

Contract Routing Form

ROUTING: Routine

printed on: 08/19/2010

Contract between: Great Neighborhoods South, LLC  
and Dept. or Division: Engineering Division  
Name/Phone Number:

Project: Secret Places at Siggelkow Preserve - PH 6

Contract No.: 2251  
Enactment No.: RES-10-00624  
Dollar Amount: 0.00

File No.: 18892  
Enactment Date: 07/07/2010

(Please DATE before routing)

Signatures Required	Date Received	Date Signed
City Clerk	8-19-10	8-19-10
Director of Civil Rights	8-20-10	8-30-10 <i>MD</i>
Risk Manager	9-1-10	9/1/10 <i>RSV</i>
Comptroller	9-1-10	9-2-10 <i>RW</i>
City Attorney	1174 9-02-10	9-02-10
Mayor	<i>9-7-10</i>	9-7-10

Please return signed Contracts to the City Clerk's Office  
Room 103, City-County Building for filing.

Original + 1 Copies

08/19/2010 08:32:15 enjap - Janet Dailey - 261-9688

Dis Rights: OK / N/A / Problem - Hold  
 Prev Wage: AA / Agency / No.  
 Contract Value: No City Funds  
 AA Plan: Approved  
 Amendment / Addendum # \_\_\_\_\_  
 Type: POS / Dwp / Sbdv / Gov't /  
 Grant / PWT / Loan / Agrmt



# City of Madison

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

## Master

**File Number: 18892**

<b>File ID:</b> 18892	<b>File Type:</b> Resolution	<b>Status:</b> Passed
<b>Version:</b> 1	<b>Reference:</b>	<b>Controlling Body:</b> BOARD OF PUBLIC WORKS
<b>Lead Referral:</b> BOARD OF PUBLIC WORKS	<b>Cost:</b>	<b>File Created Date:</b> 06/15/2010
<b>File Name:</b> Approving plans and specifications for public improvements required to serve Phase 6 of the Subdivision known as Secret Places at Siggelkow Preserve and authorizing construction to be undertaken by the Developer, Private Contract No. 2251 and rescinding R		<b>Final Action:</b> 07/06/2010

**Title:** Approving plans and specifications for public improvements required to serve Phase 6 of the Subdivision known as Secret Places at Siggelkow Preserve and authorizing construction to be undertaken by the Developer, Private Contract No. 2251 and rescinding Resolution No. RES-10-00417, ID No. 18127. (16th AD)

**Notes:** Janet D.

**Sponsors:** BOARD OF PUBLIC WORKS

**Attachments:**

**Author:** Rob Phillips, City Engineer

**Entered by:** mhacker@cityofmadison.com

**CC Agenda Date:** 07/06/2010

**Enactment Date:** 07/07/2010

**Enactment Number:** RES-10-00624

**Hearing Date:**

**Published Date:**

### Approval History

Version	Date	Approver	Action
1	06/17/2010	Craig Franklin	Approve

### History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	BOARD OF PUBLIC WORKS	06/16/2010	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER				Pass

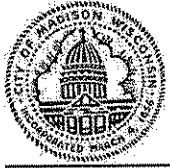
**Action Text:** Janet Dailey, City Engineering, presented plans and specifications.

A motion was made by Ald. Skidmore, seconded by Pietz, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by voice vote/other.

6. Resolution No. RES-10-00417, ID No. 18127 is hereby rescinded.

**Fiscal Note**

Private Contract, No City Funds Required.



City of Madison

Legislative File ID 18892

display  
original  
version

print

email

Type: Resolution Status: Passed  
 Enactment Date: 7/7/2010 Enactment No.: RES-10-00624  
 Title: Approving plans and specifications for public improvements required to serve Phase 6 of the Subdivision known as Secret Places at Siggelkow Preserve and authorizing construction to be undertaken by the Developer, Private Contract No. 2251 and rescinding Resolution No. RES-10-00417, ID No. 18127. (16th AD)  
 Controlling Body: BOARD OF PUBLIC WORKS  
 Introduced: 6/15/2010 Version: 1  
 Final Action: 7/6/2010 Contact: mhacker@cityofmadison.com  
 Name: Approving plans and specifications for public improvements required to serve Phase 6 of the Subdivision known as Secret Places at Siggelkow Preserve and authorizing construction to be undertaken by the Developer, Private Contract No. 2251 and rescinding R  
 Extra Date 1:  
 Requester: BOARD OF PUBLIC WORKS  
 Sponsors: BOARD OF PUBLIC WORKS  
 Attachments: Legislative File Text

**Legislative History**

Date	Acting Body	Action Taken	Motion
6/16/2010	BOARD OF PUBLIC WORKS	Janet Dailey, City Engineering, presented plans and specifications. A motion was made by Ald. Skidmore, seconded by Pietz, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by voice vote/other.	Pass
7/6/2010	Notes: COMMON COUNCIL	A motion was made by Ald. Cnare, seconded by Ald. Verveer, to Adopt. The motion passed by voice vote/other.	Pass
	Notes:		

**Approvals**

Approver	Date	Approval Status
Craig Franklin	6/22/2010	Approved

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City of Madison

Legislative File Number 18892 (version 1)

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**Title**

Approving plans and specifications for public improvements required to serve Phase 6 of the Subdivision known as Secret Places at Siggelkow Preserve and authorizing construction to be undertaken by the Developer, Private Contract No. 2251 and rescinding Resolution No. RES-10-00417, ID No. 18127. (16<sup>th</sup> AD)

**Body**

WHEREAS, the developer, Great Neighborhoods South, LLC., has received the City of Madison's approval to create the subdivision known as Secret Places at Siggelkow Preserve; and,

WHEREAS, Section 16.23(9) of the Madison General Ordinances requires the developer to install the public improvements necessary to serve the subdivision; and

WHEREAS, Section 16.23(9) of the Madison General Ordinances allows the developer to install the improvements in construction phases provided that a Declaration of Conditions, Covenants, and Restrictions is executed for those lots included in future construction phases until such time as surety is provided to the City to guarantee the installation of the public improvements to serve said lots; and,

WHEREAS, the developer proposes to provide public improvements to serve Lots 214-218, 231-242, OL 9 and OL 10 as Phase 6.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Mayor and City Clerk are hereby authorized and directed to execute a Contract For the Construction of Public Improvements That Will be Accepted by the City of Madison For Secret Places at Siggelkow Preserve, Phase 6, with Great Neighborhoods South, LLC. and authorize a Release of the Declaration of Conditions, Covenants, and Restrictions on the lots for which public improvements are to be provided.
2. That the plans and specifications for the public improvements necessary to serve this phase of the subdivision are hereby approved.
3. That the developer is authorized to construct the public improvements in accordance with the terms of the Contract For the Construction of Public Improvements That Will be Accepted by the City of Madison at the sole cost of the developer.
4. That the Mayor and City Clerk are hereby authorized to sign and grant easements or right-of-way release or procurement documents, maintenance agreements or encroachment agreements, as necessary and grant or accept dedication of lands and/or easements from/to the Developer/Owner for public improvements located outside of existing public fee title or easement right-of-ways.

5. The Common Council is approved to accept ownership of the improvements in the Maintenance Area if a maintenance agreement is executed and recorded as a condition of this contract.
6. Resolution No. RES-10-00417, ID No. 18127 is hereby rescinded.

**Fiscal Note**

Private Contract, No City Funds Required.

**CONTRACT FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS  
THAT WILL BE ACCEPTED BY THE CITY OF MADISON  
SECRET PLACES AT SIGGELKOW PRESERVE – PHASE 6  
CONTRACT NO. 2251  
PROJECT NO. 53B2251**

**MADISON, WISCONSIN**

THIS CONTRACT for the Construction of Public Improvements that will be Accepted by the City (hereafter "Contract" or "Agreement") is made and entered into by Great Neighborhoods South, LLC of Madison, Wisconsin, ("Developer"), and the City of Madison, ("City"), a Wisconsin municipal corporation located in Dane County, Wisconsin. This Agreement is effective as of the date signed by the Mayor on behalf of the City.

**RECITALS**

1. WHEREAS, the Developer has received approval from the City for subdivision plat known as Secret Places at Siggelkow Preserve, a copy of which is incorporated by reference.
2. WHEREAS, Section 16.23(9) of the Madison General Ordinances (MGO) requires that provisions be made for the installation of public sanitary sewer facilities, storm sewer and drainage system, water mains and water service laterals, the grading of public and private lands, erosion and stormwater runoff control, street improvements, street signs and pavement marking to serve the development. Section 16.23(9) also permits the installation of said public improvements by construction phases.
3. WHEREAS, the Developer proposes to complete the installation of the required public improvements to serve 214-218, inclusive, 231-242, inclusive, OL 9 & OL 10, hereinafter "Construction Phase 6". Subsequent construction phases will be defined in scope by future *Contracts For The Construction Of Public Improvements That Will Be Accepted By The City*.



**CONTRACT FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS THAT WILL BE ACCEPTED BY THE CITY:**

NOW, THEREFORE, the Developer and the City hereby agree as follows:

**SECTION I - GENERAL CONDITIONS**

**A. Prequalification of Contractors and Prevailing Wage Rates**

The Developer agrees to engage Contractors for all construction included in this agreement who shall be listed as qualified for such work by the Director of Public Works and who shall comply with every requirement of Section 23.01, M.G.O. and Section 66.0903, Wisconsin State Statutes (Prevailing Wage Rate). For the current Prevailing Wage Rate please go to: <http://www.cityofmadison.com/Business/PW/documents/PrevailingWageRates.pdf>.

The Developer shall furnish the City Engineer with the names of all Contractors and their subcontractors, with the classification of the work they perform, prior to any work beginning.

This Contract is subject to Section 66.0903 of the State Statutes regarding prevailing wage rates. By executing this Contract, the Developer agrees to ensure that its contractor and all subcontractors performing work under this Contract shall comply with the requirements of Section 66.0903. More specifically, the Developer shall ensure that the contractor and all subcontractors file certified payroll records with the Department of Workforce Development (DWD) on a monthly basis and in a format that meets the DWD reporting requirements. Certified payroll reports must be filed with DWD by the end of the first week following the month in which the work was conducted. If DWD finds a contractor has violated the prevailing wage law, DWD shall assess liquidated damages of 100% of the wages owed to employees.

The certified payroll reports may only be filed electronically. The method for fulfilling the statutory electronic filing requirements is found on the DWD website:

[http://dwd.wisconsin.gov/er/prevailing\\_wage\\_rate/default.htm](http://dwd.wisconsin.gov/er/prevailing_wage_rate/default.htm). This certified payroll reporting requirement is distinct and separate from any other independent reporting requirements of the City of Madison.

**B. Nondiscrimination and Affirmative Action**

(The term "Contractor" used in this paragraph shall be synonymous with the term "Developer" used in the remainder of this Agreement, and the term "Contract" shall be synonymous with the term "Agreement.")

**1. Nondiscrimination.** In the performance of the services under this Agreement the Contractor agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, disability, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, or student status. Contractor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex or national origin.

**2. The following section applies to all contractors employing fifteen (15) or more employees: (MGO 39.02(9)(c).)**

The Contractor agrees that, within thirty (30) days after the effective date of this contract, Contractor will provide to the City of Madison Department of Civil Rights (the "Department"), certain workforce utilization statistics, using a form provided by the City.

If the contract is still in effect, or if the City enters into a new agreement with the Contractor, within one year after the date on which the form was required to be provided, the Contractor will provide updated workforce information using a second form, also to be furnished by the City. The second form will be submitted to the Department no later than one year after the date on which the first form was required to be provided.

The Contractor further agrees that, for at least twelve (12) months after the effective date of this contract, it will notify the Department of each of its job openings at facilities in Dane County for which applicants not already employees of the Contractor are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines. The Contractor agrees to interview and consider candidates referred by the Department if the candidate meets the minimum qualification standards established by the Contractor, and if the referral is timely. A referral is timely if it is received by the Contractor on or before the date stated in the notice.

**3. Articles of Agreement for Affirmative Action, Release of Payment:**

The "ARTICLES OF AGREEMENT" below shall apply to this Agreement.

**RELEASE OF PAYMENT:** (MGO 39.02(9)(e)1.b.) (Applies only to agreements that include payment to the contractor by the City.) All contractors are required to have on file with the Department, an Affirmative Action plan meeting the requirements of Article IV below, prior to release of payment.

**ARTICLES OF AGREEMENT**

**Article I**

The contractor shall take affirmative action in accordance with the provisions of this contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex or national origin and that the employer shall provide harassment-free work environment for the realization of the potential of each employee. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship insofar as it is within the control of the contractor. The contractor agrees to post in conspicuous places available to employees and applicants notices to be provided by the City setting out the provisions of the nondiscrimination clauses in this contract.

**Article II**

The contractor shall in all solicitations or advertisements for employees placed by or on behalf of the contractors state that all qualified or qualifiable applicants will be employed without regard to race, religion, color, age, marital status, disability, sex or national origin.

**Article III**

The contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the City advising the labor union or workers representative of the contractor's equal employment opportunity and affirmative action commitments. Such notices shall be posted in conspicuous places available to employees and applicants for employment.

#### Article IV

(This article applies only to non-public works contracts).

The contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison including the contract compliance requirements. The contractor warrants and certifies that, of the following two paragraphs, paragraph A or B is true (check one):

A. It has prepared and has on file an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR part 60-2, as established by 43 FR 51400 November 3, 1978, including appendices required by City of Madison Ordinances or it has prepared and has on file a model affirmative action plan approved by the Madison Common Council.

B. Within thirty (30) days after the effective date of this contract, it will complete an affirmative action plan that meets the format requirements of Federal Revised order No. 4, 41 CFR Part 60-2, as established by 43 FR 51400, November 3, 1978, including appendices required by City of Madison ordinance or within thirty (30) days after the effective date of this contract, it will complete a model affirmative action plan approved by the Madison Common Council.

#### Article V

(This article applies only to public works contracts).

The contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City, including the contract compliance requirements. The contractor agrees to submit the model affirmative action plan for public works contractors in a form approved by the Director of Affirmative Action.

#### Article VI

The contractor will maintain records as required by Section 39.02(9)(f) of the Madison General Ordinances and will provide the City's Department of Affirmative Action with access to such records and to persons who have relevant and necessary information, as provided in Section 39.02(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law.

#### Article VII

In the event of the contractor's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action Provisions of this contract or Sections 39.03 and 39.02 of the Madison General Ordinances, it is agreed that the City at its option may do any or all of the following:

1. Cancel, terminate or suspend this contract in whole or in part.
2. Declare the contractor ineligible for further City contracts until the Affirmative Action requirements are met.
3. Recover on behalf of the City from the prime contractor 0.5 percent of the contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the contract price, or five thousand dollars (\$5,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime contractor from recovering the amount of such damage from the noncomplying subcontractor.

#### Article VIII

The contractor shall include the above provisions of this contract in every subcontract so that such provisions will be binding upon each subcontractor. The contractor shall take such action with respect to any subcontractor as necessary to enforce such provisions, including sanctions provided for noncompliance. (This article applies to public works contracts only).

## Article IX

The contractor shall allow the maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this contract. (In federally funded contracts the terms "DBE, MBE and WBE" shall be substituted for the term "small business" in this article).

### C. Preconstruction Meeting

The Developer further agrees to coordinate a preconstruction meeting with the City Construction Engineer.

### D. Construction Plans

The Developer further agrees to work from Construction Plans that have been approved by the Common Council. The plan shall be prepared by the Developer or by the City Engineer from data submitted by the Developer, as determined by the City Engineer. The Developer shall note that Plan Commission approval of the project does not constitute approval of the improvements within the public right-of-way. Separate approval is required. The Plan shall be signed by the City Engineer.

### E. City Approval of Starting Dates

The Developer further agrees that no work shall be scheduled for the above-mentioned improvements without the City Engineer's and Water Utility Manager's approval of starting date and schedule.

### F. Notification of Work

The Developer further agrees to notify the City Construction Engineer two (2) working days prior to beginning work or resuming work in the right-of-way.

### G. Change Order to Work

The Developer further agrees that the City shall not be responsible for any costs or changes related to this project except those specifically enumerated and agreed in this or other written agreements between the City and the Developer.

### H. Acceptance of Work

The Developer further agrees that the acceptance of public improvements is conditioned on completion of the following:

1. That all outstanding engineering and inspection charges indicated herein have been paid in full.
2. That affidavits and lien waivers are received by the City indicating that the Contractor has been paid in full for all work and materials furnished under this contract.
3. That a complete breakdown of costs incurred by the Developer is provided to the City for the following public improvement components in the public right of way and within public easements:
  - a. Sanitary sewer and sanitary sewer laterals. Acceptance of the work requires televising of all sewer mains at the Developer's expense.
  - b. Water main and laterals.
  - c. Storm sewer and storm water management facilities. Acceptance of the work requires televising of all sewer mains at the Developer's expense
  - d. Streets including sidewalks, pavement marking, signage and street plantings.
  - e. Street lighting.
  - f. Other items of work within the Public Right of Way.

4. That the water main is tested and a bacteriologically safe sample is obtained by testing at the local health department. The Water Utility will flush the main and obtain the samples required for this testing.

The maintenance of specified public improvement components becomes the responsibility of the City upon acceptance of those components by the Common Council

I. Time of Completion

All work specified herein shall be completed within eighteen (18) months from the date of this agreement by the Developer.

J. Indemnification and Insurance

To the fullest extent permitted by law, the Developer shall indemnify, defend and hold harmless the City, its officials, officers, agents, employees, and consultants from and against all suits, claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court costs) arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense: (a) is attributable to bodily injury, sickness, disease, death, personal injury, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom and, (b) is caused in whole or in part by any negligent act or omission of the Developer, its Contractor, their agents, or any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by law regardless of the negligence of any such party.

In any and all claims against the City, its officials, officers, agents, employees or consultants, by any employee of the Developer, its Contractor, or any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, the indemnification obligation hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or other person or organization under workers' compensation, disability benefit, or other employee benefit acts, statutes or laws.

The obligations of the Developer under this paragraph J. shall not extend to the liability of the City's consultants or consultants' agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, and designs or specifications.

The Developer shall procure and maintain during the life of this contract, Commercial General Liability insurance including, but not limited to, bodily injury, property damage, personal injury, and products and completed operations (unless determined to be inapplicable by the Risk Manager) in an amount not less than \$1,000,000 per occurrence. This policy shall also provide contractual liability in the same amount. Developer's coverage shall be primary and list the City of Madison, its officers, officials, agents and employees as additional insureds. Such insurance is to be placed with insurers who have an A.M. Best rating of no less than A- (A minus) and a Financial Category rating of no less than VII. The Developer shall provide the City with certificate(s) of insurance showing the type, amount, class of operations covered, effective dates, and expiration dates of required policies prior to commencing work under this Contract. Developer shall provide the certificate(s) to the City's representative upon execution of the contract, or sooner, for approval by the City Risk Manager. The Developer shall provide copies of additional insured endorsements or insurance policies, if requested by the City Risk Manager. The Developer and/or insurer shall give the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to any of the above-required policies during the term of this Contract.

The Developer shall require all Contractors engaged in the construction of this project to maintain the insurance required by Section 107.4 of the *City of Madison Standard Specification for Public Works Construction*, and to submit a current Certificate of Insurance with the City Engineer prior to the commencement of any work under this contract.

K. Guarantee of the Work

The Developer agrees to guarantee all work performed under this contract, except tree and shrubbery planting, for a period of one year from the date of final acceptance by the City Common Council, against defects in workmanship or materials. If any defect should appear during the guarantee period, the Developer agrees to make required replacement or acceptable repairs of the defective work at his own expense. This expense includes total and complete restoration of any disturbed surface or component of the improvement to the standard provided in the plans and specifications, regardless of improvements on lands where the repairs or replacement is required.

The Developer agrees to guarantee all tree and shrubbery planting for a period of two years from the date of final acceptance by the City Common Council, in accordance with Section 209.6 of the *City of Madison Standard Specifications for Public Works Construction*.

L. Specifications for Improvement

The Developer agrees to install the improvements specified in this Agreement in accordance with the plans and specifications approved by the Common Council and in accordance with the *City of Madison Standard Specifications for Public Works Construction* and the following conditions:

1. Grading, Erosion Control, Barricades, and Traffic Control:
  - a. The Developer shall undertake the grading, erosion control and barricade requirements for streets whose right-of-way are contained within the development to subbase grades established by the City Engineer and approved by the Common Council, said grading shall include the grading of the terraces to a sidewalk grade established by the City Engineer and in accordance with the Madison Standard Typical Street Sections and Standard Detail Drawings of the Specifications.
  - b. The Developer shall grade vision clearance triangles on corner lots to a maximum height of two (2) feet above the proposed curb elevation within the triangular space formed by two intersecting street lines or their projections and a line adjoining said points on said street lines located a minimum of twenty-five (25) feet from such street intersections. No structures, screenings, plantings, or embankments of any kind are allowed within this triangular area if they violate Section 28.04(12)(e), M.G.O.
  - c. The Developer shall furnish, install barricades, signs and other traffic control devices as specified by the City Traffic Engineer at all street ends.
  - d. The Developer shall prepare a traffic control plan, which shall be submitted for approval to the Traffic Engineering Division. Work shall not begin until the traffic control plan is approved by the Traffic Engineering Division and a copy of the approved traffic control plan has been submitted to the Construction Engineer. The Developer shall furnish, install and maintain during construction, barricades, signs, pavement markings and other traffic control devices as specified on the approved traffic control plan or as directed by the City Traffic Engineer.
  - e. The Developer shall obtain an Erosion Control and Stormwater Management Permit for the erosion and runoff control as required by Chapter 37, M.G.O. prior to the grading, utility installation or other land disturbance activity. A permit shall be obtained for each construction phase. The Developer shall adhere to conditions specified on the permit and grants the right-of-entry on the development to designated personnel of the City to inspect and monitor compliance with this Agreement.

Prior to acceptance, the Developer shall submit a post construction erosion control plan to the City. This plan shall address erosion control in the interim between the completion of the public works improvements specified in this

contract and ultimate development. The Developer shall install those facilities and structures required by the post development erosion control plan.

- f. The Developer shall not disturb, grade, fill or store materials on public property or property required to be dedicated, unless specifically approved by the City's representative. The Developer shall clean up, topsoil, seed and mulch any public property, which is disturbed. The Developer shall grade, topsoil, seed and mulch all public or dedicated frontage at a 4:1 slope to meet existing grade, unless it is specified otherwise or permitted by the City's representative. The Developer shall provide and install any erosion control measures required on public property or property to be dedicated due to the grading specified in this contract.

2. Sanitary Sewer Facilities:

- a. The Developer shall install sanitary sewer mains, sanitary sewer access structures and laterals to serve all lots within the development. No construction shall commence until plans and specifications have been approved by the Madison Metropolitan Sewerage District and the State of Wisconsin Department of Natural Resources, in addition to the other approvals required by this Agreement.
- b. In accordance with Wisconsin State Statute 182.0175(2r), any person who, after December 31, 2006, installs a nonconductive sewer lateral shall also install a locating wire or other equally effective means for marking the location of the lateral. The City of Madison has chosen compliance with this Statute by the using an Electronic Ball Marker System. Therefore, the Developer shall install the 3M™ Electronic Marker System (EMS) 4" extended Range 5' Ball Markers-Wastewater (model #1404-XR) for each sanitary sewer lateral. The City shall supply all the required markers to the Developer or his Contractor (generally requires 2 per lateral) and the Contractor shall install them per the manufacturer's requirements or as directed by the City Engineer. Costs of supplying the ball markers shall be billed to the Developer in accordance with the billing terms of this agreement. If the Developer wishes to use alternate means of complying with this State Statute, it must be approved in advance by the City Engineer.
- c. For all public sanitary sewer that is installed beyond the street construction limits of this development phase, the Developer shall be required to construct an interim crushed stone access road of sufficient width and depth to accommodate sewer cleaning, maintenance, and televising equipment, as required by the City Engineer. These requirements may also include a 'locked' barricade installation that allows entry by authorized sewer equipment and personnel. All costs associated with these interim improvements are the responsibility of the Developer.

3. Storm Sewer and Public Drainage System:

- a. The Developer shall install a public drainage system including all storm sewer mains, mainline structures, inlets, lateral pipes, greenways and, culverts in accordance with the plans approved by the City Engineer unless other arrangements have been approved by the City Engineer as detailed in the supplemental conditions. Any field changes by the City Engineer shall become part of the approved plan and shall be incorporated at the Developer's expense.
- b. In accordance with Wisconsin State Statute 182.0175(2r), any person who, after December 31, 2006, installs a nonconductive sewer lateral shall also install a locating wire or other equally effective means for marking the location of the lateral. The City of Madison has chosen compliance with this Statute by the using an Electronic Ball Marker System. Therefore, the Developer shall install the 3M™ Electronic Marker System (EMS) 4" extended Range 5' Ball Markers-Wastewater (model #1404-XR) for each storm sewer lateral. The Storm Sewer

Electronic Markers shall be provided where non-metallic storm sewer pipe is installed in the public Right of Way, and where no access or inlet structures are available on the surface to allow the pipe to be visually located. City shall supply all the required markers to the Developer or his Contractor (generally requires 2 per lateral) and the Contractor shall install them per the manufacturer's requirements or as directed by the City Engineer. Costs of supplying the ball markers shall be billed to the Developer in accordance with the billing terms of this agreement. If the Developer wishes to use alternate means of complying with this State Statute, it must be approved in advance by the City Engineer.

- c. Prior to the issuance of building permits, the Developer shall submit a master storm water drainage plan to the City Engineering Division for review and approval, in accordance with the conditions of Plat approval.

The master storm water drainage plan shall be submitted to City Engineering in digital format. The digital plan shall contain, at a minimum, lot corner elevations on an overlay of the recorded plat map of the development. Other information, as needed, such as contours and cross sections may be provided in either digital or hard copy. The digital record shall be provided using the state plane coordinate system - NAD 27.

No building permits shall be issued prior to City Engineering's approval of this plan.

4. Water Mains and Water Service Laterals:

The Developer shall install water mains, including pipe, hydrants, tees, valves, crosses and related appurtenances and water service laterals to serve all lots within the development and as required by the plans and specifications prepared by the Water Utility and approved by the State of Wisconsin Department of Natural Resources, in addition to the other approvals required by this Agreement. All water service laterals two (2) inches in diameter and smaller shall be completed with a curb stop and box. All water service laterals three (3) inches and larger shall be completed with a controlling valve box. All materials used shall conform to *City of Madison Standard Specifications For Public Works Construction*. The City Water Utility will furnish all pipes and fittings over ten (10) inches in diameter and the Developer will furnish all other required materials.

5. Streets and Sidewalks:

The Developer shall install Madison Standard Concrete, Curb and Gutter and other types of curb and gutter as specified, Madison Standard Sidewalk with Madison Standard Crosswalks, and the specified Standard Pavement on all streets within the development.

6. Runoff Control Structures:

The Developer shall install the runoff control structures including related storm sewers required by the Erosion Control and Stormwater Management Permit and the plans and specifications approved by the City Engineer.

7. Section Corners:

All PLSS section and witness corners (including center of sections) situated within the subdivision, or within planned improvement areas for the development thereof, must be included in final survey data transmittal. Any PLSS section and/or witness corners, including center of sections, must be perpetuated by the Developer's contracted Professional Land Surveyor. In the event any PLSS section corner, including center of sections, are disturbed or destroyed as a result of any form of construction included in the private contract and private construction associated with this subdivision Development, the PLSS restoration must be completed by the Developer's contracted Professional Land Surveyor, at the sole cost of the Developer. New PLSS tie sheets must be filed by

the contracted Professional Land Surveyor in accordance with Wisconsin Administrative Code AE-7.08.

8. Signs:

The Developer shall pay all costs associated with the installation of all traffic signs and structures as required by the plans and specifications prepared by the City Traffic Engineering Division, including City furnished materials, labor, inspection and engineering. The Developer following the provisions in the Standard Specifications for Public Works Construction may install temporary street name signs.

9. Pavement Markings:

The Developer shall pay all costs associated with the installation of all pavement markings as required by the plans and specifications prepared by the City Traffic Engineering Division, including City furnished materials, labor, inspection, and engineering.

10. Street Lights:

The Developer shall pay all costs associated with the installation of street lighting, conduit and structures as required by the plans and specifications prepared by the City Traffic Engineering Division including City furnished materials, labor, inspection and engineering. The Developer shall install street lighting facilities per the City-prepared plans and specifications.

M. Fees Payable Prior to Construction

The Developer agrees to pay the City the following charges prior to construction beginning:

1. All outstanding area charges levied against lots within the development by the City and the Madison Metropolitan Sewerage District for the construction of downstream sanitary sewer facilities.
2. An amount determined by the City Water Utility to reflect the cost to the Water Utility of furnishing water mains and fittings whose diameter is in excess of ten (10) inches. Said amount shall be based upon the cost of furnishing ten (10) inch diameter pipe and fittings, irrespective of the size of the pipe actually furnished by the Water Utility, it being the intent of the Water Utility to pay the difference in cost between ten (10) inch diameter pipe and the pipe and fittings actually furnished.

N. Developer to Reimburse the City for Costs Sustained

1. The Developer shall reimburse the City for its actual cost of design, inspection, testing, construction, and associated legal and real estate expenses for the required public improvements for the project. The City's expenses shall be determined as follows:
  - a. The cost of City employees' time engaged in the required public improvements based on the hourly rate paid to the employee multiplied by a factor determined by the respective Division/Department to represent the City's cost for statutory expense benefits, insurance, sick leave, holidays, vacation and similar benefits, overhead and supervision, said factor not to exceed 2.25.
  - b. The cost of City equipment employed, including all televising of sewer mains.
  - c. The actual costs of City materials incorporated into the work including transportation costs plus a restocking and/or handling fee not to exceed 29% of the cost of the materials.
  - d. All consultant fees associated with the project at the invoiced amount plus 10% for administration.

2. The Developer shall advance to the City the following payments/deposits:
- a. An amount equal to an estimate of the City's expenses, as prepared by the participating City Divisions/Departments, at the time the Developer files a Development Agreement. At the conclusion of the project, the respective agencies shall bill the actual cost to the Developer. In the event that the actual cost is calculated to be less than the advanced amount, the difference shall be refunded to the Developer. In the event the advance is less than the actual amount, the Developer shall be billed the difference and payment shall be a condition precedent to acceptance of any major components of construction. The estimated cost of services to be performed by the City is as follows:

City Engineering Division \$19,900.00 (Make check payable to City of Madison).

Madison Water Utility \$ 5,500.00 (Make check payable to Madison Water Utility).

City Traffic Engineering Division \$6,200.00 (Make check payable to City of Madison).  
(\$600 signing and marking)  
(\$5,600 lighting)

Charges for services performed for the construction of improvements in subsequent construction phases shall be on the basis of charges for such services in effect at the time of construction of said Subsequent Construction Phases, the estimated cost being deposited with the participating City Divisions/Departments prior to construction.

O. Surety

1. The Developer agrees to furnish the City with corporate bond, certified check, official check or irrevocable letter of credit in the amount of \$ 300,000.00 to secure performance of this contract.
2. The Developer agrees that prior to any land surface disturbances or construction commencing within the development associated with subsequent construction phases, that *A Contract For The Construction Of Public Improvements That Will Be Accepted By The City* will be executed by the Developer and the City, and the Developer will furnish the City with a corporate bond, certified check, official check or irrevocable letter of credit in the amount of the estimate of the City Engineer, sufficient to secure performance of said contract.
3. Upon acceptance by the City Common Council of the improvements constructed as part of this agreement, the City agrees to reduce the surety to an amount equal to an estimate of the City Engineer to secure performance of the guarantee described in this agreement.
4. If the Developer provides a certified or official check to secure performance of this contract, the Developer agrees that the City may deposit the check in an interest bearing account and retain all interest accruing to such a deposit.

P. Developer's Designated Project Coordinator

The Developer hereby appoints Travis Schreiber (Vierbicher @ 826-0532 or tsch2@vierbicher.com) as the Project Coordinator, said individual who shall act as the Developer's representative during the Construction Phase of the installation of these improvements.

Q. Penalties

The Developer further agrees that failure to comply with the provisions of this agreement shall have the following results:

1. Forfeiture of all payments/deposits under Par. N, and
2. Extension of the guarantee in Par. K to two (2) years, and
3. The City holding the surety in Par. O until such time as the guarantee expires.

## SECTION II - SUPPLEMENTAL CONDITIONS

- A. The Developer shall construct public sanitary sewer main and laterals, water main and service laterals, storm sewer and drainage system to serve Secret Places at Siggelkow Preserve – Phase 6.
- B. The Developer shall construction Madison Standard street improvements, including sidewalk on both sides, on the following streets:
  - Pacific Crest Road from the west line of lot 231 (existing street) to Ice Pond Drive
  - Ice Pond Drive from the north line of lot 214 to the south line of lot 218
- C. The Developer shall construct sanitary sewer outside this phase in accordance with the plans approved by the City Engineer.
- D. Upon receipt of this contract, fully executed by the Developer, together with the required surety and deposits, the City Engineer will draft and record a Release of the Declaration of Conditions, Covenants for Lots 214 – 218, inclusive, and Lots 231 – 242, inclusive of the Secret Places at Siggelkow Preserve Subdivision.
- E. The Developer shall pay Impact Fees associated with this development at the time of application for building permits. The Developer shall execute a Declaration of Conditions, Covenants and Restrictions for recording at the Dane County Register of Deeds along with an Impact Fee schedule. Lot holds shall be kept on all lots until such time the Impact Fees are paid.
- F. The Developer shall dedicate two 15 ft public stormwater easements, respectively, along the back yard lot lines of lots 237-240 and 246-249 from the east line of Outlot 10 to Ice Pond Drive, and along the back yard lot lines of lots 221-224 and 233-236 from the east line of Outlot 9 to Ice Pond Drive. Please provide a sketch, legal description and \$500 fee for the administration of the easement. Reference Real Estate Project No. 9443 on all transmittals.

CONTRACT FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS  
THAT WILL BE ACCEPTED BY THE CITY OF MADISON  
SECRET PLACES AT SIGGELKOW PRESERVE – PHASE 6  
CONTRACT NO. 2251  
PROJECT NO. 53B2251

IN WITNESS WHEREOF, the parties hereto have set their hand(s) at Madison, Wisconsin.

GREAT NEIGHBORHOODS SOUTH, LLC

BY: Angie L. Christensen 8/10/10  
(signature) Date

ANGIE L. CHRISTENSEN, WITNESS  
(print name and title of person signing)

BY: [Signature] 8-10-10  
(signature) Date

D.A. ESPOSITO, JR. ASST. SECY  
(print name and title of person signing)

CITY OF MADISON, WISCONSIN

APPROVED AS TO FORM:

BY: [Signature]  
Michael May, City Attorney Date

APPROVED:

BY: [Signature] 9/1/10  
Eric T. Veum, Risk Manager Date

BY: [Signature] 9-7-10  
David J. Cieslewicz, Mayor Date

BY: [Signature] 8-17-10  
Maribeth Witzel-Behl, City Clerk Date

COUNTERSIGNED:

BY: [Signature] 9-2-10  
Dean Brasser, City Comptroller Date



M&I Marshall & Ilsley Bank  
Global Trade Services  
401 North Executive Drive  
Brookfield, WI 53005-6012  
414 765-7700

ORIGINAL

Date: August 9, 2010

**IRREVOCABLE STANDBY LETTER OF CREDIT NO. SB 56857**

**BENEFICIARY:**

City of Madison  
210 Martin Luther King Jr. Blvd, Room 115  
Madison, WI 53703

**APPLICANT:**

Great Neighborhoods South, LLC  
6801 South Towne Dr.  
Madison, WI 53713

Attn: Janet Dailey

**MAXIMUM AMOUNT:**

USD300,000.00

**EXPIRATION DATE AT OUR**

**GLOBAL TRADE SERVICES:**

July 1, 2011

We hereby open our Irrevocable Standby Letter of Credit No. SB 56857 ("Letter of Credit") in your favor, for the account of Great Neighborhoods South, LLC, which is available at *sight* up to the amount of USD300,000.00 (the "Maximum Amount"), upon presentation of the following documents:

- A) This original Letter of Credit and any subsequent Amendment(s). All Amendment(s) must indicate whether they are approved or refused by the Beneficiary at time of drawing. **AND**
- B) Beneficiary's statement, on its letterhead, completed, dated and signed by an authorized individual, stating: "Great Neighborhoods South, LLC has failed to complete the terms of the Contract for the Construction of Improvements dated \_\_\_\_\_, by and between Great Neighborhoods South, LLC and the City of Madison for the property known as Secret Places at Siggelkow Preserve, Phase 6, Madison, WI Contract No. 2251, Project No. 53B2251. We are drawing for USD \_\_\_\_\_, under Letter of Credit No. SB 56857. Please wire proceeds to us: \_\_\_\_\_."

The Maximum Amount of this Letter of Credit may be reduced upon our receipt of the City of Madison's faxed notice, completed in the format attached hereto as Exhibit 1 (Page 3), on its letterhead and originally signed.

Multiple drawings are allowed. If a drawing is presented and paid, the original Letter of Credit will be endorsed and returned to you. If your drawing exhausts the Maximum Amount, we will retain the Letter of Credit.

As a condition of this Letter of Credit, M&I Marshall & Ilsley Bank will provide Beneficiary written notice ("Proper Notice") of the Expiration Date, at least sixty (60) calendar days prior to the Expiration Date of this Letter of Credit. If our Proper Notice is not given within the time specified, this Letter of Credit will terminate sixty (60) calendar days after our Proper Notice to the City of Madison.

Presentation and payment of your drawing(s) under this Letter of Credit are restricted to M&I Marshall & Ilsley Bank, Attn: Global Trade Services, 401 N. Executive Dr., Brookfield, WI 53005.

Continued on Page 2.



M&I Marshall & Ilesley Bank  
Global Trade Services  
401 North Executive Drive  
Brookfield, WI 53005-6012  
414 765-7700

**ORIGINAL**

Page 2 of Letter of Credit No. SB 56857.

This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amplified or limited by reference to any document, instrument or agreement referred to in this Letter of Credit, except only the International Standby Practices referred to herein, and any such reference shall not be deemed to incorporate herein any reference to a document, instrument or agreement.

All banking fees incurred, other than those of the issuing bank, are for the account of the Beneficiary. If discrepant documents are presented and drawing is honored, our discrepancy fees will be deducted from the proceeds.

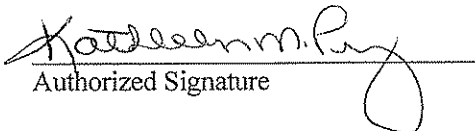
This Letter of Credit is subject to International Standby Practices (1998), International Chamber of Commerce Publication No. 590.

Pursuant to U. S. Law, we are prohibited from issuing, transferring, accepting or paying letters of credit to any party or entity identified by the Office of Foreign Assets Control, U. S. Department of Treasury, or subject to the Denial of Export Privileges by the U. S. Department of Commerce.

We agree with you to honor your drawing(s) presented in compliance with the terms of this Letter of Credit when received at M&I Marshall & Ilesley Bank, Attn: Global Trade Services, 401 N. Executive Dr., Brookfield, WI 53005, prior to 4:00 PM, Central Standard Time, Monday through Friday, on or before the then current Expiration Date, upon which date this Letter of Credit expires even if this original Letter of Credit and Amendment(s), if any, are not returned to M&I Marshall & Ilesley Bank, Attn: Global Trade Services.

If you return this original Letter of Credit and Amendment(s) prior to the then current Expiration Date with your intent to terminate same, it must be accompanied by your originally signed letter, addressed and sent directly to M&I Marshall & Ilesley Bank, indicating you no longer require this Letter of Credit and release M&I Marshall & Ilesley Bank of any obligation hereunder.

**M&I MARSHALL & ILSLEY BANK**

  
Authorized Signature

S:\LC\STANDBY ISSUANCES\SB 56000-57000\sb56857.doc



M&I Marshall & Ilesley Bank  
Global Trade Services  
401 North Executive Drive  
Brookfield, WI 53005-6012  
414 765-7700

Page 3, Exhibit 1, of Letter of Credit No. SB 56857.

ORIGINAL

*(Following to appear on the Beneficiary's letterhead, with appropriate blanks completed.)*

**CERTIFICATE FOR REDUCTION TO STANDBY LETTER OF CREDIT NO. SB 56857**

DATE: \_\_\_\_\_

TO: M&I Marshall & Ilesley Bank  
Global Trade Services  
401 N. Executive Drive  
Brookfield, WI 53005  
Fax: (262) 938-6114

RE: Reduction Certificate No. \_\_\_ to Letter of Credit No. SB 56857  
Applicant: Great Neighborhoods South, LLC

You are irrevocably authorized to reduce the Maximum Amount of this Letter of Credit to USD \_\_\_\_\_, even though you did not endorse the reverse of the original Letter of Credit for such reduction.

Regards,

City of Madison

\_\_\_\_\_/\_\_\_\_\_  
Authorized Signature //Title

cc: Great Neighborhoods South, LLC

*\*\*If this Certificate reduces the Maximum Amount to USD0.00, please return the original Letter of Credit and all Amendments to us for cancellation.\*\**



## LIST OF AUTHORIZED SIGNATURES

770 North Water Street/Milwaukee, Wisconsin 53202 U.S.A.

### Global Trade Services

Phone 414 765-7700  
S.W.I.F.T. MARLUS 44

We are pleased to furnish you with our latest list of authorized signatures for our correspondent banks. This list does not include the names and facsimile signatures of all officers and employees authorized to sign on behalf of our Bank but is limited to signatures of those who may sign individually any and all letters of credit issued or confirmed, checks, drafts, foreign exchange confirmations and/or orders drawn on this bank or any of its depositories.

Any person in Group A is also authorized to sign correspondence and reconciliations in connection with the Audit Services Division.

This will supersede all lists of signatures previously issued. In case of changes, supplemental information may be forwarded to you.

Yours respectfully,  
M&I Marshall & Ilsley Bank

Patricia R. Justiliano  
Senior Vice President & Corporate Controller

### Group A

Signatures of Officers & Employees with Unlimited Authority

1. Ann M. Benschoter

2. David T. Braam

3. Dwight H. Brady

4. Robert J. Buerger

5. Gregory J. Charlesworth

6. Gail A. Drost

7. Randall J. Erickson

8. M.F. Furlong

9. Bruce Glaub

10. Robert Harless

11. Mark Hogan

12. P. Klaffenboeck