



# Huntsville, Alabama

305 Fountain Circle  
Huntsville, AL 35801

## Cover Memo

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**Meeting Type:** City Council Regular Meeting **Meeting Date:** 10/10/2024

**File ID:** TMP-4675

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**Department:** General Services

**Subject:**

**Type of Action:** Approval/Action

Resolution authorizing the Mayor to execute Change Order No. 2 and Final between the City of Huntsville and Wiregrass Construction Company, Inc. for the Huntsville Ice Sports Center Parking Lot Improvements.

Resolution No.

**Finance Information:**

**Account Number:** 4013-14-00000-521022-000000000

**City Cost Amount:** \$-10,227.00

**Total Cost:** \$1,953,494.05

**Special Circumstances:**

**Grant Funded:** NONE

**Grant Title - CFDA or granting Agency:** N/A

**Resolution #:** N/A

**Location: (list below)**

**Address:** 3185 Leeman Ferry

**District:** District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☒ District 5 ☐

**Additional Comments:**

Change Order No. 2 and Final consists of a credit for the cost of work not corrected by Wiregrass Construction Company, Inc. at the end of the year-end warranty period.



**RESOLUTION NO. 24**

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama, and the Mayor that the contract with Wiregrass Construction Company, Inc. for Construction Services for the Huntsville Ice Sports Center Parking Lot Improvements, Huntsville, Alabama, approved and executed by the City of Huntsville, Alabama on the 12<sup>th</sup> day of May 2022, be and the same is hereby amended as is reflected on Change Order No. 2 and Final attached hereto.

**BE IT FURTHER RESOLVED** that the total contract amount be hereby is amended from One Million Nine Hundred Sixty-Three Thousand Seven Hundred Twenty-One Dollars and 05/100s (\$1,963,721.05) to One Million Nine Hundred Fifty-Three Thousand Four Hundred Ninety-Four Dollars and 05/100s (\$1,953,494.05) on behalf of the City of Huntsville, a municipal corporation in the State of Alabama to, including this Change Order No. 2 and Final in the amount of Negative Ten Thousand Two Hundred Twenty-Seven Dollars and 00/100s (-\$10,227.00), said Change Order is substantially in word and figures as attached hereto and identified as “Change Order No. 2 and Final to the contract between the City of Huntsville and Wiregrass Construction Company, Inc., for the Huntsville Ice Sports Center Parking Lot Improvements,” consisting of five (5) pages 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 of the City of Huntsville, Alabama.

**ADOPTED** this the 10th day of October, 2024.

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

**APPROVED** this the 10th day of October, 2024.

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Mayor of the City of Huntsville,  
Alabama

**"EXHIBIT B"**

CITY OF HUNTSVILLE, ALABAMA

**CONTRACT CHANGE ORDER**

**Change Order No. 02**

Date: September 4, 2024 Project: Huntsville Ice Sports Center Parking Lot Improvements  
To: Wiregrass 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 to

**FURNISH** the necessary labor, materials and equipment to  
See attached CMR 7.

(Description of work to be done or changes to be made)

**TOTAL ADDITION OR DEDUCTION TO CONTRACT PRICE (Note: Numbers in parenthesis are deductions.)**

For this Change Order	\$	- 10,227.00
Original Contract Price	\$	1,916,000.00
Net Total Previous Change Orders	\$	47,721.05
Previous Revised Contract Price	\$	1,963,721.05
This Change Order No. <u>02</u> ADD      X DEDUCT	\$	- 10,227.00
Revised Contract Price This Date	\$	1,953,494.05

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: 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**

Western Surety Company and Liberty Mutual Insurance Company

(Company)

By: Anna Childress  
(Authorized Representative) Anna Childress, Attorney-in-Fact

**CONTRACTING PARTIES**

Wiregrass Construction Company, Inc.  
(Contractor)

By: [Signature]  
(Authorized Representative)

**RECOMMENDED**

By: [Signature]  
(Design Engineer or Architect)

By: [Signature]  
(COH Facilities Project Manager)

By: [Signature]  
(Director of General Services)

**CITY OF HUNTSVILLE, ALABAMA**

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

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

Date: October 10, 2024

The parties agree that any form of electronic signature, including but not limited to signatures via facsimile, scanning, or electronic mail, may substitute for the original signature and shall have the same legal effect as the original signature.

# 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

Mark W Edwards II, Jeffrey M Wilson, William M Smith, Robert R Freel, Alisa B Ferris, Anna Childress, Richard H Mitchell, Individually, of Birmingham, AL R E Daniels, Individually, of Pensacola, FL  
Robert M Verdin, Individually, of Covington, LA  
Robert R Davis, Individually, of Atlanta, GA

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 Authorizing By-Laws and Resolutions printed at the bottom of this page, 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 9th day of November, 2023.



WESTERN SURETY COMPANY

Larry Kasten, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 9th day of November, 2023, before me personally came Larry Kasten, 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 a 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, 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 and Resolutions of the corporation printed below this certificate are still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 19th day of September, 2024.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

### Authorizing By-Laws and Resolutions

#### 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.

This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above Bylaw to execute power of attorneys on behalf of Western Surety Company.

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 27th day of April, 2022:

“RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company.”

Go to [www.cnasurety.com](http://www.cnasurety.com) > Owner / Oblige Services > Validate Bond Coverage, if you want to verify bond authenticity.



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: **8205020-016032**

## 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, Alisa B. Ferris; Anna Childress; Jeffrey M. Wilson; Mark W. Edwards II; Richard H. Mitchell; Robert R. Freel; Sam Audia; William M. Smith

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 11th day of March, 2021.



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 11th day of March, 2021 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 - 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 19th day of September, 2024.



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.

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

Huntsville ISC Parking Lot Renovation  
9/4/2024

<b>Wiregrass Construction Company, Inc.</b>	
ORIGINAL CONTRACT AMOUNT	\$ 1,916,000.00
CHANGE ORDER NO. 1	\$ 47,721.05
CHANGE ORDER NO. 2	\$ (10,227.00)
<b>REVISED CONTRACT AMOUNT</b>	<b>\$ 1,953,494.05</b>
<b>CHANGE ORDER NO 2 SUMMARY</b>	
CMR NO. 7 - Credit for Repair Work to be Completed by the City	\$ (10,227.00)
<b>TOTAL CHANGE ORDER NO 2</b>	<b>\$ (10,227.00)</b>
<b>REVISED CONTRACT AMOUNT</b>	<b>\$ 1,953,494.05</b>



# "EXHIBIT A"

UPDATED 10/07/2015

## CONTRACT MODIFICATION REQUEST

DATE: 8/27/2024 CMR NUMBER: 7

PROJECT: HSV Ice Sports Center Parking Lot Improvements

OWNER: City of Huntsville

ARCHITECT: ARCSPACE Studio

CONTRACTOR: Wiregrass Construction Company, Inc.

DESCRIPTION OF CHANGE (BY GENERAL CONTRACTOR):  
Credit for the cost of work not corrected by Wiregrass at the end of the year-end warranty period.

1. TOTAL COST (CONTRACTOR TO ATTACH DETAILED BREAKDOWN): -\$10,227.00
2. TIME EXTENSION IN CALENDAR DAYS (ATTACH JUSTIFICATION): N/A
- ☐ 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: 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.
- ☐ 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.\*\*\*