

**LEASE AGREEMENT  
BETWEEN  
COMMEMORATIVE AIR FORCE LAKE SUPERIOR SQUADRON 101  
AND  
THE CITY OF SUPERIOR, WISCONSIN**

THIS AGREEMENT made and entered into this 18<sup>th</sup> day of July, 2018, by and between the **CITY OF SUPERIOR**, State of Wisconsin, Douglas County, a municipal corporation existing by and under the authority of the laws of the State of Wisconsin, hereinafter referred to as the LESSOR, and **COMMEMORATIVE AIR FORCE LAKE SUPERIOR SQUADRON 101**, hereinafter referred to as the LESSEE.

Lessor owns and operates an airport which includes all aeronautical navigation facilities, said airport being known as the Richard I. Bong Airport, and said Lessor is desirous of leasing office and hanger space to Lessee certain premises hereinafter more fully described, located on said airport.

**I. PERMITTED USES**

- A. Lessee shall have and use the described office space for only purposes of conducting the administrative business activities of the Commemorative Air Force Lake Superior Squadron 101.
- B. Storing, repairing and servicing of aircraft owned by the Lessee.
- C. Lessee may sublease the hangar space for aircraft storage. No other areas of the Premises may be subleased.
- D. No advertised indoor or outdoor public events are to be held at the Premises without written permission of the airport authority.
- E. Nothing herein shall give Lessee the right to use the property for any other purpose, nor shall Lessee allow any public access to, or public use of, the Lease Premises.

**II. LEASE**

- A. For the consideration set forth below, the Lessor does hereby lease to the Lessee the following described Premises:

**Hangar space approximately 80' x 100' and specific office space in the west area of building A-1, at the Richard I. Bong Memorial Airport, 4804 Hammond Avenue, Superior, WI, for the purpose of conducting administrative business activities, is outlined in Exhibit A. The Lessee shall have non-exclusive use of the adjacent parking area directly west of the Leased Premises.**

A map of the Premises is attached hereto as Exhibit A and incorporated herein by reference.

- B. Lessee shall have non-exclusive use of four (4) tie-downs directly north of the A-1 hanger.
- C. It shall be the duty of the Lessee, unless otherwise mutually agreed between the Public Works Director and the Lessee, to provide and maintain all ingress and egress for the benefit of the public to the facility and such roads, taxiways and other items that might become involved in the operation of Lessee's business without expense to the Lessor.
- D. Ingress to and egress from the demised premises shall be limited to streets, taxiways, driveways and sidewalks designated for such purposes by the Lessor, which right shall extend to Lessee's employees, guests, invitees and patrons.

### III. RATES

- A. Rates for use of the premises described in Paragraph II (A) will be a total of one thousand, two hundred dollars (\$1200.00) per month, payable in monthly installments on or before the first of each and every month during the term of this agreement. Failure on the part of the Lessee to pay the rent hereunder within thirty (30) days after the same shall become due, except as provided in for the case of the airport being closed by any lawful authority, shall authorize the Lessor, at its option and without any legal proceeding, to declare this lease void, cancel the same, and re-enter and take possession of the premises.
- B. In addition, Lessee shall pay, in a timely manner, all license, fees, taxes and assessments that may be levied against the personal property of the Lessee or that may arise from the course of the Lessee's operations. Failure to pay license, fees, taxes or assessments constitutes a breach and shall authorize the Lessor, at its option and without any legal proceeding, to declare this lease void, cancel the same, and re-enter and take possession of the premises.

C. Cost of Living Adjustments: Effective January 1, 2023 and on the first of January, of each fifth (5<sup>th</sup>) year thereafter during the full term of this lease, the annual base rent set forth in paragraph A shall be adjusted for the next succeeding five (5) years in proportion to the changes in the “Consumer Price Index” for all Urban Consumers – All Items” of the U.S. Bureau of Labor Statistics or its successor index. The rent shall be adjusted to an amount which bears the same ratio to the base rent as the Consumer Price Index for the adjustment month (and in each fifth year thereafter) bears to the Consumer Price Index for the month. In no event, however, will the rent as adjusted under this paragraph be less than the base rent set out in paragraph A. The Consumer Price Index for each adjustment year shall be adjusted, if necessary, to reflect any change in the base period used to compute the Consumer Price Index. Lessor will provide written notice to the Lessor of any rent adjustments.

#### IV. TERM

- A. The term of the lease for property described in Paragraph II (A), shall be for ten (10) years and shall expire on July 17, 2028. It is expressly understood between the Lessor and the Lessee that the Lessee shall have the option of renewing this lease for subsequent one (1) year extensions subject to the mutual agreement of terms and fees, unless terminated earlier in accordance with the terms and provisions to this agreement.
- B. If the Lessee during the term of this agreement ceases to provide the services described in Section I above, the Lessor shall have the right to terminate this agreement upon ten (10) days written notice to the Lessee.

#### V. INSURANCE

- A. During the full term of this lease and during all extensions thereto the Lessee shall, at its sole cost and expense, maintain a policy or policies of insurance as follows:
  - 1. *Commercial General Liability/ Premises Liability*  
One hundred thousand dollars (1,000,000.00) combines single limit (i.e., up to \$1,000,000.00 per occurrence for bodily injury and/or property damage arising out of a single loss, with no sub-limits).
  - 2. *Automobile Liability:*

Minimum liability coverage required by Wisconsin Law, but not less than:

- Fifty thousand (\$50,000.00) for injury or death of one person;
- One hundred thousand (\$100,000.00) for injury or death of two or more people; and
- Fifteen thousand (\$15,000.00) for property damage.

Underinsured and underinsured motorist coverage is also required, each with minimum limits of one hundred thousand (\$100,000.00)/ three hundred thousand (\$300,000.00) for bodily injury coverage.

3. *Workers Compensation Insurance:*

If applies and as required under Wisconsin Law.

Each insurance policy shall identify the City as “additionally insured”.

The amount and type of insurance required under this section may be reviewed and adjusted at the end of each twelve month period during this lease, provided that any increase in insurance coverage shall be reasonable.

The policy of insurance shall be approved by the City Attorney as to legal form before it is filed, and shall contain a provision that the same may not be canceled before the expiration of its term, except upon thirty (30) days written notice to the Lessor. Lessee shall not exercise its privilege to use the Airport for the herein referenced purpose; until and unless said insurance is in full force and effect.

Each policy shall be issued by a company licensed to do business in Wisconsin.

This section shall survive the expiration of this Agreement.

B. The policy of insurance shall be approved by the City Attorney as to legal form before it is filed, and shall contain a provision that the same may not be canceled before the expiration of its term, except upon thirty (30) days written notice to the Lessor.

C. The cancellation or other termination of any insurance policy issued in compliance with this section shall automatically terminate the Lease, unless another policy has been filed and approved pursuant to this section and shall be in effect at the time of such cancellation or termination.

## VI. FAA REQUIRED PROVISIONS

A. Lessee for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be subjected to discrimination; (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, non-discrimination in Federally-assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

B. Lessee in the conduct of its authorized aeronautical business activities on said demised premises and on said airport, shall furnish proof, prompt and efficient service adequate to meet the demands for its services at the airport, and shall furnish such service on a fair, equal and not unjustly discriminatory basis to all users thereof, and shall charge fair, reasonable, and not unjustly discriminatory prices for each unit of sale or service; provided, however, that Lessee shall be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchases.

C. Lessee shall have the right and privilege of engaging in and conducting administrative activities on the premises of the airport under the terms and conditions as set forth hereinafter, provided, however, that this agreement shall not be construed in any manner to grant Lessee or those claiming under it the exclusive right to use the premises and facilities of said airport other than those premises leased exclusively to Lessee hereunder.

D. Lessee shall offer proof, to City's reasonable satisfaction, that Lessee holds all required local, state and/or federal certificates, licenses or permits, including but not limited to a seller's permit. Lessee shall comply with all FAA regulations that pertain to the items in Section I.

## VII. ADDITIONAL LEASE PROVISIONS

A. Assignment, Subletting, Mortgaging and Selling. Lessee may not at any time during the term of this lease mortgage, assign, sublease, hypothecate or transfer this agreement or any interests or rights under this agreement, without prior written consent of the Lessor.

B. Repairs and Maintenance. All repairs and modifications to the Premises will require City of Superior review and approval. The Lessee, at its own expense, shall be responsible to purchase and install hangar doors on the east side of the A-1 hangar. The hangar doors will be installed by December 31, 2019. All such additions, modifications and improvements shall thereafter comprise part of the leased Premises and shall be subject to the provisions of this lease. Such additions, modifications or improvements shall not in any way damage the Premises, nor cause it to be used for purposes other than those authorized under the provisions of this lease. The Lessee shall keep the premises clean, neat and in good order, free from garbage and debris. No items shall be kept or stored outside the hangar or office space.

C. Utility Charges. The City shall provide snow removal and asphalt maintenance. The City shall provide utility gas, water, sewer and electricity. The Lessee shall be responsible for garbage collection, telephone, and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Premises.

D. Return of Leased Premises. Upon the expiration or termination of this Lease, the Lessee shall deliver possession of the Premises to the City in good condition, repair, appearance and working order. All fixtures, improvements to or work on the Premises shall remain part of the real property and shall remain in place upon surrender to the City of the Premises on termination of this Lease.

E. Entire Agreement. This Lease contains the entire agreement between the parties. No verbal agreements or other action shall be deemed to be part of the agreement, nor shall they

be considered to amend or change the conditions or terms of this lease in any way. The lease shall be amended only by written addendum approved by the Common Council of the City of Superior and the Lessee.

F. No Partnership. Nothing in this lease shall be interpreted as constituting a partnership neither between the parties nor to make the City liable for the obligations of the Lessee. The Lessee is not an agent for the City.

G. Indemnification. Lessee hereby agrees to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, including damages in excess or not covered by insurance policies, liabilities, interests, attorneys' fees, costs, and expenses of whatsoever kind or nature in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of Lessee or of anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers.

The obligation to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, shall be applicable unless liability results from the sole negligence of the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers.

Lessee shall reimburse the City, its elected and appointed officials, officers, employees, agent or authorized representatives or volunteers for an and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. In the event that Lessee employs other persons, firms, corporations or entities (subcontractors or sublessees) or volunteers as part the agreement, it shall be the responsibility of Lessee to require and confirm that

each subcontractor or sublessee enters into an Indemnity Agreement in favor of the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers, which is identical to this Indemnity Agreement.

This indemnity provision shall survive the termination or expiration of this agreement.

H. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

I. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of Wisconsin.

J. Force Majeure. Each party shall be excused from any breach of this Lease which is caused by war, strike, and act of Nature or other similar circumstances normally deemed outside the control of well managed businesses.

K. Airport Operations. Lessee agrees to observe and obey during the term of this lease all laws, ordinances, rules and regulations promulgated and enforced by the Lessor and by any other proper authority having jurisdiction over the conduct of the operations at the airport. It is understood by the Lessee that the airport is directly regulated by the City of Superior, through its Airport Manager and in realizing this, the Lessee agrees to fully cooperate with the Airport Manager, inform the Airport Manager of any change in operations or proposals relating to the airport and provide the Manager with any such information regarding operations as the Manager may request.

L. Signage. Lessee agrees that no signs or advertising matter may be erected without the consent of the Lessor or that is not suitable to the Lessor.

M. Use Restriction. During any period when the airport shall be closed by any lawful authority restricting the use of the airport in such a manner as to interfere with the use of same by Lessee for



his business operation, the rent shall abate and the period of such closure shall be added to the term of this lease so as to extend and postpone the expiration thereof.

N. Non-payment. Failure on the part of the Lessee to pay the rent hereunder, within thirty (30) days after same shall become due, except as provided in the preceding paragraph, shall authorize the City, at its option and without any legal proceedings, to declare this Lease void, cancel the same and re-enter and take possession of the premises, upon giving a ten (10) day notice by registered mail. Lessee shall promptly pay all taxes or assessments that may be levied against the personal property of the Lessee or the building on lands leased to it exclusively under this Lease. For purposes of the assessment of personal property taxes, Lessee acknowledges to be in charge and possession of the building/s located on the leased premises and the contents contained therein and, therefore, accepts liability for the timely payment of personal property taxes. Failure to timely pay personal property taxes pursuant to Wisconsin Statutes ' ' 74.11(4) shall constitute a breach of this agreement on the part of the Lessee and shall authorize the City to cancel the agreement without initiating a legal proceeding and to re- enter and take possession of the premises upon providing a ten (10) day written notice by registered mail.

O. Violations. If Lessee shall violate any of the restrictions in this lease, or shall fail to keep any of its covenants after written notice to cease such violation and shall fail to correct such violation within thirty (30) days, the Lessor may at once, if he so elects, terminate the same and take possession of the premises.

P. Entry. The Lessor reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement.

Q. City Owned Facilities. The Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport, together with the right to direct and control all activities of Lessee in this regard.

R. National Emergency. During the time of war or national emergency, the Lessor shall have the right to lease the landing area or any part thereof to the United States Government for military or naval use, and if such lease is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended.

S. Obstruction. Obstructions at Richard I. Bong Airport; the Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the airport which, in the opinion of the Lessor, would limit the usefulness of the airport or constitute a hazard to aircraft. Lessee shall, upon approval by the Lessor and prior to any construction of any nature within the boundaries of the airport, prepare and submit to the Federal Aviation Administration, Great Lake Regional Office, Attention AGL-530, 2300 E. Devon Avenue, Des Plaines, Illinois, 60018, one (1) executed set (four copies) of FAA Form 7460-1, "Notice of Proposed Construction or Alteration", as required by Federal Aviation Regulations, Part 77. This notice must be submitted at least thirty (30) days prior to the date of the proposed construction or alteration of the date that an application for a construction permit is filed, whichever is earlier.

T. Non-Appropriation. To the extent that State and/or Federal funds are used for airport operations, the City will not be held liable for any damages incurred due to changes in State or Federal funding, including, but not limited to, a reduction in services offered or closure of the airport.

U. Default or Termination. In the event that either party defaults under any term or condition of this Lease or in the event the commemorative Air Force Lake Superior Squadron 101 is dissolved or abandons the Premises, the other party shall mail or post notice of the default. If the default is not corrected within thirty (30) days of mailing or posting, the lease shall be terminated. Mailing may be done to the City Clerk's office or to the address of the Lessee, Commemorative Air Force, Attn: Secretary/ Treasurer, PO Box 764769, Dallas, TX 75376. Posting may be done at the Government Center, 2<sup>nd</sup> floor or on the doorway to the Lessee's office. Upon termination or default, the City, its officers, agents and employees may enter the Premises and take full possession, control and ownership of the Premises.

Additionally, the City may terminate the lease after a written thirty (30) day notice is given the Lessee.

V. Subordination. This lease shall be subordinate to the provisions of any existing or future agreement between the Lessor and the United States for the State of Wisconsin relative to the

operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal or state funds for the development of the airport. Furthermore, this lease may be amended to include provisions required by those agreements with the United States or the State of Wisconsin.

W. Airport Development. The Lessor reserves the right to further develop and improve the airport as Lessor sees fit, regardless of the desires or views of the Lessee, and without interference or hindrance from the Lessee. If the development of the airport requires the termination of the lease, the Lessor and Lessee agree that such termination shall occur pursuant to the following terms and conditions:

a. The Lessor will provide the Lessee with written notice at least 180 days prior to said termination.

IN WITNESS WHEREOF, the parties have herein set their hands this 18 day of July, 2018.

LESSEE: Commemorative Air Force  
PO Box 764769  
Dallas, TX 75376

DocuSigned by:  
Steven Buss 7/19/2018  
818FD9C958114A0...  
Steven Buss, Vice President Membership

DocuSigned by:  
Peter W. Prudden 7/23/2018  
4770D9F67927190D...  
Peter W. Prudden, Squadron 101

CITY OF SUPERIOR, WISCONSIN

DocuSigned by:  
Jim Paine  
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Mayor

DocuSigned by:  
Frog Prill  
37B9749F0588490...  
City Attorney

DocuSigned by:  
Jean Vito  
6F30F43F91BD480...  
Finance Director /Sr Admin Officer

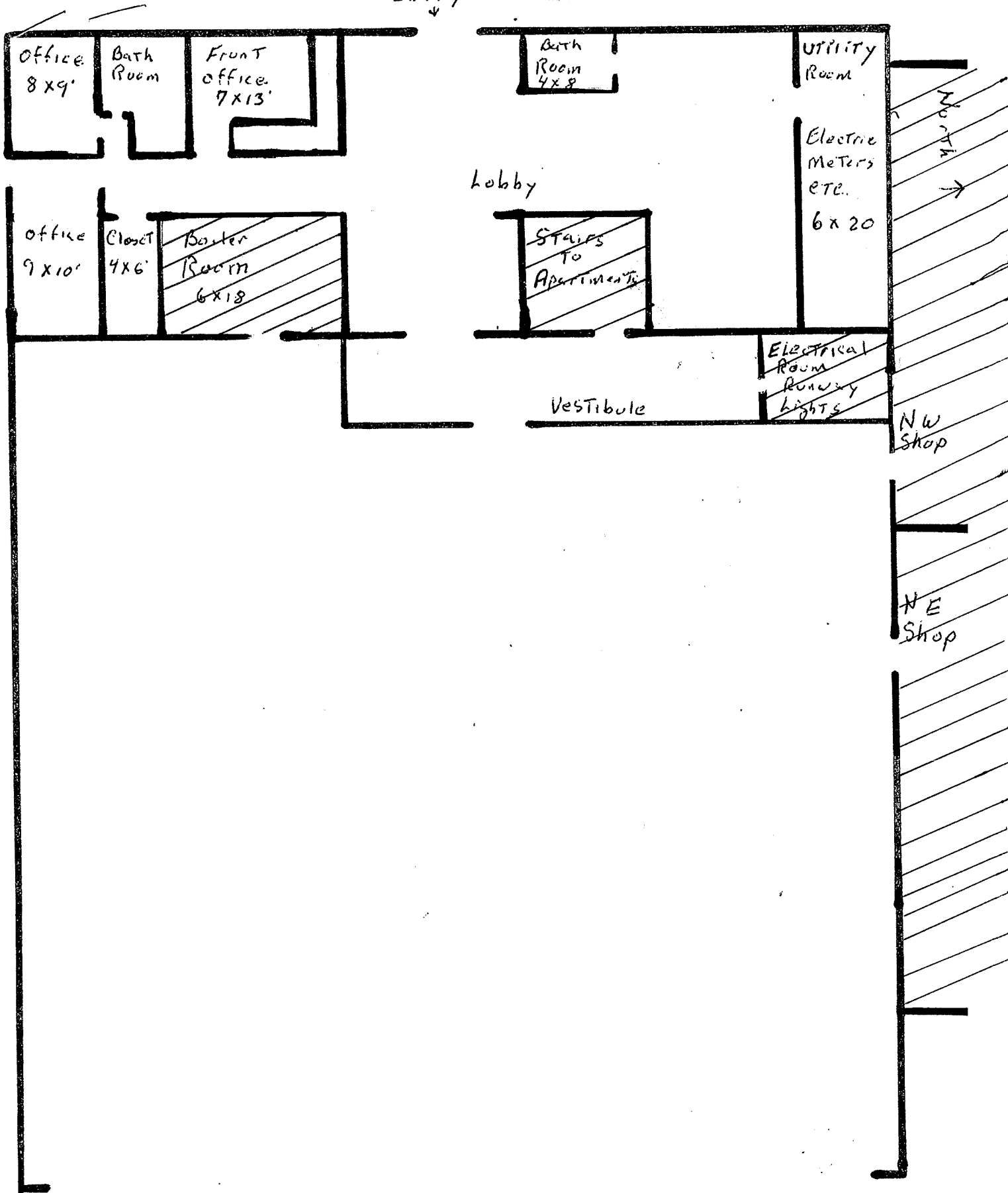
DocuSigned by:  
Terri Kalan  
8CAED18B12F1416...  
City Clerk

Approved at the July 17<sup>th</sup>, 2018 City of Superior Common Council meeting.

Hammond Ave  
Entry  
↓



No Access



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