

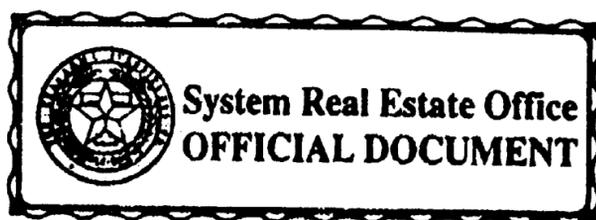
**RIGHT-OF-WAY EASEMENT
CITY OF COLLEGE STATION
TAMUS Board Policy 41.05(8)**

I. Grant of Easement: The **BOARD OF REGENTS, THE TEXAS A&M UNIVERSITY SYSTEM**, (GRANTOR, but hereafter "TAMUS"), on behalf of the State of Texas, acting by and through its duly authorized officer, under authority of Board Policy 41.05(8) and by virtue of authority granted to the Board by TEX. EDUC. CODE § 85.26(c) (Vernon's 2001), in consideration of the mutual benefits to be derived by both parties, GRANTS, SELLS AND CONVEYS to the **CITY OF COLLEGE STATION**, (GRANTEE, but hereafter "COLLEGE STATION"), its successors and assigns, a non-exclusive right-of-way easement across certain Property of TAMUS (hereafter "the Property") located in Brazos County, Texas, more particularly described as follows:

See Exhibits "A" attached and made a part of this easement.

II. Purpose and Location of Easement: This easement is granted for the purpose of constructing, operating and maintaining an underground electrical distribution line to serve the ILS Building on Easterwood Airport. A plat of the Property showing the surface area affected by this easement and the location of **COLLEGE STATION's** right-of-way is depicted on Exhibits "B" attached and made a part of this easement.

III. Right of Access: **COLLEGE STATION** has the right of ingress and egress across the TAMUS Property for the purpose of constructing, operating, maintaining, repairing, replacing and rebuilding its line. **COLLEGE STATION** agrees to occupy the surface only to the extent and for the length of time necessary for constructing, operating, maintaining, repairing, replacing and rebuilding such line. Any gate or opening used by **COLLEGE STATION** for ingress or

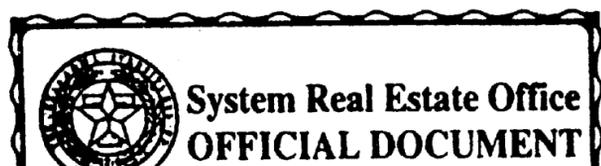


gress in the exercise of its rights, must be kept in proper condition and closed at all times.

IV. Duties: If **COLLEGE STATION** damages or destroys any fences, roads, bridges, culverts, buildings or other equipment on the right-of-way, other than its own personal property, **COLLEGE STATION** must, within a reasonable period of time, repair or replace the personal property to the extent it will, as nearly as practicable, be in like condition as before such damage or destruction. At the option of **TAMUS**, in lieu of repairing or replacing, money damages will be paid. Such damages include those incurred as a result of **COLLEGE STATION** or its agents or employees entering, departing, or by reason of being present on the Property. The Property affected will be leveled as required by **TAMUS** so the Property will, to the degree possible, be in the same general condition as before **COLLEGE STATION's** activities. **COLLEGE STATION** agrees to notify **TAMUS**, in the manner set forth in Section XIX, no later than three (3) business days after completion of initial construction and cooperate with **TAMUS** personnel in an on site inspection to assess damages resulting from **COLLEGE STATION's** activities. Prior to any subsequent alteration or additional construction **COLLEGE STATION** agrees to notify **TAMUS**, in the same manner as set forth in this paragraph, five (5) business days prior to commencement of such activities.

V. No Fee Interest Granted: This is a grant of a non-exclusive right-of-way easement only, and does not grant any fee interest to the surface or any interest in the minerals, on or under the Property. This conveyance is made subject to any and all outstanding easements and surface leases covering the Property.

VI. Duration of Easement: In accordance with the TEX. EDUC. CODE § 85.26(c), this grant is for a term of ten (10) years and may be renewed only at the election of **TAMUS**. **COLLEGE STATION** expressly understands its continued possession of the Property under this easement without first obtaining from the Board of Regents a renewal of this right-of-way easement is a



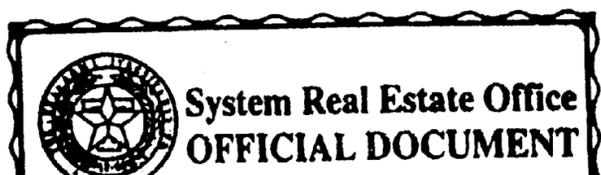
violation of state law which subjects **COLLEGE STATION** to a penalty of ONE HUNDRED DOLLARS (\$100.00) for each day of such violation. **COLLEGE STATION** agrees to pay **TAMUS** such penalty within ten (10) business days after receipt of notice from **TAMUS** sent in compliance with Section XIX, of this easement. **COLLEGE STATION** has the right to remove its equipment at the expiration of this easement, provided all obligations to **TAMUS** under this easement are fully satisfied. All equipment must be removed within one hundred twenty (120) calendar days from the date of termination or abandonment of this easement. If removal causes other injury to the surface or improvements, **COLLEGE STATION** will restore or pay for such damage within sixty (60) calendar days after completion of such removal.

VII. Reservation of Non-Conflicting Use of Property: **TAMUS** expressly reserves for its use and for the use of any component of The Texas A&M University System access to the Property, such use to be in common with **COLLEGE STATION**, provided such use is not inconsistent with the rights of **COLLEGE STATION's**.

It is further agreed **COLLEGE STATION** will comply with the Antiquities Code of Texas, TEX. NAT. RES. CODE ANN. § 191 et seq., and **COLLEGE STATION** further agrees title to archaeological objects or artifacts, if any, in or on the Property remain with **TAMUS**.

VIII. Hold Harmless: **COLLEGE STATION** and **TAMUS**, to the extent allowed by the Constitution and Laws of the State of Texas, each agree to hold the other harmless from any and all claims, demands, liabilities and causes of action for personal injury or death and/or damage to or destruction of property or improvements caused by, arising out of, or resulting from the exercise of each parties rights and obligations under this Agreement.

IX. Hazardous Waste: **COLLEGE STATION** will not commit or suffer to be committed waste upon the Property; will keep the Property, the improvements, and its equipment in good working order and repair and in a clean, safe and healthful condition; and comply with all state,

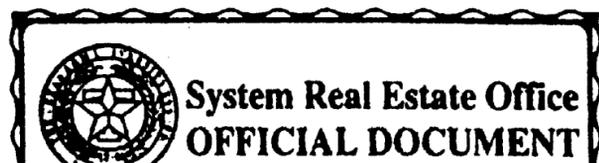


federal and local laws, rules and regulations with regard to the use and condition of the improvements and equipment on the Property.

COLLEGE STATION will not use the Property or permit the Property to be used so as to cause, suffer, or allow any contamination of soils, ground water, surface water, or natural resources on or adjacent to the Property resulting from, but not limited to, spills or leaks of oil, gasoline, hazardous materials, hazardous wastes, or other chemical compounds. **COLLEGE STATION** is solely responsible for cleanup of any contamination resulting from violation of this provision.

If the presence of hazardous materials on the Property is caused or permitted by **COLLEGE STATION** and such materials result in contamination of the Property or if contamination of the Property by hazardous material otherwise occurs and is related to **COLLEGE STATION's** use, then **COLLEGE STATION**, to the extent allowed by the Constitution and Laws of the State of Texas, shall indemnify, defend and hold **TAMUS** harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including diminution in value of the Property, damages for the loss of or restriction on use of the Property or of any amenity of the Property, and sums paid in settlement of claims, attorneys' fees, consultants' fees and experts fees) which arise during or after the easement term as a result of such contamination. **COLLEGE STATION's** hold harmless includes costs incurred in connection with any investigation of site conditions for any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of hazardous material present in the soil or ground water on or under the Property.

X. Default and Termination: It is agreed upon default by **COLLEGE STATION** of any of these covenants, conditions and agreements, **TAMUS** has the right, and such right is expressly reserved, to declare this easement forfeited, without prejudice to any claim **TAMUS** may have against **COLLEGE STATION**; provided, however, **TAMUS** will give **COLLEGE STATION**



written notice of its intention to terminate this easement and the reasons for termination, and **COLLEGE STATION** will have thirty (30) calendar days after receipt of notice to rectify the default or violation. Upon timely correction, this easement will remain in full force and effect. Termination or abandonment of this easement for any cause is automatic and all rights granted revert to **TAMUS** without the necessity of any further action or suit on the part of **TAMUS**. Upon termination or abandonment, **COLLEGE STATION** agrees to file a Release of Easement in the Deed Records of Brazos County, Texas. Abandonment will be deemed to have occurred when this easement is not used for the purposes granted for a continuous period of one calendar year.

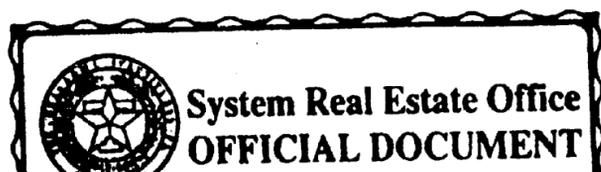
XI. Waiver: No waiver by **TAMUS** or **COLLEGE STATION** of any default or breach of any term, condition, or covenant of this easement will be a waiver of any other breach of any other term, condition, or covenant.

XII. Privileges and Immunities: **COLLEGE STATION** acknowledges **TAMUS** is an agency of the State of Texas and nothing in this easement will be construed as a waiver or relinquishment by **TAMUS** of its right to claim exemptions, privileges, and immunities as may be provided by law.

XIII. Texas Law to Apply: This Easement is construed under and in accordance with the laws of the State of Texas and is performable in Brazos County, Texas.

XIV. Grammatical Interpretation: When the singular number is used, it also includes the plural, and the masculine gender includes the feminine and neuter gender.

XV. Headings: Headings are for reference and will not be construed to limit or alter the meaning of the provisions of this easement.



XVI. Parties Bound: This easement is binding upon and inures to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors in interest or office, and assigns (but this Section does not constitute permission for an assignment).

XVII. Saving Clause: Should any clause in this easement be found invalid by a court of law, the remainder of this easement will not be affected and all other provisions in this easement remain valid and enforceable to the fullest extent permitted by law.

XVIII. Assignment: COLLEGE STATION may not sell, assign, encumber, or convey this easement without the written consent of TAMUS, and any attempt by COLLEGE STATION to sell, assign, encumber, or convey this easement without such consent will cause this easement to terminate.

XIX. Notices: Notices to either Party will be signed by the designated representative of the Party, or its successors in interest or office, and delivered personally or sent by U.S. certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

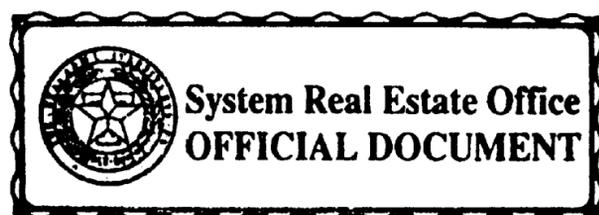
If to "TAMUS":

Assistant Vice Chancellor and
Director of Real Estate
System Real Estate Office
The Texas A&M University System
John B. Connally Building, Suite 519
301 Tarrow Drive
College Station, Texas 77840-7896

If to "COLLEGE STATION":

City Manager
City of College Station
P. O. Box 9960
College Station, Texas 77842

Notice will be deemed given on the date it is hand delivered or deposited in the U.S. mail.



XX. Entire Agreement: This Easement constitutes the entire agreement between TAMUS and COLLEGE STATION and will not be explained, modified, or contradicted by any prior or contemporaneous negotiations, representations, or agreements, either written or oral. This easement may only be amended by a subsequent written instrument.

XI. Effective Date: This easement is deemed to be in force on the 18th day of November 2002.

**"TAMUS"
BOARD OF REGENTS
THE TEXAS A&M UNIVERSITY SYSTEM**

By:

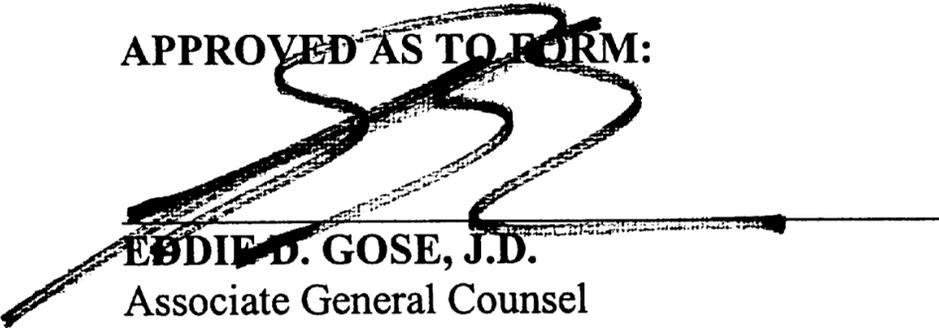
TOM D. KALE
Vice Chancellor for Business Services

RECOMMEND APPROVAL:

RICHARD L. FLOYD
Associate Vice President for Finance
Texas A&M University

DAN K. BUCHLY
Assistant Vice Chancellor and
Director of Real Estate
System Real Estate Office

APPROVED AS TO FORM:



EDDIE D. GOSE, J.D.
Associate General Counsel
Office of General Counsel



**System Real Estate Office
OFFICIAL DOCUMENT**

TERMS AND CONDITIONS EXPRESSLY ACKNOWLEDGED AND ACCEPTED:

**"COLLEGE STATION"
CITY OF COLLEGE STATION**

By: _____

RON SILVIA
Mayor

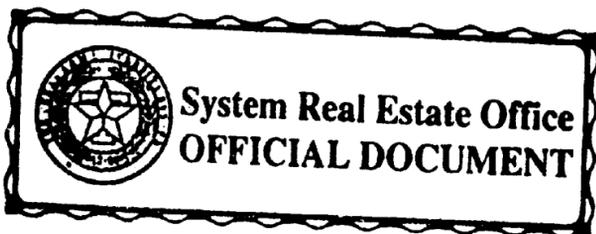
ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **TOM D. KALE**, Vice Chancellor for Business Services, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed it as the act and deed of the Board of Regents, The Texas A&M University System for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A.D. 2002.

Notary Public, State of Texas
My commission expires: _____



ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

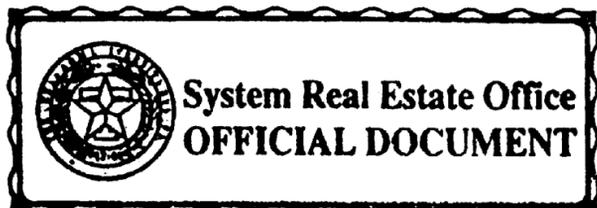
BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **RON SILVIA**, Mayor for the City of College Station, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed it for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A.D. 2002.

Notary Public, State of Texas
My commission expires: _____

After Recordation return to:

City of College Station
P. O. Box 9960
College Station, Texas 77842



**CENTERLINE DESCRIPTION FOR
CITY OF COLLEGE STATION UNDERGROUND ELECTRICAL
DISTRIBUTION LINE
TEXAS A&M UNIVERSITY 63.40 ACRE TRACT**

Being a strip of land five (5') feet each side of the centerline description, through that 63.40 acre tract of land belonging to Texas A&M University, situated in the J.H. Jones Survey, Abstract 148, and more fully described in Volume 6, Page 517 of the Deed Records of Brazos County, Texas.

Beginning at a point in the existing south right-of-way line of FM 60, this point bearing South 59° 57' 52" West, 265.7 feet from a concrete marker in the existing right-of-way line of FM 60 and South 39° 40' East, for a distance of 40 feet to the point of beginning;

Thence, South 39° 40' East, for a distance of 48 feet to an angle point;

Thence, South 73° 20' East, for a distance of 257 feet to an angle point;

Thence, South 46° 05' East, for a distance of 190 feet to an angle point;

Thence, North 43° 55' East, for a distance of 38 feet to the end of the proposed underground power line.

Said described easement will be five (5') feet each side of said described centerline for a total easement width of ten (10') feet.

Exhibit A

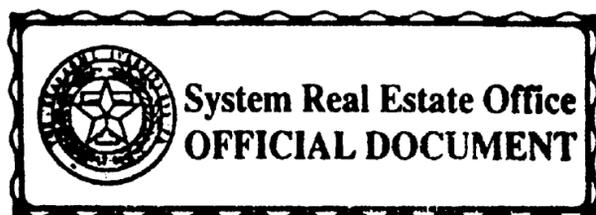
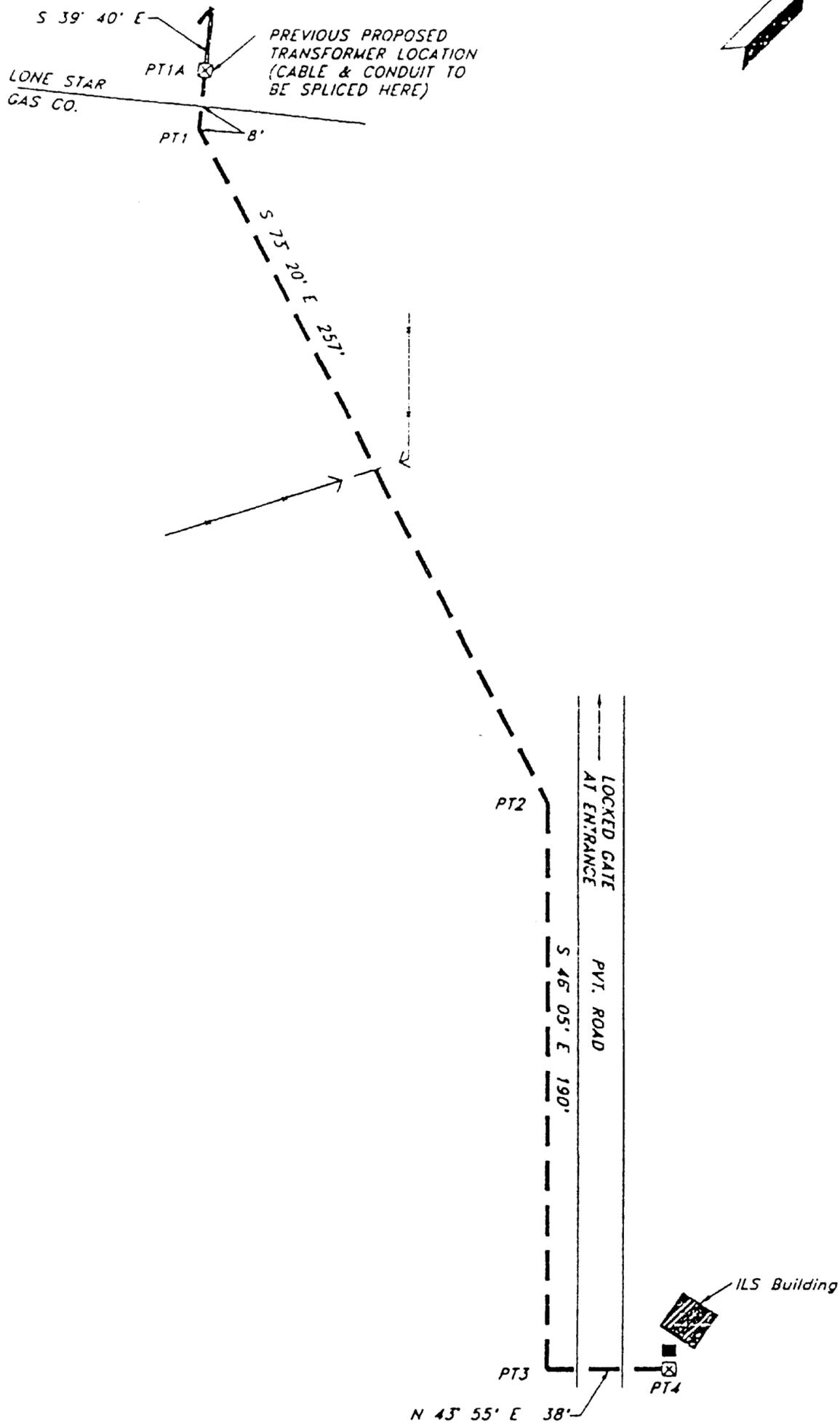
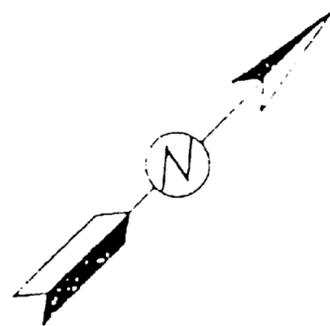


EXHIBIT "A"

EASTERWOOD AIRPORT POWER LINE RELOCATE



LEGEND

- ☒ PAD-MOUNTED TRANSFORMER
- - - PROPOSED UNDERGROUND LINE
- UNDERGROUND LINE
- FENCE LINE

CITY OF COLLEGE STATION

EASTERWOOD AIRPORT
POWER LINE RELOCATE



McCORD ENGINEERING, INC.
7807 Eastman Drive, Suite 102
P.O. Box 10045
College Station, Texas 77842

Scale	1" = 50'	File No.	CS-122-S-ALJ	Sheet No.	CAST-AM.DWG
Drawn by	D.M.K.	Date	11/98		

