

DEVELOPER'S AGREEMENT
CONTRACT FOR UTILITY IMPROVEMENTS

THIS AGREEMENT, made this _____ day of _____ 2010, by and between:

GenCap Mt. Pleasant, LLC, hereinafter referred to as the "GC" and the Racine Water Utility, Racine County, Wisconsin, hereinafter referred to as the "Utility", whose offices are located at 800 Center Street, Room 227, Racine, Wisconsin 53403.

WITNESSETH:

WHEREAS, GC is required to construct and install local water facilities, as defined in the City Municipal Code and the Retail Water Service Agreement dated May 24, 2004.

NOW, THEREFORE, in consideration of said approval, GC agrees as follows:

ARTICLE I: GENERAL CONDITIONS

A. Engaging Qualified Contractors

GC agrees to engage contractors for all work included in this Agreement who are qualified to perform such work, and for local water facilities shall engage only those contractors and engineers approved for such work by the Racine Water Utility.

B. Work According to Approved Plan and Specifications

GC agrees to use materials and make the various installations, in accordance with the approved plans and specifications, made a part hereof and incorporated by reference, including those standard specifications for local water facilities, in accordance with plans and specifications approved by the Racine Water Utility.

C. Payment of Review and Inspection Fees

1. GC and Utility agree that there will be no charges assessed by Utility beyond the fees invoiced to Utility for professional inspection and construction review services, including preparation of as-built drawings and pressure testing of the water facilities.

2. Those costs and fees that originate from non-City of Racine employees, such as private engineering firms, shall be the actual costs as billed to the Racine Water Utility by the private firm (GC consultant) as shown on the invoice amount..
3. Said fees are estimated by the Utility not to exceed \$_7,500_ in connection with this Agreement, and the remainder shall be payable within thirty (30) days of each invoice rendered by the Racine Water Utility to GC. Unless otherwise stated here, the Utility will invoice GC at monthly intervals.
4. The foregoing fee estimate represents Racine Water Utility's best judgment, but the parties agree it is not a binding quotation. If Racine Water Utility becomes aware that the estimate is substantially in error, it shall immediately notify GC so that an addendum to the Agreement may be negotiated.

ARTICLE II: DEDICATION AND GUARANTEE

A. Dedication and Acceptance of Public Facilities

1. GC agrees that all dedications to the public of lands, easements and improvements covered by the accompanying Agreement are made without conditions, and shall provide evidence that such dedications, grants of easements or other property interests are unencumbered, excepting for any encumbrances specifically permitted with respect to local water facilities by the Racine Water Utility.
2. GC further agrees that no improvements may be offered to the Utility for acceptance of the dedications unless all review and inspection fees identified under Article I - Paragraph C, are paid in full, and that all contractors who have performed work hereunder have received payment in full for their materials and services, certified in the form of waivers, copies of which shall be presented to the Racine Water Utility including as-built drawings of installed water facilities. The Racine Water Utility would prefer AutoCAD electronic as-built drawings to incorporate into the Utility GIS.

B. Guarantee

GC hereby agrees to guarantee all work performed under this Agreement, for a period of one (1) year from the date of final acceptance with respect to local water facilities, to the Racine Water Utility. Such guarantee shall be against defects in materials or workmanship providing GC uses granular backfill for filling trenches and for infrastructure installation. If such a defect should appear, GC agrees to make the required replacement or acceptable repairs at its own expense. The expense included total and complete restoration of any disturbed surface or component of the improvements to the standard provided in the plans and specifications, regardless of improvements on lands where the repair or replacement is required. If GC uses other than granular backfill, the guarantee will be for a period of three (3) years from the date of final acceptance by the Racine Water Utility. In the event that

valve boxes and/or stop boxes are damaged by grading contractors, GC shall restore damaged infrastructure to like new condition.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

GenCap Mt. Pleasant, LLC

CITY OF RACINE

By: _____

By: _____

Title: _____

Title: Mayor, John Dickert

By: _____

ATTEST:

By: _____

Title: _____

Janice Johnson-Martin
Title: City Clerk

APPROVED AS TO FORM:

Robert K. Weber, City Attorney

(OTHER SIGNATURES)

Racine Water Utility
Keith Haas, General Manager