

**PALOUSE RIVER AND COULEE CITY
INTERLOCAL COOPERATION AGREEMENT**

THIS AGREEMENT ("Agreement") is entered into between GRANT COUNTY ("Grant"), LINCOLN COUNTY ("Lincoln"), and SPOKANE COUNTY ("Spokane"), all political subdivisions of the State of Washington, and the PORT OF WHITMAN COUNTY, a municipal corporation of the State of Washington (the "Port"), jointly hereinafter referred to as the "Parties", each individually referred to as a "Party".

RECITALS:

WHEREAS, pursuant to the provisions of chapter 39.34 RCW, two or more public agencies may jointly cooperate between each other to perform functions which each may individually perform.

WHEREAS, pursuant to the provisions of RCW 47.76.250 and RCW 53.08.290, the Parties have the legal authority to provide for the acquisition, rebuilding, rehabilitating and improvement of rail lines.

WHEREAS, pursuant to Chapter 518, Section 713, Laws of the State of Washington, 2007, the legislature made available \$7,000,000 for grants to any intergovernmental entity or local rail district provided that the funds are used only to refurbish the Palouse River and Coulee City (PCC) rail line system made up of the CW, P&L and PV Hooper rail lines.

WHEREAS, the Parties desire to form an intergovernmental entity solely for the purpose of receiving grants by the state of Washington and other sources for the refurbishing of the Palouse River and Coulee City (PCC) rail line system made up of the CW, P&L and PV Hooper rail lines.

NOW, THEREFORE, for and in consideration of the mutual promises set forth hereinafter, the Parties hereto do mutually agree as follows:

SECTION NO. 1: PURPOSE:

The purpose of this Agreement is to form an intergovernmental entity with authority to provide for the refurbishment of the Palouse River and Coulee City rail line system made up of the CW, P&L and PV Hooper rail lines (the "Rail Line"), a state-owned short line system consisting of approximately 300 miles of track operating within Grant County, Lincoln County, Spokane County, and Whitman County, Washington. The Washington State Department of Transportation (the "WSDOT") has identified and prioritized refurbishments for the Rail Line which are summarized and set forth in Exhibit "A", attached hereto and incorporated herein by reference. Funds for refurbishment of the Rail Line have been or will be appropriated by the state of Washington.

Currently, three railroads (the "Railroads") operate on the Rail Line in accordance with operating leases entered into with the state of Washington.

SECTION NO. 2: FORMATION OF SEPARATE LEGAL ENTITY

The Parties hereby create a separate legal entity to be known as the Interlocal Rail Authority (the "Rail Authority") to accept and administer funds for refurbishment of the Rail Line in accordance with the project list and in the priority set forth in Exhibit A.

SECTION NO. 3: GOVERN BOARD OF THE INTERLOCAL RAIL AUTHORITY

The Rail Authority shall be governed by a board consisting of four members ("Governing Board"). Each Party shall appoint one member to the Governing Board. Additionally, each Party shall appoint an alternate member to serve in its respective member's absence or incapacity. Each appointment as well as alternate appointment shall be within the sole discretion and control of the appointing Party. Each appointment shall continue until withdrawn for any reason whatsoever by the appointing Party.

Each Party shall transmit the name of its appointee and alternative appointee to the Rail Authority.

Any action by the Governing Board shall require unanimous consent of all its members.

SECTION NO 4: POWERS OF THE GOVERNING BOARD

The Governing Board is hereby authorized to perform any and all acts and business necessary to carry out the purpose of the Rail Authority, except as limited herein, including but not limited to, the following:

- (a) Adopt its own rules and bylaws for the conduct of Governing Board business not inconsistent with this Agreement and elect officers in accordance with said bylaws;
- (b) Appoint a treasurer or fiscal agent to handle all funds received and disbursed by said Governing Board;
- (c) Engage services of engineers and design professionals as reasonably necessary for the bidding of refurbishment projects on said Rail Line;
- (d) Bid and contract for refurbishment projects on said Rail Line, all in accordance with applicable state of Washington public bid laws;
- (e) Seek cooperative arrangements with the WSDOT for technical advice and other assistance and to accept the transfer of project plans for the projects identified on Exhibit A, all with a view to expediting and streamlining, without duplication of costs already incurred by the state of Washington for the refurbishment of said Rail Line;

(f) Assign and transfer to or join with WSDOT in the projects contemplated by this Agreement, as may be mutually agreed;

(g) Seek funding in addition to that provided by the state of Washington for refurbishment of said Rail Line. Provided, all conditions, if any, attached to such funding, and shall be separately approved by the governing body of each Party;

(h) Consistent with the purpose stated herein, and in the usual course of business, execute contracts, leases, user agreements, licenses, and other agreements;

(i) As trustees for the Parties, give notice and make demand or bring any action at law in equity to recover any claim, money, debt, obligation, or property due the Rail Authority and to which it may be entitled, including the enforcement of any fine or penalty provided for by law or agreement;

(j) Accept and acquire by gift, governmental grant, purchase, trade, or exchange any and all real or tangible personal property for use connected to the refurbishment of the Rail Line;

(k) Keep full, complete, and accurate financial records of accounts as such matters may be required by law for political subdivisions and municipal corporations of the state of Washington as may be necessary to fully show all assets, liabilities, and business transactions, all of which shall be available at any reasonable time for inspection by any officer or agent of the Parties or any authorized governmental entity;

(l) Make any and all reports required by law in the conduct of the Governing Board's business;

(m) Carry such public liability insurance as may be necessary to adequately protect the Rail Authority, Governing Board and the Parties from damage claims.

The Governing Board shall not have the authority to do the following:

(n) Levy any tax;

(o) Incur any unfunded debt or obligation;

(p) Apply for or accept common carrier status;

(q) Seek or exercise the power of eminent domain;

(r) Commit the funds of or financially obligate any Party without the express approval of the governing body of that Party; or

(s) Authorize anything prohibited by law.

The Governing Board shall meet as deemed appropriate. Meeting shall be noticed and conducted in accordance with the Open Public Meetings Act. The Governing Board shall cause minutes of such meeting to be kept and made available to each Party's governing body is so requested as soon as practicable following such meetings.

SECTION NO 5: OPERATING COSTS AND BUDGET

The Governing Board shall prepare annually, or as deemed necessary, an administrative budget for the Rail Authority to include support staff. Any administrative budget must be approved by each Party's governing body.

SECTION NO 6: TERMINATION

This Agreement shall terminate upon withdrawal of any Party hereto on 30 days' written notice to all the Parties. Any such termination shall be applicable only as to any obligation incurred after such termination but not be applicable as to any obligations previously incurred or existing by the Rail Authority at the time of such termination.

Upon termination of this Agreement, subject to any outstanding expenses and claims of the Rail Authority and the necessary cost or expenses of winding up the business of the Rail Authority, all unexpended contributions of the Parties, to include real or personal property, shall be returned to each Party, pro rata in accordance with the contribution of each. All unexpended and uncommitted funds and grant monies held for projects and refurbishment of the Rail Line shall be returned to the entity which was the source of such funds.

SECTION NO 7: NOTICES

Notices to any Party will be mailed by first-class mail, postage prepaid, and/or transmitted electronically to such Party's governing board at the normal business place thereof, and will be addressed to the Chairman of such Party.

SECTION NO 8: AMENDMENTS

This Agreement may be amended only by an agreement of all Parties satisfying the requirements of chapter 39.34 RCW at that time of such amendment.

SECTION NO. 9: FILING OF AGREEMENT

Each Party will file this Agreement with the County Auditor or placed it on its web site.

SECTION NO. 10: RECITALS

The recitals set forth herein are hereby incorporated into this Agreement in full.

SECTION NO. 11: SEVERABILITY

In the event any provision of this Agreement shall be declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not, in any way be affected or impaired.

SECTION NO. 12: ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. All Parties have read and understands all of this Agreement and now states that no representation, promise or agreement not expressed in this Agreement has been made to induce any Party to execute the same.

SECTION NO. 13: HEADINGS

The Section headings in this Agreement have been inserted solely for the purpose of convenience and ready-reference. In no way do they purport to, and shall not be deemed to, define, limit or extend the scope or intent of the Sections to which they appertain.

SECTION NO. 14: EXECUTION AND APPROVAL

The Parties warrant that the officers/individuals executing below have been duly authorized to act for and on behalf of the Party for purposes of confirming this Agreement.

SECTION NO. 15: COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.

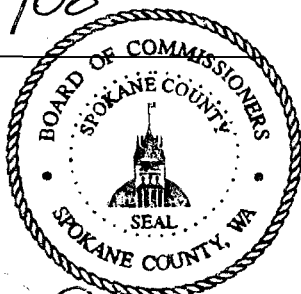
SECTION NO. 16: RCW 39.34 REQUIRED CLAUSES

- A. **PURPOSE:** See Section No. 1 above.
- B. **DURATION:** See Section No. 6 above.
- C. **ORGANIZATION OF SEPARATE ENTITY/ POWERS:** See Section No. 3.
- D. **RESPONSIBILITIES OF THE PARTIES:** See provisions above.
- E. **AGREEMENT TO BE FILED:** See Section No. 9 above.

- F. **FINANCING**: See Section No. 5 above. Additionally each Party shall be responsible for the financing of its contractual obligations under its normal budgetary process.
- G. **TERMINATION**: See Section No. 6 above.
- H. **PROPERTY UPON TERMINATION**: See Section No. 6 above.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on date and year opposite their respective signatures.

DATED: 3/7/08



ATTEST:

Daniela Erickson
Daniela Erickson, Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

ABSENT

Bonnie Mager, Chair

Todd Mielke
Todd Mielke, Vice Chair

Mark Richard
Mark Richard, Commissioner

DATED: 3-10-08

ATTEST:

Graham Wayz

BOARD OF COUNTY COMMISSIONERS
OF GRANT COUNTY, WASHINGTON

Richard Stevens

H. D. Allen
Excused

BOARD OF COUNTY COMMISSIONERS
OF LINCOLN COUNTY, WASHINGTONDATED: 3/10/08

ATTEST:

Hanci PottelTed HopkinsRonald D. ColemanDennis D. Bly

PORT OF WHITMAN COUNTY

DATED: 3-10-08

By

Joseph Pua
Executive Director

(Authorized by Resolution 08- 05 , adopted by the Port Commission at it regular meeting on the 6th day of March , 2008.)