

RESOLUTION NO. 2021 - 08

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND PERFORM UNDER THE TERMS OF A CERTAIN AGREEMENT; AND FOR OTHER PURPOSES

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEARCY, TO-WIT:

WHEREAS, the City of Searcy has been presented a certain agreement associated with the operations of the City of Searcy concerning street construction in the City of Searcy:

A. R.L. Persons Construction, Inc.;

(the "Agreement") a copy of which has been submitted to the Searcy City Council; and

WHEREAS, the City of Searcy wishes to approve the execution of, ratify the terms of and perform under the conditions contained in, the Agreement.

NOW, THEREFORE, be it resolved by the City Council of the City of Searcy, Arkansas, to-wit:

Section 1. That the Searcy City Council approves and ratifies the terms, conditions, and obligations contained within the Agreement.

Section 2. That the Searcy City Council authorizes and directs the Mayor and City Clerk to make, execute, and perform under the terms of, the Agreement.

Section 3. That the Mayor is authorized to take all actions determined to be necessary, in the sole and exclusive determination of the Mayor, in the performance of all obligations, duties and responsibilities contained within the Agreement.

PASSED AND ADOPTED this 9th day of March, 2021.

/s/ Kyle Osborne
Mayor of Searcy

ATTEST:

/s/ Jerry Morris
City Clerk

PARTIAL MUTUAL RELEASE

For and in consideration of the sum of \$20,000.00, the receipt of which is hereby acknowledged, R. L. Persons Construction, Inc. and its agents, officers, directors, employees, successors and assigns (Collectively "RLP") hereby release, acquit and forever discharge the City of Searcy, Arkansas (City) and its agents, officers, directors, employees, successors and assigns of and from all claims, demands, actions, causes of action, debts, suits, promises, and sums of money whatsoever, whether known or unknown, existing or potential, which RLP, or any of them collectively, individually, or derivatively, ever had, now have, or may hereafter have for, upon or in any way connected, either directly or indirectly, with RLP's claim for additional compensation (Additional Compensation) due to unforeseen subsurface conditions on the construction project known as "Roadway Improvements/Country Club Road Searcy, Arkansas" (Project). This Release does not release City from liability for sums otherwise due RLP under the Project construction contract and/or any change order to the Project Contract.

And for and in consideration of RLP's partial release of claims as stated above and other good and valuable consideration City and its agents, officers, employees, successors and assigns, hereby release, acquit and forever discharge RLP and its sureties, insurers, agents, officers, directors, employees, successors and assigns of and from all claims, demands, actions, causes of action, debts, suits, promises, and sums of money whatsoever, whether known or unknown, existing or potential which City ever had, now has, or may hereafter have for, upon or in

any way connected with the Additional Compensation. This Partial Release does not release any claim with respect to any further obligation of RLP in connection with any RLP warranty specified in the Project Contract. RLP shall remain bound to perform any warranty work in accordance with the Project Contract between RLP and City.

This Release may not be orally altered, modified or changed.

The Undersigned parties declare that no promise or inducement has been made or offered for this Partial Release (Release), except as herein set forth; that this Release is executed without reliance upon any statements or representations by or on behalf of any person, entity or party hereto or their representatives concerning the nature or extent of loss, injuries or damage or of the probable or possible consequences thereof; that this Release is intended as a full and complete discharge from any further liability on account of any and all damages, known or unknown, direct or consequential, arising from or related to the above-described Agreement, Project, or work. The Undersigned further declare that the amount of consideration has been fixed in accordance with the above; no mistake of fact with respect to the nature or extent of said claims, or causes of action which they may have, the extent of the consequences of any liability alleged on the part of the Undersigned of said loss, injuries or damage shall invalidate or void this Release; and that said consideration is voluntarily accepted for the purpose of making a full, complete and final compromise, adjustment and settlement of any and all claims, demands or causes of action, disputed or otherwise, whether known, unknown, or hereinafter arising and

howsoever occurring.

The Undersigned Parties understand that this settlement is a compromise of doubtful and disputed claims; that this settlement is not to be construed as an admission of liability on the part of the persons, firms, companies and corporations hereby released, by whom liability is expressly denied.

This Release recites the entire agreement between the Parties identified herein and the terms of this Release are contractual and not a mere recital. The Undersigned further state that they have read carefully the foregoing, that they have obtained advice of counsel with respect to the same, and they know the contents thereof, and they have signed the same of their own free act and deed.

IN WITNESS WHEREOF, R. L. Persons Construction, Inc. and The City of Searcy, Arkansas, by and through their duly authorized agents have caused these presents to be executed with the intent of being legally bound this _____ day of _____, 2021.

R. L. Persons Construction, Inc.

BY: _____

TITLE: _____

Subscribed and sworn to before me on this _____ day of _____, 2021

NOTARY PUBLIC
(SEAL)

MY COMMISSION EXPIRES:

CITY OF SEARCY, ARKANSAS

BY: _____

TITLE: _____

Subscribed and sworn to before me on this _____ day of
_____, 2021

NOTARY PUBLIC
(SEAL)

MY COMMISSION EXPIRES:
