

RESOLUTION NO. 2012- _____

A resolution implementing an optional pilot program that places the responsibility for final engineering review of development projects with developers and their consultant team.

1 **WHEREAS**, the Board of County Commissioners finds that Clark County and its
2 citizens are experiencing severe economic hardship due to the local and national
3 economy; and

4 **WHEREAS**, the Board of County Commissioners recognizes the substantial
5 amount of administrative effort that has been invested by the public and private sector in
6 obtaining land use approvals for development; and

7 **WHEREAS**, the economy continues to suffer, and reducing administrative time
8 and costs would provide relief to developers; and

9 **WHEREAS**, an optional pilot program that places the responsibility for final
10 engineering review of development projects with developers and their consultant teams is
11 justified to avoid hardship to developers; and

12 **WHEREAS**, an optional program would provide an alternative to the final
13 engineering review in Clark County Title 40 Unified Development Code; and

14 **WHEREAS**, under the optional program, county staff are available to provide
15 technical assistance at hourly rates allowed in Title 6 Application and Service Fees; and

16 **WHEREAS**, the Board discussed a conceptual Developer Certification process at
17 work sessions on April 6 and September 14, 2011, and directed county staff to prepare an
18 optional pilot program for Board consideration; and

19 **WHEREAS**, following a duly advertised public hearing the Board finds that
20 adoption of this resolution will further the public welfare; now, therefore,

21 **BE IT ORDERED, RESOLVED, AND DECREED BY THE BOARD OF**
22 **COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF**
23 **WASHINGTON, AS FOLLOWS:**

24 **Section 1. Optional Developer Certification Pilot Program.** An optional, pilot
25 Developer Certification Process provides an alternative to county final engineering
26 review of developer-constructed projects. The process moves the engineering
27 responsibility for these functions to the property owner and his/her team of developers,
28 design consultants, and contractors.

29 1. Overview of Pilot Program

30 a. Optional participation. Developers may choose to waive final engineering
31 reviews (ENG permit type) under the terms of this pilot program, or
32 choose to undergo the current county review process.

33 b. Timeline:

34 i. The pilot program will be evaluated approximately one year after
35 the effective date.

36 ii. Depending on the pilot program's success, the pilot may be
37 continued, a permanent program implemented, or the Developer
38 Certification process ended.

39 iii. Projects that start construction under the terms of the pilot program
40 will continue with the process, even if the program later changes or
41 is stopped.

- 42 c. Projects eligible for the pilot program generally include those with
43 construction plans prepared by professional engineers, including "Final
44 Engineering Review" for short plats, subdivisions, and site plans.
- 45 d. There is no limit to the number of projects that could participate in the
46 pilot program.
- 47 e. The following projects are not eligible for the pilot program and will
48 receive traditional county review:
- 49 i. Projects not subject to both a preliminary and final land use
50 approval process, such as grading (GRD) and special drainage
51 projects.
 - 52 ii. Projects using the Fastlane or expedited 60-Day Review process,
53 because these have a mandatory concurrent preliminary and final
54 engineering review.
 - 55 iii. Special permits, such as floodplain reviews (FLP), critical aquifer
56 recharge area reviews (CARA), geological hazard reviews (GEO),
57 and road modifications (EVR).
 - 58 iv. Traffic signals and signing/stripping plans (other aspects of the
59 project, however, may be eligible to participate in the Developer
60 Certification pilot process).
 - 61 v. Drainage reviews for single family residences.

62 2. Developer Steps to Participate in the Pilot Program

- 63 a. All property owners are eligible to participate in the pilot program. The
64 county will not screen applicants and will not keep an eligibility list.

- 65 b. "Statement of Developer Intent". When a property owner/developer
66 chooses to use the Developer Certification process and the preliminary
67 land use process has not started, the property owner/developer must
68 declare his/her intent to participate in the program prior to the preliminary
69 land use application "fully complete" determination.
- 70 c. "Developer Preconstruction Certification ". Prior to the preconstruction
71 conference, the property owner/developer, design consultants, and
72 contractor will be required to sign a county standard form that states: (1)
73 the design and development satisfy the land use decision, county code, and
74 county standards, including NPDES stormwater permit standards, and (2)
75 that the contractor acknowledges the construction documents were not
76 reviewed by the county, except for documents that the county must review
77 as an NPDES permittee.
- 78 d. "Developer Post-Construction Certification". Prior to construction
79 provisional acceptance (prior to final platting and granting of occupancy),
80 all parties, including the property owner/developer, design consultants,
81 and contractor will be required to sign a county standard form that states
82 the constructed project satisfies the land use decision, county code, and
83 county standards including NPDES stormwater permit standards.
- 84 i. The property owner, who certifies that the overall project meets all
85 conditions, codes, and standards including NPDES stormwater
86 permit standards.

- 87 ii. All engineering design consultants (such as civil and geotechnical
88 engineers), certifying with a professional stamp that the design
89 meets all conditions, codes, and standards including NPDES
90 stormwater permit standards.
- 91 iii. The contractor, who certifies that the project was constructed per
92 the property owner's final construction documents including
93 NPDES stormwater permit standards.
- 94 3. Design Consultant Insurance. The Architect/Engineer(s) must provide evidence
95 of the following insurance requirements prior to scheduling the preconstruction
96 conference and verified again with the "Developer Post-Construction
97 Certification":
- 98 a. An original ACORD Form with the Commercial General Liability (CGL)
99 Insurer (or BOP), Broker of Record, Insurance Limits(s), Renewal Dates,
100 Deductible (less than or equal to \$25,000 unless authorized otherwise by
101 County Risk Management), and \$1,000,000 of Annually Renewing
102 Occurrence Based Coverage. A "Claims Made Policy" is NOT acceptable
103 for the CGL.
- 104 b. Errors and Omissions (E and O) Coverage. These are usually Claims Made
105 Policies and tail coverage equaling the applicable statute of limitations is
106 required. The Deductible will be less than or equal to \$25,000 unless
107 authorized otherwise by County Risk Management, and \$1,000,000 of
108 Annually Renewing E and O Coverage.
- 109 c. In the case where these underlying insurance policies are expended due to

110 excessive defense and/or indemnity claims, before renewal, the
111 Architect/Engineer warrants and guarantees the coverage limit(s), to include
112 indemnity and defense costs up to the listed limit, from its own resources
113 regardless of coverage status due to cancellation, reservation of rights, or
114 other no-coverage-enforce reasons. Coverage shall not contain any
115 endorsement(s) excluding nor limiting Product/Completed Operations,
116 Contractual Liability or Cross Liability or Workers' Compensation.

117 d. All policies shall be endorsed to state that coverage will not be suspended,
118 voided, canceled or reduced without a 30 day written notice by mail to
119 Clark County. It is the Architect/Engineer's responsibility to provide
120 evidence of continuing coverage during the overlap periods of the policy
121 and the certification.

122 e. Should the Architect/Engineer provide an Umbrella or Excess Coverage
123 for any of the associated coverage(s), they shall be written in a "Follow
124 Form" manner and Clark County Washington shall be listed and endorsed
125 as an Additional Insured for the CGL.

126 4. Hourly Billing

127 a. After completion of the land use decision and prior to the preconstruction
128 conference, Development Engineering staff are available to provide
129 technical assistance on an hourly basis to the property owner or his/her
130 designee when requested.

- 131 b. Hourly billing will also apply if the standard fee is exceeded for the new
132 reduced-level plan reviews required for stormwater that occur during
133 "preliminary review".
- 134 c. Deposits. If the developer requests county engineering staff assistance
135 prior to construction, a \$200 deposit is required.
- 136 d. Hourly billing rates by job classification are published annually by Public
137 Works Development Engineering.
- 138 e. The county will prepare a final invoice prior to the preconstruction
139 conference. The preconstruction conference will not be held until county
140 receipt of any outstanding balances. Refunds will be granted for costs less
141 than the deposited amount.

142 5. Engineering Reviews

- 143 a. This proposal may change the current preliminary engineering review
144 (land use) process performed with Community Development. For new
145 developments, the applicant will be required to submit construction
146 drawings to enable county staff to determine compliance with NPDES
147 permit requirements.
- 148 b. Preliminarily approved projects. Projects previously granted preliminary
149 approval may participate in the Developer Certification process following
150 Post-Decision Review to update stormwater plans in compliance with
151 current NPDES stormwater permit requirements and related judicial
152 orders.

153 c. Certain issues are currently addressed during final engineering review will
154 need resolution prior to the preconstruction conference under this optional
155 process. These include:

156 i. Floodplain reviews (FLP), critical aquifer recharge area reviews
157 (CARA), and geological hazard reviews (GEO).

158 ii. Details for road modifications (EVR) that sometimes occur during
159 final engineering review.

160 iii. Completion of third party agreements that document property
161 disputes, easements, access issues, etc.

162 iv. Survey discrepancies, such as property lines and location of
163 historical centerlines.

164 6. Construction Inspection

165 a. County inspection will occur similar to the current practice and level of
166 service.

167 b. Project inspection fees will be based on the standard Title 6 Development
168 Inspection Fee Schedule; hourly billing will not apply.

169 c. Preconstruction conference is required.

170 7. Maintenance Bond

171 a. The property owner or his/her designee will provide the county with a
172 two-year maintenance bond for all constructed public infrastructure, to
173 guarantee that the accepted work is maintained properly.

174 b. The maintenance bond amount will be the same as the current practice, ten
175 (10) percent of the public facilities valuation.

176 c. The bond period starts at provisional acceptance.

177 **Section 2. Effective Date.** This resolution shall be effective on September 3, 2012, and
178 shall expire upon adoption of a new resolution following consideration of this matter by
179 the Clark County Board of County Commissioners or on December 31, 2014, whichever
180 is earlier.

181 **Section 3. Instructions to Clerk.** The Clerk to the Board shall:

- 182 1. Record a copy of this resolution with the Clark County Auditor.
- 183 2. Transmit a copy of this resolution to the state within ten days of its adoption
184 pursuant to RCW 36.70A.106.
- 185 3. This resolution is temporary in nature and is not to be codified.

186

ADOPTED this _____ day of _____, 2012.

BOARD OF COMMISSIONERS
FOR CLARK COUNTY

Attest:

Clerk to the Board

By: _____
Marc Boldt, Chair

Copy received only:
ANTHONY F. GOLIK
Prosecuting Attorney

By: _____
Steve Stuart, Commissioner

Christopher Horne
Deputy Prosecuting Attorney

By: _____
Tom Mielke, Commissioner