

RESOLUTION NO. 92283-0113

**CITY ACCEPTANCE OF PUBLIC STREET, SANITARY, AND STORM SEWER
INSTALLATION ON PALMS DRIVE AND MULBERRY AVENUE FOR THE
FRIDLEY THEATRES PROJECT IN THE CITY OF MUSCATINE, IOWA**

WHEREAS, the City Council approved the final plat for the Fridley Theatres Project on April 5, 2012; and

WHEREAS, the City Engineering Department has reviewed and approved the plans and specifications and the completed construction test results for compliance with said plans and specifications and conformance with the construction standards of the City and found adherence to these standards;

NOW, THEREFORE, BE IT RESOLVED that the City accept the public street, sanitary and storm sewer improvements for the Fridley Theatres Project in the City of Muscatine, Iowa and that said improvements be maintained as part of the public infrastructure.

PASSED, APPROVED, AND ADOPTED THIS 3RD DAY OF JANUARY 2013.



CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA

BY:


DeWayne M. Hopkins, Mayor

ATTEST:


Gregg Mandsager, City Clerk

CASE

CARRINGTON PL7

MULBERRY AVENUE

PALMS DRIVE

LOT 2

LOT 3

LOT 4

LOT 5

LOT 1

LOT 6

ST A
(N BASIN)

PUBLIC WATER MAIN, TO MP&M

UG-HW-61

END PUBLIC STORM SEWER
AT PROPERTY LINE

END PUBLIC SANITARY SERVICE AT
MANHOLE, REMAINDER TO BE PRIVATE

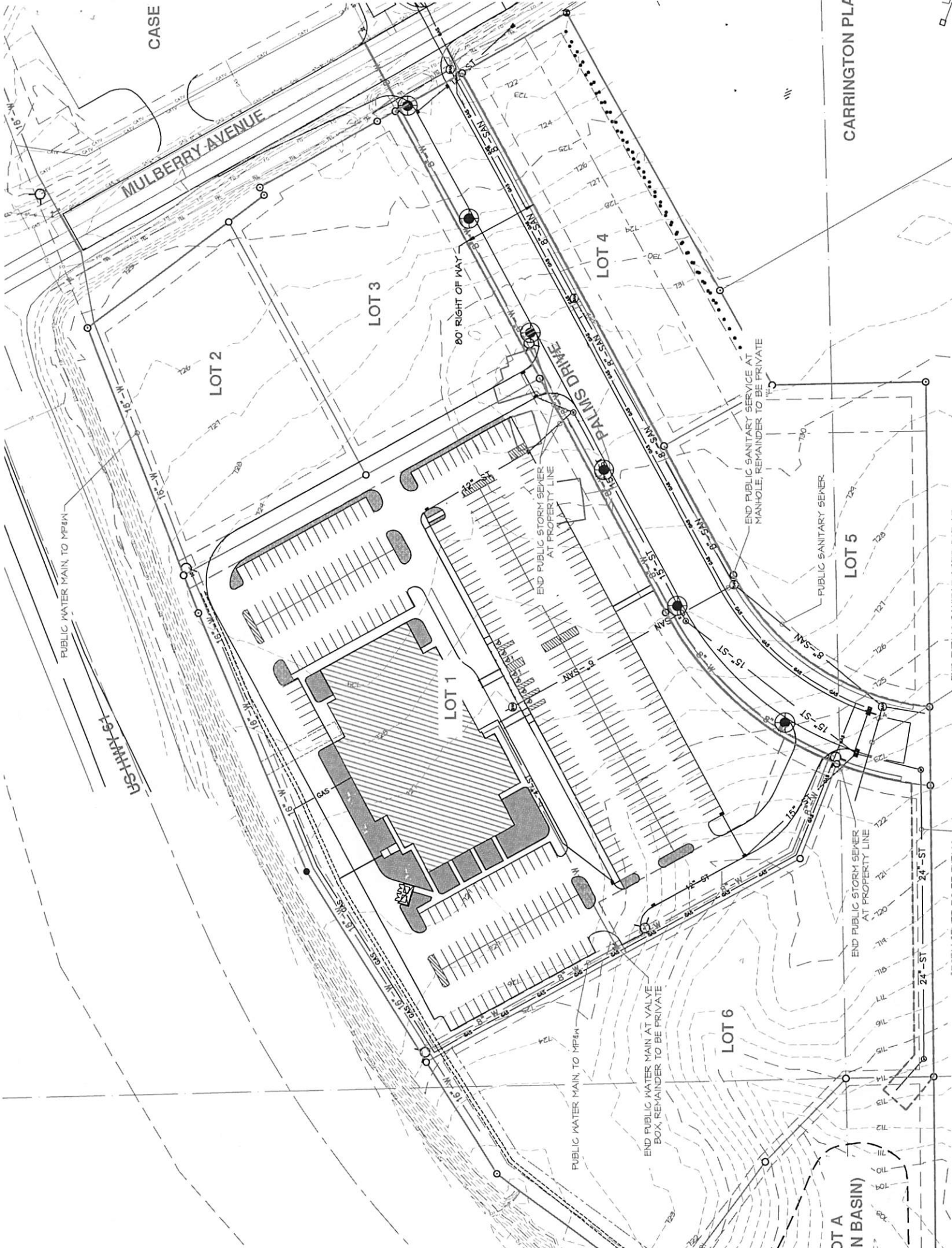
PUBLIC SANITARY SEWER

END PUBLIC STORM SEWER
AT PROPERTY LINE

END PUBLIC WATER MAIN AT VALVE
BOX, REMAINDER TO BE PRIVATE

PUBLIC WATER MAIN, TO MP&M

80' RIGHT OF WAY





**Martin & Whitacre
Surveyors & Engineers, Inc.**

Gary Whitacre, President
Matt Krause, Sec/Treas

12/28/12

Jon Lutz
City Engineer
City of Muscatine

RE: Fridley Theatres at Muscatine - Public Improvement Dedication

Mr. Lutz;

Our clients, R.L. Fridley Theatres request that the City formally accept the public infrastructure improvements associated with the Fridley Theatres Subdivision. The work was completed in general accordance with the construction plans approved by the City. Martin & Whitacre conducted periodic inspections of water, sewer, storm sewer and paving work and found the work to be satisfactory. In addition to construction observations several tests performed in accordance with the project Plans and Specifications:

Sanitary Sewer

Mandrel Test	*Passed without issues
Video Inspection	*One deficiency found, satisfactorily repaired
Low Pressure Leak Test	*Passed without issues

Water Mains

Bacteria Testing	*Performed by MPW, passed without issues
Pressure Testing	*Performed by MPW, passed without issues

Storm Sewer

Video Inspection	*No deficiencies found
------------------	------------------------

Public Streets

Compaction Testing	*All areas tested passed with 95% STD proctor
Observed Proof Rolling	*Deficient areas reworked and passed final inspection
Compaction Testing	*All tests passed with compressive strengths over 5,000 psi @ 28 Days

A copy of the video sewer inspection has been submitted to the City for review. An as-built drawing showing locations and depths of sewer facilities has been electronically submitted. If detailed testing results are requested, they will be submitted on the Developer's behalf.

We understand that the City has performed their own inspections of the public infrastructure improvements and have found no issues.

Due to the late date of completion, it is expected that the contractor will need to revisit the site in the spring to reseed areas that were not established. The Developer will retain a portion of the contract to ensure reseeding.

Attached is a PDF of the improvements that the Developer wishes to dedicate to the City.

If you have any questions or comments please call me at 563-263-7691 or email: ashutt@martin-whitacre.com

Sincerely,

MARTIN & WHITACRE SURVEYORS & ENGINEERS, INC

A handwritten signature in blue ink, appearing to read "Adam Shutt", with a long horizontal flourish extending to the right.

Adam Shutt, P.E.

CC: Gregg Mandsager, Russell Vannorsdel

7453-City Dedication Letter.doc

MEMORANDUM

TO: RANDY HILL, PUBLIC WORKS DIRECTOR

FROM: JON LUTZ, CITY ENGINEER

SUBJECT: ACCEPT PUBLIC IMPROVEMENTS ON MULBERRY AVE
AND PALMS DRIVE

DATE: December 28, 2012

INTRODUCTION:

As part of the Fridley Theatres project near the intersection of US 61 Bypass and Mulberry Avenue, R.L. Fridley Theatres, Inc subdivided land to include Palms Drive, 5 commercial lots and an outlot for stormwater detention. Public infrastructure for this project included pavement reconstruction on Mulberry Avenue and construction of Palms Drive. The developer requests these public improvements be accepted by the city of Muscatine for ownership and maintenance.

BACKGROUND:

Construction plans for this work were submitted by Martin & Whitacre Surveyors & Engineers, Inc. and approved by the city engineer. In general, construction included widening and reconstruction of Mulberry Avenue from the Caseys entrance to 200 feet east of Steamboat Way. Pavement was 43' wide, 9" PCC with CD joints, with a south taper lane and widened Steamboat Way intersection. An 18" granular subbase was placed to stabilize poor subsoil conditions. Palms Drive paving was 42' wide with 8" PCC and CD joints over 6" granular subbase. Other public improvements include gravity sanitary sewer extension from the north side of Mulberry Ave to the south end of Palms Drive. Public storm sewer was constructed along Palms Drive. Private storm sewer extends from Palms Drive to the detention basin in outlot A. Water main was installed as part of the project but will be owned and maintained by MPW. All service lines connecting to the mains for water, storm sewer and sanitary sewer will remain private. Sidewalks will be maintained by the adjacent lot owners.

Construction of all public infrastructure was found to be in substantial accordance to the plans and specifications and has met all testing requirements.

RECOMMENDATION/RATIONALE:

The city engineer recommends the City of Muscatine accept and maintain all newly constructed public improvements along Mulberry Ave and Palms Drive associated with the Fridley Theatres project.

BACKUP INFORMATION:

1. Improvements Plan
2. Dedication request letter dated 12/28/2012



INSCO INSURANCE SERVICES, INC.
Underwriting Manager for:
Developers Surety and Indemnity Company
Indemnity Company of California
17780 Fitch, Suite 200 • Irvine, California 92614 • (949) 263-3300

MAINTENANCE BOND

BOND NO. 774431S

KNOW ALL MEN BY THESE PRESENTS:

THAT we, R.L. Fridley Theatres, Inc, as Principal,
and Developers Surety and Indemnity Company, a corporation organized and doing
business and under and by virtue of the laws of the State of Iowa and duly
licensed to conduct surety business in the State of Iowa,
as Surety, are held and firmly bound unto City of Muscatine Iowa

as Oblige, in the sum of One Million Forty One Thousand Ninety One and 78/100
(\$1,041,091.78) Dollars,
for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors,
jointly and severally firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above named Principal entered into an agreement or agreements with said Oblige to:
General Site, Roadway, Mulberry Avenue, Water Main and Sanitary Sewer Improvements

WHEREAS, said agreement provided that Principal shall guarantee replacement and repair of improvements
as described therein for a period of 2 year(s) following final acceptance of said improvements.

NOW, THEREFORE, if the above Principal shall indemnify the Oblige for all loss that Oblige may
sustain by reason of any defective materials or workmanship which become apparent during the period
of 2 year(s) from and after acceptance of the said improvements by Oblige, then this obligation
shall be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal
and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact, this
3 day of January, 2013
Year

R.L. Fridley Theatres, Inc

Principal

BY: Brian J. Judd

DEVELOPERS SURETY AND INDEMNITY COMPANY

BY: Polly Masel

Attorney-in-Fact

POWER OF ATTORNEY FOR
DEVELOPERS SURETY AND INDEMNITY COMPANY
INDEMNITY COMPANY OF CALIFORNIA
PO Box 19725, IRVINE, CA 92623 (949) 263-3300

774431S

KNOW ALL BY THESE PRESENTS that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, do each hereby make, constitute and appoint:

Ben Albertson, Guy E. Tenold, Polly Mason, jointly or severally

as their true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporations, as sureties, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as each of said corporations could do, but reserving to each of said corporations full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolutions adopted by the respective Boards of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, effective as of January 1st, 2008.

RESOLVED, that a combination of any two of the Chairman of the Board, the President, Executive Vice-President, Senior Vice-President or any Vice President of the corporations be, and that each of them hereby is, authorized to execute this Power of Attorney, qualifying the attorney(s) named in the Power of Attorney to execute, on behalf of the corporations, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of either of the corporations be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporations when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA have severally caused these presents to be signed by their respective officers and attested by their respective Secretary or Assistant Secretary this October 4th, 2011.

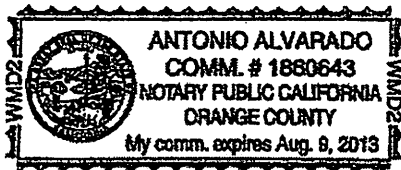
By: Daniel Young
Daniel Young, Senior Vice-President

By: Steve A. Tvedt
Steve A. Tvedt, Vice-President

State of California
County of Orange

On October 4, 2011 before me, Antonio Alvarado, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Daniel Young and Steve A. Tvedt
Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Antonio Alvarado

Antonio Alvarado, Notary Public

CERTIFICATE

The undersigned, as Secretary or Assistant Secretary of DEVELOPERS SURETY AND INDEMNITY COMPANY or INDEMNITY COMPANY OF CALIFORNIA, does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked and, furthermore, that the provisions of the resolutions of the respective Boards of Directors of said corporations set forth in the Power of Attorney are in force as of the date of this Certificate.

This Certificate is executed in the City of Irvine, California, this 3 day of January, 2013.

By: Gregg Okura
Gregg Okura, Assistant Secretary