



JULY 5, 2022 - 6:55 PM

**AGENDA
PUBLIC HEARING
PURSUANT TO RESOLUTION NO. 08-100, RULES I, II, AND III**

I. COMMUNICATIONS

II. RESOLUTIONS, MOTIONS, AND NOTICES

1. Resolution calling for a public hearing relative to a lease agreement with Corning Incorporated on behalf of the Elmira Corning Regional Airport

III. OLD BUSINESS

IV. NEW BUSINESS

V. ADJOURNMENT



CHEMUNG COUNTY ROUTE SLIP * PERSONNEL REQUISITION

Resolution calling for a public hearing relative to a lease agreement with Corning Incorporated on behalf of the Elmira Corning Regional Airport

Resolution #:

Slip Type: OTHER

SEQRA status

State Mandated False

Explain action needed or Position requested (justification):

The Director of Aviation, on behalf of the Elmira Corning Regional Airport is requesting authorization to enter into an agreement with Corning Incorporated. The term of this agreement is for four (4) years commencing on December 1, 2022 and ending on November 30, 2026.

Corning Incorporated agrees to the County for the use of County facilities as follows:

- Field Use Charge - \$1,757.55 per month per aircraft
- Parcel C - \$3,919.98 annually
- Fuel Flowage Fees for all fuel pumped into its aircrafts

(The Field Use Charges and Parcel C will be adjusted annually by the Consumer Price Index).

CREATION:			
Date/Time:		Department:	
6/14/2022 3:20:18 PM			
APPROVALS:			
Date/Time:	Approval:	Department:	
4/25/2022 10:14 AM	Approved	County Executive	
4/28/2022 12:29 PM	Approved	Budget and Research	
5/10/2022 11:20 AM	Approved	Legislature Chairman	

ATTACHMENTS:		
Name:	Description:	Type:
Coming_Inc_Agreement.pdf	Corning Inc. Agreement	Cover Memo
NOTICE OF PUBLIC HEARING - Coming_Inc. - Airport.pdf	Notice of Public Hearing	Cover Memo

STAMP_ITEMNUMB

AGREEMENT

THIS AGREEMENT by and between the COUNTY OF CHEMUNG, a municipal corporation having its principal place of business at 203 Lake Street, Elmira, New York, hereinafter referred to as "County" and CORNING INCORPORATED, a corporation having an office at Elmira/Corning Regional Airport, hereinafter referred to as "Company".

WITNESSETH:

WHEREAS, the County of Chemung has, by resolution, authorized the County to enter into an agreement under Article 14 of the General Municipal Law to lease its facilities for services at the Elmira/Corning Regional Airport (the "Airport"); and WHEREAS, a Public Hearing was held on the XX day of XXX, 20XX, pursuant to law, and the execution and delivery of this Agreement has been authorized by Resolution No. XX-XXX of the Chemung County Legislature, which resolution is attached hereto and made, a part hereof as though herein fully set forth, and marked Attachment A, and

WHEREAS, the Company owns land located at 348 Sing Sing Road, Horseheads, New York, adjoining the Airport and set forth on the map attached hereto as Attachment B upon which are situate certain facilities, to wit: a hangar, office space and ramp; and WHEREAS, the facilities of the Company are permanently affixed to the land; and

WHEREAS, the County and the Company desire to enter into an agreement relative to the use by the Company of certain facilities of the County at the Airport.

NOW, THEREFORE, it is hereby mutually agreed between the parties, in consideration of the fees hereinafter stated and the terms, covenants and conditions herein contained, as follows:

1. To the extent permitted by law, rule or regulation (including regulations of the Federal Aviation Administration ("FAA")(collectively, the "Laws"), the County hereby grants to the Company, for a period of four (4) years, a non-exclusive right of way, in common with others authorized to do so by the County in writing, to, from, on and over Airport land adjoining the Airport and set forth on the map attached hereto as Attachment B (the Airport land identified on such map and the Taxi Way being referred to herein as the "Premises"), for access to and from the Airport for the purpose of maintaining, operating, repairing, cleaning, outfitting, caring for, fueling, inspecting, and use of any and all airplanes and related equipment owned or leased by the Company which are based aircraft and, without limiting the generality of the foregoing, for all purposes of ingress and egress to and from the Airport (the "Permitted Operations").

2. The Company agrees that it shall be fully responsible for the maintenance and care of its own facilities.

3. The County shall perform its maintenance obligations regarding the Airport as required by the Laws. Included in this is the obligation of the County to remove all snow from the area depicted on Schedule "A" in red at such times as it does so with the runways and consistent with the operations and maintenance standards of the Airport. However, the

scheduling of the clearing of the snow shall occur after the runway and other priority areas are cleared first.

4. Without the prior consent of the County, the Company agrees not to conduct any actions on the Premises other than the Permitted Operations.

5. The Company agrees to pay the County an amount for use of the County facilities as follows:

a) Field Use Charge shall be ~~\$1,757.55~~^{1,577.90} per month per aircraft. ~~This amount shall be adjusted annually beginning January 1, 2019 by the Consumer Price Index for the previous twelve (12) months.~~

b) Rental of that portion of the Premises identified on Attachment B hereto as a 7,000 square foot parcel in front of the Company's hangar at a rate of ~~\$3,919.98~~^{589.68} annually. ~~This amount shall be adjusted annually beginning January 1, 2019 by the Consumer Price Index for the previous twelve (12) months.~~

c) The Company agrees to monitor all non-company owned or leased transient aircraft using its facilities and shall send a monthly report to the County and the County shall bill directly to the responsible party for the applicable landing fees.

6. The Company also agrees to pay the County a fuel flowage fee for all fuel it pumps into its based owned or leased aircraft from its facilities at the Airport according to the most current Airport schedule of fees.

7. The County shall prepare and send to the Company a statement of said charges incurred by the Company. All applicable fees and charges are to be paid no later than the tenth day after receipt of the statement, with a late charge of one and one-half (1 1/2) percent per month on any payment thereafter.

8. The term of this Agreement shall be four (4) years and commence December 1, 2022~~18~~ and end November 30, 2026~~2~~, unless the Company or the County shall give notice of termination by written notice to the Company or the County, as the case may be, at least sixty (60) days prior to the expiration of each calendar year.

9. The Company covenants and agrees to observe and obey all existing Laws in effect or which are currently in force and effect or which may, from time to time, during the terms hereof, be generally promulgated and enforced with respect to the Airport and the Company agrees to comply with the NFPA (or its successor) standards for fuel farms.

10. Notwithstanding the provisions of Section 1 hereof, the County may cancel this Agreement by giving the Company thirty (30) days advance written notice, to be served personally or by registered or certified mail, on any officer, director, or agent of the Company at the Company's present office address at Houghton Park, Corning, New York 14831 or at any subsequent office address, or at the Company's address or facilities at the Airport on or after the happening of any one of the following events:

- a) The filing by the Company of a voluntary petition of bankruptcy.
- b) The institution of proceedings in bankruptcy against the Company and the adjudication of the Company as a bankrupt pursuant to such proceedings.
- c) The taking by a court of jurisdiction of the Company and its assets pursuant to proceedings brought under the provisions of any Federal bankruptcy act; and

such proceedings shall remain undismissed for ninety (90) days or the petition commencing such proceedings shall have been judicially approved.

- d) The appointment of a receiver of the assets of the Company and the failure of the Company to have such appointment stayed or vacated within thirty (30) days of said appointment.
- e) The abandonment by the Company of its business at the Airport.
- f) The default by the Company in the performance of any covenant or agreement herein required to be performed by it and its failure to remedy such default for a period of thirty (30) days after receipt from the County of written notice to remedy the same. No waiver of default by either party of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Company shall be construed to be or act as a waiver by the County of any subsequent default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by the Company.

g)

11. Indemnification/Insurance:

- a) The Company shall indemnify and hold harmless the County from any and all demands, losses, liabilities or judgments, together with costs and expenses incident thereto, which may accrue against, be charged to, or be recoverable from the County as a result of the negligent acts or omissions of the Company, its employees, agents or contracted parties, in connection with the use by the Company of the Airport and the Premises, excluding, however, such acts or omissions as may be occasioned by the negligence of the County, its employees or agents. The County shall give to the Company 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 the Company and the Company shall have the right to compromise or participate in the defense of the same to the extent of its own interest. The Company shall give to the County 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 the County.
- b) The Company agrees either to maintain (i) a policy of insurance reasonably acceptable to the County; or (ii) a self-insurance program including, without limitation comprehensive public liability insurance with a single limit of at least Three Million Dollars (\$3,000,000) in the case of bodily injury to death of one person or more than one person on account of or arising out of any one occurrence and at least Three Million Dollars (\$3,000,000) in the case of property damage. All such amounts of insurance shall be subject to increase as reasonably required by the County every three (3) years.

12. The Company shall not at any time assign this Agreement or sublet its right to use the Premises without the consent in writing of the County.

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13. The Company agrees to the provisions of Sections 103A and 103B of the General Municipal Law which require testifying for a grand jury and penalties for the failure to do so.

14. The County has granted to Elmira/Corning Air Service, a Fixed Base Operator, the right to sell aircraft fuels, lubricants and propellants at the Airport. Notwithstanding such right, the parties hereto agree that the Company has the right to maintain fuel on its property and to fuel and lubricate its' based owned or leased aircraft so long as it complies with all applicable local, state and federal rules, regulations and standards relating thereto.

15. Company has the right to self-insure.

16. The County has applied for and received a grant or grants of money from the Administrator of the FAA pursuant to the Airport and Airways Development Act of 1970, as the same has been amended and supplemented, and under prior federal statutes which said Act superseded and the County may in the future apply for and receive such grants. In connection therewith, the County has undertaken and may in the future undertake certain obligations respecting its operation of the Airport and the activities of its contractors, the Company, and permittees thereon. The performance by the Company of the promises and obligations contained in this Agreement is, therefore, a special consideration and inducement to the execution of this Agreement by the County, and the Company further agrees that if the Administrator of the FAA or any other governmental officer or body having jurisdiction over the enforcement of the obligations of the County in connection with the Federal Airport Aid, shall make any orders, recommendations, or suggestions respecting the performance by the Company of its obligations under this Agreement, the Company will promptly comply therewith at the time or times, when and to the extent that the County may direct.

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17. In performing any of the services or activities pursuant to this Agreement:

- (a) The Company shall comply with the minimum operating standards or requirements in accordance with the Ordinance or future ordinances promulgated by the County, applicable to each of the Company's activities on the Airport, and with such standards or requirements promulgated by any airline or government agency utilizing the Airport.
- (b) The Company shall furnish services on a fair, reasonable, and nondiscriminatory basis to all users of the Airport requesting the services of the Company. Such services shall be deemed fair, reasonable and nondiscriminatory if furnished consistent with the current Ordinance, and any subsequent amendments thereto or future ordinances promulgated by the County, FAA Grant Assurances and other rules and regulations required to be followed by the Airport. The Company shall furnish service adequate to meet all reasonable demands at the Airport commensurate with the size and capacity of the Improvements. The Company shall charge fair, reasonable, and nondiscriminatory prices for each unit of sale or service; provided, however, that the Company shall be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchaser and air carriers which shall not reduce fees otherwise payable to the Airport. It is understood and agreed that nothing

contained herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act.

18. (a) Should the Company have access at any time to the computer and other information technology systems of the County (collectively, the "Systems") for any reason, the Company shall ensure that such access does not compromise, adversely affect or permit unauthorized access, either directly or indirectly to, the Systems (a "Breach") in any way and for any reason. If the County, in its sole good faith judgment, determines that such access either is adversely affecting the Computer Systems or has the potential to adversely affect the Computer Systems, then notwithstanding any other provision of this Agreement to the contrary, the County shall have the right to suspend and/or terminate immediately such access of the Company. The County shall endeavor to give the Company notice of such suspension and/or termination as expeditiously as possible, consistent with the County's obligations regarding the safeguarding of such information.

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~~19.~~ (b) The Company confirms that, with regard to any Breach, money damages shall not be a sufficient remedy, therefore the County, in addition to suspending or terminating the Company's access thereto, also shall have the right to seek an injunction against any further attempted access by the Company to the Computer Systems.

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~~20.~~ (c) The Company shall not permit any third party from obtaining any access to the Computer Systems without the County's prior, written permission.

~~21.~~ (d) Should any Breach occur, the Company immediately shall notify the County of such Breach and shall provide the County with any and all information of the Company pertaining to the Breach and the Company's access to the Computer Systems. In such event, the Company shall follow and shall assist the County in the County's flowing, of all notification obligations and other protocols required under any Federal, State or local rules or regulations, all at the Company's sole cost and expense. The Company shall reimburse the County for all costs and expenses incurred by the County in connection with the Breach, including the costs of following all such protocols.

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~~22.~~ (e) Should the County request, the Company, at its own cost and expense, shall prepare and deliver to the County as expeditiously as possible a "SOC-2" audit for itself and for any party that is permitted through the Company to access any of the Computer Systems.

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~~23.~~^{19.} The Company shall at the end of the term of this Agreement, quit and surrender the premises in as good order and condition as when received, natural wear and tear by the elements excluded and excepted.

~~24.~~^{20.} The Company will not make any use of the Premises which is improper, offensive or contrary to any law, ordinance or which would void any insurance of said premises.

~~25.~~^{21.} All rights-of-way enjoyed by the Company by virtue of this Agreement over property of the County shall terminate upon termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

COUNTY OF CHEMUNG

CORNING INCORPORATED

By:_____

Christopher Moss

County Executive

By:_____

Name:

Title:

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that a public hearing will be held by the Chemung County Legislature in the Legislative Chambers, 5th floor, Hazlett Building, 203 Lake Street, Elmira, New York at 6:55 p.m. on July 5, 2022 for the purpose of HEARING ANY AND ALL COMMENT regarding a proposed four-year agreement with Corning Incorporated for the lease of space at the Elmira Corning Regional Airport during the period December 1, 2022 through November 30, 2026. The terms of the lease to be paid to the County of Chemung are as follows:

Field Use Charge - \$1,757.55 per month per aircraft

Parcel C - \$3,919.98 annually

(The Field Use Charges and Parcel C will be adjusted annually by the Consumer Price Index).

Fuel Flowage Fees for all fuel pumped into its aircrafts