

Warren County Board of Supervisors

RESOLUTION NO. 412 OF 2014

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

**AUTHORIZING AIRPORT REAL PROPERTY LEASE AGREEMENT
WITH SCHERMERHORN AVIATION, LLC FOR STAND ALONE
RESTAURANT AT THE FLOYD BENNETT MEMORIAL AIRPORT**

WHEREAS, a proposed ground lease agreement for a stand alone restaurant at the Floyd Bennett Memorial Airport with Schermerhorn Aviation, LLC 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 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

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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 with Schermerhorn Aviation, LLC 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 the 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 government law requirements and/or permits, special tenant termination provision, and tenant defaults, and

WHEREAS, the Board of Supervisors adopted Resolution No. 355 of 2014 on July 18, 2014, authorizing a public hearing to be held by the Board of Supervisors on the 15th day of August, 2014, at the Supervisors’ Room in the Warren County Municipal Center on the matter of the proposed lease, and notice of such public hearing was duly published as required by law, and said public hearing was held on this date and all persons appearing at said public hearing desiring to be heard, having been heard, and,

WHEREAS, Part I of an Environmental Assessment Form (EAF) concerning the ground lease for the stand alone restaurant has been prepared and presented, and

WHEREAS, proposed responses to Part II of the EAF has been presented to the Board of Supervisors, now, therefore, be it

RESOLVED, that the Warren County Board of Supervisors hereby approves of the proposed responses to Part II of the Environmental Assessment Form, and hereby determines that there would be no significant environmental impacts with regard to the Lease Agreement and construction of the stand alone

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restaurant, and therefore approves a negative declaration as far as environmental impacts are concerned for the stand alone restaurant, and authorizes the Chairman of the Board of Supervisors to execute the Environmental Assessment Form, and be it further

RESOLVED, that the Warren County Board of Supervisors hereby determines that it would be appropriate to enter into an Airport Real Property Lease Agreement with Schermerhorn Aviation, LLC, and authorizes the Chairman of the Board of Supervisors to execute the lease agreement upon the terms and conditions as described in the preambles of this resolution, a copy of said lease agreement being presented at this meeting, all of which shall be in a form approved by the County Attorney, and be it further

RESOLVED, that the officers of Warren County are hereby authorized to make such minor non-substantive modifications as may be necessary to the lease agreement and are directed to execute and deliver such other documents and to take such other action that may be necessary or appropriate in order to effectuate the execution of the documents described above and consummation of the transactions described in the foregoing recitals, including, without limitation, the furnishing of such certificates, agreements and other documents that may be required by the Federal Aviation Administration.