

STATE OF TEXAS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEGUIN, TEXAS RATIFYING THE ACTION TAKEN BY THE CITY MANAGER TO EXECUTE CHANGE ORDER NUMBER ONE TO THE CONTRACT WITH D & S CONCRETE CONTRACTORS IN THE AMOUNT OF \$78,192.68 FOR THE RIO NOGALES DRIVE EXTENSION PROJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, in December 2017, the city council awarded the bid in the amount of \$294,479.23 to D & S Concrete Contractors for the extension of Rio Nogales Drive to IH10; and

WHEREAS, since CH2M Hill was the engineering design firm for TxDOT on the IH10 project and was familiar with the engineering, design and construction of that project they were hired by the City to design the Rio Nogales extension to meet with the new IH10 frontage road; and

WHEREAS, as Rio Nogales Drive construction progressed a flaw in the design plans was discovered such that Ch2M Hill's design would prevent the new concrete channel to adequately tie into the existing downstream channel in order to maintain positive drainage; and

WHEREAS, being intimately familiar with the TxDOT project and the channelization of drainage, this design flaw should not have occurred; and

WHEREAS, CH2M Hill acknowledged that the design was flawed, and corrected the design; and

WHEREAS, due to the flaw in the design D & S had to demolish existing concrete and relay some of the channel so that proper drainage was maintained; and

WHEREAS, this additional work, which is rightfully faulted to CH2M Hill, cost the contractor \$78,192.68, which is embodied in Change Order Number 1; and

WHEREAS, Change Order Number 1 exceeds the 25% legal for change orders by \$4,572.87; and

WHEREAS, since the change order was not due to either the City or the Contractor's fault it would be inequitable to either not pay or reduce the amount to fit the legal requirements of the contract; and

WHEREAS, due to the nature of the design flaw and the legal problem the flaw caused with the contractual price equity demands that the City seek compensation from CH2M Hill; and

WHEREAS, CH2M Hill has been merged with Jacobs, a company whose performance for Seguin, under similar circumstances, has been somewhat problematic; and

WHEREAS, under the circumstances if Jacobs - CH2M Hill is unwilling to pay all, or substantially all, of Change Order Number 1 to D & S Contractors, they should be barred from future bidding and work for the City of Seguin.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Seguin, Texas:

SECTION 1. The City Council of Seguin, Texas finds that the factual statements in the above recitals are true and correct and are hereby adopted as a formal part of this Resolution.

SECTION 2. Change Order Number 1 to the D & S Concrete Contractor's contract for the Rio Nogales Extension Project's approved.

SECTION 3. The actions taken by the City Manager, Douglas G. Faseler, in executing Change Order No. 1 are hereby ratified and approved.

SECTION 4. City staff is directed to take the means necessary to seek repayment from Jacobs-CH2M Hill for the costs incurred by the City due to their design error.

SECTION 3. This Resolution shall be in full force and effect immediately from and after its passage.

PASSED AND APPROVED this 17th day of July 2018.

DON KEIL
MAYOR

ATTEST:

Naomi Manski
City Secretary