

LAW OFFICES OF
BARRON & ADLER, L.L.P.

Michael M. Barron
Stephen I. Adler
Reynolds M. Shelton
Erik L. Cardinell
Christopher M. Swanson
Sumer I. Shelton

**808 Nueces Street
Austin, Texas 78701-2216
Telephone: (512) 478-4995
Facsimile: (512) 478-6022**

Steven R. Sampson
100 W. Houston Street, Ste. 1250
San Antonio, Texas 78205
Telephone: (210) 465-8500
Facsimile: (210) 465-8501

Thomas E. Sheffield
Brett B. Warren
Kimberli D. Loessin
1001 McKinney Street, Suite 400
Houston, Texas 77002
Telephone: (713) 526-1500
Facsimile: (713) 526-1550

Stephen T. Matthews
Of Counsel/Austin

Stephen I. Adler E-Mail Address
adler@barronadler.com

SUGGESTED “PUBLIC USE” LANGUAGE

(a) A governmental or private entity may not take private property through the use of eminent domain if the taking:

- (1) confers a private benefit on a particular private party through the use of the property;**
- (2) is for a public use that is merely a pretext to confer a private benefit on a particular private party;**
- (3) is for economic development purposes; or**
- (4) is to raise revenue to meet the cost of a public project if the property being taken is not otherwise necessary for the successful or safe operation of that public project.**

(b) This section does not affect the authority of an entity authorized by law to take private property through the use of eminent domain if:

- (1) there is a definite public right or use in the purpose to which the property is to be devoted other than mere economic development;**
- (2) the taking of the property is reasonably essential for the successful operation of a public project in which there is such a definite public right or use; or**
- (3) the taking prevents a menace to the health, safety, morals, and welfare of citizens.**