BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON

RESOLUTION NO: 2010-____

A Resolution Approving Execution of a Revised Memorandum of Agreement for Costs Associated with the Upper Teanaway Subarea Planning Process.

WHEREAS, By Resolution No. 2009-100, adopted on July 21, 2009, the Board of County Commissioners (County) established the Upper Teanaway subarea planning process; and

WHEREAS, American Forest Land Company (AFLC) has agreed to finance the subarea planning process; and

WHEREAS, Resolution No. 2009-100 stated that upon adoption, "the County will develop a memorandum of understanding with AFLC that will scope the estimated costs of the phases of the subarea planning process, including other necessary consultants, and require additional funds be deposited to pay for the costs of the planning process in advance of the delivery of services."; and

WHEREAS, On November 3, 2009, the County temporarily suspended the subarea planning process to complete an investigation regarding AFLC's Administrative Segregation Application; and

WHEREAS, On May 24, 2010, the County held a regular Study Session with Community Development Services (CDS) staff. One item on the agenda was discussion of the County's investigation regarding the AFLC Administrative Segregation Application Binders, and whether to reinitiate the Upper Teanaway Subarea Planning Process since the investigation has been completed; and

WHEREAS, The County recognizes that no charges have or will be brought forward as a result of the investigation and in light of the lack of charges, the County directed CDS staff to meet with AFLC to discuss lifting the suspension of work, reinitiating the public planning process and revising the Memorandum of Agreement (MOA) that was executed on August 4, 2009. These discussions resulted in preparation of revisions to the MOA, as described in Exhibit A; and

WHEREAS, On July 12, 2010, the County held a regular Study Session with CDS staff and directed CDS staff to prepare a Resolution for consideration by the County at its regular August 17, 2010 meeting; and

WHEREAS, The balance in the "Teanaway Subarea Planning Services Services Account" is $8,713.97 and additional funds will be deposited by AFCL once the County and AFLC mutually agree to proceed with the subarea planning process.

NOW, THEREFORE BE IT RESOLVED, that the Board of Kittitas County Commissioners does hereby resolve:

1. Upon adoption of this resolution, the County lifts the suspension of the subarea planning process and will execute a memorandum of agreement with AFLC and GordonDerr, LLP for reimbursement of County costs associated with the development of a subarea plan for the Upper Teanaway.

ADOPTED this _____ day of _____, 2010.

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

_____
Mark McClain, Chairman

_____
Paul Jewell, Vice Chairman

_____
Alan Crankovich Commissioner

ATTEST:
CLERK OF THE BOARD

_____
Julie A. Kjorsvik

APPROVED AS TO FORM:

_____
Neil Caulkins, Deputy Prosecuting Attorney

EXHIBIT A

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Kittitas County Upper Teanaway Subarea Plan
Memorandum of Agreement on Fees and Costs

THIS AGREEMENT for terms and conditions for reimbursement of County costs for staff, supporting supplies and services and consultant services ("Agreement") is entered into by American Forest Land Company, LLC ("Company"); the firm of GordonDerr LLP ("Contractor"); and Kittitas County ("County"), a municipal corporation of the State of Washington and includes all matters related to the development of a Subarea Plan for the Upper Teanaway Basin.

RECITALS

A. By Resolution No. 2009-100, adopted on July 21, 2009, the County established a subarea planning process and public participation program for the development of a Subarea Plan for the Upper Teanaway drainage area in Kittitas County; and

B. Phase 1 of the process will include an initial public outreach to identify the interested parties, specific interests and objectives to be achieved in planning units within the subarea and formation of a preliminary plan and report, suitable for SEPA review identifying alternatives for possible incorporation into the Kittitas County Comprehensive Plan. Phase 1 is anticipated to last through the end of December, 2009. The County has agreed to contract with Contractor to coordinate the public participation and development of an appropriate subarea plan recommendation in line with the adopted resolution. Anna Nelson, a land use planner/employee of the Contractor will serve as the County Lead Planner on this project, with the assistance of other Contractor employees listed in the Professional Services Agreement dated June 2, 2009, and as may later be amended.

The Company is to provide technical support in the form of mapping and other materials requested by the County Lead Planner that are deemed necessary or appropriate to carry out the subarea planning process in Phase 1. Such materials shall be prepared under the guidance of the County Lead Planner. Upon request from the County, the Company will provide supporting materials and information for publication on the County's website or in informational newsletters. Such materials shall be provided in a timely manner to assist in the transmittal of information regarding the planning process to the general public. ~~, including an internal project FTP site and links to a web page to be maintained by the Company that will provide a detailed list and access to key documents of record available for public review~~.

The County is to provide the County Lead Planner with such staff and technical support (including legal) and all public facilities, advertising, public notices, mailings, printing

and all other steps the County Lead Planner deems necessary or appropriate to carry out the objectives of the subarea planning process in Phase 1.

All costs incurred by the County deemed by the County Lead Planner to be necessary or appropriate to carry out the objectives of the Teanaway Subarea planning process envisioned in the resolution shall be charged to the Teanaway Subarea Planning Services Account identified below and paid from the identified planning funds. The initial budget for Phase 1 is $150,000 and may be changed and adjusted as provided in Section 5 below; and

C. Phase 2 is the development of a draft Subarea Plan and nonproject Environmental Impact Statement (EIS) including environmental impacts and potential mitigation at a programmatic level associated with potential zoning alternatives tools available to achieve the goals and policies of the recommended plan. The form, format and content of the EIS (beginning with scoping and alternatives to be analyzed) will be controlled by the County SEPA Responsible Official. The option of an integrated Plan and EIS as authorized by WAC 197-11-210, et sec. will be explored as one option at the outset.

The County Lead Planner shall work with the County staff and technical consultants to determine the range of elements to be included in the Subarea Plan and the scope of issues to analyze in the EIS, to ensure the appropriate information is included for consideration by the public and decision makers.

The County Lead Planner shall meet with the Company and its consultants prior to commencement of Subarea Plan and Draft Environmental Impact Statement (DEIS) preparation to discuss required elements of the Subarea Plan and a preliminary scope for the DEIS.

~~For Phase 2, t~~Under the guidance of the County lead Planner, SEPA Responsible Official and technical staff, including EIS review and/or GMA planning consultant(s), the Company and its consultants shall prepare a draft preferred Subarea Plan, including draft plan text, and implementing regulations, and a nonproject Draft Environmental Impact Statement (DEIS) with plan alternatives.

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The DEIS shall be prepared under the guidance of the County Lead Planner, SEPA Responsible Official and technical staff, including EIS review consultants hired by the County, to review the DEIS for completeness and accuracy. Following review of a preliminary DEIS, the County Lead Planner and technical staff shall prepare a recommendation to the SEPA responsible official regarding any revisions prior to issuance of the DEIS. The timing of the DEIS is estimated to be approximately six months, from September 2010 to March 2011~~January to June 2010~~.

All costs of the DEIS process, including County technical and legal support and consultant support, will be charged to the Teanaway Subarea Planning Services Account as provided below. At the conclusion of the scoping phase of the SEPA review, the parties will identify a budget for third party consultant review, which shall be approved by the Company and be an addendum to this Agreement before proceeding with the DEIS; and

D. Phase 3 of the process is the County review of the proposed Subarea Plan and environmental review as a proposed amendment to the Kittitas County Comprehensive Plan in the 2011θ planning cycle, which commences with an application filed on or before June 30, 2011θ. The planning cycle would include a public hearing on the Subarea Plan and DEIS, assembly and response to comments, and the issuance of a Final Environmental Impact Statement (FEIS) for Planning Commission review as part of its Comprehensive Plan amendment review. The FEIS shall be prepared under the guidance of the County Lead Planner, SEPA Responsible Official and technical staff, including EIS review consultants. Following review of a preliminary FEIS, the County Lead Planner and technical staff shall prepare a recommendation to the SEPA responsible official regarding any revisions prior to issuance of the FEIS. All proceedings before the Planning Commission (including public hearings and workshops) on the Subarea Plan agenda item, Planning Commission recommendation to the Board of County Commissioners and proceedings on the Subarea Plan agenda item before the Board of County Commissioners through final action and are included in Phase 3.

All costs of processing the FEIS and the Subarea Plan recommendations through the Planning Commission and Board of County Commissioners, including costs of facilities for hearings held outside the County facilities, project-specific mailing and publication notices and any direct County technical support (including legal) and consultant support for processing the amendment request will be charged to the Teanaway Subarea Planning Services Account as provided below; and

E. Hiring contract planning staff and other necessary consultants will enable the County to respond to the Company's request to review the project in a timely and efficient manner. The Company understands the County Lead Planner works under the supervision of the County Senior Staff—presently Kirk Holmes, Interim Planning Director, and a permanent Planning Official at such time as one is identified by the County, and a partner of the Contractor; and

F. The Company is committed to reimbursing the costs, fees, and expenses incurred by the County for County staff support, at an hourly fee of $125.00/hour, and for a professional planning consultant position fully qualified by education and experience to lead a complex subarea planning process and other costs identified above to assure that the program is processing in a professional and timely fashion and without any financial burden on the taxpayers of Kittitas County; and

G. The County agrees to set up a traceable account for payment of all services identified under this Agreement, to be administered by the County in a manner subject to accountability to the Washington State Auditor, the County, and the Company, to assure prompt and timely payment for services rendered in a manner that will satisfy all applicable rules and regulations under which the County operates; and

H. Disbursements from the account to be established for payment of County staff support and professional consultant services pursuant to this Agreement shall be made by the County only for fees and costs incurred by the County for services rendered in relation to the proceedings necessary to create and review a Subarea Plan for the Upper Teanaway as provided above; and

I. All outside consultants and professionals funded by the Company pursuant to this Agreement must work under the direct authority and control of the County. Nothing in this Agreement shall be construed as abrogating the County's obligation and ability to remain independent and not subject to improper influence in the exercise of its governmental and proprietary functions. The Company has entered into this Agreement to fund a process for the creation and consideration of a Subarea Plan for the Upper ~~Kittitas~~ Teanaway Subarea, consistent with the guidelines established in Resolution No. 2009-100. The Company recognizes that any recommendations made by the County Lead Planner, Planning Commission and any decision of the Board of County Commissioners must reflect the public interest as provided in Chapters 36.70, 36.70A, and 43.21C RCW and nothing in this Agreement shall be construed to in any way impair or compromise the County's duty to objectively and independently carry out its governmental and proprietary responsibilities and its duties to its constituents as required by law.

J. The County and Contractor agree, as a general principle, to make their best efforts to follow the schedule in the recitals above. The Company recognizes that the ability of the County and Contractor to meet this schedule is, in part, dependent on the timely receipt of complete documents from the Company, and that additional time may be required. The Parties also recognize that some tasks in Phase 2 and Phase 3 ~~may~~ shall commence concurrent with Phase 1, in order to facilitate the overall schedule. The Parties agree that the time estimates contained in these recitals and in Attachment 2 to Resolution No. 2009-100 represent the goals of the Parties and that no other remedy is intended or allowed for redress of any failure to meet the review time estimates contained in this agreement or in Attachment 2.

In consideration of the foregoing, the parties hereby agree as follows:

1. The County has entered into a consultant agreement with Contractor to engage Anna Nelson to be the professional consultant (County Lead Planner) for this project. Ms. Nelson meets the criteria set forth in subparagraph F. Lead Planner professional consultant services shall not be assigned to a subcontractor without the consent of all parties to this Agreement.

2. An initial scope of work for County Lead Planner is provided in Resolution No. 2009-100 attached as Exhibit A to this Agreement. The billing rate for County Lead Planner shall not exceed the rate in the current professional services agreement with Contractor attached as Exhibit B. This initial scope of work projection has been reviewed by the County and the County and finds it acceptable for purposes of commencing said consultant services. Contract services for any additional third party consultant services will be done in accordance with County practices, but any final agreement on costs and fees for third party services shall be approved by both the County and the Company and shall become an attachment to this Agreement.

3. A new County municipal account entitled "Teanaway Subarea Planning Services Account" (hereinafter "Services Account") shall be established by the County in order to implement the terms and provisions of this Agreement.

4. The Services Account shall be administered by the County in a manner that is fiscally accountable to the Washington State Auditor, the County, and the Company.

5. The Services Account shall be initially funded by a payment from the Company to the County in the amount of $20,000.00 identified in the initial resolution. The County staff and County Lead Planner shall account for all expenses and at such time as the sum available to the account is less than $10,000 the County Lead Planner shall advise the County and Company of a need to provide additional funds for the account. Additional funds shall be provided in increments of $20,000 to assure that the County taxpayers not incur any liability for costs expended on the project. The County Lead Planner is not authorized to expend any funds not covered by funds in the Services Account, and the Company shall not be liable for any costs incurred in excess of funds available in the Services Account. In the event the County Lead Planner deems funds in the Services Account insufficient to proceed, the County may issue a stop work notice to the Company and no further work shall be performed until the account is funded as provided above. The initial budget for the Phase 1 work is $150,000 and the County Lead Planner shall advise the Company at any time it appears that the sums will not be sufficient and the responsibility of the Company is to fund the actual costs necessary to complete the project phase. Budgets for Phases 2 and 3 will be identified at the time of commencement of those phases and shall be added to this Agreement by mutual consent at the time. Budgets are solely for planning purposes and do not create any additional limits or obligations on either the County or the Company not otherwise expressed in this Agreement.

6. The County Lead Planner shall submit to the County a monthly invoice for Contractor work performed and costs incurred on related work on behalf of the Subarea Plan noted above. The County shall pay Contractor invoices for services and costs incurred by the consultant on behalf of the project from the Services Account and credit all invoices for costs incurred by the County (including staff materials and facilities) in servicing the project and submit evidence of payment as well as a copy of the invoices to the Company. Upon completion or termination of the County's agreement with the Contractor, and after final payment to the Contractor, any remaining balance in the Services Account shall be refunded to the Company.

7. Any and all interest accrued in the Services Account shall remain in the account for payment toward future invoices for consultant services. Company shall indemnify and hold the County harmless from any claim for payment due by the Contractor in excess of the remaining balance in the Services Account, provided that this claim relates to authorized consultant services on Subarea planning -related work as generally set forth in the Resolution (Exhibit A) or as modified with the agreement of the Company, and the Contractor work was completed prior to termination of the County's agreement with Contractor.

8. Nothing in this Agreement shall constitute or be interpreted as a maximum cap on Company obligations for the County's expenditures on consultant services, nor shall it constitute or be interpreted as a cap on any amounts that may be drawn from said account during any monthly period. Notwithstanding the foregoing, the maximum total amount that Company is obligated to pay under this Agreement shall not exceed funds made available to the Services Account as provided above. Nothing in this Agreement shall

obligate the County to continue to proceed with the process at any time the County determines sufficient funds are not in the Services Account for current planned activities.

9. This Agreement shall have an initial term (August 1, 201009- December 31, 20110) and may be extended by agreement of the parties; said renewal(s) to be in writing and executed not less than 90 days prior to the expiration of the previous term. Should either party desire to terminate this Agreement, the terminating party shall provide the other party with ninety (90) days prior written notice. This Agreement can be amended only by written agreement of the parties.

DATED this ____ day of _____, 201009.

EXECUTED, this ____ day of _____, 201009, for **American Forest Land Company, LLC:**

By: _____
~~Wayne Schwandt~~David Bowen,
Managing Member

Approved by Resolution in Open Session this ____ day of August 201009.

EXECUTED, this _____day of _____, 201009, for **Kittitas County:**

BOARD OF COUNTY COMMISSIONERS KITTITAS COUNTY, WASHINGTON

_____
Mark McClain~~Alan Crankovich~~, Chairman

_____
Paul Jewell, Vice Chairman

_____
Alan Crankovich ~~Mark McClain~~, Commissioner

ATTEST:
CLERK OF THE BOARD

_____
Julie A. Kjorsvik

APPROVED AS TO FORM:

_____
Neil Caulkins, Deputy Prosecuting Attorney

EXECUTED, this _____day of _____, 201009, for Contractor:

GORDONDERR LLP

By: _____
Partner

Kittitas County Upper Teanaway Subarea Plan
Memorandum of Agreement on Fees and Costs

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RECITALS

A. By Resolution No. 2009-100, adopted on July 21, 2009, the County established a subarea planning process and public participation program for the development of a Subarea Plan for the Upper Teanaway drainage area in Kittitas County; and

B. Phase 1 of the process will include an initial public outreach to identify the interested parties, specific interests and objectives to be achieved in planning units within the subarea and formation of a preliminary plan and report, suitable for SEPA review identifying alternatives for possible incorporation into the Kittitas County Comprehensive Plan. Phase 1 is anticipated to last through the end of December, 2009. The County has agreed to contract with Contractor to coordinate the public participation and development of an appropriate subarea plan recommendation in line with the adopted resolution. Anna Nelson, a land use planner/employee of the Contractor will serve as the County Lead Planner on this project, with the assistance of other Contractor employees listed in the Professional Services Agreement dated June 2, 2009, and as may later be amended.

The Company is to provide technical support in the form of mapping and other materials requested by the County Lead Planner that are deemed necessary or appropriate to carry out the subarea planning process in Phase 1. Such materials shall be prepared under the guidance of the County Lead Planner. Upon request from the County, the Company will provide supporting materials and information for publication on the County's website or in informational newsletters. Such materials shall be provided in a timely manner to assist in the transmittal of information regarding the planning process to the general public. .

The County is to provide the County Lead Planner with such staff and technical support (including legal) and all public facilities, advertising, public notices, mailings, printing and all other steps the County Lead Planner deems necessary or appropriate to carry out the objectives of the subarea planning process in Phase 1.

All costs incurred by the County deemed by the County Lead Planner to be necessary or appropriate to carry out the objectives of the Teanaway Subarea planning process

envisioned in the resolution shall be charged to the Teanaway Subarea Planning Services Account identified below and paid from the identified planning funds. The initial budget for Phase 1 is $150,000 and may be changed and adjusted as provided in Section 5 below; and

C. Phase 2 is the development of a draft Subarea Plan and nonproject Environmental Impact Statement (EIS) including environmental impacts and potential mitigation at a programmatic level associated with potential zoning alternatives tools available to achieve the goals and policies of the recommended plan. The form, format and content of the EIS (beginning with scoping and alternatives to be analyzed) will be controlled by the County SEPA Responsible Official. The option of an integrated Plan and EIS as authorized by WAC 197-11-210, et sec. will be explored as one option at the outset.

The County Lead Planner shall work with the County staff and technical consultants to determine the range of elements to be included in the Subarea Plan and the scope of issues to analyze in the EIS, to ensure the appropriate information is included for consideration by the public and decision makers.

The County Lead Planner shall meet with the Company and its consultants prior to commencement of Subarea Plan and Draft Environmental Impact Statement (DEIS) preparation to discuss required elements of the Subarea Plan and a preliminary scope for the DEIS.

Under the guidance of the County lead Planner, SEPA Responsible Official and technical staff, including EIS review and/or GMA planning consultant(s), the Company and its consultants shall prepare a draft preferred Subarea Plan, including draft plan text and implementing regulations, and a nonproject Draft Environmental Impact Statement (DEIS) with plan alternatives.

The DEIS shall be prepared under the guidance of the County Lead Planner, SEPA Responsible Official and technical staff, including EIS review consultants hired by the County, to review the DEIS for completeness and accuracy. Following review of a preliminary DEIS, the County Lead Planner and technical staff shall prepare a recommendation to the SEPA responsible official regarding any revisions prior to issuance of the DEIS. The timing of the DEIS is estimated to be approximately six months, from September 2010 to March 2011.

All costs of the DEIS process, including County technical and legal support and consultant support, will be charged to the Teanaway Subarea Planning Services Account as provided below. At the conclusion of the scoping phase of the SEPA review, the parties will identify a budget for third party consultant review, which shall be approved by the Company and be an addendum to this Agreement before proceeding with the DEIS; and

D. Phase 3 of the process is the County review of the proposed Subarea Plan and environmental review as a proposed amendment to the Kittitas County Comprehensive Plan in the 2011 planning cycle, which commences with an application filed on or before June 30, 2011. The planning cycle would include a public hearing on the Subarea Plan and DEIS, assembly and response to comments, and the issuance of a Final

Environmental Impact Statement (FEIS) for Planning Commission review as part of its Comprehensive Plan amendment review. The FEIS shall be prepared under the guidance of the County Lead Planner, SEPA Responsible Official and technical staff, including EIS review consultants. Following review of a preliminary FEIS, the County Lead Planner and technical staff shall prepare a recommendation to the SEPA responsible official regarding any revisions prior to issuance of the FEIS. All proceedings before the Planning Commission (including public hearings and workshops) on the Subarea Plan agenda item, Planning Commission recommendation to the Board of County Commissioners and proceedings on the Subarea Plan agenda item before the Board of County Commissioners through final action and are included in Phase 3.

All costs of processing the FEIS and the Subarea Plan recommendations through the Planning Commission and Board of County Commissioners, including costs of facilities for hearings held outside the County facilities, project-specific mailing and publication notices and any direct County technical support (including legal) and consultant support for processing the amendment request will be charged to the Teanaway Subarea Planning Services Account as provided below; and

E. Hiring contract planning staff and other necessary consultants will enable the County to respond to the Company's request to review the project in a timely and efficient manner. The Company understands the County Lead Planner works under the supervision of the County Senior Staff—presently Kirk Holmes, Interim Planning Director, and a permanent Planning Official at such time as one is identified by the County, and a partner of the Contractor; and

F. The Company is committed to reimbursing the costs, fees, and expenses incurred by the County for County staff support, at an hourly fee of $125.00/hour, and for a professional planning consultant position fully qualified by education and experience to lead a complex subarea planning process and other costs identified above to assure that the program is processing in a professional and timely fashion and without any financial burden on the taxpayers of Kittitas County; and

G. The County agrees to set up a traceable account for payment of all services identified under this Agreement, to be administered by the County in a manner subject to accountability to the Washington State Auditor, the County, and the Company, to assure prompt and timely payment for services rendered in a manner that will satisfy all applicable rules and regulations under which the County operates; and

H. Disbursements from the account to be established for payment of County staff support and professional consultant services pursuant to this Agreement shall be made by the County only for fees and costs incurred by the County for services rendered in relation to the proceedings necessary to create and review a Subarea Plan for the Upper Teanaway as provided above; and

I. All outside consultants and professionals funded by the Company pursuant to this Agreement must work under the direct authority and control of the County. Nothing in this Agreement shall be construed as abrogating the County's obligation and ability to remain independent and not subject to improper influence in the exercise of its governmental and proprietary functions. The Company has entered into this Agreement

to fund a process for the creation and consideration of a Subarea Plan for the Upper Teanaway Subarea, consistent with the guidelines established in Resolution No. 2009-100. The Company recognizes that any recommendations made by the County Lead Planner, Planning Commission and any decision of the Board of County Commissioners must reflect the public interest as provided in Chapters 36.70, 36.70A, and 43.21C RCW and nothing in this Agreement shall be construed to in any way impair or compromise the County's duty to objectively and independently carry out its governmental and proprietary responsibilities and its duties to its constituents as required by law.

J. The County and Contractor agree, as a general principle, to make their best efforts to follow the schedule in the recitals above. The Company recognizes that the ability of the County and Contractor to meet this schedule is, in part, dependent on the timely receipt of complete documents from the Company, and that additional time may be required. The Parties also recognize that some tasks in Phase 2 and Phase 3 shall commence concurrent with Phase 1, in order to facilitate the overall schedule. The Parties agree that the time estimates contained in these recitals and in Attachment 2 to Resolution No. 2009-100 represent the goals of the Parties and that no other remedy is intended or allowed for redress of any failure to meet the review time estimates contained in this agreement or in Attachment 2.

In consideration of the foregoing, the parties hereby agree as follows:

1. The County has entered into a consultant agreement with Contractor to engage Anna Nelson to be the professional consultant (County Lead Planner) for this project. Ms. Nelson meets the criteria set forth in subparagraph F. Lead Planner professional consultant services shall not be assigned to a subcontractor without the consent of all parties to this Agreement.

2. An initial scope of work for County Lead Planner is provided in Resolution No. 2009-100 attached as Exhibit A to this Agreement. The billing rate for County Lead Planner shall not exceed the rate in the current professional services agreement with Contractor attached as Exhibit B. This initial scope of work projection has been reviewed by the County and the County and finds it acceptable for purposes of commencing said consultant services. Contract services for any additional third party consultant services will be done in accordance with County practices, but any final agreement on costs and fees for third party services shall be approved by both the County and the Company and shall become an attachment to this Agreement.

3. A new County municipal account entitled "Teanaway Subarea Planning Services Account" (hereinafter "Services Account") shall be established by the County in order to implement the terms and provisions of this Agreement.

4. The Services Account shall be administered by the County in a manner that is fiscally accountable to the Washington State Auditor, the County, and the Company.

5. The Services Account shall be initially funded by a payment from the Company to the County in the amount of $20,000.00 identified in the initial resolution. The County staff and County Lead Planner shall account for all expenses and at such time as the sum

available to the account is less than $10,000 the County Lead Planner shall advise the County and Company of a need to provide additional funds for the account. Additional funds shall be provided in increments of $20,000 to assure that the County taxpayers not incur any liability for costs expended on the project. The County Lead Planner is not authorized to expend any funds not covered by funds in the Services Account, and the Company shall not be liable for any costs incurred in excess of funds available in the Services Account. In the event the County Lead Planner deems funds in the Services Account insufficient to proceed, the County may issue a stop work notice to the Company and no further work shall be performed until the account is funded as provided above. The initial budget for the Phase 1 work is $150,000 and the County Lead Planner shall advise the Company at any time it appears that the sums will not be sufficient and the responsibility of the Company is to fund the actual costs necessary to complete the project phase. Budgets for Phases 2 and 3 will be identified at the time of commencement of those phases and shall be added to this Agreement by mutual consent at the time. Budgets are solely for planning purposes and do not create any additional limits or obligations on either the County or the Company not otherwise expressed in this Agreement.

6. The County Lead Planner shall submit to the County a monthly invoice for Contractor work performed and costs incurred on related work on behalf of the Subarea Plan noted above. The County shall pay Contractor invoices for services and costs incurred by the consultant on behalf of the project from the Services Account and credit all invoices for costs incurred by the County (including staff materials and facilities) in servicing the project and submit evidence of payment as well as a copy of the invoices to the Company. Upon completion or termination of the County's agreement with the Contractor, and after final payment to the Contractor, any remaining balance in the Services Account shall be refunded to the Company.

7. Any and all interest accrued in the Services Account shall remain in the account for payment toward future invoices for consultant services. Company shall indemnify and hold the County harmless from any claim for payment due by the Contractor in excess of the remaining balance in the Services Account, provided that this claim relates to authorized consultant services on Subarea planning -related work as generally set forth in the Resolution (Exhibit A) or as modified with the agreement of the Company, and the Contractor work was completed prior to termination of the County's agreement with Contractor.

8. Nothing in this Agreement shall constitute or be interpreted as a maximum cap on Company obligations for the County's expenditures on consultant services, nor shall it constitute or be interpreted as a cap on any amounts that may be drawn from said account during any monthly period. Notwithstanding the foregoing, the maximum total amount that Company is obligated to pay under this Agreement shall not exceed funds made available to the Services Account as provided above. Nothing in this Agreement shall obligate the County to continue to proceed with the process at any time the County determines sufficient funds are not in the Services Account for current planned activities.

9. This Agreement shall have an initial term (August 1, 2010- December 31, 2011) and may be extended by agreement of the parties; said renewal(s) to be in writing and executed not less than 90 days prior to the expiration of the previous term. Should either party desire

to terminate this Agreement, the terminating party shall provide the other party with ninety (90) days prior written notice. This Agreement can be amended only by written agreement of the parties.

DATED this ____ day of _____, 2010.

EXECUTED, this ____ day of _____, 2010, for **American Forest Land Company, LLC:**

By: _____
David Bowen, Managing Member

Approved by Resolution in Open Session this ____ day of August 2010.

EXECUTED, this _____day of _____, 2010, for **Kittitas County:**

BOARD OF COUNTY COMMISSIONERS KITTITAS COUNTY, WASHINGTON

_____
Mark McClain, Chairman

_____
Paul Jewell, Vice Chairman

_____
Alan Crankovich , Commissioner

ATTEST:
CLERK OF THE BOARD

_____
Julie A. Kjorsvik

APPROVED AS TO FORM:

_____
Neil Caulkins, Deputy Prosecuting Attorney

EXECUTED, this _____day of _____, 2010, for Contractor:

GORDONDERR LLP

By: _____
Partner