HURSCHEL WITHERS
5399 Crestland Court
Stone Mountain, GA 30087
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2015 Withers - #8

STATE OF GEORGIA
COUNTY OF LUMPKIN

TIE DOWN LEASE
LUMPKIN COUNTY - WIMPY AIRPORT
TIE DOWN LEASE 2014
EFFECTIVE CALENDAR YEAR - 2015

THIS AGREEMENT is being made and entered into effective the 1st day of January, 2015, by and between **LUMPKIN COUNTY**, a political subdivision of the State of Georgia, hereinafter referred to as "Lessor," and **HURSCHEL WITHERS** whose mailing address is 5399 Crestland Court, Stone Mountain, Georgia 30087 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 storing Lessee's aircraft; and,

Whereas Lessor desires to promote, encourage, aid and assist 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 rental fee in the amount of $25.00 per month payable six (6) months in advance at the beginning of each six month period, Lessor rents to Lessee the following described hangar, facility or space (hereinafter referred to as "the leased premises"): for the purpose of storing the following aircraft (hereafter referred to as "Lessee's aircraft"):

TIE DOWN: **#08** ($25.00 per month x 6 months = $150.00)

AIRCRAFT: **N8187N**

2. **TERM**

a. Initial Term of Lease. Subject to early termination as hereinafter provided, the term of this agreement shall be for one (1) year, commencing on the 1st day of January, 2015, and ending on the 31st day of December, 2015.

b. Additional Lease Term.

(1) Lessor further grants to Lessee an option to renew this lease for an additional period of one (1) year under the terms and conditions, and subject to the rates, fees, and other charges, in effect at the time of renewal.

(2) Unless otherwise notified in writing by the Lessee, two (2) months prior to the expiration Lessor will automatically prepare a renewal contract for the following year. A lease renewal shall be valid only upon the execution of a new lease agreement.

3. **ASSIGNMENT AND SUBLETTING**

a. Lessee shall not have the right to assign or convey any of its rights under this agreement and any part thereof, without the written consent of Lessor.

b. Lessee shall not, and shall have no right to, sublet or allow any other individual or entity to use or occupy the leased premises or any part thereof without the written consent of Lessor.

c. Lessor reserves the right to assign this lease to any other County Agency.

4. **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, rental operations and aircraft maintenance for third parties.)

b. Lessee shall keep and store Lessee's aircraft on the above described leased premises. Lessee is, and agrees to be, responsible for keeping said aircraft properly tied down and secured.

c. Lessee shall exercise diligent care during the handling and moving of Lessee's aircraft and other aircraft in the vicinity.

d. Lessee agrees not to run up aircraft engine with propeller/jet blast directed toward hangar doors, hangar walls, hangars, or other aircraft.

e. Lessee may deposit aircraft key with Lessor (in c/o Director, Public Works) for emergency use, however Lessee shall continue to be responsible for the aircraft and no liability shall be shifted to Lessor by such deposit. Any act by Lessor shall be a discretionary act and Lessee agrees that Lessor shall be blameless for any loss or damage arising therefrom.

f. 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, regulations, and orders 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.

g. The premises shall be used only for the storage and use of the aircraft described herein above (Lessee's aircraft) and any equipment or materials necessary for the use and maintenance thereof. Any such equipment or materials being stored for the use of maintenance of said aircraft shall be secured inside said aircraft. No cars or other objects shall be stored on the premises.

h. Lessee's aircraft shall be maintained in an airworthy condition or shall be in a reasonably progressive state of repair or construction. If Lessee's aircraft is not in an airworthy condition or is not in a reasonably progressive "state of repair" then the Lessor may at its option terminate this lease.

I. Lessee is responsible for all upkeep and maintenance 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 leased premises or other airport premises.

j. Lessor must approve all improvements, modifications or additions to the leased premises in writing prior to initiation of such modifications; this specifically includes modification or addition of anchor points or tie-down points.

k. 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: 6. LIABILITY INSURANCE.

5. **RIGHTS AND DUTIES OF LESSOR**

a. Lessor may enter the leased premises or Lessee's aircraft at any reasonable time for any purpose necessary or incidental to the performance of its obligations hereunder. Lessor shall have the right to move Lessee's aircraft a reasonably minimal distance from time to time, as required in the interest of efficient storage practices and to move and allow access to other aircraft, airport maintenance and other similar activity of airport management.

b. During the term of this lease, Lessor shall maintain so much of the airport premises as are not under the exclusive control of individual lessees, as Lessor deems appropriate within its discretionary powers, as such are now or hereafter connected with the operation of the Lumpkin County - Wimpy Airport.

c. Without waiving 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.

6. **LIABILITY: INSURANCE**

a. Lessor shall not be liable for loss or damage to any aircraft or 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 any aircraft or other personal property resulting from upkeep or maintenance of the leased premises or other airport 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 Lessee. Lessee covenants and warrants to defend and indemnify Lessor, its agents, servants and employees against liability for damage for any such losses, including payment of all judgments, awards, court costs, and attorney's fees, arising therefrom or connected therewith.

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 its agents or employees.

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.

7. **TERMINATION**

a. If Lessee fails to make any payment due hereunder within fifteen (15) days of the date on which such payment is due, Lessor may, at its option, terminate this agreement and take possession of so much of Lessee's personal property as is reasonably necessary to secure payments of the amounts due and unpaid.

b. If Lessee's aircraft is not in an airworthy condition or is not in a reasonably progressive state of repair on the leased premises for a period in excess of ninety (90) 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 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.

c. Lessor may, at its option, terminate this agreement in the event of a violation by Lessee of:
   (1) any term of this lease,
   (2) any rule or regulation of Lumpkin County, or
   (3) any rule or regulation of any local, state or federal agency.

d. 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 statue on the leased premises or with Lessee's aircraft.

e. Either Lessor or Lessee may for any reason, or for no specific reason, terminate this lease agreement upon sixty (60) days written notice to the other party; this shall include the right to terminate any rights of annual renewal. It is also understood that Lessee may terminate lease agreement upon a thirty (30) day written notice if aircraft is sold; is such event any outstanding payment shall be returned based on the unused portion of the existing pre-paid lease, calculated from the 30th day following the date of written notice being received or put in certified mail.

f. Lessee shall remain liable for all accrued and accruing rental fees until Lessor is notified in writing of Lessee's desire and intention to terminate this lease.

g. Rental fees shall be refunded only upon full compliance with the termination provisions of this agreement. Rental fees shall be refunded on a daily pro-rata basis.

h. 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 9(b) of this document, Lessee shall remove aircraft within sixty (60) days of the airport ceasing to operate as a County Airport.

8. **SURRENDER OF POSSESSION: RIGHTS IN PROPERTY**

a. 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.

b. Except as otherwise provided in this agreement, Lessee's aircraft and all materials and equipment stored in connection with the use and maintenance thereof shall be deemed to be personal property and shall remain the property of the Lessee. Any buildings, hangars, fixtures, structures, or improvements placed upon the Lessor's premises shall become property of Lessor and shall not be removed, damaged, or destroyed during the term, or at the expiration or other termination, of this lease.

c. 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 the 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 shall be deemed the property of the Lessor. Lessee shall be required to repair any and all damage, if any, resulting from the removal of any of Lessee's property.

9. **NOTICES**

a. All notices and notifications provided for herein shall be sufficient if and only if sent by registered or certified mail, postage prepaid, to the addresses set forth below or to such other addresses as the parties may from time to time designate in writing. Email, voice and other general means of communication are often adequate methods for communication, but shall not be considered as notice of record.

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, Georgia records, and incorporated herein by reference. If at any time this airport ceases to be owned or operated as an airport by Lumpkin County, this lease shall terminate.

10. **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; such deletion shall in no way affect any other covenant, condition, or provision 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.

11. **EFFECT OF AGREEMENT**

All of the 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 this _____ day of December, 2014.

Lessor: _____

Clarence Stowers, Vice-Chairman
Lumpkin County Board of Commissioners

All correspondence should be addressed to:
Lumpkin County Manager
99 Courthouse Hill, Suite H
Dahlonega, Georgia 30533
telephone: 706-864-3742

with a copy of all correspondence to:
Director, Public Works
25 Short Street, Suite 10
Dahlonega, Georgia 30533
and to:
Director, Finance
99 Courthouse Hill, Suite D
Dahlonega, Georgia 30533

Lessee:

Hurschel Withers
Pilot License #

Mail address: 5399 Crestland Court
Stone Mountain, Georgia 30087

Telephone: w: 404-893-4691
h: 770-381-1599
Email: xxxccrider@att.net

Lumpkin County, Georgia

Date: November 21, 2014

Agenda Item: Renew contract for tie down #8 at Lumpkin County Airport

Item Description: **R**enew of contract for tie down #8

Facts & Historical Information: In January of 2014 a contract were signed for the lease of tie down #8 at the airport. This contract is renewable for one additional year if agreeable with both parties. The current rate of the contract is $25 per month.

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 $300 annually.

Staff Recommendation: It is staff recommendation that the tie down #8 contracts be renewed at the current rate of $25 per month.