



## Developer Certification Process Pilot Program Details (Version August 31, 2012)

The Developer Certification process provides an alternative to current procedures for county final engineering review of developer-constructed projects. The process moves the engineering responsibility to the property owner and his/her team of developers, design consultants, and contractors.

This paper outlines the procedures for the "Developer Certification Pilot Program." Since this is a pilot program, the program specifics will likely change as experience is gained with the procedures.

### 1. Overview

- a. Optional participation. Developers may choose to waive the final engineering review (ENG) under the terms of this pilot program or choose to undergo the current county review process.
- b. Timeline:
  - i. The pilot program will be evaluated approximately one year after the effective date.
  - ii. Depending on the pilot program's success, the pilot may be continued, a permanent program implemented, or the Developer Certification process ended.
  - iii. Projects that start construction under the terms of the pilot program will continue with the process, even if the program later changes or is stopped.
  - iv. If the Board of Clark County Commissioners (BOCC) decides to implement a permanent program, a formal ordinance will be needed to change the development code.
- c. All property owners are eligible to participate in the pilot program.
- d. The county will not screen applicants and will not keep an eligibility list.
- e. There is no limit to the number of projects that can participate in the pilot program.

### 2. Project Eligibility

- a. Projects eligible for the pilot program include those subject to the land use approval process with construction plans prepared by professional engineers. These include short plats, subdivisions, and site plans.
- b. Projects not eligible for the pilot program and that will receive traditional county review include:
  - i. Projects not subject to both a preliminary and final land use approval process, such as grading (GRD) and special drainage projects.

- ii. Projects using the Fastlane or 60-Day review process, since these have a mandatory concurrent preliminary and final engineering review.
- iii. Special permits, such as floodplain reviews (FLP), critical aquifer recharge area reviews (CARA), geological hazard reviews (GEO), and road modifications (EVR).
- iv. Traffic signals and signing/striping plans (other aspects of the project could participate in the Developer Certification pilot process).
- v. Drainage reviews for single family residences.

### 3. Engineering Reviews

- a. The county's Phase 1 Municipal NPDES Stormwater permit and associated judicial orders require county engineering review of final construction plans for all proposed developments involving land disturbing activity. To implement a pilot Developer Certification process, these NPDES-required reviews will occur during a modified preliminary review process as described in (b) and (c) below.
- b. Projects without an approved land use decision. For new proposed development projects, the applicant will be required to submit final engineering construction plans and Technical Information Report (TIR) during the preliminary review process to enable county staff to determine compliance with NPDES permit requirements and related judicial orders.
- c. Projects with an approved land use decision. Projects vested through a previously granted preliminary approval may participate in the Developer Certification process through a Post-Decision Review (PST) that reviews final engineering construction plans and Technical Information Report (TIR) to enable county staff to determine compliance with NPDES permit requirements and related judicial orders.
- d. The NPDES-required submittals shall contain the information listed in the Clark County Stormwater Manual, section 3.2 "Preliminary Stormwater Plan" and section 3.3 "Final Stormwater Plan."
- e. Certain issues currently addressed during final engineering review will need resolution prior to the preconstruction conference under this optional process. These include:
  - i. Floodplain reviews (FLP), critical aquifer recharge area reviews (CARA), and geological hazard reviews (GEO).
  - ii. Details for road modifications (EVR) that sometimes occur during final engineering review.
  - iii. Completion of third party agreements that document property disputes, easements, access issues, etc.
  - iv. Survey discrepancies, such as property lines and location of historical centerlines.

4. Certification Statements
  - a. "Statement of Developer Intent." When a property owner/developer chooses to use the Developer Certification process and the preliminary land use process has not started, the property owner/developer must declare his/her intent to participate in the program prior to the preliminary land use application "fully complete" determination.
  - b. "Developer Preconstruction Certification." Prior to the preconstruction conference, the property owner/developer, design consultants, and contractor will be required to sign a county standard form that states: (1) the design and development project satisfy the land use decision, county code, and county standards including NPDES stormwater permit standards, and (2) that the contractor acknowledges the construction documents were not reviewed by the county, except for documents that the county must review as an NPDES permittee.
  - c. "Developer Post-Construction Certification." Prior to construction provisional acceptance (prior to final platting and granting of occupancy), all parties, including the property owner/developer, design consultants, and contractor will be required to sign a county standard form that states the constructed project satisfies the land use decision, county code, and county standards including NPDES stormwater permit standards.
    - i. The property owner, who certifies that the overall project meets all conditions, codes, and standards including NPDES stormwater permit standards.
    - ii. All engineering design consultants (such as civil and geotechnical engineers), certifying with a professional stamp that the design meets all conditions, codes, and standards including NPDES stormwater permit standards.
    - iii. The contractor, who certifies that the project was constructed per the property owner's final construction documents including NPDES stormwater permit standards.
5. Design Consultant Insurance. The Architect/Engineer(s) must provide evidence of the following insurance requirements prior to scheduling the preconstruction conference and verified again with the "Developer Post-Construction Certification." The prime Architect/Engineer must provide coverage evidence for the work of design subconsultants, or the design subconsultants must also provide evidence of full insurance requirements as stated below.
  - a. An original ACORD Form with the Commercial General Liability (CGL) Insurer (or BOP), Broker of Record, Insurance Limits(s), Renewal Dates, Deductible (less than or equal to \$25,000 unless authorized otherwise by County Risk Management), and \$1,000,000 of Annually Renewing Occurrence Based Coverage. A "Claims Made Policy" is NOT acceptable for the CGL.
  - b. Errors and Omissions (E and O) Coverage. These are usually Claims Made Policies and tail coverage equaling the applicable statute of

limitations is required. The Deductible will be less than or equal to \$25,000 unless authorized otherwise by County Risk Management, and \$1,000,000 of Annually Renewing E and O Coverage.

- c. In the case where these underlying insurance policies are expended due to excessive defense and/or indemnity claims, before renewal, the Architect/Engineer warrants and guarantees the coverage limit(s), to include indemnity and defense costs up to the listed limit, from its own resources regardless of coverage status due to cancellation, reservation of rights, or other no-coverage-enforce reasons. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability or Workers' Compensation.
- d. All policies shall be endorsed to state that coverage will not be suspended, voided, canceled or reduced without a 30 day written notice by mail to Clark County. It is the Architect/Engineer's responsibility to provide evidence of continuing coverage during the overlap periods of the policy and the certification.
- e. Should the Architect/Engineer provide an Umbrella or Excess Coverage for any of the associated coverage(s), they shall be written in a "Follow Form" manner and Clark County Washington shall be listed and endorsed as an Additional Insured for the CGL.

#### 6. Hourly Billing

- a. Hourly billing will apply if the standard preliminary and post-decision review (PST) fees are exceeded due to the plan reviews required for NPDES compliance. This includes both new land use projects (where the developer declares their intent to participate in the Developer Certification process prior to the fully complete preliminary submittal) and projects choosing to alter an existing land use decision through a post-decision review process.
- b. After completion of the land use decision and prior to the preconstruction conference, Development Engineering staff are available to provide technical assistance on an hourly basis to the property owner or his/her designee when requested.
- c. Deposits. If the developer requests county engineering staff assistance prior to construction, a \$200 deposit is required.
- d. Hourly billing rates by job classification are published annually by Public Works Development Engineering.
- e. The county will prepare a final invoice prior to the preconstruction conference. The preconstruction conference will not be held until county receipt of any outstanding balances. Refunds will be granted for costs less than the deposited amount.

#### 7. Construction Inspection

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

- b. For the pilot program, inspection fees will be based on the standard Development Inspection Fee Schedule; hourly billing will not apply.
- c. Preconstruction conference is required.
- d. Submittals required prior to the precon will be the same as under a conventional review process, including:
  - i. Full size and reduced copies of the complete, PE stamped construction plan set. Utility purveyor approvals are required.
  - ii. Review/approval of Traffic Control Plans.
  - iii. Application for utility permits (work within public rights-of-way).
  - iv. Certificate of Liability, if required as per the old stormwater code.
  - v. Erosion control certification.
- e. A county team will perform a final walk-through inspection. Before the final walk-through is scheduled, the following must occur:
  - i. Punch list items are substantially complete.
  - ii. As-built drawings and a Technical Information Report (TIR) are reviewed by the inspector.
- f. Items required before granting of provisional construction acceptance will be similar to current practices, including:
  - i. The construction cost estimate for public facilities.
  - ii. Maintenance bond.

#### 8. Maintenance Bond

- a. The property owner or his/her designee will provide the county with a two-year maintenance bond to guarantee that the accepted work is maintained properly.
- b. The maintenance bond amount will be the same as the current practice, 10% of the public facilities valuation.
- c. The bond period starts at provisional acceptance.