

CLARK COUNTY STAFF REPORT

DEPARTMENT: Public Works/Chelatchie Prairie Railroad

DATE: September 25, 2018

REQUESTED ACTION: Approve an updated North Line Leaseback Agreement with the Portland Vancouver Junction Railroad renewing, amending and extending the agreement to June 2026.

Consent Hearing County Manager

BACKGROUND

Clark County owns the Chelatchie Prairie Railroad and leases the 33-mile line to Portland Vancouver Junction Railroad. A leaseback agreement allows the Battle Ground, Yacolt and Chelatchie Prairie Railroad Association (BYCX) to use the portion of the line north of Heisson, from mile post 18.7 to mile post 33.1, for passenger excursion trains.

The leaseback agreement has expired. BYCX has received funding, administered through the Washington State Department of Transportation, for a new rail-related building in Yacolt. Conditions of the funding require the association control a portion of the rail line for 10 years. The leaseback extension is the final agreement necessary for BYCX to demonstrate this control.

COUNCIL POLICY IMPLICATIONS

This request has no council policy implications.

ADMINISTRATIVE POLICY IMPLICATIONS

This request has no administrative policy implications.

COMMUNITY OUTREACH

The Railroad Advisory Board supports the leaseback agreement.

BUDGET IMPLICATIONS

This request has no budget implications.

YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

Pw18-110

BUDGET DETAILS

Local Fund Dollar Amount	NA
Grant Fund Dollar Amount	NA
Account	NA
Company Name	NA


DISTRIBUTION:

Council staff will post all staff reports to the county website, www.clark.wa.gov/council-meetings.

Attachments: North Line Leaseback Agreement

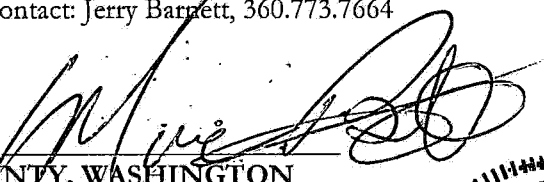


Jerry Barnett, PE
Railroad Coordinator



Ahmad Qayoumi, PE
Interim Public Works Director/County
Engineer

Primary staff contact: Jerry Barnett, 360.773.7664



APPROVED:
CLARK COUNTY, WASHINGTON
CLARK COUNTY COUNCIL

DATE: Sept. 25, 2018
SR# 157-18



APPROVED: _____
Shawn Hennessee, County Manager

DATE: _____

NORTHLINE LEASEBACK AGREEMENT
RATIFICATION, AMENDMENT and EXTENSION

This First Amendment to the Leaseback Agreement dated June 6, 2006 (“Leaseback Agreement”) is made and entered by and between Portland Vancouver Junction Railroad, LLC (“PVJR”) and Clark County, Washington (“County”), a municipal corporation, being collectively referred to as parties.

RECITALS

WHEREAS, the Leaseback Agreement between the County and Columbia Basin Railroad Company, Inc., a Washington Corporation (“CBRC”), was assigned and transferred to PVJR on February, 1 2012.

WHEREAS, the term of the Leaseback Agreement was for five (5) years, with the option of two five (5) year extensions;

WHEREAS, the parties to the Leaseback Agreement exercised the first five (5) year extension in 2011, making the Leaseback Agreement operable up through June 2016.

WHEREAS, the parties to the Leaseback Agreement failed to exercise the second five (5) year extension in June 2016, arguably causing the Leaseback agreement to expire;

WHEREAS, the parties have continuously conducted themselves in a manner that recognizes the existence of the Leaseback Agreement;

WHEREAS, the parties find good cause to amend the Section LB2 of the Leaseback Agreement to provide for additional options of lease term extensions;

WHEREAS, the parties wish to exercise an extension that makes the Leaseback effective from June 2016 to June 2026;

WHEREAS, the Council finds that extension of the Leaseback to 2026 is in the public’s best interest.

NOW THEREFORE, the parties agree to the following:

The parties agree to amend Section LB2 as follows:

“CBRC agrees to leaseback to the County, and County agrees to lease from CBRC, on the terms and conditions set forth in this Agreement, the North Line, for an initial term of five (5) years from the effective date of this Agreement, with the options of an initial extension of five (5) years, a subsequent extension of ten (10) years, and a final extension of three and one-half (3.5) years, at the sole and exclusive option of County, for a total of eighteen and one-half (18.5) years, unless and until otherwise terminated as provided herein.”

The parties agree to ratify the conduct related to the Leaseback Agreement from June 2016 through the execution of this document, provided such conduct complied with the Leaseback.


The parties agree to recognize the exercise of the ten (10) year extension noted in the amended Section LB2, making the Leaseback Agreement operable up through June 2026.

The parties agree that all other provisions of the Leaseback Agreement remain inviolate and that any modification hereafter will require a specific written agreement between the parties and no oral comment, statement, suggestion or understanding, or other act, shall have any legal effect or amend the Leaseback Agreement in anyway.

The parties further agree that execution of this document does not affect any existing or future legal claims or defenses the parties might have regarding the underlying Lease between PVJR and the County, dated December 20, 2004.


By signing this document the parties represent that they understand the terms contained herein and agree to them and provide their full and complete consent.

PORTLAND VANCOUVER JUNCTION RAILROAD, LLC

 9-12-18
By: Eric Temple, President

CLARK COUNTY
ATTEST

COUNTY COUNCILORS
FOR CLARK COUNTY WASHINGTON



Deputy Clerk to the Board


Marc Boldt, Chair

Jeanne Stewart, Councilor, District 1

APPROVED AS TO FORM ONLY:
Anthony F. Golik
Prosecuting Attorney

Julie Olson, Councilor, District 2


By: William Richardson, DPA

John Blom, Councilor, District 3

Robert Quiring, Councilor, District 4

