

FIRST AMENDMENT TO DEED

Highway 183A Right-of-Way

Reference Number (s) of Document amended: 2004068741

TITLE OF DOCUMENT AMENDED: Donation Special Warranty Deed

Original Grantor: J. Sam Winters and Roy A. Butler

Grantor: J. Sam Winters, and Ann S. Butler, Individually and as Independent Co-Executor of the Estate of Roy A. Butler, Deceased, and Edward S. Butler as Independent Co-Executor of the Estate of Roy A. Butler, Deceased

Grantor's Mailing Address:

P. O. Box 9190, Austin, TX 78766

Grantee: Williamson County, Texas

Grantee's Mailing Address: 701 Main Street, Suite 101, Georgetown, Texas 78626

Legal Description

24.697 acres, located in the William Mansil Survey, Abstract No. 437, situated in Williamson County, Texas, and described in the Deed hereafter defined. This tract is hereafter referred to as the "183A Property."

AMENDMENT

THIS FIRST AMENDMENT ("Amendment") is to that one certain Special Warranty Deed from J. Sam Winters and Roy A. Butler as Grantor to Williamson County, Texas as Grantee, recorded as Document No. 2004068741, Official Public Records Williamson County, Texas (the "Deed")

For and in consideration of Ten and No/ 100 Dollars (\$10.00) and other good and valuable consideration paid by each of the parties to the other, the receipt and sufficiency of which are hereby acknowledged and confessed, and in consideration of the mutual promises and agreements exchanged, the parties hereto agree as follows:

**ARTICLE ONE
DEFINITIONS**

1.01 Unless the context clearly requires otherwise, terms used in this First Amendment to Deed shall have the meaning as set forth in the Deed. Notwithstanding the foregoing, the right-of-way originally referred to as "CR 276", has subsequently been referred to as "CR 274" or "San Gabriel Parkway". For uniformity, it will be referred to as "CR 274" in this First Amendment.

ARTICLE TWO AMENDMENTS

2.01. Paragraph (2.) of the "RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY" is amended to read as follows:

2. This conveyance is made subject to the provisions and reservations contained in a Real Estate Contract between Grantor and Grantee dated July 20, 2004 and modified by that certain First Amendment to Real Estate Contract dated May 19, 2009,(as modified, the "Sale Contract"), including without limitation, the following:

(a) Grantee's use of the 183A Property is limited to the development, construction and maintenance of a public roadway, and Grantor reserves all other rights and interest in the 183A Property, including the rights to lay water, wastewater, electrical, cable, or any overhead, surface or subsurface utility lines and subsurface rights, including oil, gas and other minerals, so long as the use of any such rights do not interfere unreasonably with the Grantee's use of the Property for the purposes of a public roadway. Grantor has also conveyed property to Grantee for use in connection with the realignment of CR 274. The conditions contained in the Deed relating to such realignment were not satisfied, and title to the 183A Property has previously reverted to Grantor, but that reversion is rescinded and the conveyance reinstated, subject to the provisions hereafter set forth.

(b) The First Phase of the realignment of CR 274 shall from the eastern boundary of US 183, to the western boundary of US 183A. Only a portion of the First Phase of CR 274 has been completed. Grantee may enter into an interlocal agreement with the Central Texas Regional Mobility Authority to perform that work. However, a contract for the expeditious construction of the remainder of the First Phase of the proposed realignment of CR 274 must be awarded before May 19, 2011 (the "First Phase Deadline").

(c) The Second Phase of such realignment will extend from the eastern boundary of US 183A to CR 270. A road bond package for funding of the Second Phase must be passed by December 31, 2012, and the Second Phase must receive first priority for funding and construction among the road bond package which is approved, or a contract for the expeditious construction of the Second Phase of the proposed realignment of CR 274 must be awarded by December 31, 2012 (the "Second Phase Deadline").

(d) If either or both of the First Phase Deadline or the Second Phase Deadline are not met, then title to the 183A Property will

automatically revert to Grantor(s) without further act or deed on the part of Grantor(s) or Grantee.

(e) The completion of the First and Second Phase of CR 274 prior to the First Phase Deadline and the Second Phase Deadline resolve Grantor(s) claims that the construction of US 183A damages the value of remainder of Grantor(s)' land. Therefore, if either or both of the First Phase Deadline and the Second Phase Deadline are not met, then the Grantor(s) will have a claim of inverse condemnation against Grantee for the fair market value of the 183A Property and the damage to the value of the remainder of Grantor(s)' land caused by 183 A, as of May 19, 2009. Grantee does not agree that Grantor(s)' remainder is damaged, but agrees that Grantor(s) have the right to make that claim in a court of competent jurisdiction. Moreover, Grantee agrees that any applicable statutes of limitation that apply to Grantor(s)' claims based on inverse condemnation are tolled and will not begin to run until the earlier of (i) the date the First Phase deadline is not met, or (ii) the date the Second Phase Deadline is not met, if the First Phase Deadline has previously been met.

(f) If CR 274 is completed within the times set forth above, Grantor(s), their successors and assigns, in their sole discretion shall have the right and privilege to make driveway cuts onto the frontage roads of US 183A, subject to appropriate laws and regulations of the State of Texas and the CTRMA and any valid rules and regulations adopted pursuant thereto, and onto CR 274 from Grantor(s) land lying contiguous to such roadway pursuant to Williamson County subdivision regulations.

(g) This conveyance is also subject to any other provisions of the Sale Contract, (as amended by the First Amendment to Real Estate Contract) pertaining to this conveyance. Notwithstanding the foregoing, the provisions set forth in (a) through (f), above are controlling in the event of a conflict with any other document.

ARTICLE III MISCELLANEOUS

3.01 This First Amendment to Deed is executed to amend the Deed and be effective from the same date as the Deed. To the extent necessary to effect the terms and provisions of this First Amendment to Deed, the Deed is hereby amended and modified. In all other respects, the aforesaid Deed is hereby ratified and confirmed.

3.02 This First Amendment to Deed may be executed in counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto acting under their own authority or under the authority of their respective governing bodies, as required, have caused this First Amendment to Deed to be duly executed as of the date or dates indicated below.

GRANTOR:

J. Sam Winters

Ann S. Butler, Individually and as Independent
Co-Executor of the Estate of Roy A. Butler

Edward S. Butler, Independent Co-Executor of the
Estate of Roy A. Butler

GRANTEE:

WILLIAMSON COUNTY, TEXAS

By: 

DAN A. GATTIS, County Judge

ACKNOWLEDGMENT

STATE OF TEXAS

25

§

COUNTY OF _____

§

This instrument was acknowledged before me this ____ day of _____ 2010, by J. Sam Winters, in the capacity and for the purposes and consideration recited herein.

Notary Public, State of Texas

STATE OF TEXAS

 σ

§

COUNTY OF _____

ss

This instrument was acknowledged before me this ____ day of _____ 2010, by Ann S. Butler, in the capacity and for the purposes and consideration recited herein.

Notary Public, State of Texas

STATE OF TEXAS

28

 \mathcal{S}

COUNTY OF _____

 \mathcal{S}

This instrument was acknowledged before me this ____ day of _____ 2010, by Edward S. Butler, in the capacity and for the purposes and consideration recited herein.

Notary Public, State of Texas

ACKNOWLEDGMENT

STATE OF TEXAS

20

25

COUNTY OF WILLIAMSON

ss

This instrument was acknowledged before me this ____ day of _____ 2010, by Dan A. Gattis, County Judge, Williamson County, on behalf of Williamson County.

Notary Public, State of Texas

After recording return to:

Don Childs
Sheets & Crossfield, P.C.
309 E. Main Street
Round Rock, Texas 78664