

DEVELOPMENT CONSTRUCTION PERMIT

Permit Number: 08-16 **Issuance Date:** September 15, 2008

Project Name: Bohemian Office Building
Project A.K.A.: 260 E. Mountain

Project Location: Mountain & Walnut

Permittee: David Neenan, The Neenan Company, 2620 E. Prospect Rd., Suite 100, Fort Collins, CO 80525

City and developer contacts: *See attached Exhibit "A" for names and phone numbers of all contact persons for this project.*

Fees: Permit Application Fee (paid at the time of application)	<u>\$ 400.00 (paid)</u>
Construction Inspection Fee (paid prior to issuance of this permit)	<u>\$ 3,279.05 (PACO)</u>
Total	<u>\$ 3,679.05 (PACO)</u>

Development Bond or other approved security:

Amount of security deposited with the City to guarantee the completion of all public improvements to be constructed as shown on the approved plans for the development.

\$ 97,791.29

Form of security deposited with the City: Bank L.O.C.

PERFORMANCE REQUIREMENTS OF THIS PERMIT:

1. The Permittee shall be responsible to require their Project Engineer to incorporate into all design drawings and specifications the certification of all materials testing by an Engineer. The Permittee shall have an Engineer prepare revised design drawings and secure City approval for all revisions to the Utility Plans and related documents. The Permittee shall have an Engineer represent, as required by the City in the Development Agreement, that the improvements are constructed in conformance with the approved Utility Plans and the standards and specifications of the City. The Permittee shall provide "as-constructed" plans prepared by an Engineer prior to the City's acceptance of the constructed public improvements. (All references above to the terms "Project Engineer" and "Engineer" shall mean a Professional Engineer licensed in Colorado.)

2. All contractors who perform work on this project must be bonded and licensed in conformance with City requirements.

3. Construction time restrictions: N/A

4. The applicant understands that additional permits may be required for this development project and the applicant shall secure those permits directly from the issuing departments.
5. This permit, along with a complete set of all approved plans and documents for this project (utility plans, site plan, landscape plan, development agreement, soils report, pavement design, traffic study, drainage report, plat easements and any other official documents), shall be kept on the development site available for use by City staff doing inspections.
6. Permit Expiration (in accordance with Section 29-12 of the Transitional Land Use Regulations or Section 2.6.3(K) of the Land Use Code, whichever is applicable):
 - a. If construction has not begun within sixty (60) days from the date of issuance of this permit, this permit shall expire and the applicant will **forfeit the permit fee** paid for this permit, whereupon the applicant must re-apply for a new permit.
 - b. In addition, this permit shall expire one year from the date of issuance. The applicant may apply for an extension by reapplication at least two weeks prior to the expiration date. Such application shall contain information sufficient to justify the granting of the extension. An extension may be granted for up to six months.
7. Building permits and certificates of occupancy will only be issued when all conditions contained in the Development Agreement and Sections 3.3.2(C) and (D) of the Land Use Code or Sections 29-678 and 29-679 of the Transitional Land Use Regulations, whichever is applicable, are met. If the Development Agreement does not specify times for completion of public improvements, or if there is no Development Agreement, then the improvement requirements specified in Section 24-95 of the City Code shall apply, which provides that construction of all improvements shall be required prior to the time of issuance of the first building permit.
8. Acceptance by the City of the public improvements shall be after (1) final inspection has been conducted by the City; (2) punch list items from the final inspection are completed and accepted by the City; and (3) required certifications from the licensed professional engineer that improvements are completed to City standards, specifications and approved Utility Plans; and the "as-constructed" plans have been received and accepted by the City.
9. The warranty on street improvements is for five (5) years from the date of acceptance by the City of the completed improvements, in accordance with Sections 29-13 and 29-14 of the Transitional Land Use Regulations and/or Sections 2.2.3(C)(3)(g), 3.3.1(C)(2), and 3.3.2(C) of the Land Use Code, as applicable.
10. The City Erosion Control Inspector must be notified at least twenty-four (24) hours prior to any planned construction on this project. All required perimeter silt fencing and other erosion/sediment

control best management practices (BMP's) that can be installed prior to construction must be in place and inspected by the City Erosion Control Inspector before any land disturbing activity begins.

11. No work (including grading) shall be started in State Highway right-of-way until a permit is issued by the Colorado Department of Transportation to allow such work to begin.

12. Other conditions: Grading of the driveway access on Walnut will need to be resolved prior to full building permit issuance to go vertical above grade. Plan revisions will be required.

Permittee's acknowledgment signature:

By signing this permit I acknowledge that I am acting with the knowledge, consent, and authority of the owners of the property (including all owners having legal or equitable interest in the real property, as defined in Section 1-2 of the City Code; and including common areas legally connected to or associated with the property which is the subject of this application) without whose consent and authority the requested action could not lawfully be accomplished. Pursuant to said authority, I hereby permit City officials to enter upon the property for purposes of inspection and, if necessary, to enter upon such property to perform work required of the applicant if the applicant were to fail to perform the required work. I also acknowledge that I have read this permit document with all its requirements and conditions, and I agree to all of the terms and conditions so stated in this permit.

Applicant/Project Manager's Signature: Harold Chitt Date: 9-11-08

Approval for issuance:

for City Engineer Approval: [Signature] Date: 9/15/08
(Permit Issuance Date)

EXHIBIT "A"

DEVELOPMENT PROJECT CONTACT PERSONS

Development Engineer: Randy Maizland
281 N. College Avenue, Fort Collins, Co 80524
(970) 416-2292
rmaizland@fcgov.com

Construction Inspector: Tracy Dyer
281 N. College Avenue, Fort Collins, Co 80524
(970) 222-0855

Current Planner: Ted Shepard
281 N. College Avenue, Fort Collins, Co 80524
(970) 221-6343

Water Utilities Engineer: Roger Buffington
700 Wood Street, Fort Collins, Co 80521
(970) 221-6700

Erosion Control Inspector: DA Black
700 Wood Street, Fort Collins, Co 80521
(970) 221-6700

Traffic Operations: Joe Olson
625 Ninth Street, Fort Collins, Co 80524
(970) 224-6062

Street closures: Syl Mireles
625 Ninth Street, Fort Collins, Co 80524
(970) 221-6815

Transportation Planning: Denise weston
210 E. Olive, Fort Collins, Co 80524
(970) 416-2643

Forestry: Tim Buchanan
281 N. College, Fort Collins, Co 80524
(970) 221-6361

Light and Power: Alan Rutz
700 Wood Street, Fort Collins, Co 80521
(970) 224-6153

Developer's Contact Persons:

Project Manager:

Stuart MacMillan
Mountain 252, LLC
3003 East Harmony Road, Suite 400
Fort Collins, CO 80526
(970) 226-1500 Office
(970) 215-7000 Cell
Fax (970) 223-4156
stuart@everittcompanies.com

Owner:

Mountain 252, LLC
103 W. Mountain Ave.
Fort Collins, CO 80524
(970) 482-3037
Stuart@everittcompanies.com

Developer:

Stuart MacMillan
Mountain 252, LLC
3003 East Harmony Road, Suite 400
Fort Collins, CO 80526
(970) 226-1500 Office
(970) 215-7000 Cell
Fax (970) 223-4156
stuart@everittcompanies.com

Project Engineer:

John Meyers, JR Engineering
2620 E. Prospect Rd., Suite 190
Fort Collins, CO 80525
(970) 491-9888
fax (970) 491-9984
jsparone@jrengineering.com

Architect:

Roger Curtis
Northern Engineering Services, Inc.
200 S. College Ave., Suite 100
Fort Collins, CO 80524
(970) 221-4158 office
(970) 690-0928 cell
(970) 221-4159 fax
bud@northernengineering.com

"PROJECT QUANTITIES AND COST ESTIMATE SHEET"

A		B		C		D		E		F		G		H	
260 E. Mountain Avenue		September 7th, 2008													
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
DESCRIPTION (LIST ALL PUBLIC AND APPLICABLE PRIVATE IMPROVEMENTS)	UNITS OF MEASURE	ESTIMATED QUANTITY (PROVIDED BY THE PROJECT ENGINEER)	INFRASTRUCTURE CONSTRUCTION COST PER UNIT OF MEASURE (COST ESTIMATE APPROVED BY THE CITY)	TOTAL ESTIMATED INFRASTRUCTURE COST	INSPECTION FEE PER UNIT (PROVIDED BY THE CITY)	TOTAL INSPECTION FEE									
Storm Sewer															
Reinforced Concrete / PVC Pipe	L.F.	329	\$25.00	\$8,225.00	\$0.70	\$230.30									
Trench	L.F.	329	\$5.00	\$1,645.00	\$0.70	\$230.30									
Storm Water Clean Outs	EACH	2	\$400.00	\$800.00	\$70.00	\$140.00									
Water Quality Outlet Structure	C.Y.	0	\$250.00	\$0.00	\$3.50	\$0.00									
All Inlet Types	EACH	5	\$3,816.00	\$19,080.00	\$103.00	\$515.00									
Manhole	EACH	2.0	\$2,160.00	\$4,320.00	\$103.00	\$206.00									
Water & Sanitary Sewer															
Sanitary Sewer Main	L.F.	0	\$30.00	\$0.00	\$0.70	\$0.00									
Water Main	L.F.	64	\$30.00	\$1,920.00	\$0.70	\$70.00									
Trench	L.F.	144	\$5.00	\$720.00	\$0.70	\$100.80									
Water/Sewer Service Line Stub	EACH	2	\$1,800.00	\$3,600.00	\$70.00	\$140.00									
Fire Hydrant	EACH	0	\$2,127.00	\$0.00	\$70.00	\$0.00									
Manhole	EACH	0	\$2,535.00	\$0.00	\$103.00	\$0.00									
Valves	EACH	1	\$838.00	\$838.00	\$70.00	\$70.00									
Meter Pit (1")	EACH	1	\$1,092.00	\$1,092.00	\$35.00	\$35.00									
Fitting (Bend, Tee, Cross)	EACH	1	\$345.00	\$345.00	\$35.00	\$35.00									
Water Main Connection	EACH	1	\$1,000.00	\$1,000.00	\$35.00	\$35.00									
Street System															
Grading	L.S.	0	\$5,185.00	\$5,185.00	\$0.45	\$299.65									
Pavement	S.Y.	737	\$33.75	\$24,873.75	\$1.00	\$299.00									
Curb & Gutter (Walnut Wall incl)	L.F.	279	\$15.63	\$4,360.77	\$1.00	\$700.00									
Detached Sidewalk	L.F.	680	\$22.62	\$15,381.60	\$1.00	\$700.00									
Pedestrian Ramps	L.F.	25	\$69.69	\$1,742.25	\$1.00	\$70.00									
Apron	S.Y.	52	\$51.21	\$2,662.92	\$0.45	\$103.00									
Crosspan	S.Y.	0	\$51.21	\$0.00	\$0.45	\$0.00									
TOTAL INSPECTION FEE											\$3,279.05				
TOTAL PUBLIC INFRASTRUCTURE COST											\$97,791.29				

September 7th, 2008

* PRIVATE IMPROVEMENTS REQUIRING CITY INSPECTIONS WILL NEED TO BE INCLUDED. HOWEVER PRIVATE IMPROVEMENTS WILL NOT BE INCLUDED IN THE TOTAL INFRASTRUCTURE COST FOR BONDING.



FIRST WESTERN TRUST BANK
NORTHERN COLORADO

September 11, 2008

City of Fort Collins
Engineering Department
281 N. College Ave.
Fort Collins, Colorado 80524

Dear Sirs:

COPY

We hereby establish, at the request and for the account of **Mountain 252, LLC**, (103 W. Mountain Ave., Ft. Collins, Colorado), in your favor as beneficiary, our Irrevocable Letter of Credit No. **43011170**, in the amount of Ninety Seven Thousand Seven Hundred Ninety One dollars and 29/100 Dollars (\$97,791.29) (as more fully described below), effective immediately and expiring at the close of banking business on September 11, 2008, at our office at 3003 E. Harmony Road, Suite 200, Ft. Collins, CO 80528.

This Letter of Credit is intended for the funding required for the Mountain 252, LLC Development Project ("Development Project") for the assurance of the completion of the construction and the maintenance and repair of the public infrastructure in connection with the aforesaid development project and its associated development agreement and development construction permit. Funds under this Letter of Credit are available to you for one or more drawings prior to the close of business on September 11, 2009, against sight drafts in an aggregate cumulative amount not to exceed \$97,791.29, dated the date of presentment, drawn on our office referred to above, referring thereon to the number of this Letter of Credit and accompanied by your written certificate signed by you and acknowledged as therein provided in the form of Exhibit 1 hereto. **In addition, the original of the Letter of Credit must be presented for our endorsement of our payment of such draft. Each draft must be marked "Drawn under First Western Trust Bank, Letter of Credit No. 43011170."**

Presentation of such draft and certificate shall be made at our office referred to above. Payment of any draft(s) drawn and presented under and in compliance with the terms of this Letter of Credit will be made by our issuance of a cashier's check and made payable to "City of Ft. Collins". Such check will be forwarded to you at your address above via express courier or at your option via wire transfer pursuant to instructions received from you.

Upon the earlier of (i) our honoring your draft(s) totaling \$97,791.29 in the aggregate presented on or before this Letter of Credit expires pursuant to the terms herein or (ii) the surrender to us by you of this Letter of Credit for cancellation, this Letter of Credit shall automatically terminate.

It is understood that the amount of this Letter of Credit may be reduced as public improvements are constructed and accepted by the City. As components of the infrastructure are satisfactorily completed in accordance with approved utility plans, the value of the completed components may be established from the Development Construction Permit worksheet for determining costs of infrastructure construction and inspection fees, whereupon the amount of this letter of credit may be reduced by the value of the completed component(s), upon execution of a "Request for Amendment to Letter of Credit" in the form attached hereto as Exhibit 2. **The original Letter of Credit must be returned to us to complete this transaction.**

This letter of credit shall be subject to the Uniform Commercial Code as in effect in the State of Colorado, and, to the extent not inconsistent with the terms of this Letter of Credit and the Uniform Commercial Code, the Uniform Customs and Practice for Documentary Credits, 2007 revision, ICC publication number 600.

This Letter of Credit will be automatically extended without amendments for one year from the present, and each future, expiration date thereof, unless Issuer delivers written notice at least sixty (60) days prior to any such expiration date to the City of Fort Collins of its intent not to renew this Letter of Credit. Any such notice shall be in writing and shall be delivered with an acknowledged receipt, either in hand or by certified mail. Any requests for amendments to this Letter of Credit shall be made in the form of Exhibit 2 attached hereto.

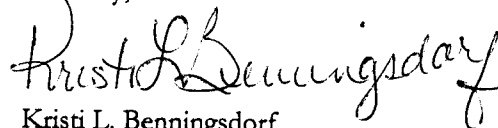
The City may at any time request that the Bank amend this Letter of Credit by submitting to the Bank a fully executed certificate in the form of Exhibit 2. The Bank may thereafter promptly issue an amendment to the Letter of Credit corresponding to the change or changes requested in such certificate.

This Letter of Credit is not transferable.

This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except only the certificate and draft(s) referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except for such certificate and draft(s).

We agree that we will not inquire as to the accuracy of the statement worded as quoted above in any signed and dated statement presented to us under this Letter of Credit. We also agree that, with respect to our obligation to pay a drawing which conforms to the requirements of this Letter of Credit, such obligation will not, except to the extent that any such obligation may be altered by any law or regulation or court order, be affected by any dispute between the Applicant and the Beneficiary regarding the content or accuracy of any statement presented with such drawing.

Sincerely,



Kristi L. Benningsdorf
Senior Vice President

Issuing company name: First Western Trust Bank
Address: 3003 E. Harmony Road, Suite 200
Ft. Collins, CO 80528
Phone Number: 970-484-9222

EXHIBIT 1

CERTIFICATE

The City of Fort Collins hereby certifies as follows with respect to the certain Irrevocable **Letter of Credit No. 43011170** dated September 11, 2008, established in favor of the City of Fort Collins, Colorado (the "Letter of Credit"):

- (a) He (She) is authorized to execute this Certificate of behalf of the City of Fort Collins;
- (b) The applicant/developer is in default under the terms of the development agreement and/or the development construction permit.
- (c) The sum of \$ _____, which is the amount of the draft presented with this Certificate, is the amount currently due to the City of Fort Collins from _____;
- (d) The amount of the accompanying draft together with all previous draws under the Letter of Credit do not exceed in the aggregate \$ _____; and
- (e) The Letter of Credit has not expired.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of behalf of the City of Fort Collins this _____ day of _____, _____.

THE CITY OF FORT COLLINS, COLORADO
A Municipal Corporation

By:
[Title]

EXHIBIT 2

Request for Amendment or Release of Letter of Credit # 43011170

The City of Fort Collins certifies that the person signing below is authorized to execute this Request for Amendment or Release of Letter of Credit on behalf of the City of Fort Collins, and further certifies with respect to the provisions contained in the Development Construction Permit dated _____, between the City of Fort Collins (Beneficiary) and _____ (Developer), the following:

[Check applicable boxes.]

- The Letter of Credit is to be reduced to \$_____.
- The expiration date of the Letter of Credit is revised to be _____.
- The 60-day automatic one year renewal provision contained in the Letter of Credit is no longer in effect.
- Release Original Letter of Credit upon receipt of separate replacement Maintenance Letter of Credit in the amount of _____ (current value).
- Release Letter of Credit.

In witness whereof, the undersigned has executed this certificate on behalf of the City of Fort Collins this ____ day of _____, _____.

CITY OF FORT COLLINS, COLORADO
a Colorado municipal corporation

By: _____
(Name and Title)