

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON**

ORDINANCE

NO. 2010-011

**An Ordinance Approving A Development
Agreement Related To The Development Of The
Teanaway Solar Reserve Project**

WHEREAS, RCW Chapter 36.70B and Chapter 15A.11 Kittitas County Code authorize Kittitas County to enter into an agreement regarding development of real property located within the County's jurisdiction with any person having an ownership interest in or control of such real property; and

WHEREAS, Teanaway Solar Reserve LLC, a Wyoming limited liability company ("Applicant"), has controlling interests in 982 acres of real property zoned Forest & Range and located approximately 4 miles northeast of Cle Elum, Washington, within Sections 22, 23, and 27 of T20N, R16E, WM in Kittitas County; and

WHEREAS, Applicant proposes to develop a solar farm and associated utilities capable of generating up to 75 MWdc of renewable PV solar energy ("Project") on approximately 477 acres within the 982 acre area; and

WHEREAS, Applicant submitted an application for a conditional use permit ("CUP") with accompanying Expanded SEPA Checklist (CU-09-0005) to the Kittitas County Community Development Services Department ("CDS") on August 9, 2009, with supplementation in February and June 2010; and

WHEREAS, the County determined that the size and complexity of the Project also warranted a development agreement between the County and Applicant; and

WHEREAS, the CUP application for the Project included a copy of a draft development agreement for review and consideration; and

WHEREAS, CDS assumed lead agency status for the environmental review of the Project and, following public review and comment, CDS issued a project-level Mitigated Determination of Non-significance ("MDNS") under the State Environmental Policy Act

("SEPA") for the CUP application on July 15, 2010, that mitigates the environmental impacts from the Project to a level of non-significance; and

WHEREAS, a timely appeal of the MDNS was filed on July 26, 2010; and

WHEREAS, after conducting an open record hearing on August 11, 2010, the Kittitas County Board of Adjustment did find that CDS followed all procedural requirements contained within KCC 15A, RCW 43.21C, WAC 197-11, and RCW 36.70B and considered all relevant environmental factors, that appellants failed to meet their burden of demonstrating otherwise, upheld the MDNS and denied the appeal as set forth in the August 12, 2010 "Findings of fact and Decision Teanaway Solar Reserve – SEPA Appeal CU-09-0005"; and

WHEREAS, after conducting an open record hearing on August 11, 2010, the Kittitas County Board of Adjustment did find that the proposed Project met all the requirements and review criteria for conditional uses under KCC 17.61 and KCC 17.60A, and granted the CUP subject to the following conditions as set forth in the August 12, 2010 "Findings of fact and Decision Teanaway Solar Reserve – Conditional Use Permit CU-09-0005":

1. All development, design and construction shall comply with Kittitas County Code, Kittitas County Zoning and the 2006 International Fire and Building Codes, including those mitigation measures listed as “Code Mitigation” in the SEPA Staff Report, dated July 14, 2010.
2. All development, design and construction shall comply with those mitigation measures listed as “Voluntary Mitigation” in the SEPA Staff Report, dated July 14, 2010.
3. All development, design and construction shall comply with the SEPA mitigation measures listed in the MDNS, dated July 15, 2010;
4. The applicant shall enter into a Development Agreement with the Kittitas County Board of County Commissioners; and

WHEREAS, due notice of the hearings set forth above has been given as required by law; and

WHEREAS, a draft Development Agreement was duly published for a thirty (30) day public comment period; and

WHEREAS, after receiving written and oral public testimony, the Board of County Commissioners decided on September 21, 2010 to continue the public hearing and keep the written record open until September 29, 2010; and

WHEREAS, after receiving and considering additional written public testimony and information received on and before September 29, 2010, the Board of County Commissioners reconvened the public hearing on October 5, 2010; and

WHEREAS, testimony was taken and documentary evidence received by the Board of County Commissioners from those persons wishing to be heard; and

WHEREAS, the Board of County Commissioners reviewed and considered the materials, testimony and information presented by the County, Applicant, and the public relating to the Development Agreement; and

WHEREAS, the Board of County Commissioner also reviewed and considered the project-level MDNS, finding the Development Agreement presented no additional adverse environmental impacts requiring supplemental analysis or mitigation under SEPA; and

WHEREAS, the Board of County Commissioners on October 5, 2010, after concluding its public hearing did deliberate and vote to approve the proposed Development Agreement; and

WHEREAS, in Applicant's proposed Development Agreement, the Applicant has agreed to address all County code requirements and abide by the County's development conditions except as specifically provided in the Development Agreement; and

WHEREAS, the development of the Project will be specifically governed by (a) the terms and conditions of the Development Agreement entered into between the County and Applicant pursuant to RCW 36.70B.170 through .200, and Chapter 15A.11 KCC, *Development Agreements*, and (b) the terms and conditions of the conditional use permit issued by the County; and

WHEREAS, the County and Teanaway Solar Reserve LLC have reached agreement regarding the terms and conditions of a Development Agreement related to the development of the Project, which Development Agreement, together with its Exhibits A through E, is attached hereto and incorporated herein.

NOW, THEREFORE, BE IT ORDAINED that the Board of Kittitas County Commissioners, after due deliberation, hereby approves and adopts the *Development Agreement by and between Kittitas County, Washington and Teanaway Solar Reserve, LLC*, together with its Exhibits A through E, which agreement and exhibits are attached

hereto and incorporated herein (the "Teanaway Solar Reserve Project Development Agreement").

BE IT FURTHER ORDAINED that the approval of this Development Agreement for the Teanaway Solar Reserve project is conditioned upon compliance with the SEPA Mitigation Measures identified in the MDNS, the conditions of the conditional use permit (CU-09-0005), as well as the Development Standards as defined in the Teanaway Solar Reserve Project Development Agreement.

BE IT FURTHER ORDAINED that if any section subsection paragraph sentence clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

BE IT FURTHER ORDAINED that this ordinance or a summary thereof shall be published in the official newspaper of the City and shall take effect and be in full force five days after passage and publication as provided by law.

ADOPTED THIS 2nd day of November, 2010, at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON



Mark McClain, Chair



Paul Jewell, Vice Chair



Alan A. Crankovich, Commissioner

Julie Kjorsvik
Clerk of the Board, Julie Kjorsvik



APPROVED AS TO FORM ONLY:

Neil Caulkins
Deputy Prosecuting Attorney