



# City of Pflugerville

## Legislation Details (With Text)

**File #:** 2021-0467    **Version:** 1    **Name:**  
**Type:** Agenda Item    **Status:** Approved  
**File created:** 5/25/2021    **In control:** Engineering Dept  
**On agenda:** 5/25/2021    **Final action:** 5/25/2021  
**Title:** Approving action to authorize the City Manager to execute a Deductive Change Order in an amount no less than \$187,315.67 or greater than \$271,869.92 and deduct 10 days for the FM 1825 (Pecan Street) and FM 685 (Dessau Road) Displaced Left Turn Intersection Project, to Capital Excavation.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Change Order DLT, 2. Engineer's Change Order Summary, 3. Exhibit Tables 1 - 3 DLT, 4. Project Location, 5. Presentation 20210467

Date	Ver.	Action By	Action	Result
5/25/2021	1	City Council	Approved	Pass

Approving action to authorize the City Manager to execute a Deductive Change Order in an amount no less than \$187,315.67 or greater than \$271,869.92 and deduct 10 days for the FM 1825 (Pecan Street) and FM 685 (Dessau Road) Displaced Left Turn Intersection Project, to Capital Excavation.

Due to the cost variations staff is requesting to be allowed to move forward with three (3) bid items (105-6041, 132-6003 and 540-6002) using a force account method and all other items authorized as presented. This proposal has been approved by the contractor. Force Account as defined in the contract provisions, allows payment for work performed on cost and material basis.

City Council awarded the construction contract to Capital Excavation Co. on March 9<sup>th</sup> and due to administrative processing and coordination requirements City issued the Notice to Proceed (NTP) on April 19<sup>th</sup> as agreed for construction start. Once the project kicked off, multiple Request For Information (RFIs) were submitted by the contractor, that would impact construction progress. In lieu of processing these RFIs individually, it was determined by both the City and Design Engineer many of the proposed responses to the RFIs would require TxDOT approval. All items were coordinated with TxDOT for several proposed work scope changes, due to a variety of reasons, and presented to the contractor for a proposal to perform anticipated revised work scope.

Staff submits request for Council consideration, approval of the deduct change order in compliance to the Texas Local Government Code Chapter 252.

Texas Local Government Code Chapter 252 Section 252.048(c) states that:

“if a change order involves a decrease or an increase of \$50,000 or less, the governing body may grant general authority to an administrative official of the municipality to approve the change orders”.

In addition, with acceptance of the United States Federal Economic Development Administration (EDA) Grant, the City is required to request EDA approval for all change orders. Upon City Council’s

decision, a Change Order packet with this information will be provided to the EDA for their consideration of approval.

A deductive change order is when the City or contracting agency reduces the scope of work agreed upon in the contract. These deductions can be small or can result in the deletion of a substantial portion of a contractor's work. Deductive change orders are a strange breed of normal construction change orders. Accordingly, Article VII of the City of Pflugerville's Construction General Conditions, change orders that add to your scope of work are a relatively simple process. A change or addition is ordered, a change order is issued, and the contractor is compensated for the additional labor and materials associated with performing that work. For this instance, City proposes a change order that reduces or eliminates work.

The proposed Change Order No. 1 includes a deduction and increased scope to add items, as they may appear as work substituted for the deleted portion, as this also constituted a change order process. This is a two-step process: One change order that reduces the scope of work, and a second order adds other work in place of the originally planned work as to accelerate construction progress and for items not originally included. (Refer to attached Change Order #1).

*The proposed change order includes changes in scope of work as approved by TxDOT for components of accelerating construction progress, adding additional bid items and value engineering. CIP is also requesting Council direction for reasonable pricing for three (3) proposed new bid items as the items proposed by contractor represents 400% or more higher than the TxDOT unit Low Bid Prices. Contractor has proposed pricing for select bid items that City has confirmed pricing is greater than the TxDOT average unit bid pricing and such not agreeable and propose TxDOT's Low Bid Price plus allowable twenty-five (25%) percent as a Field Directive or work as required utilizing Force Account method. A discussion for each component of changes and proposed revised low bid prices provided below for review and corresponding Engineer's Summary:*

### **Accelerated Schedule**

The project proposed an accelerated schedule and review of the RFIs by the contractor for recommended options allowed the Engineer to determine adjustments and omissions to the design plan that could further accelerate the schedule. In all, these items as proposed to save at least 2 weeks at a minimum in construction time as well as save the City **\$326,770.00, resulting deduction amount**. Specific Bid Items as proposed include modifying the pavement section with reduction of materials, as TxDOT concurred the pavement structural and loading integrity would not be impacted by proposed change. Refer to the attached Exhibit A Table 1 for the summation.

Council consideration for staff negotiation: The Contractor has proposed \$44,330 [**\$20.15 per square yard (SY)**] for Item 105-6041, which is added material and the price represents a 600% higher than if utilizing TxDOT's Low Bid Price \$3.64 per SY total value \$8,008. City Staff proposes compensation at \$3.64 per SY plus 25%, to reduce the amount to \$10,010, which would result in a **net deduction \$361,089**

### **Value Engineering**

During discussions of the RFIs, the Engineer performed a value engineering exercise to further determine whether additional time savings viable to benefit the project delivery. A combination for use of different materials and alternative designs resulted in reduction in some bid item quantities and increased

quantities for other existing bid items. Notably, there was one (1) new bid item 540-6002, Metal Beam Guard Fence with Steel Post replacement for the Timber Post material Metal Beam Guard Fence. Refer to the attached Exhibit A Table 2 for the list of existing Texas Department of Transportation (TxDOT) bid items associated with the project, the net change in quantity, the bid price, and the total cost savings from each change. The total amount saved by value engineering totaled **\$101,796.50**.

Council consideration for staff negotiation: The Contractor has proposed \$3,030.90 [*\$101.03 per linear feet (LF)*] for Item 540-6002, which is added material and the price represents a 500% higher than if utilizing TxDOT's Low Bid Price \$23.82 per LF total value should be \$714.60. City Staff proposes compensation at \$23.82 per LF plus 25%, to reduce the amount to \$893.25, which would result in a **net deduction amount \$103,934.15**.

## Omissions

In review and providing responses to RFIs, the Engineer discovered that certain bid items were either omitted or incorrectly calculated on the conformed plan set. The Engineer provided RFI responses with the correct bid item quantities and requested change requests from the contractor for omitted bid items. Refer to the attached Exhibit A Table 3 for a summary of total additional cost to the project based on omissions in an amount of **\$241,250.83**.

Council consideration for staff negotiation: For the omission portion, City Staff and Contractor resolved 89% of added materials items, as only one item for consideration. The Contractor has proposed \$68,797.60 [*\$37.39 per cubic yard (CY)*] for Item 132-6003, which is added material and the price represents a 400% higher than if utilizing TxDOT's Low Bid Price \$9.00 per CY total value should be \$16,560. City Staff proposes compensation at \$9.00 per LF plus 25%, to reduce the amount to \$20,700.00, which would result in a **net addition amount \$193,153.23**.

*In summary if the proposed requests for re-negotiated pricing as approved by City Council, the resulting deductive Change Order amount would be modified to **(\$271,869.92)** in lieu of the proposed **(\$187,315.67)**.*

## Background:

The Pecan Street and FM 685 (Dessau Road) Displaced Left Turn Intersection improvements project consists of Bridge Modification, Signal Design, 4,000 LF of Pavement Marking, Signage and Trail modification. Due to the need to deliver the project in an accelerated pace, the Consultant Engineers, TxDOT, City Staff, and General Contractor coordinated to perform an analysis for delivering the project sooner, as well benefit with cost savings.

## Prior City Council Action

City Council approved a construction contract with Capital Excavation in the amount of \$4,380,548.85 at the March 9, 2021 City Council meeting.

City Council approved a professional services agreement with Pacheco Koch for professional engineering services associated with the Pecan Street Intersection Improvements project at the February 26, 2019 meeting.

City Council approved a professional services supplemental agreement with Pacheco Koch for professional services associated with the Pecan Street at Dessau Road Displaced Left Turn Lane

Project in the amount of \$416,276.55 at the January 28, 2020 meeting.

City Council approved Resolution Number 1762-20-04-28-0719 on April 28, 2020 with the authorizing the City Manager to execute an Agreement for a Local On-System Improvement Project (LOSA) with the Texas Department of Transportation (TxDOT) for roadway work associated with the FM 685 at Pecan Street intersection improvement project.

January 26, 2021, City Council approved a Resolution, rejecting the single bid received on the project.

March 9, 2021, City Council awarded the construction contract for the Pecan Street at FM 685 Intersection Improvement Project to Capital Excavation Co. the lowest responsible bidder of two (2) bids received on February 25, 2021 in the amount of \$4,380,548.85.

**Deadline for City Council Action**

Action is requested on May 25, 2021.

**Funding Expected:** Revenue  Expenditure  N/A

**Budgeted Item:** Yes  No  N/A

**Amount:** (\$187,365.67)

**1295 Form Required?** Yes  No

**Legal Review Required:** N/A  Required  Date Completed: \_\_\_\_\_

**Supporting documents attached:**

- Proposed Change Order No. 1
- Engineer's Change Order Summary
- Project Exhibit
- Draft Presentation

**Recommended Action**

Approve action to authorize the City Manager to execute change order 01 for the FM 1825 (Pecan Street) and FM 685 (Dessau Road) Displaced Left Turn Intersection, Trails, Bridge Modification Signal Design and Pavement Marking Modifications Project, to Capital Excavation, an overall deduction from the contract in the amount of \$187,315,67.