

By: Bell of Kaufman

H.B. No. 3485

A BILL TO BE ENTITLED

AN ACT

relating to a contractor's or subcontractor's right to elect not to proceed with additional work under a contract.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 2251, Government Code, is amended by adding Section 2251.0521 to read as follows:

Sec. 2251.0521. UNSIGNED CHANGE ORDER. (a) A contractor or subcontractor may elect not to proceed with additional work directed by a governmental entity if:

(1) the contractor or subcontractor has not received a written, fully executed change order for the governmental entity-directed additional work; and

(2) the aggregate actual or anticipated value of the additional work plus any previous governmental entity-directed additional work for which the contractor or subcontractor has not received a written, fully executed change order exceeds 10 percent of the contractor's or subcontractor's original contract amount.

(b) A contractor or subcontractor who elects not to proceed with additional work as provided by this section is not responsible for damages associated with the election not to proceed.

SECTION 2. Chapter 28, Property Code, is amended by adding Section 28.0091 to read as follows:

Sec. 28.0091. UNSIGNED CHANGE ORDER. (a) A contractor or subcontractor may elect not to proceed with additional work

1 directed by an owner if:

2 (1) the contractor or subcontractor has not received a
3 written, fully executed change order for the owner-directed
4 additional work; and

5 (2) the aggregate actual or anticipated value of the
6 additional work plus any previous owner-directed additional work
7 for which the contractor or subcontractor has not received a
8 written, fully executed change order exceeds 10 percent of the
9 contractor's or subcontractor's original contract amount.

10 (b) A contractor or subcontractor who elects not to proceed
11 with additional work as provided by this section is not responsible
12 for damages associated with the election not to proceed.

13 SECTION 3. Section 2251.0521, Government Code, and Section
14 28.0091, Property Code, as added by this Act, apply only to a
15 contract entered into on or after the effective date of this Act.

16 SECTION 4. This Act takes effect September 1, 2023.