

Warren County Board of Supervisors

RESOLUTION NO. 355 OF 2014

Resolution introduced by Supervisors Girard, Wood, Westcott, Monroe and Strough

**SETTING PUBLIC HEARING AND COMMENCING SEQRA REVIEW WITH
RESPECT TO PROPOSED AIRPORT REAL PROPERTY LEASE
AGREEMENT WITH SCHERMERHORN AVIATION, LLC FOR A
STAND ALONE RESTAURANT AT THE FLOYD D. BENNETT
MEMORIAL AIRPORT**

WHEREAS, the County Facilities Committee of the Board of Supervisors has recommended that the County enter into an Airport Real Property Lease Agreement (“lease agreement”) with Schermerhorn Aviation, LLC. (hereinafter "Schermerhorn") for the ground lease of 3600 square feet for the construction, maintenance and use/sublease and/or rental of one (1) stand alone restaurant at the Floyd D. Bennett Memorial Airport - Warren County, New York, and

WHEREAS, the proposed lease agreement is presented at this meeting and is on file with the Clerk of the Board of Supervisors, and

WHEREAS, the proposed lease agreement with Schermerhorn is proposed to provide, among other things, for:

1. Gross ground lease space of 3600 square feet. The payment of annual rent at Thirty Cents (\$.30) per square foot of real property leased - approximately One Thousand Eighty Dollars (\$1,080) per year with subsequent annual rental to be based on the previous year’s rental as increased or decreased by the percentage change in Consumer Price Index (“C.P.I.”) for the year ending June 30th of the preceding year and with the percentage of increase or decrease of such annual rent not to exceed five percent (5%) in any one (1) year and the percentage of increase or decrease not to exceed twenty-five percent (25%) in any five (5) year period together with payment of an amount equal to five percent (5%) of the annual gross revenue

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- generated by the restaurant; and
2. the term of the lease agreement is to commence upon the execution by both parties of the lease agreement and continue for Forty (40) years pursuant to General Municipal Law §352; and
 3. the County to have the first option to purchase tenant's interest in the lease agreement should the tenant desire to sell the lease interests and improvement thereon during the lease term; and
 4. at the end of the lease agreement the County to have the right, at its option, to purchase the buildings for one dollar (\$1) or have the tenant remove the same if not purchased by the County at the end of the lease term, and

WHEREAS, the proposed lease agreement with Schermerhorn shall also contain a number of other terms and provisions including description of lease premises, use and operation of the premises, "as is" condition of premises, taxes, utilities and other costs, tenant indemnity provisions, tenant insurance requirements, repair and maintenance of the premises, special provisions relating to new construction, damage or destruction of the premises, quiet enjoyment and reservations by County, compliance with Airport rules, tenant's ability to use Airport facilities, suspension and abatement, surrender of possession, inspection of the lease premises by County, tenant liens and encumbrances, assignment and sublease rights, compliance with governmental law requirements and/or permits, special tenant termination provision, tenant defaults, notices and other miscellaneous provisions, and

WHEREAS, pursuant to General Municipal Law §352 a public hearing must be held upon at least ten (10) days notice published in two (2) newspapers having general circulation in Warren County before the lease may be entered into by the County and Schermerhorn, and

WHEREAS, the lease agreement is subject to environmental review under SEQRA and the action

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(the leasing of the Airport parcel) appears to be an unlisted action under SEQRA, and a Short Environmental Assessment Form has been prepared and the assessment of the impact will be completed following the public hearing, now, therefore, be it

RESOLVED, that the Warren County Board of Supervisors hereby determines that it would be appropriate to consider the proposed lease agreement with Schermerhorn, and be it further

RESOLVED, that a public hearing be held on August 15, 2014, at 10:00 a.m. with regard to the proposed lease agreement with Schermerhorn, and be it further

RESOLVED, that the proposed lease agreement with Schermerhorn be presented to the Warren County Board of Supervisors on August 15, 2014 for consideration and such other and further action deemed appropriate by the Warren County Board of Supervisors, with the understanding that Warren County shall not be bound by such lease agreement and the same shall be subject to further revision by the Board of Supervisors and shall not be effective until approved by the Board of Supervisors after the public hearing thereon.