construction for a period in excess of 120 days, then the Lessor may at its option terminate this lease. Lessee shall have the obligation to inform Lessor of major rebuilding or repair projects, and to provide notice of any parts or weather delays in the ongoing work. Lessor may for good cause extend the period as it deems appropriate for good cause shown: such extension shall be in the sole discretion of Lessor or its designated agent or employee.

b. Lessor may, at its option, terminate this lease in the event of a violation by Lessee of any term of this lease.

c. Lessor may, at its option, terminate this agreement in the event that there are reasonable grounds to believe that Lessee has violated or is violating any State or Federal criminal statute on the leased premises or with Lessee's aircraft.

d. Lessee may for any or no reason terminate this lease agreement upon sixty days' notice to Lessor.

e. In the event Lessor deems it necessary to terminate said lease at any time other than as provided for termination by notice as provided in paragraph 2.a.(3) above, the parties hereto agree that Lessor shall pay the amount set out in paragraph 2.a.(4)(a) above, plus twenty per cent (20%) of the cost as provided in said subparagraph (4)(b). As provided in 2.a.(4) the parties agree that such sum shall be as liquidated damages and Lessee waives any additional claim against Lessor for termination of the lease and for any loss or damage arising therefrom.

f. In the event the Airport is no longer operated as a general aviation airport and the property reverts to the Wimpy estate, pursuant to paragraph 10(b) of this document, Lessee shall have the right to remove their personal property within 90 days of the airport ceasing to operate as a County Airport. Lessee shall, of course, have complete freedom to enter into such agreement as Lessee and the Wimpy estate may deem appropriate.

9. SURRENDER OF POSSESSION; RIGHTS IN PROPERTY

a. This agreement shall be considered a usufruct rather than a ground lease.

b. Upon the expiration or other termination of this Lease, Lessee's rights to use of the premises, facilities, and services described herein shall cease, and Lessee shall vacate the premises without unreasonable delay.

c. Except as otherwise provided in this agreement, Lessee's aircraft and all materials and equipment shall be deemed to be personal property, and shall remain the property of Lessee.

d. The hangar and any other buildings, fixtures, structures, or improvements constructed or placed upon the leased premises or any of Lessor's premises shall remain and be deemed the legal property of Lessor. Upon completion, the hanger and fixtures shall not be moved, removed, damaged or destroyed during the term, or at the expiration or other termination, of this lease unless otherwise agreed to in writing by Lessor. Any property of Lessor removed by Lessee or by Lessee's agents, employees, or other party acting for Lessee shall be considered a taking without permission or authority as may at such time be provided by law.

e. (1) In the event the lease is allowed by Lessee to expire, or notice is given in accordance with 2.a.(3), above, rent shall be increased to \$3.70 per "front foot" until such time as the aircraft and any property of Lessee have been removed from the hanger and the facilities inspected and approved by Lumpkin County, unless specific exception is provided in writing.

(2) In the event the Lease is terminated as provided in 2.a.(4) above, Lessee shall have thirty (30) days after the expiration or other termination of this agreement, to remove Lessee's aircraft, and any or all of Lessee's personal property from airport premises. Any and all property not removed by Lessee within thirty (30) days after the expiration or other termination of this agreement shall by agreement be deemed abandoned property and thereafter be deemed the property of the Lessor.

10. NOTICES

a. All notices and notifications provided for herein shall be sufficient if and only if sent by registered or certified mail to the address set forth below or to such other address as the parties may from time to time designate in writing.

b. This lease is subject to the terms of that certain deed from A.G. Wimpy to Lumpkin County dated 18 October 1966 and recorded in Deed Book P-2 page 367, Lumpkin County records, and incorporated herein by reference.

11. SEVERABILITY

This agreement shall be construed under the laws of the State of Georgia. Any covenant, condition, or provision herein contained that is held to be invalid by any court of competent jurisdiction shall be considered deleted from this agreement; but such deletion shall in no way affect any other covenant, condition, or provision herein contained so long as such deletion does not materially prejudice Lessor or Lessee in their respective rights and obligations contained in the valid covenants, conditions, or provisions of this agreement.

12. EFFECT OF AGREEMENT

All covenants, conditions, and provisions in this agreement shall extend to and bind the legal representatives, successors, and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the Parties hereby execute this Agreement.

LESSOR:

Lumpkin County

Date: _____

Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attn: Public Works
99 Courthouse Hill, Ste H
Dahlonega, Georgia 30533
706-864-3742

LESSEE:

Date: _____

William "Bill" Owens

Address:

Telephone:

Hm:

Cell:

Email: