

STATE OF TEXAS

§

DEVELOPMENT AGREEMENT

§

COUNTY OF WILLIAMSON

§

FM 734 (PARMER LANE) AT RATTAN CREEK

This Development Agreement Regarding FM 734 (Parmer Lane) at Rattan Creek (this “Agreement”) is entered into between Williamson County, Texas (the “County”) and North Austin Municipal Utility District No. 1 (the “District”). The County and the District are sometimes individually referred to as a “Party” and collectively referred to as the “Parties.” Each of the Parties confirms that it has the authority to enter into this Agreement and the ability to perform its obligations under this Agreement, without the further approval or consent of any other person or entity.

RECITALS

WHEREAS, the District has been created and organized for purposes which include the design, construction, acquisition, improvement, extension, financing, and issuance of bonds for maintenance, operation, and conveyance of works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate, and amend local storm waters or other harmful excesses of waters; and

WHEREAS, in connection with the District's purposes, the County and the District desire to make certain structural modifications to the northbound and southbound bridges of FM 734 (Parmer Lane) over Rattan Creek, as described and depicted on **Exhibit "A"** attached hereto and incorporated herein (the "Project"); and

WHEREAS, the County intends to enter into an interlocal agreement with the Texas Department of Transportation (“TxDOT”) to allow the County to construct the Project and the District wishes to fund all of the County’s costs related to plan review, bidding, construction, construction observation, and construction administration for said Project; and

WHEREAS, the County and the District wish to set forth their agreements and obligations relating to the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, obligations and benefits set forth in this Agreement, the Parties agree as follows:

Section 1. County Obligations.

In consideration of the District's obligations and agreements below, the County hereby agrees to the following:

A. The County will comply with the bidding and award of contract process for the Project set forth in Section 2 below.

B. Subject to the District's delivery of an Election Notice (defined below) to proceed with the Project, the County will cause all physical improvements that constitute the Project to be constructed.

C. Subject to the District's delivery of an Election Notice to proceed with the Project, the County will inspect the construction of the Project and upon final inspection and completion of all punch-list items, notify the District that the construction of the Project is considered complete in accordance with normal policies and procedures (the "Completion Notice").

Section 2. District Obligations.

In consideration of the County's obligations and agreements above, the District hereby agrees to the following:

A. The District will fully pay to the County all costs incurred by the County related to plan review, bidding, construction, construction observation, and construction administration for the Project, subject to the terms of this Section 2. These costs include, but are not limited to, agency coordination, permitting, bidding, traffic control, inspections, utility relocation coordination, environmental mitigation and construction of the Project (the "Project Costs").

B. Within three (3) days after the Effective Date, the District will pay to the County the amount of \$50,000 as a deposit to be utilized by the County to pay Project Costs, as set forth in this Section 2 (the "Project Costs Deposit").

C. The County will advertise the Project for public bids in accordance with applicable law. Promptly upon receipt of the bids, the County will deliver to the District: (i) the bid tabulation; (ii) identification of the bid that the County has determined to be the lowest and best bid for the Project, which the County will approve, subject to the terms of this Section 2; (iii) a schedule for construction of the Project; (iv) a statement, together with reasonable support documentation, of all accrued Project Costs to-date; and (v) an estimate of the Project Costs, in addition to the amount of the bid that the County will accept, that will be incurred through completion of the Project (collectively, the "Bid Documents"). Notwithstanding any contrary provision of this Agreement, the District will have fifteen (15) days after receipt of the Bid Documents within which to provide to the County written notice of the District's approval or disapproval of same (the "Election Notice").

D. If the District disapproves the Bid Documents, or fails to provide the Election Notice within the 15-day period for same, then: (i) the County will not award a construction contract for the Project to any bidder; (ii) the County will deduct from the Project Costs Deposit an amount equal to all accrued Project Costs, as set forth in the Bid Documents, and refund the remainder of the Project Costs Deposit to the District; and (iii) upon the County's delivery of the remainder of the Project Costs Deposit to the District pursuant to item (ii), this Agreement will automatically terminate and neither Party will have any further rights or obligations hereunder.

E. If the District approves the Bid Documents, then within thirty (30) days after delivery of the Election Notice, the District will pay to the County an amount equal to the following, all as set forth in the Bid Documents: (i) the amount of the bid for the Project that the County will accept; plus (ii) the amount of the estimate of the Project Costs, in addition to the amount of the bid that the County will accept, that will be incurred through completion of the Project; minus (iii) the amount of the

remainder of the Project Costs Deposit held by the County after deducting therefrom an amount equal to all accrued Project Costs, as set forth in the Bid Documents.

F. In the event that the County receives a change order for the Project from the selected contractor, which change order increases the amount to be paid by the County to the contractor pursuant to the construction contract above the bid amount accepted by the County, the County will deliver notice of same, together with reasonable support documentation, to the District and the District will pay to the County an amount equal to the increase in the amount due to the contractor under the construction contract resulting from the change order within thirty (30) days after receipt of such notice.

G. Promptly upon completion of the construction of the Project, the County will deliver the Completion Notice to the District, which notice will include a calculation of the total Project Costs for the Project, together with reasonable support documentation (the "Final Project Costs"). If the Final Project Costs exceed the amount paid by the District to the County pursuant to Section 2E above, then the District will pay the shortfall amount to the County within thirty (30) days after receipt of the Completion Notice. If the Final Project Costs are less than the amount paid by the District to the County pursuant to Section 2E above, then the County will refund the overpayment amount to the District within thirty (30) days after delivery of the Completion Notice.

Section 3. Miscellaneous.

A. Any notice given hereunder by any Party to another must be in writing and may be given by personal delivery or by certified mail, return receipt requested, when delivered or mailed to the appropriate Party as noted below:

County: Williamson County, Texas
Attn: County Judge
710 Main Street, Suite 101
Georgetown, Texas 78626

with copy to: Williamson County Engineer
3151 S. E. Inner Loop, Suite B
Georgetown, Texas 78626

District: North Austin Municipal Utility District No. 1
Attn: Don Conklin, President, Board of Directors
c/o Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701

with copy to: Armbrust & Brown, PLLC
Attn: Kevin M. Flahive
100 Congress Avenue, Suite 1300
Austin, Texas 78701

A Party may change its address for purposes of notice by giving at least five days written notice of the new address to the other Party. If any date or any period provided in this Agreement

ends on a Saturday, Sunday or legal holiday, the applicable period will be extended to the next business day.

B. As used in this Agreement, the masculine, feminine, or neuter gender and the singular or plural number will each be deemed to include the others.

C. This Agreement contains the entire agreement between the Parties, and supersedes all prior negotiations, agreements, representations, and understandings, if any, between the Parties regarding these matters. This Agreement may not be amended or terminated except by a further written agreement duly executed by the Parties. However, any consent, waiver, approval or similar authorization will be effective if signed by the Party to be bound by the consent, waiver, approval, or authorization.

D. No official, representative, agent, or employee of the County has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the commissioners court of the County.

E. The Parties agree to execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the purposes of this Agreement.

F. If performance by any Party of any obligation under this Agreement is interrupted or delayed by reason of unforeseeable event beyond its control, whether such event is an act of God or the common enemy, or the result of war, riot, civil commotion, sovereign conduct other than acts of the County under this Agreement, or the act of conduct of any person or persons not a party or privy hereto, then such Party will be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

G. To the extent allowed by law, each Party will be responsible for, and will indemnify and hold harmless the other Party and its officers, agents, and employees from any and all claims, losses, damages, causes of action, lawsuits or liability resulting from the indemnifying Party's acts or omissions of negligence or misconduct or in breach of this Agreement.

H. The Parties acknowledge that, in the event of default on any obligation under this Agreement, remedies at law will be inadequate and that, in addition to any other remedy at law or in equity, each Party will be entitled to seek specific performance of this Agreement.

I. This Agreement will be construed under the laws of the State of Texas and all obligations of the Parties hereunder are performable in Williamson County, Texas. Any suits pursued relating to this Agreement will be filed in a court of Williamson County, Texas.

J. Any clause, sentence, provision, paragraph, or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective will not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof will be confined to the clause, sentence, provision, paragraph, or article held to be invalid, illegal, or ineffective.

K. This Agreement will be binding upon and inure to the benefit of the Parties and their respective legal representatives, successors, and assigns. No Party may assign its rights or obligations under this Agreement without the written consent of the other Party.

L. Texas Prompt Payment Act Compliance: Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date Customer receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by Customer in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of Customer's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

M. Except as otherwise expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties hereto, any benefits, rights or remedies under or by reason of this Agreement.

N. This Agreement may be executed simultaneously in one or more counterparts, each of which will be deemed an original and all of which will together constitute one and the same instrument.

O. The following exhibits are attached to and incorporated into this Agreement for all purposes:

Exhibit "A": Project Specifications

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, to be effective as of the date of the last party's execution below (the "Effective Date").

WILLIAMSON COUNTY, TEXAS

By: _____
Bill Gravell, Jr., County Judge

Date: _____, 2023

**NORTH AUSTIN MUNICIPAL UTILITY
DISTRICT NO. 1.**

By:  _____
Don Conklin, President
Board of Directors

Date: July 19, 2023

EXHIBIT "A"

Project Specifications

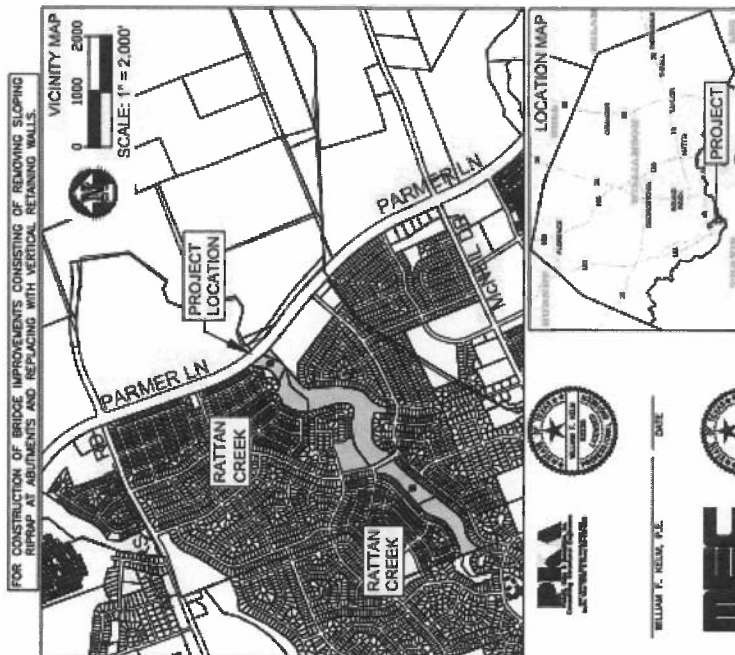
The Project is approximately from centerline station 405+90 to 407+85 and is depicted and described below.



STATE OF TEXAS
DEPARTMENT OF TRANSPORTATION

PLANS OF PROPOSED STATE HIGHWAY IMPROVEMENTS
CSJ # XXXX-XX-XXX
WILLIAMSON COUNTY
PARMER LANE BRIDGE MODIFICATIONS AT RATTAN CREEK

DESIGN SPEED	
PARTIAL LANE	XX MPH



REQUIRED SIGNS AND SPACING SHALL BE IN ACCORDANCE WITH THE LATEST STANDARDS AND THE "TEXAS MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES". ALL SIGNS MUST COMPLY WITH THE 2012 HIGH REFLECTIVE STANDARDS (HIGH INTENSITY OR PRACTICE GRADE).

SPECIFICATIONS CONTAINED WITHIN THE PROJECT MANUAL
DATED _____ SHALL PREVAIL ON THIS PROJECT.

WILLIAM F. KELLY, JR. DATE

JAMES F. SCANEY, P.E. DATE



RECEIVED
 JAMES E. HOAG
 11-13-77
 PREPARED BY

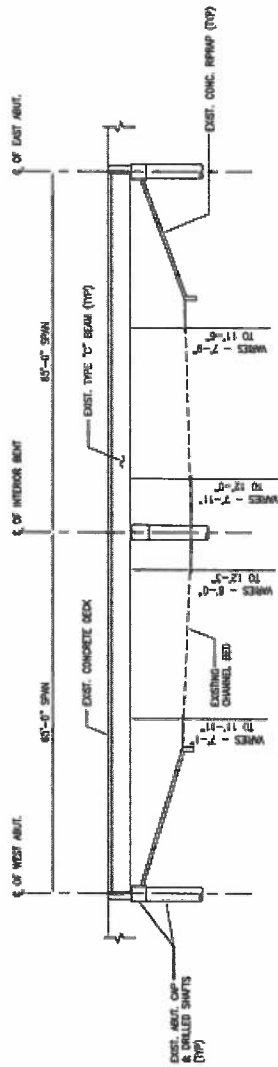
P&A
14100 Grant Road, Suite 4, Suite 103
Austin, Texas 78737
Phone 512-344-1558
Telex 152-344-1558
Texas Registration No. F-1481

MEC
 14014 Cactus Blvd. 220/2247
 Texas Regulator Engineering Firm F-353
 1101 Capital of Texas Highway South, Building 6, Suite 100, Austin, Texas 78706, (512) 277-4256

PARMER LANE BRIDGE
MODIFICATIONS AT RATTAN CREEK
TITLE SHEET

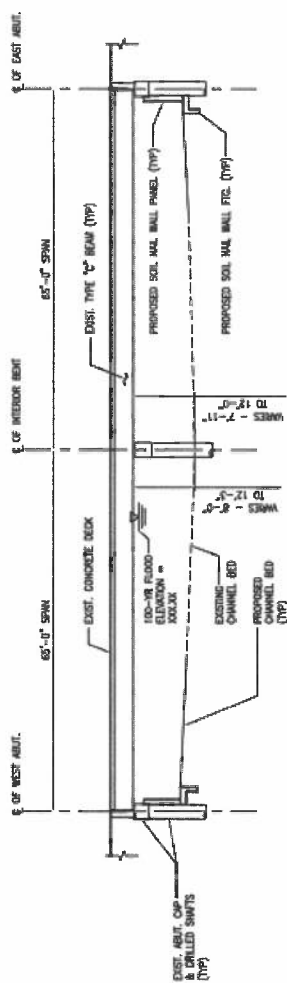
PMMA PROJECT NO. 002-5509	Jan. LOC	Jan. MWL	Jan. LOC	Jan. MWL
Copyright 2022	START	RECE	END	NUMBER
Revised	INSTRCT		PAPER LG	REPT IN
			CHARTY	1 to 20
	14 - 4/27/22		REVISION	

{W1219506.7}



NOTE:
THERE IS LIMITED OVERSIGHT CLEARANCE BETWEEN EXISTING BRIDGE STRUCTURES. CONTRACTOR SHALL FIELD VERIFY CLEARANCES TO EXISTING STRUCTURES AND ADJUST BRIDGE ELEVATIONS AS NECESSARY TO MAINTAIN 10% MINIMUM CLEARANCE. CONTRACTOR SHALL CONSTRUCT NEW SOIL WALL RETAINING WALL SYSTEM. CAUTION SHALL BE TAKEN TO AVOID DAMAGE TO EXISTING CONCRETE STRUCTURES TO REMAIN.

LOOKING NORTH
EXISTING ELEVATION
SCALE: 1" = 20'-0"



LOOKING NORTH
PROPOSED ELEVATION
SCALE: 1" = 20'-0"

FOR INTERIM REVIEW ONLY
THIS DOCUMENT IS UNCLASSIFIED
DATE 11/09/2022 BY 60322
P.E. NAME: WILLIAM F. KELM
DATE: 11/09/2022
AND A USE APPROVED TO BE USED FOR REVIEW ON
CONSTRUCTION PURPOSES



PKA
6330 Davidson Road, Suite 100
Nashville, TN 37220
Phone: 615-259-0000
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Consulting Structural Engineers



Tennessee Registered Engineering Firm #363
1910 David of East of East, Suite 100, Nashville, TN 37203
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**PARMER LANE BRIDGE
MODIFICATIONS AT RATTON CREEK
BRIDGE ELEVATIONS**

EXISTING AND PROPOSED ELEVATIONS

SHEET 1 OF 1

PKA PROJECT NO. 002-2000	DATE	BY	CHK	APP	DATE
002-2000	11/09/2022	WFL	WFL	WFL	11/09/2022
PROJECT NO. 002-2000					
SHEET NO.					
14 - 2022					