

## ***LEASE***

Land Lease at the Richard I. Bong Airport  
Superior, WI

THIS LEASE, made and entered into this **8th** day of **November, 2012**, by and between the CITY OF SUPERIOR, State of Wisconsin, a municipal corporation existing by and under the authority of the laws of the State of Wisconsin (hereinafter referred to as the City) and SUPERIOR FLYING SERVICE, 4804 Hammond Avenue, Superior, WI 54880 (hereinafter referred to as "Lessee").

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

### I. PERMITTED USES

Lessee, along with rental of hangar space and storage of airplanes, may engage in any aviation related business.

### II. LEASE

A. For the consideration set forth below, the City of Superior does hereby lease to Lessee the following described premises commonly known as C4 (hereinafter referred to as the leased premises):

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**A parcel of land comprising of approximately five thousand, six hundred (5,600) square feet located in the SW 1/4 of Section 35, Town 49 north, Range 14 west, City of Superior, Douglas County Wisconsin, 1419 North 46<sup>th</sup> Street, Superior, WI 54880.**

A map of which is attached hereto as Exhibit I and incorporated herein by reference.

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B. Lessee shall maintain an airplane hangar building on the leased premises. Such building or structure shall conform to the Building Code Requirements of the State of Wisconsin and the City of Superior, the Minimum Requirements for Airport Aeronautical Services of the City as now or as may hereafter be amended or adopted, and any other City or County ordinance now or hereafter in effect. Before any construction on the building shall commence, the plans approved by the Wisconsin Department of Public Safety and Professional Service, must also be approved by the Public Works Department of the City of Superior. Lessee must also obtain all necessary permits as required by state law and City ordinance at his sole cost and expense.

Lessee shall pay the costs of all utilities and utility connections. Liability for the maintenance of said building shall remain with the Lessee.

C. It shall be the duty of the Lessee to comply with all local, state and federal laws in regard to the construction of a hangar on City property at the Bong Airport.

D. It shall be the duty of the City, unless otherwise mutually agreed between the Common Council of the City of Superior and the Lessee, to provide and maintain all ingress and egress to the facility and such roads, taxiways and other items as designated by the City to comply with federal, state or FAA standards and specifications.

E. Ingress to and egress from the demised premises shall be limited to streets, taxiways, driveways or sidewalks designated for such purposes by the City, which right shall extend to Lessee's employees, passengers, guests, invitees and patrons.

F. Lessee is to maintain a twenty-foot (20') space between lessee's hangar and the abutting hangar. This space is not part of the lease and will not be used for any type of storage or usage by the lessee.

### III. RENT

A. The Lessee agrees to pay to the City for use of the leased premises an annual base rent of \$0.08 per square foot, payable in advance on the first day of January each year; rent for 5,600 square feet is four hundred forty eight dollars (\$448.00) for the 2013 calendar year. First year and last year rent shall be a prorated amount for the number of months and partial months remaining in the year based on the commencement date of the Lease.

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B. Cost of Living Adjustments: Effective December 2017 and on the first of December 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 of December 2012 (and in each fifth (5<sup>th</sup>) year thereafter) bears to the Consumer Price Index for the month of December 2017. 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.

### IV. TERM

The term of the Lease for property described in II. A. shall be for a period of twenty (20)

years and two months, commencing upon November 8, 2012, and terminating on December 31, 2032. Lessee shall have the option of extending this lease for an additional ten (10) year period, upon written request to the City at least one hundred twenty days (120) days in advance of the end of the first term.

The City shall, within sixty (60) days of receipt of the request, provide the Lessee with written notice of acceptance or rejection of the renewal request.

After the first ten (10) years of this lease, the City shall have the right to terminate this lease at any time thereafter, for no cause, upon one hundred eighty (180) days written notice to Lessee. Lessee shall vacate the premises in accordance with Section VII (E) or other terms that are mutually agreeable to the parties.

#### V. INSURANCE

A. The Lessee agrees that he will deposit with the City Clerk, a policy of comprehensive liability insurance. Such policy shall be issued by a company licensed to do business in Wisconsin and shall insure the Lessee against loss from liability to the amount of \$100,000 for the injury or death of one person in any one accident; and in the amount of \$300,000 for the injury or death of more than one person in any one accident; and in the amount of \$100,000 for damage to property of others for any one accident. The amount and type of insurance required under this section may be reviewed and adjusted at the end of each three (3) year period during this Lease, provided that any increase in insurance coverage shall be reasonable.

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 under 30 days' written notice to the City.

C. The Lessee further agrees to notify the City of any commercial operations being conducted on airport property prior to commencement of any such activity, including but not limited to products and repairs, flight school, training facility, FBO, etc., and obtain aircraft liability, hangar keeper's insurance and products insurance to cover said operations; proof of such coverage must be provided to the City prior to beginning commercial operations. The City may determine the amount of such insurance, which amount shall be reasonable.

D. 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. Lessee shall not perform any of their permitted uses described in Section I without the aircraft liability and products insurance or other insurance coverage

necessary to provide insurance coverage for such uses.

#### VI. FAA REQUIRED PROVISION

A. The 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 benefits of or be otherwise subjected to discrimination in the use of said facilities; (2) that in 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, Nondiscrimination of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

B. In the event Lessee conducts authorized aeronautical business activities on said leased premises and on said airport, shall furnish good, 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, the Lessee shall be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

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C. This agreement shall not be construed in any manner to grant Lessee or those claiming under it the exclusive right to the use of the premises and facilities of said airport other than those premises leased exclusively to Lessee hereunder.

D. It is clearly understood by the Lessee that no right or privilege has been granted which would operate to prevent any person, firm or corporation operating aircraft or the airport from performing any services on its own aircraft with its own regular employees including, but not limited to, maintenance and repair that it may choose to perform.

#### VII. ADDITIONAL LEASE PROVISIONS

A. Lessee may not, at any time during the term of this Lease, assign, sublease, hypothecate or transfer this agreement or any interests or rights under this agreement, without the consent of the City.

B. Lessee will maintain the premises in good order and in compliance with applicable law and Lessee shall promptly make such repairs as are necessary. In the event of fire

or any other casualty, Lessee shall either repair or replace the building or remove the damaged building and restore the leased area to its original condition; such action must be commenced within one hundred twenty (120) days of the date the damage occurred and completed in a reasonable time thereafter. Upon petition by the Lessee, the City may grant an extension of time if it appears such extension is warranted.

C. The parties hereto for themselves, their legal representatives, successors and assigns, further covenant and agree as follows:

1) Lessee agrees to observe and obey during the term of this Lease, all laws, ordinances, rules and regulations promulgated and enforced by the City 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 such information, within reason, regarding operations as the Manager may request.

2) Lessee agrees to hold the City free and harmless from loss from each and every claim and demand of whatever nature, made on behalf of or by any person or persons, for any wrongful, careless or negligent act or omission on the part of Lessee, his agents, servants and employees, and from all loss and damages by reason of such acts or omissions.

3) Except as provided in (6) below, so long as Lessee complies with all other provisions in this Lease, Lessee shall peaceably have and enjoy the leased premises and all the rights and privileges herein granted.

4) Lessee agrees that no signs or advertising matter may be erected without the consent of the City, or that are not suitable to the City.

5) Lessee agrees to permit the City to install, maintain and operate proper obstruction lights on the tops of all buildings or structures to be placed on the premises by the Lessee and agrees to reimburse the City for the cost of such installation.

6) 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.

7) 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 personal liability for the assessment 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.

8) If Lessee shall violate any of the restrictions of 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 City may at once, if it so elects, terminate the same and take possession of the premises, building and improvements thereto.

9) The City 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 the Lease.

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10) The City 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. In the event the City does not maintain the runways, taxiways and apron to the reasonable satisfaction of the Lessee, Lessee may terminate this Lease on thirty (30) day notice to the City.

11) During the time of war or national emergency, the City 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.

12) Force Majeure. Neither Lessee nor the City shall be held liable for any failure to perform the obligations outlined in this agreement where such failure is a result of acts of Nature such as floods, earthquakes or other natural disasters, nor due to acts of

war, invasion, hostilities, terrorist activities, etc., nor by government sanction, embargos, nationalization, etc. Lessee or the City may elect to terminate this agreement as a result of these conditions upon mutual consent.

13) Obstructions at Richard I. Bong Airport. The City 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 City, would limit the usefulness of the airport or constitute a hazard to aircraft. Lessee shall, upon approval by the City and prior to any construction of any nature within the boundaries of the airport, prepare and submit to the Federal Aviation Administration, Great Lakes Regional Office, attention AAGL-530, 2300 E. Devon Avenue, Des Plaines, Illinois 60018, one executed set (four copies) of FAA Form 7460-1, "Notice of Proposed Construction or Alteration", as required by Federal Aviation Regulation Part 77. This notice must be submitted at least thirty (30) days prior to the date of the proposed construction/alteration or the date that an application for a construction permit is filed, whichever is earlier.

14.) 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.

15) The Lessee shall keep the premises clean, neat and in good order, free from garbage, debris, salvage or junk. No junked or non-operating vehicles, airplanes, or parts thereof, shall be kept outside the hangar.

D. This Lease shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the airport, the execution of which has been or may be required as condition precedent to the expenditure of Federal funds for the development of the airport.

E. Upon termination of this Lease, Lessee shall remove all buildings and improvements constructed by Lessee within ninety (90) days after the Lease termination date and restore the premises described herein to its original condition, free and clear of all debris. Said removal and restoration shall be subject to the approval and inspection of the Building Inspector of the City of Superior. Prior to commencement of said removal, Lessee shall deposit with the City Clerk of the City of Superior, a bond in the amount of twenty-five thousand dollars (\$25,000.00) to guarantee the performance in accordance with this provision. Said bond shall have a surety herein a corporation licensed by the State of Wisconsin Insurance Commission to

act as surety. If said improvements are not removed in said ninety (90) day period, the City of Superior shall thereupon obtain title to said improvements or remove them at Lessee's expense at the option of the City.



IN WITNESS WHEREOF, the parties have herein set their hands and seals this 13<sup>th</sup>  
day of Nov, 2012.

LESSEE:

Signature: \_\_\_\_\_

Calvin Kamp, Owner  
Superior Flying Service  
4804 Hammond Avenue  
Superior, WI 54880

KATHLEEN M. COSGROVE  
NOTARY PUBLIC  
STATE OF WISCONSIN

Subscribed and sworn to before me, this 13 day of Nov, 2012.

Kathleen M. Cosgrove, Notary Public  
Douglas County, Wisconsin (state)

My commission expires: 10-19-2016

CITY OF SUPERIOR, WISCONSIN

Bruce Hanz  
Mayor

[Signature]  
City Attorney

Jean Otto  
Finance Director

Jeri Kalan  
City Clerk

SEAL

STATE OF WISCONSIN )

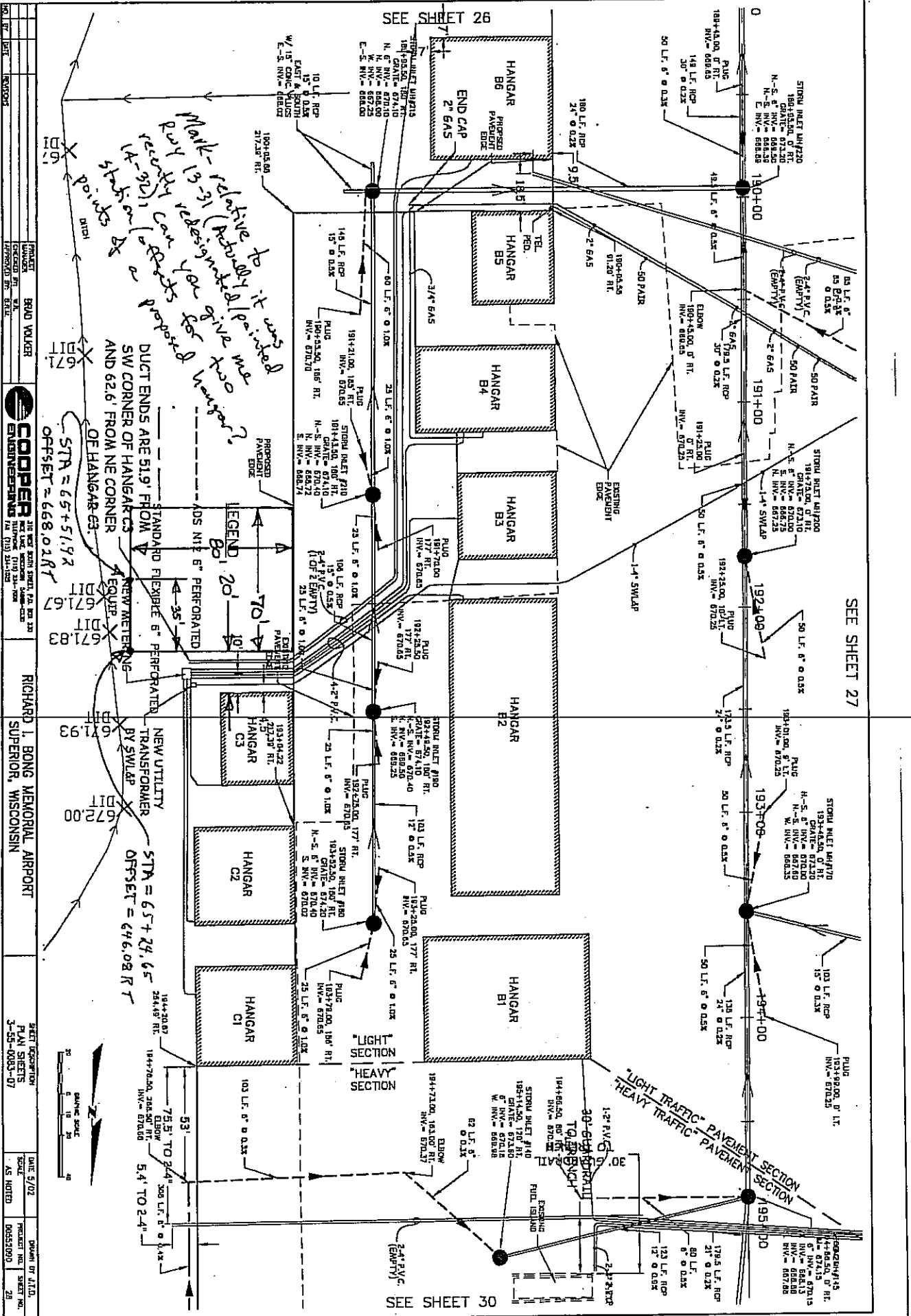
) SS

COUNTY OF DOUGLAS )

Personally came before me this \_\_\_ day of \_\_\_\_\_, 2011, Mayor, City Attorney, City Clerk and Finance Director to me known to be the persons who executed the foregoing instrument as such officers as the deed of said City by its authority.

\_\_\_\_\_  
Notary Public, Douglas County, WI

My commission expires: \_\_\_\_\_



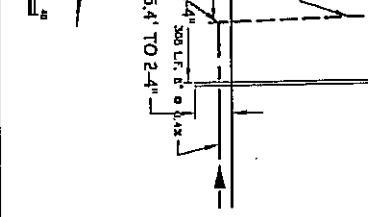
*Mark- relative to it was good  
 Mark-13-31 (actually 13-31) relative to  
 recent 13-31 can be used for proposed  
 stations of a proposed hangar?*

DUCT ENDS ARE 51.9' FROM  
 SW CORNER OF HANGAR C3  
 AND 62.6' FROM NE CORNER  
 OF HANGAR C3

STANDARD FLEXIBLE 6" PERFORATED  
 ADS NIT 6" PERFORATED  
 NEW UTILITY TRANSFORMER  
 BY SWLAP

STATIONING  
 STA = 65+51.92  
 OFFSET = 668.02 RT

STATIONING  
 STA = 65+24.65  
 OFFSET = 676.08 RT



NO.	DATE	REVISION
1	06/27/05	ISSUED FOR PERMITS
2	06/27/05	ISSUED FOR PERMITS
3	06/27/05	ISSUED FOR PERMITS
4	06/27/05	ISSUED FOR PERMITS
5	06/27/05	ISSUED FOR PERMITS
6	06/27/05	ISSUED FOR PERMITS
7	06/27/05	ISSUED FOR PERMITS
8	06/27/05	ISSUED FOR PERMITS
9	06/27/05	ISSUED FOR PERMITS
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100	06/27/05	ISSUED FOR PERMITS



RICHARD I. BONG MEMORIAL AIRPORT  
 SUPERIOR, WISCONSIN

DATE: 5/02  
 SCALE: AS NOTED  
 DRAWN BY: JLD  
 PROJECT NO.: 00531093  
 SHEET NO.: 25