

**RESOLUTION NO. 2020-**

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama, and the Mayor that the contract with Garber Construction Company, Inc. for Construction Services for the Sandra Moon Community Complex located at 7901 Big Cove Road, Huntsville, Alabama, approved and executed by the City of Huntsville, Huntsville, Alabama on the 13<sup>th</sup> day of September, 2018, be and the same is hereby amended as is reflected on Change Order Number 5 attached hereto.

**BE IT FURTHER RESOLVED** that the total contract amount be hereby is amended from Four Million Nine Hundred Nine Thousand One Hundred Ninety Two Dollars and 66/100s (\$4,909,192.66) to Four Million Eight Hundred Ninety Five Thousand One Hundred Seventy Eight Dollars and 47/100s (\$4,895,178.47) on behalf of the City of Huntsville, a municipal corporation in the State of Alabama to, including this Change Order Number 4 in the amount of Negative Fourteen Thousand Fourteen Dollars and 19/100s (-\$14,014.19), said Change Order is substantially in word and figures as attached hereto and identified as “Change Order Number 5 to the contract between City of Huntsville and Garber Construction Company Inc. for the Sandra Moon Community Complex consisting of five pages (5) together with the signature of the City Council President and an executed copy of said document being permanently kept on file in the office of the City Clerk Treasurer of the City of Huntsville, Alabama.

**ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President of the City Council of  
The City of Huntsville, Alabama

**ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor of the City of Huntsville,  
Alabama

# "EXHIBIT B"

## CITY OF HUNTSVILLE, ALABAMA

### CONTRACT CHANGE ORDER

CHANGE ORDER NO. 5

DATE: 4/27/2020 PROJECT: Sandra Moon Community Complex Phase I  
TO: Garber Construction Company, Inc.

**TERMS:** You are hereby authorized, subject to the provisions of your contract for this project, to make the following changes thereto in accordance with the attached Final Change Order Request and supporting documents and to

**FURNISH** the necessary labor, materials and equipment to CMR 32, Credit for replacement of sod for seed/straw as shown on attached drawing <\$7,644.29>; CMR 36-R1, Credit for 400 lf chain link fencing and balance of rock allowance at light poles <\$7,996.80>; and CMR 37, additional cost for Four (4) emergency lights \$1,626.90.

TOTAL ADDITION OR DEDUCTION TO CONTRACT PRICE (NOTE: Numbers in parentheses are deductions).

For this Change \$ (14,014.19)	\$ (14,014.19)
ORIGINAL CONTRACT PRICE	\$ 4,657,000.00
Net total previous Change Orders	\$ 252,192.66
Previous revised Contract Price	\$ 4,909,192.66
This Change Order No. <u>5</u> DEDUCT	\$ (14,014.19)
Revised Contract Price this date	\$ 4,895,178.47

Extension of time resulting from this Change Order 0 (Indicate no. of calendar days).

The amount of this Change Order will be the responsibility of Garber Construction Company, Inc.

This contract modification constitutes full and mutual accord and satisfaction for all time and all cost related to this change. By acceptance of this Contract Modification, the Contractor hereby agrees that the modification represents an equitable adjustment to the Contract, and further, agrees to waive all right to file any future claims or changes arising out of or as a result of this change, or the accumulation of executed Contract Modifications on this Contract.

The Contractor and Owner(s) hereby agree to the terms of this Change Order as contained herein.

#### CONSENT OF SURETY

The Ohio Casualty Insurance Company

(Company)

By Mike LeCroy  
(Authorized Representative) **Mike LeCroy, Attorney-In-Fact**

**RECOMMENDED**

By DAVID M. ELLIS-TIAA  
(Design Engineer or Architect)

By [Signature]  
(COH Facilities Project Manager)

By \_\_\_\_\_  
(Director of General Services)

#### CONTRACTING PARTIES

Garber Construction  
(Contractor)

By [Signature]  
(Authorized Representative)

**CITY OF HUNTSVILLE, ALABAMA**

By \_\_\_\_\_  
(Its Mayor)

By \_\_\_\_\_  
(President of City Council)

Date \_\_\_\_\_



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company  
The Ohio Casualty Insurance Company  
West American Insurance Company

Certificate No: **8198102-975188**

## POWER OF ATTORNEY

**KNOWN ALL PERSONS BY THESE PRESENTS:** That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Jerry LeCroy; Mike LeCroy

all of the city of Birmingham state of AL each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

**IN WITNESS WHEREOF,** this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 4th day of December, 2018.



Liberty Mutual Insurance Company  
The Ohio Casualty Insurance Company  
West American Insurance Company

By:

*David M. Carey*  
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss  
County of MONTGOMERY

On this 4th day of December, 2018 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

**IN WITNESS WHEREOF,** I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Teresa Pastella, Notary Public  
Upper Merion Twp., Montgomery County  
My Commission Expires March 28, 2021  
Member: Pennsylvania Association of Notaries

By:

*Teresa Pastella*  
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

### ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

### ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

**Certificate of Designation** – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

**Authorization** – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

**IN TESTIMONY WHEREOF,** I have hereunto set my hand and affixed the seals of said Companies this 27th day of April, 2020.



By:

*Renee C. Llewellyn*  
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

"EXHIBIT A"

UPDATED 10/07/2015

CONTRACT MODIFICATION REQUEST

DATE: 10/14/2019 CMR NUMBER: 32  
PROJECT: Sandra Moon Community Complex  
OWNER: City of Huntsville  
ARCHITECT: EDT-THA  
CONTRACTOR: Garber Construction Company, Inc.  
DESCRIPTION OF CHANGE (BY GENERAL CONTRACTOR):  
Delete new sod in areas as shown on drawing attached and add new seed & straw

1. TOTAL COST (CONTRACTOR TO ATTACH DETAILED BREAKDOWN): <\$7,644.29>  
2. TIME EXTENSION IN CALENDAR DAYS (ATTACH JUSTIFICATION): 0  
THIS CHANGE AFFECTS THE CRITICAL PATH OF THE PROJECT  
3. SUBMITTED BY:  
A. CONTRACTOR Jerry Holland  
B. ARCHITECT David McClendon

\*\*\*BOTTOM SECTION TO BE FILLED OUT BY CITY OF HUNTSVILLE REPRESENTATIVE\*\*\*

4. INITIATED BY: Contractor  
5. OWNER'S CLASSIFICATION:  
CONTRACT MODIFICATION DUE TO:  
☐ VALUE ENGINEERING OR COST REDUCTION  
☒ CHANGES IN PROJECT SCOPE OF WORK  
☐ OWNER REQUESTED UPGRADE  
☐ UNFORESEEN CONDITIONS  
☐ TECHNICAL COORDINATION  
6. THIS CHANGE IS SUBMITTED FOR REVIEW AND APPROVAL AND IS CLASSIFIED AS ONE OF THE FOLLOWING TYPES:  
☒ MINOR CHANGE OF A MONETARY VALUE AND NOT REQUIRED FOR COMPETITIVE BIDDING.  
☐ CHANGES TO THE ORIGINAL CONTRACT NECESSITATED BY UNFORESEEABLE CIRCUMSTANCES ARISING DURING THE COURSE OF THE WORK.  
☐ EMERGENCIES ARISING DURING THE COURSE OF THE WORK.  
☐ CHANGE FOR ALTERNATES PROVIDED FOR IN THE ORIGINAL BIDDING WHERE THERE IS NO DIFFERENCE IN PRICE OF THE CHANGE FROM THE ORIGINAL BEST BID ON THE ALTERNATE.  
☐ CHANGE NOT CONTEMPLATED WHEN THE PLANS AND SPECIFICATIONS WERE PREPARED AND THE PROJECT WAS BID AND WHICH IS IN THE PUBLIC INTEREST AND DOES NOT EXCEED 10% OF THE CONTRACT PRICE.  
☐ CHANGE NOT CONTEMPLATED WHEN THE PLANS AND SPECIFICATIONS WERE PREPARED AND THE PROJECT WAS BID AND WHICH IS IN THE PUBLIC INTEREST AND EXCEEDS 10% OF THE CONTRACT PRICE AND CONSTITUTES EXTRAORDINARY CIRCUMSTANCES.  
7. I HAVE REVIEWED, UNDERSTAND AND RECOMMEND THIS CHANGE WITH NO EXCEPTIONS:  
A. CoH ESTIMATOR  
B. CoH PROJECT MANAGER  
C. DEPARTMENT HEAD (CUSTOMER)  
D. CoH FACILITIES PROJ MANAGER  
E. DEPARTMENT HEAD (GS)

\*\*\*THIS EXECUTED FORM DOES NOT CONSTITUTE A CHANGE ORDER. THIS DOCUMENT IS AN ACKNOWLEDGEMENT BY THESE DESIGNATED REPRESENTATIVES THAT THEY RECOMMEND TO THE CITY OF HUNTSVILLE'S CITY COUNCIL TO APPROVE THE CHANGE IN CONTRACT SUM, SCOPE AND OR TIME STATED HEREIN. THE CITY OF HUNTSVILLE'S CITY COUNCIL MUST APPROVE ALL CHANGE ORDERS.\*\*\*

"EXHIBIT A"

UPDATED 10/07/2015

CONTRACT MODIFICATION REQUEST

DATE: 12/17/2019 CMR NUMBER: 36-R1  
PROJECT: Sandra Moon Community Complex  
OWNER: City of Huntsville  
ARCHITECT: EDT-THA  
CONTRACTOR: Garber Construction Company, Inc.  
DESCRIPTION OF CHANGE (BY GENERAL CONTRACTOR):  
Credits for Chain Link Fencing & Balance of the Rock Allowance at the Light Poles  
Note: Fencing footage is 400 lf, Rock allowance was not used and is a full return.

1. TOTAL COST (CONTRACTOR TO ATTACH DETAILED BREAKDOWN): <\$7,996.80>  
2. TIME EXTENSION IN CALENDAR DAYS (ATTACH JUSTIFICATION): 0  
THIS CHANGE AFFECTS THE CRITICAL PATH OF THE PROJECT

3. SUBMITTED BY:  
A. CONTRACTOR  
B. ARCHITECT Jerry Holland  
David McClendon  
Chris Edwards, Registered Professional Engineer, EDT-THA  
Architecture, Civil/Project Architect, Chris David McClendon  
I am approving this document  
2019.12.17 12:25:56 PM CST

\*\*\*BOTTOM SECTION TO BE FILLED OUT BY CITY OF HUNTSVILLE REPRESENTATIVE\*\*\*

4. INITIATED BY: City of Huntsville  
5. OWNER'S CLASSIFICATION:  
CONTRACT MODIFICATION DUE TO:  
☐ VALUE ENGINEERING OR COST REDUCTION  
☒ CHANGES IN PROJECT SCOPE OF WORK  
☐ OWNER REQUESTED UPGRADE  
☐ UNFORESEEN CONDITIONS  
☐ TECHNICAL COORDINATION  
6. THIS CHANGE IS SUBMITTED FOR REVIEW AND APPROVAL AND IS CLASSIFIED AS ONE OF THE FOLLOWING TYPES:  
☒ MINOR CHANGE OF A MONETARY VALUE AND NOT REQUIRED FOR COMPETITIVE BIDDING.  
☐ CHANGES TO THE ORIGINAL CONTRACT NECESSITATED BY UNFORESEEABLE CIRCUMSTANCES ARISING DURING THE COURSE OF THE WORK.  
☐ EMERGENCIES ARISING DURING THE COURSE OF THE WORK.  
☐ CHANGE FOR ALTERNATES PROVIDED FOR IN THE ORIGINAL BIDDING WHERE THERE IS NO DIFFERENCE IN PRICE OF THE CHANGE FROM THE ORIGINAL BEST BID ON THE ALTERNATE.  
☐ CHANGE NOT CONTEMPLATED WHEN THE PLANS AND SPECIFICATIONS WERE PREPARED AND THE PROJECT WAS BID AND WHICH IS IN THE PUBLIC INTEREST AND DOES NOT EXCEED 10% OF THE CONTRACT PRICE.  
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7. I HAVE REVIEWED, UNDERSTAND AND RECOMMEND THIS CHANGE WITH NO EXCEPTIONS:  
A. CoH ESTIMATOR  
B. CoH PROJECT MANAGER  
C. DEPARTMENT HEAD (CUSTOMER)  
D. CoH FACILITIES PROJ MANAGER  
E. DEPARTMENT HEAD (GS)

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**"EXHIBIT A"**

UPDATED 10/07/2015

**CONTRACT MODIFICATION REQUEST**

DATE: 11/15/2019 CMR NUMBER: 37  
PROJECT: Sandra Moon Community Complex  
OWNER: City of Huntsville  
ARCHITECT: EDT-THA  
CONTRACTOR: Garber Construction Company, Inc.  
DESCRIPTION OF CHANGE (BY GENERAL CONTRACTOR):  
Add Four (4) Emergency Lights per the City Of Huntsville Inspection Department

1. TOTAL COST (CONTRACTOR TO ATTACH DETAILED BREAKDOWN): \$1,626.90  
2. TIME EXTENSION IN CALENDAR DAYS (ATTACH JUSTIFICATION): 0  
THIS CHANGE AFFECTS THE CRITICAL PATH OF THE PROJECT  
3. SUBMITTED BY:  
A. CONTRACTOR  
B. ARCHITECT Jerry Holland  
David McClendon

**\*\*\*BOTTOM SECTION TO BE FILLED OUT BY CITY OF HUNTSVILLE REPRESENTATIVE\*\*\***

4. INITIATED BY: COH Inspection Dept  
5. OWNER'S CLASSIFICATION:  
CONTRACT MODIFICATION DUE TO:  
☐ VALUE ENGINEERING OR COST REDUCTION  
☐ CHANGES IN PROJECT SCOPE OF WORK  
☐ OWNER REQUESTED UPGRADE  
☐ UNFORESEEN CONDITIONS  
☒ TECHNICAL COORDINATION  
6. THIS CHANGE IS SUBMITTED FOR REVIEW AND APPROVAL AND IS CLASSIFIED AS ONE OF THE FOLLOWING TYPES:  
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7. I HAVE REVIEWED, UNDERSTAND AND RECOMMEND THIS CHANGE WITH NO EXCEPTIONS:  
A. CoH ESTIMATOR  
B. CoH PROJECT MANAGER  
C. DEPARTMENT HEAD (CUSTOMER)  
D. CoH FACILITIES PROJ MANAGER  
E. DEPARTMENT HEAD (GS)

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