



Huntsville, Alabama

305 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 2/13/2025

File ID: TMP-5163

Department: General Services

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to execute Change Order No. 4 and Final between the City of Huntsville and Garber Construction Company, Inc. for construction services for the Huntsville Aquatic Center Phase 4.

Resolution No.

Finance Information:

Account Number: 4013-14-00000-523040-00000000

City Cost Amount: \$4,950.00

Total Cost: \$6,639,256.71

Special Circumstances:

Grant Funded: NO

Grant Title - CFDA or granting Agency: N/A

Resolution #: N/A

Location: (list below)

Address:

District: District 1 District 2 District 3 District 4 District 5

Additional Comments:

Change Order No. 4 and Final to include the following change; Fulcrum for diving board; Extend previous Contract date by 120 days

RESOLUTION NO. 25-_____

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 Huntsville Aquatic Center Phase 4, located at 2213 Drake Avenue, Huntsville, Alabama, approved and executed by the City of Huntsville, Huntsville, Alabama on the 11th day of May 2023, be and the same is hereby amended as is reflected on Change Order Number 3 and Final attached hereto.

BE IT FURTHER RESOLVED that the total contract amount be hereby is amended from Six Million Six Hundred Thirty-Four Thousand Three Hundred Six Dollars and 71/100s (\$6,634,306.71), to Six Million Six Hundred Thirty-Nine Thousand Two Hundred Fifty-Six Dollars and 71/100s (\$6,639,256.71) on behalf of the City of Huntsville, a municipal corporation in the State of Alabama to including this Change Order Number 4 and Final in the amount of Four Thousand Nine Hundred Fifty Dollars and 00/100s (\$4,950.00), 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 Garber Construction Company, Inc.. for the construction services at the Huntsville Aquatic Center Phase 4 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 13th day of February, 2025.

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

APPROVED this the 13th day of February, 2025.

Mayor of the City of Huntsville, Alabama

"EXHIBIT B"

CITY OF HUNTSVILLE, ALABAMA

CONTRACT CHANGE ORDER

CHANGER ORDER NO: 4

DATE: 1/23/2025 PROJECT: Huntsville Aquatic Center Phase 4

TO: Garber Construction Company, Inc.
(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 CMR 37 Fulcrum for Diving Board

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

For this Change	\$ 4,950.00	\$ 4,950.00
ORIGINAL CONTRACT PRICE		\$ 6,464,000.00
Net total previous Change Orders		\$ 170,306.71
Previous revised Contract Price		\$ 6,634,306.71
This Change Order No. <u>4</u> ADD		\$ 4,950.00
Revised Contract Price this date		\$ 6,639,256.71

Extension of time resulting from this Change Order 120 (Indicate no. of calendar days).

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

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 further 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 [Signature]
(Design Engineer or Architect)

By [Signature]
(GOH Facilities Project Manager)

By [Signature]
(Director of General Services)

CONTRACTING PARTIES

Garber Construction Company, Inc.
(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. 8211407-975188

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 22nd day of February 2024



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

By: David M. Carey

David M. Carey Assistant Secretary

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

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 22nd day of February 2024 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 Plymouth Meeting, Pennsylvania on the day and year first above written



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
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 28th day of January 2025



By: Renee C. Llewellyn

Renee C. Llewellyn, Assistant Secretary

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

"EXHIBIT A"

UPDATED 10/07/2015

CONTRACT MODIFICATION REQUEST

DATE: 1/23/2024 CMR NUMBER: 37


PROJECT: Huntsville Aquatics Center Phase 4

OWNER: City of Huntsville

ARCHITECT: Nola / Van Peurse Architect

CONTRACTOR: Garber Construction Company, Inc.

DESCRIPTION OF CHANGE (BY GENERAL CONTRACTOR):
Add a Durafirm Fulcrum to the new 3 meter diving platform.

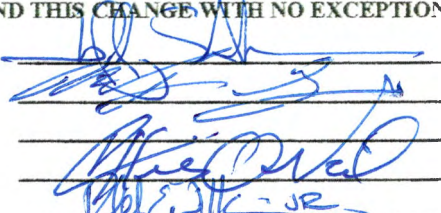
1. TOTAL COST (CONTRACTOR TO ATTACH DETAILED BREAKDOWN): \$4,950
2. TIME EXTENSION IN CALENDAR DAYS (ATTACH JUSTIFICATION): 120
 THIS CHANGE AFFECTS THE CRITICAL PATH OF THE PROJECT
3. SUBMITTED BY:
- A. CONTRACTOR
 - B. ARCHITECT
- 

BOTTOM SECTION TO BE FILLED OUT BY CITY OF HUNTSVILLE REPRESENTATIVE

4. INITIATED BY: Contract

5. OWNER'S CLASSIFICATION:
- CONTRACT MODIFICATION DUE TO
- VALUE ENGINEERING OR COST REDUCTION
 - X 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:
- X 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.

Garber Construction Co. CHANGE ORDER SUMMARY SHEET

PROJECT: Huntsville Aquatics Center Phase 4

CHANGE ORDER #: 37 Fulcrum
1/23/2024

DESCRIPTION	MATERIAL COST				LABOR COST			EQUIPMENT			SUBCONTRACT	TOTAL
	QTY	UNIT	UNIT COST	SUBTOTAL	HOURS	RATE/HR	SUBTOTAL	DAYS	UNIT COST	SUBTOTAL	SUBTOTAL	
Burleson Pools							-			-	4500.00	-
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SUBTOTAL A				-			-			-	4,500.00	4,500.00
SALES TAX				-			-			-		-
LABOR BURDEN				-			-			-		-
SUB BOND				-			-			-		-
SUBTOTAL B				-			-			-	4,500.00	4,500.00
OVERHEAD & PROFIT			10.0%									450.00
TOTAL AMOUNT FOR CMR												4,950.00

Burleson Pool
CHANGE ORDER SUMMARY SHEET

PROJECT: Huntsville Aquatics Center Phase 4

CHANGE ORDER #: 37 Fulcrum

1/23/2024

DESCRIPTION	MATERIAL COST				LABOR COST			EQUIPMENT			SUBCONTRACT	TOTAL
	QTY	UNIT	UNIT COST	SUBTOTAL	HOURS	RATE/HR	SUBTOTAL	DAYS	UNIT COST	SUBTOTAL	SUBTOTAL	
Provide Durafirm Fulcrum	1	ea	4091.00	4,091.00			-			-		4,091.00
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SUBTOTAL A				4,091.00			-			-	-	4,091.00
SALES TAX				-			-			-		-
LABOR BURDEN				-			-			-		-
SUB BOND				-			-			-	-	-
SUBTOTAL B				4,091.00			-			-	-	4,091.00
OVERHEAD & PROFIT			10.0%	-			-			-		409.00
TOTAL AMOUNT FOR CMR							-			-		4,500.00