

AGREEMENT AND MUTUAL  
RELEASE OF ALL CLAIMS

This Agreement and Mutual Release of All Claims ("Agreement") is made this 6<sup>th</sup> day of September, 2016, by and between the City of West Lafayette ("City") and R L Turner Corporation (R L Turner).

The parties acknowledge and agree as follows:

1. In July, 2012, the City advertised bids for the North Side Regional Lift Station and Force Main Improvements ("Project").
2. On August 21, 2012, R L Turner submitted a bid with a total bid price of One Million Seven Hundred Ninety-Three Thousand Dollars and 00/100 (\$2,793,000.00) ("Original Contract Sum"). Through its Board of Public Works and Safety, the City accepted R L Turner's bid.
3. On November 7, 2012, the parties entered into a contract in which R L Turner agreed to furnish all labor, materials, equipment, supplies and services for the construction of a new lift station, standby generator, electrical building, force main and other associated work.
4. To date, the City has paid R L Turner Two Million One Hundred Forty-Three Thousand Four Hundred Fifty-One and 93/100 Dollars (\$2,143,451.93) for the Project.
5. The City is holding retainage in an escrow account that has a principal balance of Two Hundred Thirty-Eight Thousand One Hundred Sixty-One and 33/100 Dollars (\$238,161.33).
6. Uncertainty has arisen as to whether the Original Contract Sum should be reduced to take into account the following: (1) liquidated damages for a delay in substantial completion by as many as 271 days; (2) liquidated damages for a delay in final completion by as many as 233 days; (3) resident project representative inspection services beyond completion dates; (4) failure of R L Turner to submit record drawings to the City; (5) a decrease in what is referred to in the Contract as "Contract Item #2 12" Force Main Piping"; and (6) a decrease in what is referred to in the Contract as "Contract Item #2 8" Force Main Piping."
7. Further uncertainty has arisen as to whether the City owes R L Turner progress payments and final payment; whether the City owes R L Turner interest for unpaid progress payments and final payment; whether the Project was delayed for reasons outside of R L Turner's control; and whether the City owes R L Turner for its overhead expenses due to the delay.

8. To fully and finally resolve the uncertainty that has arisen among the parties, the parties agree as follows:
  - a. The City shall pay R L Turner the amount of Four Hundred Sixty Thousand and 00/100 Dollars (\$460,000) (“Settlement Amount”).
  - b. All sums now held in the retainage escrow account, including all accrued interest thereon, shall be released to R L Turner. The parties shall sign a release for the bank to disburse these funds. The principal that is released to R L Turner from retainage escrow account is a credit against the Settlement Amount.
9. All sums specified will be paid no later than September 23, 2016.
10. All terms of this Agreement are subject to ratification by the Board of Public Works and Safety of the City of West Lafayette.
11. **Full and Final Release of All Claims by all parties.** In consideration of the payment and receipt of the sums specified above, it is now agreed that each of party (City and R L Turner) hereby releases, acquits and forever discharges each other party, all parent, subsidiary and affiliated corporations of each party, and their employees, directors, shareholders, officers, agents, representatives, and insurers, from any and all actions, causes of action, claims, damages, claims for property damages, and all other claims or causes of actions and liabilities of whatsoever kind and nature, known and unknown, which the undersigned now have, claim or assert, or which the undersigned might or could hereafter have, claim or assert against every other undersigned as a result of, growing out of, or in any manner connected with the Project.

The parties hereby declare that they fully understand the terms of this Agreement and that they voluntarily pay and accept said sums for the purpose of making a full and final compromise, adjustment, and settlement of all claims between the above-mentioned parties. The parties further warrant that no promise or inducement has been offered other than said consideration and that this Agreement is executed without reliance upon any other statement or representation by the individuals released, or their representatives concerning the Project.

[Remainder of page intentionally left blank; signature page to follow]

CITY OF WEST LAFAYETTE, INDIANA

Dated: \_\_\_\_\_

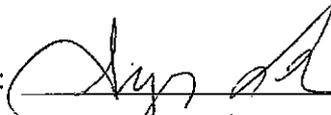
By: \_\_\_\_\_  
John R. Dennis, Mayor

Attest:

\_\_\_\_\_  
Sana G. Booker, Clerk

R L TURNER CORPORATION

Dated: 09/06/10

By:  \_\_\_\_\_  
Its: President