RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE RENEWAL OF FEDERAL AVIATION ADMINISTRATION (FAA) LEASE NO. DTFA 6-3-L-04444, FOR LOW LEVEL WARNING SYSTEM (LLWAS) NUMBERS 5, 6, AND 9 COVERING LOVELL FIELD AIRPORT, WITH LEASE EXPIRING ON SEPTEMBER 30, 2013 AND THE RENEWAL EXPIRING ON SEPTEMBER 30, 2033.

_____

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing the renewal of Federal Aviation Administration (FAA) Lease No. DTFA 6-3-L-04444, for Low Level Warning System (LLWAS) numbers 5, 6, and 9 covering Lovell Field Airport, with lease expiring on September 30, 2013 and the renewal expiring on September 30, 2033.

ADOPTED: _____, 2013

/mms

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

LAND LEASE OFF AIRPORT

Lease No: DTFAEN- 13 - L - 00112
Lovell Airfield Airport; Chattanooga, TN

THIS LEASE is hereby entered into by **City of Chattanooga** whose address is **100 East 11th St., Suite 201, Chattanooga, TN 37402,** hereinafter referred to as the Lessor and the **United States of America**, herein after referred to as the Government. This lease shall become effective when it is fully executed by all parties. The terms and provisions of this lease, and the conditions herein, bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

WITNESSETH: The parties hereto, for the consideration hereinafter mentioned covenant and agree as follows:

1. PREMISES (AUG-02):
The Lessor hereby leases to the Government the following described property, hereinafter referred to as the premises, viz:

Sites numbered 5 (Levee at I-75), 6 (Municipal Golf Course), and 9 (Cromwell Hills), and further described on Drawings SO-D-100577. CO1, SO-D-100577, CO2 and SO-D100577.GO1, which are attached hereto and made a part of this agreement for all intents and purposes.

A. Together with a right-of-way for ingress to and egress from the premises for Government employees, their agents and assigns, a right-of-way for establishing and maintaining a pole line or pole lines for extending electric power and/or telecommunication lines to the premises; and a right-of-way for subsurface power, communication and/or water lines to the premises; all rights-of-way to be over said lands and adjoining lands of the Lessor, and unless herein described otherwise, to be by routes reasonably determined to be the most convenient to the Government.

B. And the right of grading, conditioning, and installing drainage facilities, and seeding the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of Government facilities.

C. And the right to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises hereby leased, which alterations, fixtures, additions, structures or signs so placed in or upon, or attached to the said premises shall be and remain the property of the Government.

2. TERM (AUG-02):
To have and to hold, for the term commencing on October 1, 2013 and continuing through September 30, 2033 inclusive, PROVIDED, that adequate appropriations are available from year to year for the payment of rentals.

3. CONSIDERATION (NO COST) (AUG-02): The Government shall pay the Lessor no monetary consideration in the form of rental, it being mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation and maintenance of facilities upon the premises hereby leased.

4. CANCELLATION (AUG-02):
The Government may terminate this lease, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate by delivering to the Lessor a written notice specifying the effective date of the termination. The termination notice shall be delivered by registered mail return receipt requested and mailed at least 30 days before the effective termination date.

5. QUIET ENJOYMENT (OCT-96):
The Lessor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government's use and enjoyment of said premises against third party claims.

6. NOTIFICATION OF CHANGE IN LAND TITLE (AUG-02):
If the Lessor sells or otherwise conveys to another party or parties any interest in the aforesaid land, rights of way thereto, and any areas affecting said demised premises, they shall notify the Government, in writing, of any such transfer or conveyance affecting the demised premises within 30 calendar days after completion of the "change in property rights". Concurrent with the written notification, the Lessor shall provide the Government copies of the legal document(s) (acceptable to local authorities) for transferring and or conveying the property rights.

7. SUBORDINATION, NONDISTURBANCE AND ATTORNMENT (OCT-96):
The Government agrees, in consideration of the warranties herein expressed, that this lease is subject and subordinate to any and all recorded deeds of trust, mortgages, and other security instruments now or hereafter imposed upon the premises, so long as such subornation shall not interfere with any right of the Government under this lease. It is mutually agreed that this subordination shall be self operative and that no further instrument shall be required to effect said subordination.

In the event of any sale of the premises, or any portion thereof, or any such transfer of ownership, by foreclosure of the lien of any such security instrument, or deed provided in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, successor, assigns, or transferee. The succeeding owner will be deemed to have assumed all rights and obligations of the Lessor under this lease, establishing direct privity of estate and contract between the Government and said purchasers/transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided that such transferees shall promptly provide, following such sale or transfer, appropriate documentation deemed necessary by the Real Estate Contracting Officer, and shall promptly execute any instrument, or other writings, as shall be deemed necessary to document the change in ownership.

8. NOTICES (OCT-96):

All notices/correspondence shall be in writing, reference the lease number, and be addressed as follows:

TO LESSOR:

City of Chattanooga
100 E. 11th Street, Suite 201
Chattanooga, TN 37402

TO GOVERNMENT:

Federal Aviation Administration
Eastern Logistics Service Area, ASO-53
P.O. Box 20636
Atlanta, GA 30320

9. CONTRACT DISPUTES (Nov. 03)

A. All contract disputes and arising under or related to this lease contract shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A Lessor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

B. All Contract Disputes shall be in writing and shall be filed at the following address:
Office of Dispute Resolution for Acquisition, AGC-70,
Federal Aviation Administration,
800 Independence Ave., S.W.,
Room 323,
Washington, DC 20591
Telephone: (202) 267-3290,
Facsimile: (202) 267-3720; or

C. A contract dispute against the FAA shall be filed with the ODRA within two (2) years of the accrual of the lease contract claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA.

D. The full text of the Contract Disputes clause is incorporated by reference. Upon request the full text will be provided by the RECO.

10. PROTEST (Nov. 03)

A. Protests concerning Federal Aviation Administration Screening Information Requests (SIRs) or awards of lease contracts shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A protestor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

B. Offerors initially should attempt to resolve any issues concerning potential protests with the Real Estate Contracting Officer.

C. Protests shall be in writing and shall be filed at:
Office of Dispute Resolution for Acquisition, AGC-70,
Federal Aviation Administration,
800 Independence Ave., S.W.,
Room 323,
Washington, DC 20591
Telephone: (202) 267-3290,
Facsimile: (202) 267-3720

D. At the same time as filing the protest with the ODRA, the protestor shall serve a copy of the protest on the Real Estate Contracting Officer (RECO).

E. A protest is considered to be filed on the date it is received by the ODRA and shall be filed:
(i) Not later than seven (7) business days after the date the protester knew or should have known of the grounds for the protest; or
(ii) If the protester has requested a post-award debriefing from the RECO, not later than five (5) business days after the date on which the RECO holds that debriefing.

F. The full text of the Protest clause is incorporated by reference. Upon request the full text will be provided by the RECO.

11. ANTI-KICKBACK (OCT-96):
The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from
A. Providing or attempting to provide or offering to provide any kickback;
B. Soliciting, accepting, or attempting to accept any kickback; or
C. Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States Government or in the contract price charged by a subcontractor to a prime contractor or higher tier subcontractor.

12. ASSIGNMENT OF CLAIMS (OCT-96):
Pursuant to the Assignment of Claims Act, as amended, 31 USC 3727, 41 USC 15, the Lessor may assign his rights to be paid under this lease.

13. COVENANT AGAINST CONTINGENT FEES (AUG-02):
The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

14. OFFICIALS NOT TO BENEFIT (OCT-96):
No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

15. NON-RESTORATION (OCT-96):
It is hereby agreed between the parties, that upon termination of its occupancy (due to termination or expiration of the lease), the Government shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property which is the subject matter of this lease. It is further agreed that the Government may abandon in place any or all of the structures and equipment installed in or located upon said property by the Government during its tenure. Such abandoned equipment shall become the property of the Lessor.

16. EXAMINATION OF RECORDS (AUG-02):
The Comptroller General of the United States, the Administrator of FAA or a duly authorized representative from either shall, until 3 years after final payment under this contract have access to and the right to examine any of the Lessor's directly pertinent books, documents, paper, or other records involving transactions related to this contract.

17. LEASE SUCCESSION (AUG-02):

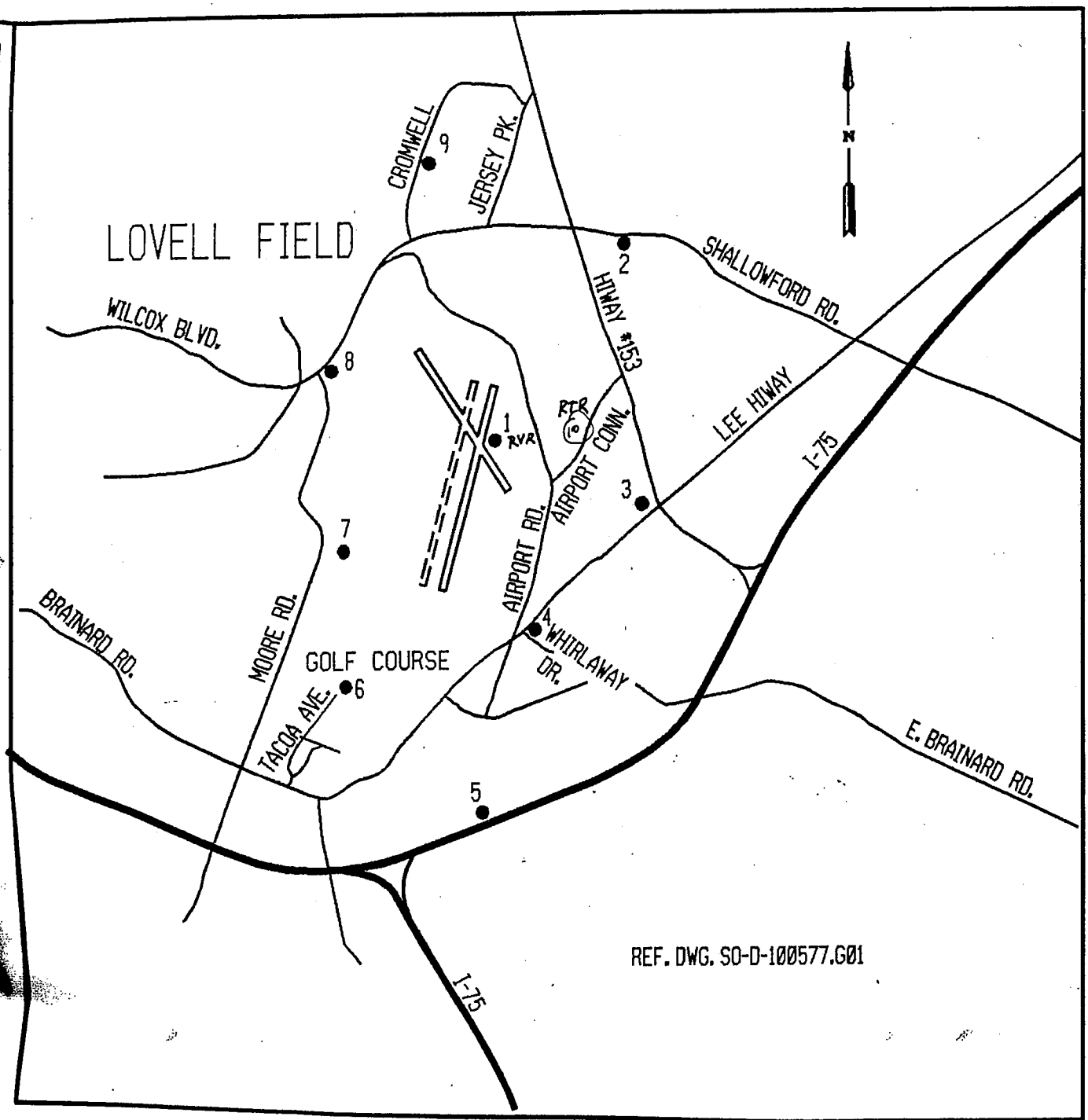
This lease supersedes Lease No.**DTFAO6-03 –L-04444** and all other previous agreements between the parties for the leased property described in this document.

18. SPECIAL STIPULATIONS

(a) The Government shall have the right of ingress/egress to the site through existing road and taxiways.

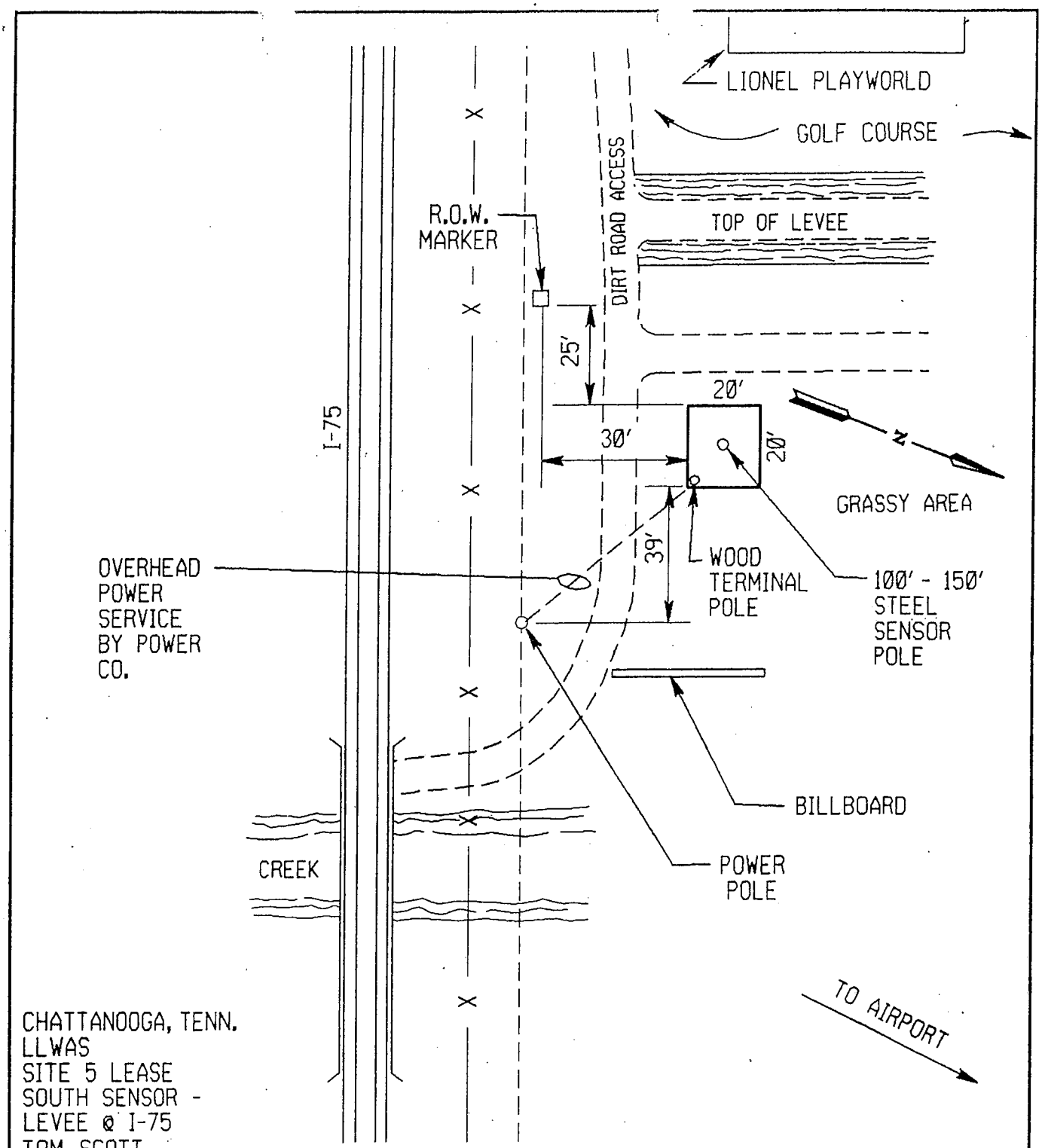
(b) The Lessor further agrees not to erect or to allow to be erected on the property leased hereby or on adjacent property of the Lessor, any structure or obstruction of whatsoever kind or nature as will interfere with the proper operation of the facilities installed by the Government unless consent thereto shall first be secured from the Government in writing.

(c) The Government agrees to separately meter and pay for power on LLWAS Sites 5, 6, and 9.



VICINITY MAP

LLWSAS
Chattanooga, TN.



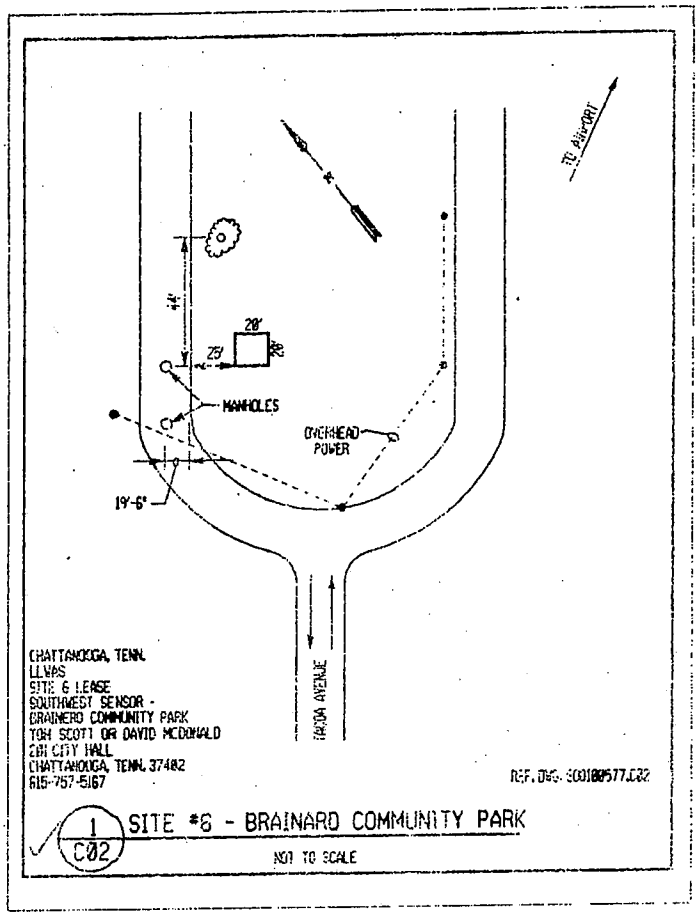
CHATTANOOGA, TENN.
LLWAS
SITE 5 LEASE
SOUTH SENSOR -
LEVEE @ I-75
TOM SCOTT
201 CITY HALL
CHATTANOOGA, TENN. 37402
615-757-5392

REF. DWG. SO-D-100577.C01

5
C01

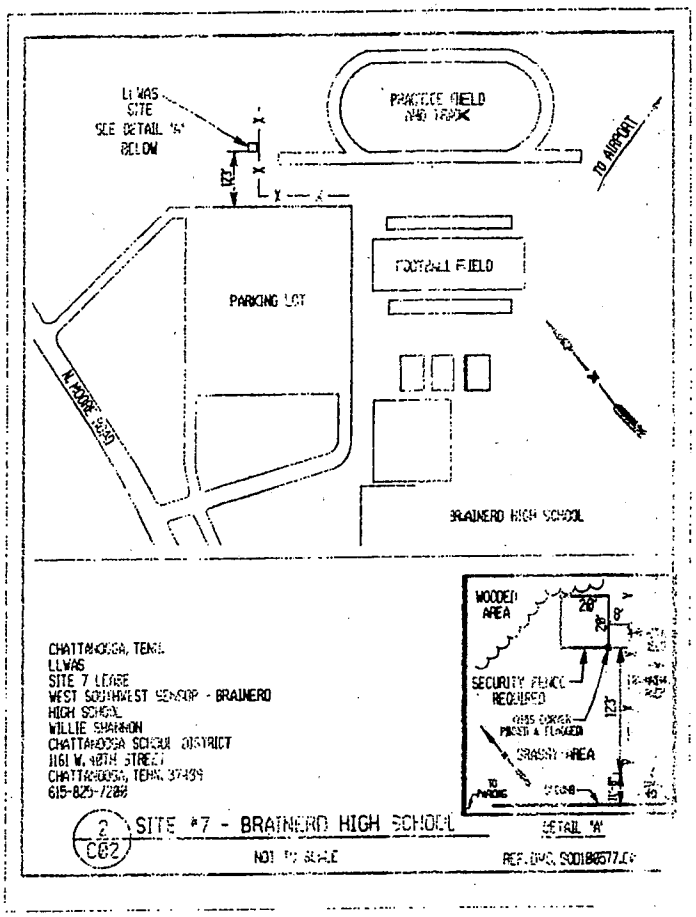
SITE #5 - LEVEE AT I-75

NOT TO SCALE



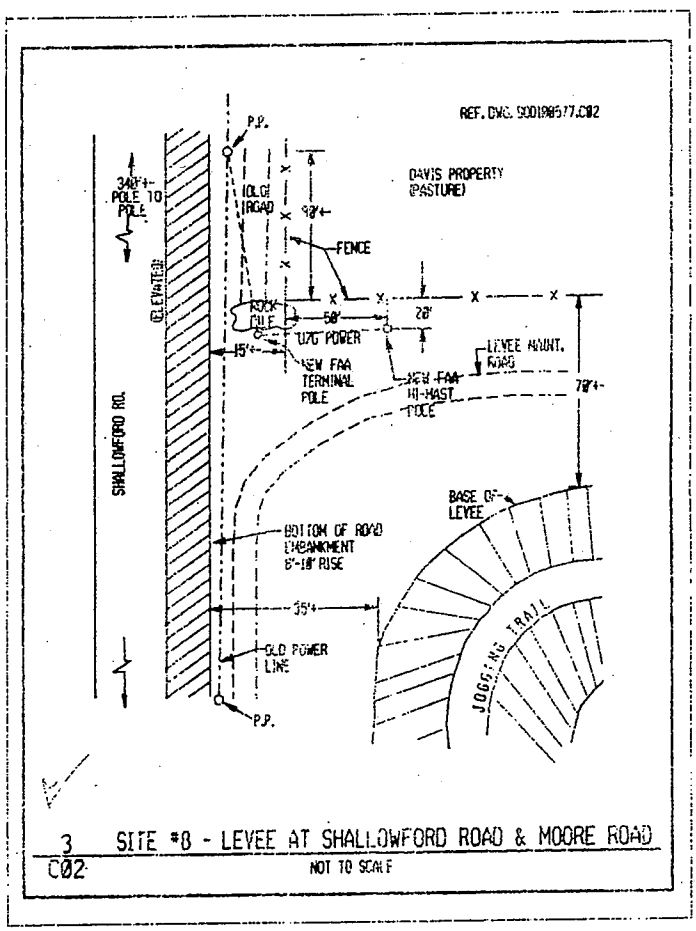
1 C02 SITE #6 - BRAINARD COMMUNITY PARK

NOT TO SCALE



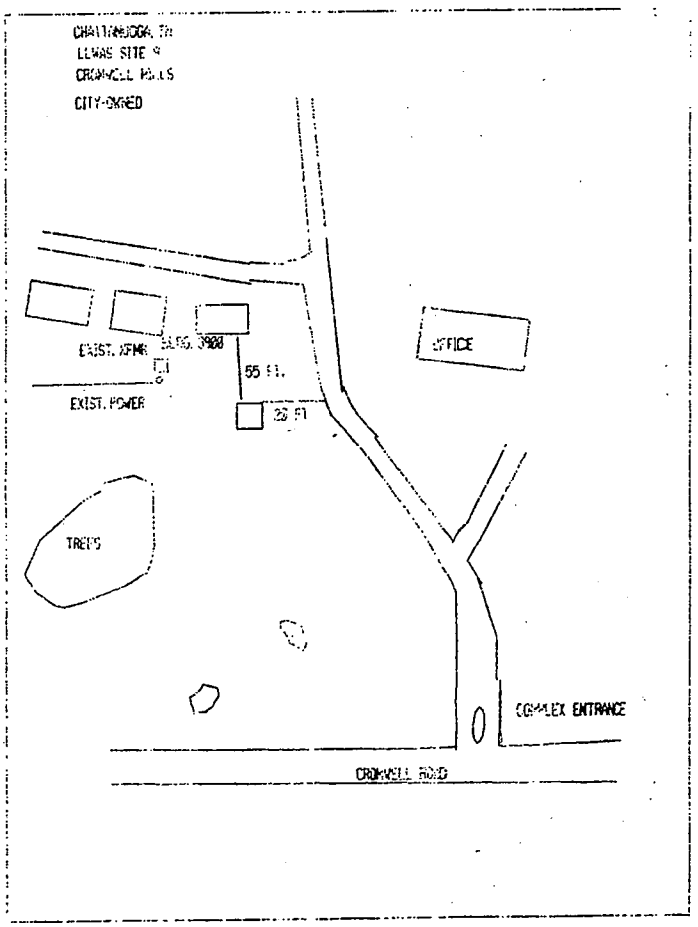
2 C02 SITE #7 - BRAINERD HIGH SCHOOL

NOT TO SCALE



3 C02 SITE #8 - LEVEE AT SHALLOWFORD ROAD & MOORE ROAD

NOT TO SCALE



19. SIGNATURE BLOCK:

IN WITNESS WHEREOF, the parties hereto have signed their names:

LESSOR:

_____ Date:_____
Daisy W. Madison
City Finance Officer

UNITED STATES OF AMERICA:

_____ Date:_____
James Baker
Real Estate Contracting Officer
ASO-053

CERTIFICATE OF AUTHORIZATION

If agreement is made with a State, County, Municipality, or other public authority, the following certificate shall be executed by an authorized official:

I,_____, certify that I am the _____.
(Name) (Title)

of the _____ named in the foregoing agreement; and that
(State, County, Municipality, or other Public Authority)

_____ who signed said agreement on behalf of the
(Name)

_____ was then_____
(State, County, Municipality, or other Public Authority) (Title)

of said_____. That said agreement was duly signed for and on
(State, County, Municipality, or other Public Authority)

behalf of _____ by authority of its governing body, and is
(State, County, Municipality, or other Public Authority)

within the scope of its powers.

_____ (CORPORATE SEAL)

NOTARY ACKNOWLEDGEMENTS
LESSOR

STATE OF _____

COUNTY OF _____

I, _____ , do hereby certify that _____

personally known to me to be same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he/she signed, sealed, and delivered the instrument for the uses and purposes set forth.

Given under my hand and official seal, this ____ day of_____ 20____.

_____ , Notary Public

My commission expires:_____