

RESOLUTION NO. 2021-

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, and the Mayor that the contract with Bailey Harris Construction Company, Inc. for the Construction Services for the Holmes Avenue Parking Deck located at 178 Greene Street, Huntsville, Alabama, approved and executed by the City of Huntsville, Huntsville, Alabama on the 21st day of November 2019, be and the same is hereby amended as is reflected on Change Order Number 4 and FINAL attached hereto.

BE IT FURTHER RESOLVED that the total contract amount be hereby is amended from – Fifteen Million One Hundred Twenty Nine Thousand Seven Hundred Fifty Dollars and 86/100s (\$15,129,750.86) on behalf of the City of Huntsville, a municipal corporation in the State of Alabama to Fifteen Million One Hundred Thirty Six Thousand Three Hundred Ninety Three Dollars Dollars and 67/100s (\$15,136,393.67), including this Change Order Number 4 and FINAL in the amount Six Thousand Six Hundred Forty Two Dollars and 81/100s (\$6,642.81), said Change Order is substantially in word and figures as attached hereto and identified as “Change Order Number 4 and FINAL to the contract between City of Huntsville and Bailey Harris Construction Company, Inc. for the Holmes Avenue Parking Deck 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 _____, 2021.

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

ADOPTED this the _____ day of _____, 2021.

Mayor of the City of Huntsville,
Alabama

"EXHIBIT B"

CITY OF HUNTSVILLE, ALABAMA

CONTRACT CHANGE ORDER

CHANGE ORDER NO. 004

DATE: August 10, 2021

PROJECT: Holmes Avenue Parking Deck

TO: Bailey-Harris Construction Company, Incorporated

(Contractor)

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 Change Order Request and supporting documents and to

FURNISH the necessary labor, materials and equipment to complete the items in the attached Contract Modification

Requests #10 and #27 (Description of work to be done or changes to be made)

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

For this Change \$ <u>6,642.81</u>	\$ 6,642.81
ORIGINAL CONTRACT PRICE	\$ 14,381,796.00
Net total previous Change Orders	\$ 747,954.86
Previous revised Contract Price	\$ 15,129,750.86
This Change Order No. <u>004</u> <u>ADD</u> (DEDUCT)	\$ + <u>6,642.81</u>
Revised Contract Price this date	\$ <u>15,136,393.67</u>

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

The amount of this Change Order will be the responsibility of City of Huntsville, Alabama.

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

Western Surety Company

(Company)

By T. G. Moorer
(Authorized Representative) **Thomas G. Moorer, Attorney-In-Fact**

RECOMMENDED

By H. Paul Matheny
(Design Engineer or Architect) **H. Paul Matheny, AIA (MGA+I)**

By Chris O'Neil
(COH Facilities Project Manager)

By Red Ewitt, Jr.
(Director of General Services)

CONTRACTING PARTIES

Bailey-Harris Construction Company, Incorporated
(Contractor)

By Russell A. Harris
(Authorized Representative) **Russell A. Harris, President**
CITY OF HUNTSVILLE, ALABAMA

By _____
(Its Mayor)

By _____
(President of City Council)

Date _____

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Christopher Muscolino, Mary Isbell, Thomas G Moorer, Individually

of Birmingham, AL, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 29th day of June, 2021.



WESTERN SURETY COMPANY

Paul T. Bruflat

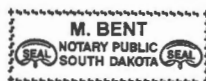
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 29th day of June, 2021, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



M. Bent

M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 10th day of August, 2021.



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

"EXHIBIT A"

UPDATED 10/07/2015

CONTRACT MODIFICATION REQUEST

DATE: 9/28/2020 CMR NUMBER: 010
PROJECT: Holmes Ave Parking Deck
OWNER: City of Huntsville, AL
ARCHITECT: Matheny Goldman Architecture + Interiors
Bailey Harris Construction Co. Inc.

Additional added disconnects at Elevator. This was approved last December but never submitted as part of an Owner Change Order

1. TOTAL COST (CONTRACTOR TO ATTACH DETAILED BREAKDOWN): \$ 3,713.79
2. TIME EXTENSION IN CALENDAR DAYS (ATTACH JUSTIFICATION): 0 Calendar Days
☐ THIS CHANGE AFFECTS THE CRITICAL PATH OF THE PROJECT
3. SUBMITTED BY:
A. CONTRACTOR Brad Pierson, Sr. Project Manager
B. ARCHITECT Paul Matheny, Architect

BOTTOM SECTION TO BE FILLED OUT BY CITY OF HUNTSVILLE REPRESENTATIVE

4. INITIATED BY: Inspections
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: 8/9/2021 CMR NUMBER: 27
PROJECT: Holmes Ave Parking Deck
OWNER: City of Huntsville, AL
ARCHITECT: Matheny Goldmon Architecture + Interiors
CONTRACTOR: Bailey Harris Construction Co. Inc.
DESCRIPTION OF CHANGE (BY GENERAL CONTRACTOR):
Reconciliation from shortage in Owner Change Order 3: See attached Spreadsheet from MGA

1. TOTAL COST (CONTRACTOR TO ATTACH DETAILED BREAKDOWN): \$2,929.022. TIME EXTENSION IN CALENDAR DAYS (ATTACH JUSTIFICATION): 0☒ THIS CHANGE AFFECTS THE CRITICAL PATH OF THE PROJECT

3. SUBMITTED BY:

A. CONTRACTOR

Tom Birchfield, Sr. Project Manager

B. ARCHITECT

Paul Matheny, Architect*****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)

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