

TO: YAKIMA CITY PLANNING COMMISSION and PLANNING
DIVISION
FR: YAKIMA TAXPAYERS FOR FISCAL RESPONSIBILITY
DA: October 14, 2026
RE: Comments on Proposed Yakima Comprehensive Plan 2050

Yakima Taxpayers for Fiscal Responsibility (YTFR) submit the following comments on the proposed Comprehensive Plan 2050 Update, SEPA Environmental Checklist, and proposed SEPA Determination of Nonsignificance (DNS).

The Comprehensive Plan (CP) Historic Preservation Element is being amended. On page 4-8 of the proposed Historic Preservation Element, there is a section on City-owned Facilities that says “the Yakima Valley Trolley, which includes associated buildings and track” is a “significant” property and is important as an anchor to downtown and the growing tourism market.

Although the City owns former railroad buildings and land at South 3rd Avenue and Pine Street, the City does **not** own the abandoned railroad tracks north of Gordon Road in the City of Yakima. The City of Yakima does not own any land with railroad tracks in the City of Selah. The City of Yakima does not own any land with railroad tracks in unincorporated Yakima County.

After abandoning the freight-only electric railroad in 1985, Yakima Valley Transportation Company (YVTC) gave City of Yakima a Bill of Donation for *personal property* and delivered to the City of Yakima a Donation Quitclaim Deed for *real property* owned by YVTC, if any.

The 1985 Bill of Donation to Yakima included an itemized list of equipment transferred to the City but *excluded* “structures and other fixtures.” Thus, YVTC’s bridge, trackage, wires, and poles attached to land were structures or fixtures that were *excluded* from the Bill of Donation.

The 1985 Donation Quitclaim Deed to Yakima *included* “all trackage, wires, poles, structures, and other fixtures and appurtenances located on said real property.” The Donation Quitclaim Deed legal description was limited to “the rights-of-way of the Yakima Valley Transportation Company.” But the Yakima Valley Transportation Company did not own the *right-of-way* in Selah Gap – in 1985, the abandoned rail line in

Selah Gap was on the right-of-way land owned exclusively by Burlington Northern Railroad (now BNSF). So, the Donation Quitclaim Deed did not pass any real property to the City in Selah Gap.

There is no recorded easement in Selah Gap from Northern Pacific/BNSF to the City of Yakima. An unrecorded 1912 “Agreement” between Northern Pacific Railway and Yakima Valley Transportation Company allowed YVTC to operate a main line railroad on Northern Pacific land but that License Agreement was not assigned to the City of Yakima. In 1934, Yakima County ended its franchise for passenger rail service to Selah. Passenger rail use through Selah Gap was permanently abandoned in 1935 under the case *In re Electric Railway Service of Yakima Valley Transportation Company* (Order of Washington Department of Public Works; Cause No. 6832; Apr. 11, 1935). When the YVTC railroad went out of business and was abandoned in 1985, any remaining license agreements lapsed.

As to YVTC’s Selah Line outside of Yakima street right-of-way and outside of BNSF right-of-way, YVTC obtained right-of-way deeds from private landowners and received a Yakima County Franchise to build tracks in County right-of-way. Yakima County revoked the franchise for passenger service in 1934. As to private right-of-way deeds, the State Supreme Court has ruled in a line of cases that absent contemporaneous extrinsic evidence to the contrary, railroad right-of-way deeds are treated as easements that are automatically extinguished once railroad operations permanently cease. Since Selah Line passenger rail operations permanently ceased in 1935, passenger rail easements were extinguished in 1935 and automatically reverted back to the underlying private landowners.

In *Congdon Orchards v. City of Yakima, et. al*, the court held that the Yakima trolley streetcar operation is not a railroad but instead is a “*tourist attraction*.” The court cited Supreme Court case law distinguishing between railroads and trolley streetcars. The *Congdon* court ruled that under *both* case law and the explicit language of the Congdon easement itself, seasonal tourist trolley use “is not in conformity with the purposes” of the railroad easement and therefore, “the right of way reverts to the original landowner.”

The Draft Comprehensive Plan 2050, Volume II Technical Analysis, Page 4-46 (Draft June 2026) discusses “repairs to the Yakima Valley Trolley Bridge over the Naches River” under Project WA-15913 but this project should be entirely removed from the Technical Analysis document because on July 7, 2026, the Yakima City Council passed a motion “to remove the Naches River Bridge from the Transportation Improvement

Program” and specified that “no City funds shall be used for trolley track infrastructure consistent with Council’s previous direction regarding TBD funds.”

The Draft Comprehensive Plan 2050, Volume II Technical Analysis, Page 4-52 (Draft June 2026) discusses project R-3 “6th Avenue Rehabilitation (Walnut to River Road). The total listed cost for project R-3 is \$7,720,000 but that amount is very inaccurate and should be \$18,254,800, according to HLA Engineer’s Opinion of Construction Cost (11/6/2025). The trolley portion of that total is \$8,402,500 in 2025 dollars.

The abandoned Selah Rail Line is 4 miles long between Yakima and Selah. Re-engineering and rebuilding this heavily degraded rail line is a very complex project. To construct just 7,800 linear feet of track/overhead catenary system on 6thAve. costs about **\$5.7 Million per mile**. The cost to re-engineer and rebuild the entire 4-mile Selah Line is about **\$22.8 million** based on the \$5.7 million per mile engineering estimate for 6th Avenue tracks.

The final cost may be higher if the City and trolleys face challenges obtaining permits to traverse a mile-long strip of oversteepened slopes within the County-designated "High Risk" Geologically Hazardous area. Ten years ago, it cost **\$135 Million** to build the 2.5-mile First Hill Streetcar tracks & OCS and **\$56 Million** to build the 1.3-mile South Lake Union trolley line. The annual streetcar operating costs are \$4.5 Million to \$5 Million for each streetcar. By contrast, Yakima’s annual trolley expenditure budget for 4.5 miles of track is \$13,637, with budgeted annual revenues of \$11,869.

The trolley should be completely removed from all City Transportation documents because Yakima’s seasonal tourist trolley is a “tourist attraction,” and is **Not Transportation** under state and federal laws, case law, and city ordinances. In any case, Yakima lacks authority to operate trolleys north of the Naches River. The SEPA Environmental Checklist should be redone to consider the “high-risk” landslide potential in Selah Gap where a mile of tracks pass through the County-designated geologic hazard area. An environmental/cultural impact study may be necessary to evaluate the impacts of trolley operation and maintenance activities in this hazard area.



Mary Place

(509)966-1590

1. 6th Avenue Project –\$18.3 MILLION
2. 9.15.25 Trolley Letter – Attorney Carmody
3. Bill of Donation – Personal Property
4. Congdon orchards v. Yakima 1987 Court Decision
5. Disputed ROW R-1991-D5887 Interurban Lines copy
6. Donation Quit Claim Deed – Real Property
7. Landslide High Ris A=Int-fo Along Trolley Route
8. Letter Brown & Berg 1-20-26
9. City Council Minutes -07-07-2026
10. Seasonal Tourist and Sightseeing Trolleys
11. State Order Permanent Abandonment Passenger Rail Service to Selah
12. Trolley Not Eligible for Transportation Funds
13. Yakima County-wide Planning Policy)2003)
14. YNCRP Letter to City of Yakima 12.3.2025
15. YVT 12/3/25 Attorney Carmony Letter
16. YVTC Letter to DAHP
17. Northern Pacific RR co ROW Dept. Hope to Ellensburg
18. 1912 Railroad License Agreement Cover Sheet
19. 1912 Approval of Trail in NPRR ROW
20. City Council Minutes 02-17-2026

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TO: YAKIMA CITY COUNCIL
FR: YAKIMA TAXPAYERS FOR FISCAL RESPONSIBILITY
DA: July 7, 2026
RE: Comments on Six-Year TIP, Transportation System Plan, and Capital Facilities Element

On July 7, 2026, the Yakima City Council will hold a Public Hearing regarding: A) Resolution adopting the Six-Year Transportation Improvement Program (TIP) for the period of 2027 through 2032, and to amend the 2040 Transportation System Plan; and B) Resolution amending the Yakima Comprehensive Plan Capital Facilities Element. Yakima Taxpayers for Fiscal Responsibility ("Yakima Taxpayers") submits these Public Hearing comments and respectfully requests City Council make two motions to revise pages 4 and 14 of the TIP as follows:

TIP page 4: Delete the three words "including trolley provisions" from the Project Description for "6th Avenue Roadway Improvements" and change the "Total Funds and Expenditures" from \$17,350,000 TO \$10,000,000.

TIP page 14: Delete the word "Trolley" and substitute the word "Transportation" in the Project Description for "Naches River Bridge Repair."

The trolley is Not Eligible for inclusion in the TIP because: (1) Yakima County Superior Court ruled the trolley is not a railroad but instead is a "tourist attraction"; (2) Under state and federal laws, the seasonal tourist trolley is not "public transportation" and is not a "transportation improvement"; (3) On 2/17/2026, City Council removed the trolley tracks from the 6th Avenue Roadway Project amid concerns the trolley was not an eligible "transportation improvement." SEPA Review must be completed before amending the Capital Facilities Element.

Attachments:

1. City Council Motion # 1 revising TIP page 4
2. City Council Motion # 2 revising TIP page 14
3. Yakima Ordinance No. 2026-005
4. Yakima City Council Meeting Minutes (2/17/2026)
5. Letter from Attorney James C. Carmody (1/20/2026)
6. WSDOT: Naches River Bridge not eligible for Transportation Alt. funds (1/20/2026)
7. Congdon Orchards v. City of Yakima Court Decision (Excerpt 4/8/1987)
8. Letter from Attorney James C. Carmody (12/18/2025)
9. Yakama Nation Request for Formal Consultation (12/3/2025)
10. Letter from Attorney James C. Carmody (12/3/2025)
11. Letter from Attorney James C. Carmody (9/15/2025)
12. Yakima County "High Risk" Geologic Hazard GMA Critical Areas Map
13. Utilities and Transportation Commission Public Safety Order
14. National Historic Preservation Act § 106 Consultation
15. Trolley Operation License Agreement (Page 2 excerpt 1/20/2026)
16. Memorandum: Sightseeing Tourist Trolley not Eligible (STIP ID WA-15913)

Motion # 1

I MOVE TO DELETE THE THREE WORDS “INCLUDING TROLLEY PROVISIONS” FROM THE PROJECT DESCRIPTION FOR “6TH AVENUE ROADWAY IMPROVEMENTS” ON PAGE 4 OF THE TIP AND CHANGE THE TOTAL FUNDS AND EXPENDITURES FROM \$17,350,000 TO \$10,000,000.

REASONS: THE TROLLEY IS NOT ELIGIBLE FOR INCLUSION IN THE TIP

City Council Resolution 2024-095 originally contemplated the use of Yakima’s Transportation Benefit District (TBD) funds to rebuild tracks and overhead electric wires on a 1.5-mile segment of the 4-mile Yakima to Selah rail line. However, that 2024 Resolution was superseded by a 2026 “No Tracks” City Ordinance and accompanying Motion to “*remove the trolley tracks from the TBD list.*” (Yakima Ordinance 2026-005 and City Council Meeting Minutes--Feb. 17, 2026). HLA Engineering 2024 estimate of \$7.4 Million to build 6th Avenue tracks and overhead electric power system should be deducted from the total costs of the 6th Avenue Roadway Project.

In a Legal Opinion on TBD transportation improvements sent to the City January 20, 2026, Yakima Attorney Jamie Carmody stated: “*The inclusion of funding for trolleys would violate state law.*” On February 17, 2026, the City Council voted to not use any TBD funds for the 6th Avenue tracks and overhead electric wires. City Council member Juliet Potrykus explained the City Council’s decision to not spend City funds on the trolley: “*I would just like to draw a very hard line about the responsibility of paying for anything having to do with the trolley going forward being in the hands of the trolley not the taxpayers*” (Yakima City Council meeting transcription, 2/17/2026 at 1:33:30 minutes).

Yakima County Superior Court ruled the tourist trolley used for scenic excursions is not a “railroad” but instead is a “tourist attraction.” The seasonal, non-ADA-accessible tourist trolley that operates on summer weekends and holidays does not provide continuous or functional mobility and therefore does not qualify as “transportation” or “public transportation” under various state and federal laws, e.g., RCW 81.104.015(4). Federal law says sightseeing tourist trolleys and charters are not “public transportation.” For many years, Yakima trolley operating agreements have restricted trolley use to “tourist attraction.” Yakima does not own any land with railroad tracks to Selah. Passenger rail service was legally abandoned in 1935 by Order of Washington State Transportation Division, and there is nothing in the record documenting established railway use rights or authority for operations in Selah. The 1935 abandonment of passenger rail operations caused an automatic reversion of the passenger rail easement to private landowners.

Motion # 2

I MOVE TO DELETE THE WORD “TROLLEY” AND SUBSTITUTE THE WORD “TRANSPORTATION” IN THE PROJECT DESCRIPTION FOR “NACHES RIVER BRIDGE REPAIR” ON PAGE 14 OF THE TIP.

REASONS: THE TROLLEY IS NOT ELIGIBLE FOR INCLUSION IN THE TIP

The trolley is **Not Eligible** for inclusion on the TIP because the Yakima trolley is not a “railroad” and does not qualify as “*transportation*” or “*public transportation*” under various state and federal laws. Under Supreme Court case law, the abandonment of passenger rail service to Selah in 1935 and abandonment of freight service in 1985 triggered an automatic reversion of the railroad easement back to the adjacent private landowners. In Washington, when an easement is granted to a railroad by private conveyance, the easement is not a “perpetual public easement.” *Lawson v. State of Washington*, 107 Wn.2d 444 (1986). Sightseeing tourist trolley excursions are not railroad operations and therefore trigger reversion of land possession back to the underlying private property owners.

Another example of the trolley not being eligible for transportation funding was a January 20, 2026 email from the Washington State Department of Transportation informing the City that the Naches River Bridge was not eligible for transportation alternative funding as a non-motorized facility because the bridge does not allow pedestrians. Tourist attractions do not qualify for transportation funding.

The historically accurate name for the bridge over the Naches River is “Yakima Valley Transportation Company Bridge” not “Yakima Valley Trolley Bridge.” Yakima Valley Transportation Company is listed in the National Register of Historic Places; Yakima Valley Trolleys is not on the National Historic Register. If the TIP is not changed from “trolley” to “transportation,” the capital facilities amendment will enable ground disturbance and operations in “High Risk” geologic hazard Critical Areas where the Yakama Nation requested formal consultation. This would also be inconsistent with a UTC Public Safety Order.

CITY OF YAKIMA

6th Avenue Rebuild and Rail Renovation Engineer's Opinion of Construction Cost

11/6/2025

City Project No. 2796
HLA Project No. 24069

Item No.	Description	Payment Specification	Unit	Unit Cost	Overall Quantity	Overall Cost
Schedule A - Road Improvements						
1	Minor Change	1-04 4(1)	FA	\$25,000.00	1	\$25,000.00
2	SPCC Plan	1-07 15(1)	LS	\$500.00	1	\$500.00
3	Mobilization	2-01 5	LS	\$1,060,000.00	1	\$1,060,000.00
4	Project Temporary Traffic Control	2-04 5	LS	\$300,000.00	1	\$300,000.00
5	Clearing and Grubbing	3-01 5	LS	\$50,000.00	1	\$50,000.00
6	Removal of Structures and Obstructions	3-02 5	LS	\$100,000.00	1	\$100,000.00
7	Unclassified Excavation Incl. Haul	3-03 5	CY	\$30.00	18,000	\$540,000.00
8	Crushed Surfacing Base Course	4-05 5	TON	\$40.00	15,100	\$604,000.00
9	Crushed Surfacing Top Course	4-05 5	TON	\$50.00	2,000	\$100,000.00
10	HMA CI. 1/2-Inch PG 64H-28	5-04 5	TON	\$120.00	14,500	\$1,740,000.00
11	HMA CI. 3/8-Inch PG 64H-28	5-04 5	TON	\$140.00	1,600	\$224,000.00
12	Storm Sewer Pipe 12 In. Diam	7-04 5	LF	\$90.00	4,000	\$360,000.00
13	Underdrain Pipe Infiltration Trench System 12 In. Diam	7-04 5	LF	\$150.00	1,600	\$240,000.00
14	Catch Basin Type 2 48 In. Diam	7-05 5	EA	\$3,000.00	24	\$72,000.00
15	Catch Basin Type 1	7-05 5	EA	\$2,500.00	52	\$130,000.00
16	Pretreatment Manhole 48 In. Diam	7-05 5	EA	\$25,000.00	2	\$50,000.00
17	Adjust Manhole	7-05 5	EA	\$1,000.00	30	\$30,000.00
18	Adjust Telephone Manhole	7-05 5	EA	\$1,200.00	10	\$12,000.00
19	Shoring or Extra Excavation	7-08 5	LF	\$5.00	5,600	\$28,000.00
20	Select Backfill, as Directed	7-08 5	CY	\$50.00	250	\$12,500.00
21	Erosion Control and Water Pollution Prevention	8-01 5	LS	\$10,000.00	1	\$10,000.00
22	Landscape Restoration	8-02 5	FA	\$20,000.00	1	\$20,000.00
23	Basalt Rock Mulch	8-02 5	CY	\$100.00	400	\$40,000.00
24	Cement Conc. Traffic Curb and Gutter	8-04 5	LF	\$30.00	15,600	\$468,000.00
25	Commercial Driveway Approach	8-06 5	EA	\$7,500.00	23	\$172,500.00
26	Monument Case and Cover	8-13 5	EA	\$800.00	19	\$15,200.00
27	Cement Conc. Sidewalk 6-Inch Thick	8-14 5	SY	\$90.00	1,000	\$90,000.00
28	Cement Conc. Sidewalk 4-Inch Thick	8-14 5	SY	\$80.00	5,500	\$440,000.00
29	Cement Conc. Curb Ramp	8-14 5	EA	\$3,000.00	164	\$492,000.00
30	Mailbox Support Type 1 or 2	8-18 5	EA	\$500.00	31	\$15,500.00
31	Illumination System, Complete	8-20 5	LS	\$160,000.00	1	\$160,000.00
32	Rapid Flashing Beacon System	8-20 5	EA	\$25,000.00	2	\$50,000.00
33	Overhead Trolley Wire, Complete	8-20 5	LS	\$2,100,000.00	1	\$2,100,000.00
34	Permanent Signing	8-21 5	LS	\$20,000.00	1	\$20,000.00
35	Pavement Markings	8-22 5	LS	\$50,000.00	1	\$50,000.00
36	Trolley Rail Replacement	1-07 28(8)	LF	\$575.00	7,800	\$4,485,000.00

Assumptions:

- Roadway section, 0.5' HMA, 0.5' CSBC
- Pathway section, 0.25' HMA, 0.33' CSTC
- Basalt Rock Mulch (Landscape Rock on Plans) placed in buffer
- New roadway profile will be included in the 60% submittal
- New storm drainage will be included in the 60% submittal
- Curb Ramp locations and styles will be included in the 60% submittal
- Removal of trees and vegetation included in Clearing and Grubbing
- Removal of drain structures included in Removal of Structures and Obstructions
- Rapid Flashing beacons for school crossing
- Street lights included on utility poles

Subtotal	\$14,306,200.00
Contingency 10%	\$1,430,600.00
Sch. A Total Estimated Construction Cost	\$15,736,800.00
Sch. A Construction Engineering 16%	\$2,518,000.00
Sch. A Total Estimated Project Cost	\$18,254,800.00

2

MEYER, FLUEGGE & TENNEY, P.S.

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**Also admitted in Oregon*

***Also admitted in Oregon & Virginia*

September 15, 2025

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Dear City Manager Baker, SEPA Responsible Official Preston, and City Attorney Watkins:

I write on behalf of Yakima Taxpayers for Fiscal Responsibility (YTFR), an unincorporated association. YTFR understands the City Council may soon consider authorizing trolley operations both within and outside of the City of Yakima through an Operating License Agreement. ("Agreement"). *Attachment A*. The Agreement authorizes the use of the City's electric railway system as a tourist attraction running between the City and Selah, Washington.

The City of Yakima ("City" or "Yakima") should postpone taking any action on the "Operation License Agreement" with Yakima Valley Trolleys because: (1) Yakima appears to have no existing authority to operate tourist trolleys outside of Yakima, (2) Yakima is required to conduct SEPA Environmental Review *before* authorizing operations within and outside of Yakima that will impact public safety and the environment in the "High Risk" Selah Gap Hazardous Area, and (3) Yakima taxpayers should be informed of the full costs, direct and indirect, that Yakima will incur to permit, rebuild, and operate the abandoned railroad tracks & wires on the 4-mile Selah Line.

Yakima Valley Trolleys proposes to operate public tourist trolley excursions across a mile-long route in Selah at the base of oversteepened slopes and within the "run-out area" of County-designated "High

Risk" Geologically Hazardous slopes.¹ In 2022, Yakima Valley Trolleys notified the City of Yakima of this "*dangerous situation for rail traffic*."² Previous Trolley operations have included excavating rockslides at the toe of this potential landslide area. The use of explosives has even been mentioned because rockslides regularly block railroad tracks. The Selah tracks are currently blocked by multiple rockslides. Excavating rocks in the run-out area could destabilize the steep rocky slopes above, triggering more rockslides or a larger landslide. This could be catastrophic to the public riding trolleys and to the BNSF interstate rail line and nearby Yakima River. Rock removal also harms sensitive cultural sites and fish habitat in the adjacent Yakima River.

History of Railroad Tracks in Selah

Starting in 1907 and ending in 1983, Yakima Valley Transportation Company (YVTC) operated an electric interurban railroad between Yakima and Selah. Passenger streetcars operated within Yakima city streets, whereas "interurban" electric railroad cars operated outside Yakima, primarily to transport fruit to the Yakima distribution center from outlying rural orchards in Selah. In 1935, all "interurban" electric passenger service ended and never resumed due to operating costs greatly exceeding income.³ In 1983, Yakima Valley Transportation Company (YVTC) notified Washington State that YVTC was no longer an electric railroad and no longer provided electric freight or passenger service. YVTC also said "tourist trolley cars" or excursions were not part of the railroad's operations.⁴

In a lawsuit against the City of Yakima and the trolley association, the court ruled in 1987 that Yakima's trolleys are "*not a railroad*" but instead are a "*tourist attraction*," and a streetcar line is not a railroad.⁵ State law also says streetcars like the trolleys are not a "railroad," and are not "Public Transportation."⁶ The tourist trolleys are not listed on the National Historic Register.⁷

In 1985, all YVTC tracks were fully abandoned, legally and operationally, under Order of the U.S. Interstate Commerce Commission (ICC). The railroad was also abandoned under state law because YVTC gave written "Notice of Intent" to abandon the railroad and actually abandoned use of the tracks and overhead electric power system.⁸ A 1912 license agreement between Northern Pacific Railroad (NP) and YVTC allowed "railroad" operations on NP land (but did not include tourist trolleys); however, when YVTC abandoned the railroad and ceased operations, the unassigned 1912 contract also ended.

The former railroad's rights of way, vehicles, and equipment were donated to Yakima for seasonal tourist trolley excursions and museum. However, the 1985 Quit Claim Deed from YVTC to Yakima did not convey any right-of-way in Selah Gap to Yakima because YVTC did not own the right-of-way in

¹ High Risk Geologic Hazards Map, Yakima County GIS (August 29, 2018)

² Letter from Trolley Association Attorney Paul D. Edmondson submitted to Yakima City Council (June 23, 2022)

³ Johnsen, Kenneth G., *Apple Country Interurban: A History of the Yakima Valley Transportation Company* (Golden West Books, 1979); Johnsen, Kenneth G., *Images of Rail: Yakima Valley Transportation Company* (Arcadia Publishing 2010)

⁴ Letter from President of Yakima Valley Transportation Company to WA Historic Preservation Officer (Nov. 14, 1983)

⁵ Memorandum Opinion, *Congdon Orchards, Inc. v. City of Yakima, Yakima Valley Transportation Co., and Yakima Interurban Lines Association* (86-2-00503-9, April 8, 1987)

⁶ See, e.g., RCW 36.75.010(12) and RCW 81.104.015(4).

⁷ *National Register of Historic Places Inventory—Nomination Form: Yakima Valley Transportation Company*, Prepared June 1983, NPS Received September 18, 1984; Listing Number: 84004012

⁸ *Abandonment of Yakima Valley Transportation Company in Yakima, County, WA* (U.S. Interstate Commerce Commission, Docket No. AB-131, (November 1985)

YVT DONATION TO CITY OF YAKIMA
PLD 120-12-20

BILL OF DONATION

WHEREAS, the YAKIMA VALLEY TRANSPORTATION COMPANY, a Washington corporation (hereinafter referred to as "YVT"), is the owner of an electric railroad in the City of Yakima, Washington, and adjoining communities; and

WHEREAS, YVT has been authorized by the Interstate Commerce Commission to discontinue and abandon all common carrier freight service over said electric railroad; and

WHEREAS, the City of Yakima, a Washington municipal corporation (hereinafter referred to as "City"), operates two electric passenger excursion trolleys over YVT's electric railroad; and

WHEREAS, City desires that YVT donate locomotives, rolling stock, vehicles, machinery, electrical equipment, tools, spare parts and supplies associated with the electric railroad to City to allow continued operation of the excursion trolleys; and

WHEREAS, YVT is willing to make said donation;

NOW, THEREFORE, YVT hereby conveys and donates to the City, without monetary or other consideration of any kind, the locomotives, rolling stock, vehicles, machinery, electrical equipment, and tools identified on Exhibit A attached hereto and incorporated herein by this reference.

YVT also hereby conveys and donates to City, without monetary or other consideration of any kind, all electrical parts, supplies, and miscellaneous equipment, and all locomotive, rolling stock, and vehicle spare parts, supplies, and equipment, and all such other personal property related to operation and maintenance of the YVT electric railroad, stored as of the date hereof upon the premises of YVT's central shop complex located at the intersection of South Third Avenue and Pine Street in the City of Yakima.

Original is in Contract file

Under 85-98

Contract Nos. 85-90 and 85-97

Exhibit D

The following items are mutually agreed upon by the City and YVT to be recurring administration expenditures which YVT shall routinely submit to the City for prompt reimbursement from Fund 162 – Trolley, subject to availability of funds. Backup material for all reimbursement items must be provided.

1. Gas utility bills
2. Electric utility bills
3. Water and sewer utility bills
4. Solid waste utility bills
5. Phone, internet, and telecommunications bills

- K. 2 donation boxes
- L. 2 rows of five theater seats
- M. Television and VCR on portable dolly
- N. Bathroom with toilet, 1911 sink and inline water heater.

14. Powerhouse gift shop

All items, display cases and cash register are Yakima Valley Trolleys property.

15. Powerhouse vault

Storage for Yakima Valley Trolleys' records and proprietary items.

16. Powerhouse office

- A. Desk and chair
- B. Typewriter
- C. Adding machine
- D. Mimeograph machine
- E. 4 file cabinets
- F. YVT Telephone

17. Fuel shed

- A. Assorted lubricants for trolleys
- B. Assorted paints
- C. Electric gasoline pump
- D. Fuel for power car

8. Car barn main room

- A. Motor/generator set #3
- B. Two wheel grinder
- C. Belt drive machine shop equipment
 - 1. General Electric motor
 - 2. Hallidie Machinery Company lathe
 - 3. National Machinery Company milling machine
 - 4. Hallidie Machinery Company milling machine
 - 5. Cincinnati Shaper Company 20-inch shaper
- D. Press
- E. 5 spare trolley poles with harps and wheels
- F. 57 mast arm assemblies

9. Car barn forge room

- A. Blacksmith's forge and hood
- B. Assorted blacksmith's tools
- C. P & H arc welder on highway wheels

10. Car barn Office

- A. Desk
- B. Table and 10 folding chairs
- C. Air conditioner

11. Car barn tool room

- A. Assorted hand tools (drills, wrenches, hammers, screwdrivers, saws, etc.)
- B. Assorted spare parts for trolleys
- C. Assorted spare parts for overhead wire
- D. Assorted railroad crossing signs

12. Car barn sand room

- A. Assorted outdoor tools (shovels, rakes, picks, bars, brooms, etc.)
- B. 6 track jacks
- C. Gas powered rail saw
- D. Rail drill
- E. Assorted road work signs
- F. 3 large cones
- G. Miscellaneous other materials and parts

13. Powerhouse main room

- A. Motor/generator #1
- B. Motor/generator #2
- C. Switching equipment for motor/generators #1 and #2
- D. Rectifier #1
- E. Rectifier #2
- F. Rectifier #3
- G. Dynamic brake unit #3
- H. Automatic voltage sensing unit
- I. Cabinet with spare parts for rectifiers
- J. YVT McKee waiting-station

EXHIBIT "C"

An inventory of the electric railroad system owned by the City of Yakima
As of January 27, 2025, compiled by Kenneth G. Johnsen.

Items located on City property which are not owned by the City are not included in this list.

1. Approximately 5 miles of standard gauge track located in the YVT yard, on Pine Street; on North 6th Avenue, in Selah Gap and in Selah.
2. Approximately 5 miles of overhead contact system, portions of which are temporarily removed due to theft or accidental damage.
3. Structures
 - A. Powerhouse
 - B. Car barn
 - C. Oil Shed
 - D. Pegram Truss Bridge at Naches River
4. Locomotives, trolley cars and freight cars
 - A. Master Unit #21, Brill, 1930
 - B. Master Unit #22, Brill, 1930
 - C. Oporto #1776, STCP, 1928
 - D. Oporto #1976, STCP, 1928
 - E. Freight Motor #298, General Electric, 1922
 - F. Line Car #A, Niles Car Company, 1910
 - G. Tank Car U.P. #68130, 1958
 - H. Flatcar YVT #1014, 1928
 - I. Flatcar YVT #1015, 1928
5. Three four-wheel track push cars
6. Motor Vehicles
 - A. Chevrolet YVT #A-6, 1968
 - B. International Harvester YVT #A-7, 1956
 - C. Chevrolet van #Yakima Interurban Trolley Lines
7. Track materials in YVT yard
 - A. Approximately 300 railroad ties
 - B. Approximately 65 33-foot lengths of 60# rail
 - C. Switch points and frogs for approximately 12 turnout switches.
 - D. 9 railroad crossing sign posts
 - E. 20 pallets of tie plates (mostly 60# rail, some 90# rail)
 - F. 9 pallets of fish plates (mostly 60# rail, some 90# rail)
 - G. 7 pallets of other miscellaneous track parts
 - H. 2 Nelson in-street switch machines
 - I. 13 standard YVT switch machines
 - J. 3 barrels of railroad spikes
 - K. 1 barrel of track bolts
 - L. 2 pair truck hyrail wheels (enough for one truck)
 - M. 2 couplers and other miscellaneous railcar parts
 - N. 5 5000-foot spools of guy wire
 - O. 3 3000-foot spools of aluminum feeder wire (damaged by vandals)
 - P. 6 spools messenger wire

Exhibit B

City of Yakima Property for the Yakima Valley Trolleys (YVT) Parcel #181324-44465

Yakima County Assessor's Legal Description for this parcel # 181324-44465

County Narrative Description : LUND'S ADDTO NORTH YAKIMA: PT BLK 255 & VAC ALLEY & VAC ST DESC AS FOL: BEG NE COR SD BLK 255, TH S $71^{\circ} 23' 15''$ W 187 FT, TH S $18^{\circ} 37' 15''$ E 177 FT, TH N $63^{\circ} 37' 15''$ E 51 FT, TH S $18^{\circ} 37' 15''$ E 153.76 FT, TH N $71^{\circ} 23' 15''$ E 138.45 FT TO E LN OF SD BLK 255, TH N $18^{\circ} 37' 15''$ W AL SD E LN TO POB

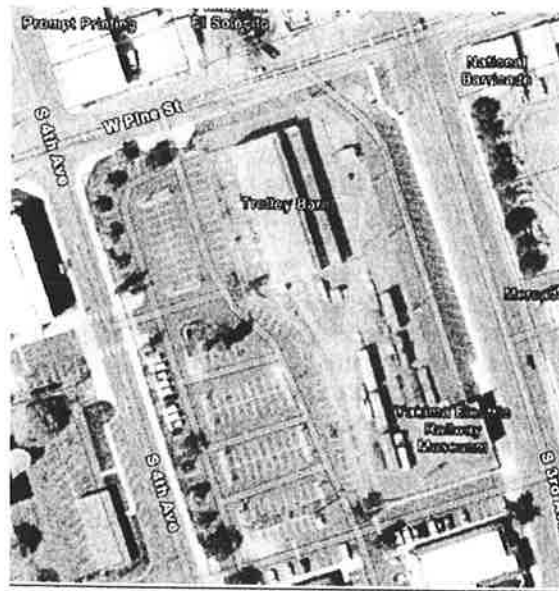
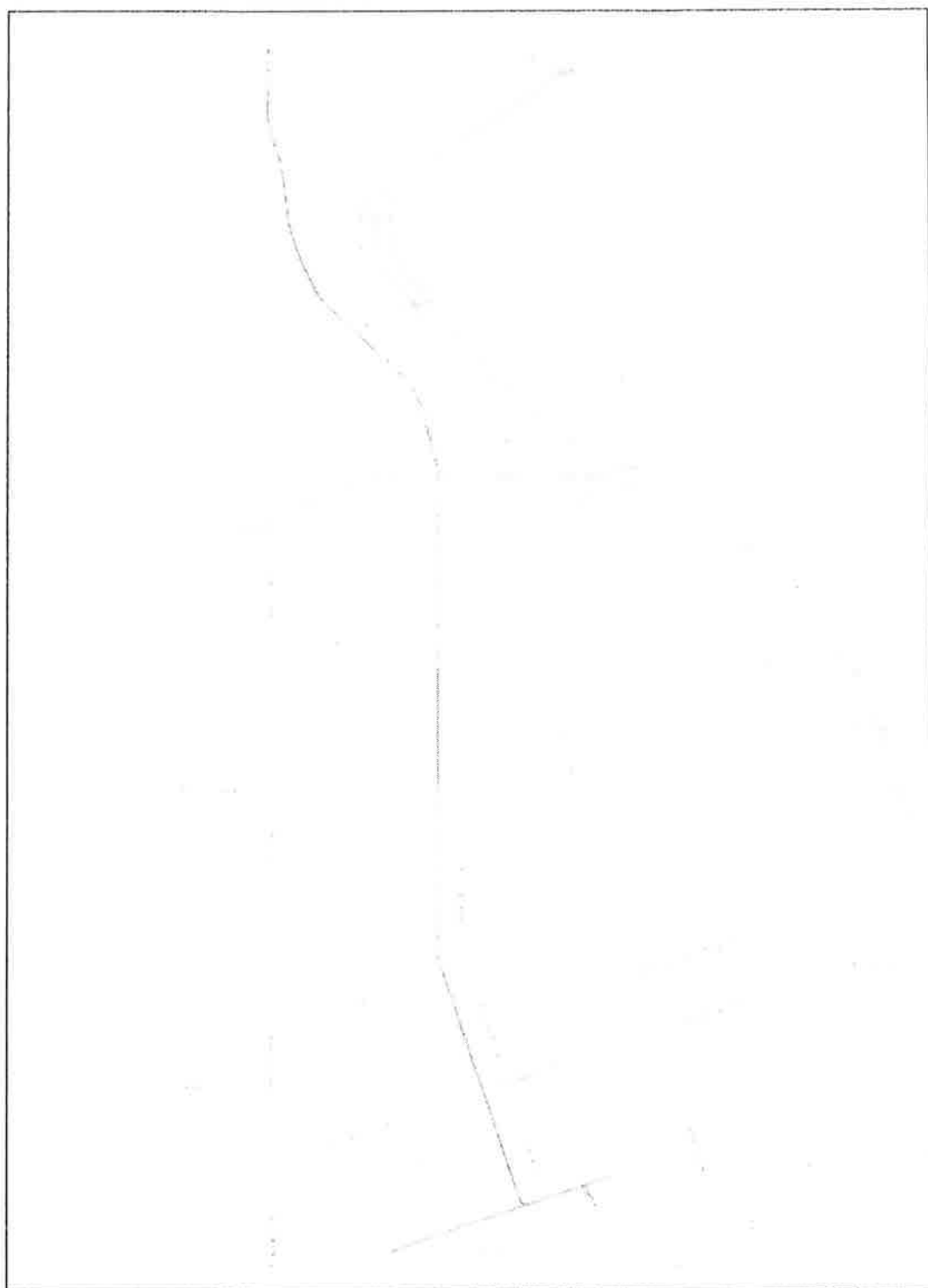


Exhibit A



agreement compliance and guidance regarding City policies and procedures.

27. **Venue.** The venue for any action to enforce or interpret this License Agreement shall lie in a court of competent jurisdiction that is located in Yakima County, Washington.

28. **Integration.** This written document constitutes the entire License Agreement between the City and YVT and supersedes any and all previous written and/or oral License Agreements between the parties. There are no other oral or written License Agreements between the parties as to the matters covered herein. No changes or additions to this License Agreement shall be valid or binding upon either party unless such change or addition be in writing and executed by both parties.

CITY OF YAKIMA

YAKIMA VALLEY TROLLEYS

By: _____
Victoria Baker, City Manager

By: _____
Ken Johnsen, President of the Board

Date: _____

Date: _____

ATTEST:

City Clerk

City Contract No. _____

26. Trolley Liaison. The YVT shall allow the City to have a liaison to attend Board meetings. Said Liaison shall be a City employee appointed by the City Manager and shall not have any voting rights on the Board. The Liaison may attend YVT Board meetings and assist the YVT with

- d. Nothing in this section or this Agreement shall be construed to create a liability or a right of indemnification in any third party.
- e. The terms of this section shall survive any expiration or termination of this Agreement.

16. **Liability Insurance.** The City agrees to provide YVT with liability and directors and officers insurance, each with a minimum liability limit of \$2,000,000 combined single limit bodily injury and property damage. Said policy shall be in effect for the duration of this License Agreement. The policy shall name the City, its elected officials, officers, agents, and employees as additional insureds. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.

17. **Documents, Records, and Records Retention.**

- a. The records relating to this Agreement shall, at all times, be subject to inspection by and with the approval of the City, but the making of (or failure or delay in making) such inspection or approval shall not relieve YVT of responsibility for performance of this Agreement, notwithstanding the City's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery. YVT shall provide the City sufficient, safe, and proper facilities, and/or send copies of the requested documents to the City. Contractor's records relating to this Agreement will be provided to the City upon the City's request.
 - b. YVT shall promptly furnish the City with such information and records which are related to this Agreement as may be requested by the City. Until the expiration of six (6) years after termination of this Agreement, or for a longer period if required by law or by the Washington Secretary of State's record retention schedule, YVT shall retain and provide the City access to (and the City shall have the right to examine, audit and copy) all of YVT's books, documents, papers and records which are related to this Agreement. If any litigation, claim, or audit is started before the expiration of the six-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
 - c. All records relating to this Agreement must be made available to the City, and the records relating to this Agreement are City of Yakima records. They must be produced to third parties, if required pursuant to the Washington State Public Records Act, Chapter 42.56 RCW, or by law. All records relating to YVT's responsibilities under this Agreement must be retained by YVT for the minimum period of time required pursuant to the Washington Secretary of State's records retention schedule.
 - d. Nothing in this Agreement shall be interpreted to require YVT to disclose records that are unrelated to the performance of this Agreement (including personnel files or trade secrets that have no direct bearing on the contractual obligations) unless disclosure of such records is specifically required by law.
 - e. The terms of this section shall survive any expiration or termination of this Agreement.
18. **Assignment.** This License Agreement, or any interest herein, or claim hereunder, shall not be assigned or transferred in whole or in part by YVT to any other person or entity
19. **Waiver of Breach.** A waiver by either party hereto of a breach of the other party hereto of any covenant or condition of this License Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party

of this Agreement, YVT shall provide the City with a written list of any substances/materials/products necessary to operate, use and maintain the City's electric railway system and electric railway museum that have specific MSDS storage or use requirements. The City shall notify YVT in writing of the City's approval or rejection of the list of substances/materials/products no later than thirty (30) days after receiving said list. In the event the City's approval of the use of any particular listed substance/material/product is granted, the disposal of such must be done in a legal manner according to applicable laws and regulations by the YVT.

c. YVT agrees to protect, indemnify and hold harmless the City from and against any claims or losses arising out or related to the presence or release of any hazardous substances by YVT while performing this Agreement, except to the extent caused by spilling, generating, handling, disposing, or releasing of hazardous waste or substances, by the City, its agents, employees, or contractors or third parties. YVT may operate, use and store standard products and equipment such as batteries in order to conduct business provided such use is in accordance with all applicable environmental federal, state and local laws, requirements and regulations. YVT agrees to cooperate in any environmental investigations conducted by the City or independent third parties where there is evidence of contamination on the subject property, or where the City is directed to conduct such audit by an agency or agencies having jurisdiction. YVT shall provide the City with notice of any inspections of the subject property, notices of violations, and orders to clean up contamination.

d. Failure to provide this information may result in termination of the agreement per Section 24.

15. General Indemnification and Hold Harmless.

a. YVT shall take all necessary precautions in performing its obligations under this Agreement to prevent injury to persons or property. YVT agrees to release, indemnify, defend, and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, insurers, attorneys, and volunteers from all liabilities, losses, damages, and expenses related to all claims, suits, arbitration actions, investigations, and regulatory or other governmental proceedings arising from or in connection with this Agreement or the acts, failures to act, errors or omissions of YVT, or any of YVT's agents or subcontractors, in performance of this Agreement, except for claims caused by the City's sole negligence.

b. **Industrial Insurance Act Waiver.** It is specifically and expressly understood that YVT waives any immunity that may be granted to it under the Washington State industrial insurance act, Title 51 RCW, solely for the purposes of this indemnification. YVT's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs. YVT shall require that its subcontractors, and anyone directly or indirectly employed or hired by YVT, and anyone for whose acts YVT may be liable in connection with its performance of this Agreement, comply with the terms of this paragraph, waive any immunity granted under Title 51 RCW, and assume all potential liability for actions brought by their respective employees. The Parties acknowledge that they have mutually negotiated this waiver.

c. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of YVT and the City, YVT's liability, including the duty and cost to defend, shall be only to the extent of YVT's negligence.

10. **Nondiscrimination Provision.** During the performance of this License Agreement, YVT shall not discriminate in violation of any federal, state, and/or local law and/or regulation on the basis of race, age, color, sex, religion, national origin, creed, marital status, political affiliation, or the presence of any sensory, mental or physical handicap. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, or termination, rates of pay or other forms of compensation, selection for training, and the provisions of services under this License Agreement.

11. **The Americans with Disabilities Act.** YVT shall comply with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. (ADA), and its implementing regulations, and Washington State's anti-discrimination law as contained in RCW Chapter 49.60 and its implementing regulations ("WLAD"), with regard to the activities and services provided pursuant to this License Agreement. The ADA and the WLAD provide comprehensive civil rights to individuals with disabilities in the area of employment, public accommodations, public transportation, state and local government services, and telecommunications.

12. **Compliance With Law.** YVT shall obtain and maintain all permits and/or licenses from the City, state and/or federal government necessary and/or required to use, operate, promote and maintain the City's electric railway system and electric railway museum under this License Agreement. Further, YVT shall use, operate, promote and maintain the City's electric railway system and electric railway museum under this License Agreement in full compliance with any and all applicable laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, whether federal, state, local, or otherwise.

13. **Debts and Liens.** YVT shall not permit/allow any lien to attach to the City's electric railway system, electric railway museum and/or any other City property. YVT shall not permit/allow any debt to be imposed on the City as a result of YVT's use, operation, promotion and/or maintenance of the City's electric railway system and electric railway museum under this License Agreement. In the event of any such lien and/or debt, YVT shall immediately take all necessary steps to have the City and City property legally released from said lien and/or debt.

14. **Compliance With Environmental Laws.**

a. YVT represents warrants and agrees that it will use, operate and maintain the City's electric railway system and/or electric railway museum in compliance with all applicable environmental laws. As used in this License Agreement, "Environmental Laws" means all federal, state and local environmental laws, rules, regulations, ordinances, judicial or administrative decrees, orders, decisions, authorizations or permits, including, but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et. seq., the Clean Air Act, 42 U.S.C. § 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 1101, et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 2601, et seq., the Oil Pollution Control Act, 33 U.S.C. § 2701, et seq., and any Washington or other comparable local, state, or federal regulation, statute, ordinance and/or law pertaining to the environment or natural resources.

b. Toxic or hazardous substances are not allowed on the subject property without the express written permission of the City and under such terms and conditions as may be specified by the City. For the purposes of this License Agreement, "Hazardous Substances," shall include all those substances identified as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., and the Washington Model Toxic Control Act, RCW 70.105D et seq. Within thirty (30) days of execution

and condition as when received by YVT or as improved thereafter, with the exceptions of ordinary wear and tear, theft, vandalism, natural or manmade disaster, or other circumstances beyond YVT's control. YVT will deliver all keys to said property to the City Community Development Director.

6. **Term.** The term of this License Agreement shall commence on January 1, 2025 and shall terminate at midnight, December 31, 2034, unless sooner terminated by either party in accordance with Section 24 of this License Agreement.

7. **Inspection and Audit.** YVT shall maintain (in accordance with generally accepted accounting practices) books, accounts, records, documents and other materials related directly or indirectly to the costs, expenses and revenues of the operation and maintenance of the City's electric railway system and electrical railway museum as licensed under this License Agreement. All such books, accounts, records, documents and other materials shall be subject to inspection and audit at reasonable times by representatives of the City and/or of the Washington State Auditor. YVT shall make such books, accounts, records, documents and other materials available and shall afford the proper facilities for such inspection and/or audit within forty-eight (48) hours of inspection/audit notification from City representatives and/or the Washington State Auditor. Such books, accounts, records, documents and other materials may be copied by representatives of the City and/or of the Washington State Auditor as part of such an inspection/audit. YVT shall preserve and make available all such books, accounts, records, documents and other materials for a period of at least three (3) years after termination of this License Agreement. In addition, and as a non-profit corporation, YVT shall maintain and make available its tax returns to anyone who desires to review and inspect such tax returns as applicable by IRS law. Upon termination of the agreement, YVT shall provide all tax returns for all years YVT operated under this Operations and Maintenance Agreement.

8. **Independent Contractor Status of YVT.** YVT and the City understand and expressly agree that YVT is an independent contractor with regard to the use, operation, promotion and maintenance of the City's electric railway system and electric railway museum under this License Agreement. No officer, employee, volunteer, and/or agent of YVT shall act on behalf of or represent him or herself as an agent or representative of the City. No officer, employee, volunteer, and/or agent of YVT shall make any statement in the name of or on behalf of the City. YVT, as an independent contractor, assumes the entire responsibility for using, operating, promoting, and maintaining the electric railway system and electric railway museum. YVT and its officers, employees, volunteers, agents and/or subcontractors shall make no claim of City employment nor shall claim against the City any related employment benefits, social security, and/or retirement benefits. Nothing contained herein shall be interpreted as creating a relationship of servant, employee, partnership or agency between YVT and the City.

9. **Taxes and Assessments.** YVT shall be solely responsible for compensating its employees, agents, and/or subcontractors and for paying all related taxes, deductions, and assessments, including but not limited to, federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this License Agreement.

c. Compliance with City Purchasing Policies. YVT shall comply with applicable City purchasing policies, procedures and instructions when purchasing equipment, materials, and supplies necessary for the operation and maintenance of the electrical railway system with funds provided and/or obtained by the City for trolley purposes. YVT shall work through the Trolley Liaison to purchase all such equipment, materials and supplies purchased with funds provided and/or obtained by the City in the name of the City. Purchasing policies are found online and will be provided upon request to YVT. YVT should consult Purchasing, or the Trolley Liaison, whenever purchasing equipment, materials, and supplies. Failure to follow City purchasing policies will result in denial of reimbursement for expenses.

d. Revenues from Operation of the Electrical Railway System and Electric Railway Museum. Fare revenue derived from the operation of the electrical railway system and electric railway museum shall be used in accordance with YMC §3.95.010 for the acquisition, operation, maintenance and capital improvements of the electrical railway system and electric railway museum and for no other purposes. Should this Agreement be terminated for any reason, any funds obtained prior to termination still held by YVT shall be transferred to the City to be used in accordance with YMC 3.95.010 and this Section.

e. Revenues from Other Sources. Should YVT derive revenue from sources other than from the operation of the electrical railway system and electric railway museum, such as, but not limited to, donations to YVT, gift shop sales, charter fees, special events, or membership dues to YVT, those revenues are solely the property of YVT to be used as YVT deems appropriate for YVT and/or the electrical railway system and electric railway museum.

Yakima Valley Trolleys (YVT) shall obtain written approval from the City of Yakima's Community Development Director prior to initiating contact with potential funding sources or submitting any grant applications or requests for capital improvement funding related to City-owned trolley infrastructure or equipment. This requirement applies specifically to activities involving capital projects. Written approval is not required for routine YVT fundraising activities or events intended to support maintenance and operations, including those at which general donations are accepted.

Safety and Accident Reporting Requirements. When operating and maintaining the electrical railway system and museum under this License Agreement, YVT shall comply with safety and accident reporting requirements of the City of Yakima and any other applicable federal, state and/or local laws, rules, and regulations. YVT shall prepare a Safety Plan within three (3) months of execution of the agreement. The Plan will include how YVT will conduct operations to ensure volunteer and passenger safety as well as reporting accidents to the City. The Plan should be similar to plans in accordance with WAC 468-550-040(4). The Safety Plan shall be approved by the Community Development Director. Failure to operate under an approved Plan may be considered a default.

Notification and Investigation of Accidents. YVT shall be responsible for and shall comply with all notification, reporting and investigation requirements of the approved Safety Plan regarding accident, incident, or unacceptable hazardous conditions as those terms are defined in the Safety Plan, including but not limited to: notifying the City within twenty-four (24) hours of the occurrence of any reportable incident, or the discovery of any unacceptable hazardous condition; and investigating all reportable incidents and unacceptable and issuing a written investigation report to the City within forty-five (45) calendar days after the occurrence of the incident, or discovery of the unacceptable hazardous condition. Failure to comply with this section shall result in termination of this Agreement.

5. Surrender of Property. YVT agrees that at the expiration of this License Agreement, YVT will quit and surrender to the City the electric railway system and electric railway museum. YVT shall surrender the electric railway system and electric railway museum in as good a state

4. Budget and Expenditures.

The City has created Fund 162 – Trolley for administration costs associated with maintenance and operation of the electric railway system and electric railway museum. \$10,000 yearly may be available to YVT to provide for overhead costs if appropriated by the City Council, in its sole discretion. YVT shall submit quarterly invoices for administration costs. Certain recurring administration expenditures, mutually agreed upon by the City and YVT and designated herein under Exhibit D, shall be considered routine and shall be approved by the Community Development Director without delay, subject to the availability of funds. Those expenditures from Fund 162 – Trolley not considered routine will be covered under section 4 (b). Failure to submit quarterly invoices may result in non-payment or untimely payment from the City.

a. Annual Operation and Maintenance Budget. YVT shall submit a proposed annual budget of expenditures relating to Fund 162 – Trolley to the Community Development Director for the operation and maintenance of the electrical railway system and the electrical railway museum. This proposed budget shall be submitted during the City Council's normal budget preparation cycle in October of the year before the proposed annual budget is to be implemented. YVT will coordinate with the Community Development Director or their designee to provide a budget consistent with City format for timely internal review by the City. The first year of the agreement the budget proposal for 2025 is due to the City by June 30, 2025. Any requests for reimbursement exceeding the Fund 162 amount shall be rejected. YVT is responsible for all expenses in excess of the Fund 162 balance unless otherwise outlined in this Agreement or approved by the City Council.

b. City Approval Required for Maintenance and Operation Expenditures. To the extent that YVT requires and seeks funding from the City for any expense and/or costs related to the maintenance and/or operation of the City's electrical railway system and electrical railway museum, beyond those expenditures mutually agreed upon in advance by the YVT and City under Exhibit D, YVT shall seek and obtain approval of the City before incurring the respective expense and/or costs in accordance with the following:

- The Community Development Director or their designee must review and approve all expenses/costs of \$2,500 or less.
- The City Manager or their designee must review and approve all expenses/costs between \$2,500.01 and \$10,000.
- The City Council must review and approve all expenses/costs in excess of \$10,000.
- No expenditure may be made from the trolley fund established under YMC Chapter 3.95 without Community Development Director approval and can only be used for the purposes specified in YMC § 3.95.010.
- Failure to receive approval prior to expenditures may result in expenses not being eligible for reimbursement and/or denial of reimbursement requests.

Street, Yakima, Washington.

b. An inventory of the City's electric railway system, including trolley cars, engines, way cars, associated railway rolling stock, and electric railway system parts, overhead wiring, track, supplies, tools, machines, and other associated equipment and materials is attached hereto as Exhibit "C" and incorporated herein by this reference. YVT shall update this inventory as necessary and provide an updated Exhibit to the City to attach to this Agreement. Failure to update the inventory list may be considered a default.

2. Electric Railway System and Museum Use Restricted.

a. Electric Railway System Use Restriction. The operation, use and promotion license granted herein for the City's electric railway system shall be restricted to the use and operation of the electric railway system on a non-profit basis for the transport, benefit, and enjoyment of the public, as an educational resource, as a tourist attraction and a tourism promotional activity, and to activities necessary for the maintenance and operation of the electric railway system.

b. Electric Railway Museum. The operation, use and promotion license granted herein for the City's electric railway museum shall be restricted to the use and operation of the electric railway museum on a non-profit basis for the benefit, education and enjoyment of the public, as a tourist attraction and a tourism promotional activity, and to activities necessary for the care and maintenance of the electric railway museum.

3. Maintenance.

The Trolley system is an asset of the City of Yakima. Any work on a building, within the right-of-way, or improvement to any physical asset associated with the Trolley system that meets the definition of a 'public work' under RCW 39.04 shall be performed in compliance with RCW 39.04 and any other applicable requirements under Washington law. Nothing in this Agreement is intended to expand or limit the definition of a 'public work' beyond what is set forth in RCW 39.04.

a. General Maintenance. In consideration of the license granted herein, YVT assumes responsibility for and agrees to maintain the City's electric railway system, including trolley cars, engines, way cars, associated railway rolling stock, and electric railway system parts, overhead wiring, track, supplies, tools, machines, associated equipment and materials and the electric railway museum in good repair and in as clean, neat and orderly manner as reasonably possible. YVT must coordinate all significant general maintenance work with the, Community Development Director, or their designee. Significant general maintenance work shall be defined as any work within the City R/W, work requiring the use of any City funding including the Trolley Fund over \$1000.00, or work with an estimated cost exceeding \$5,000.00. This includes work or additions to a building or structure that is not already present, work on trolley tracks or poles, landscaping improvements not already installed, replacement of track, ties, catenary lines, poles, lighting, and bridge work.

**OPERATION LICENSE AGREEMENT
BETWEEN THE CITY OF YAKIMA
AND
YAKIMA VALLEY TROLLEYS**

THIS OPERATION LICENSE AGREEMENT (hereinafter "License Agreement") is made and entered into by and between the City of Yakima, a Washington municipal corporation (hereinafter the "City"), and the Yakima Valley Trolleys, a Washington non-profit corporation (hereinafter "YVT").

WHEREAS, YVT desires to operate and use the City's electric railway system as shown in the Exhibits to this Agreement during calendar years 2025 through 2034.

WHEREAS, the City is willing to grant an operation license to YVT to operate the City's electric railway system in accordance with the terms and conditions of this License Agreement.

WHEREAS, the City will provide a Trolley Liaison to attend YVT Board meetings and assist the YVT with agreement compliance and guidance regarding City policies and procedures.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, it is agreed by and between the City and YVT as follows:

1. Use and Operation License.

a. YVT is licensed to use, operate, maintain and promote the City's electric railway system and electric railway museum located at 306 West Pine Street. Said license to use, operate, maintain and promote said system shall include but not be limited to the authority to:

i. Operate, use and promote the City's electric railway system, including trolley cars, engines, way cars, associated railway rolling stock, and electric railway system parts, overhead wiring, track, supplies, tools, machines, and other associated equipment and materials. A map of the electric railway system is attached hereto as Exhibit "A" and incorporated herein by this reference. YVT shall provide the Community Development Director, or their designee, with a written operation schedule for each year on or before February 1st of the calendar year, except the calendar year 2025, when the written operation and promotion schedule shall be provided within thirty (30) days of the date YVT signs this Agreement. Updates and additions to the operation schedule should be forwarded to the Community Development Director in a timely manner.

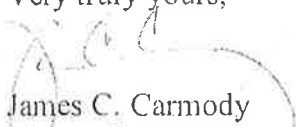
ii. Operate, use and promote the City's electric railway museum located at 306 West Pine Street, Yakima, Washington, including associated exhibits, gift shop, ticket office, and restrooms. A map and legal description of the railway museum site is attached hereto as Exhibit "B" and incorporated herein by this reference. YVT shall provide the Community Development Director, or their designee, with a written museum operation schedule at the same time it provides the operation schedule outlined in section 1a(i) above. Updates and additions to the operation schedule should be forwarded to the Community Development Director in a timely manner, and before any updates in the schedule are implemented.

iii. Store and maintain the City's electric railway system, including trolley cars, engines, way cars, associated railway rolling stock, and electric railway system parts, overhead wiring, track, supplies, tools, machines, and other associated equipment and materials. Said electric railway system trolleys, cars, engines, equipment, parts, supplies, tools, machines and other materials will be stored neatly in and upon the subject property located at 306 West Pine

ATTACHMENT A

Please give advance notice to YTFR of any processes, meetings, decisions, determinations, or public comment opportunities under SEPA, NEPA, TBD, and Section 106 of the National Historic Preservation Act for all trolley-related projects, including 6th Avenue, Naches River Bridge, BNSF diamond crossing, and other connected projects to rebuild or operate trolley-related facilities.

Very truly yours,



James C. Carmody
Meyer, Fluegge & Tenney, P.S.

Selah, which was owned by BNSF Railway.⁹ Yakima does not own the former railroad line north of the Naches River. Landowners north of the river include BNSF, State of Washington, and City of Selah.

Transportation Benefit District (TBD) Funding

HLA Engineering estimated the 2024 cost to rebuild trolley tracks & electric wires is about \$5 Million per mile; the cost to rebuild the 4-mile Selah Line could be \$15 Million to \$20 Million. Under state law, the trolley is not eligible for TBD funding because: (1) the trolley is not a railroad, (2) the trolley is a seasonal tourist attraction, (3) the trolley is not "Public Transportation," (4) the trolley is not a "Transportation Improvement," (5) rebuilding the trolley is not "necessitated by existing or reasonably foreseeable congestion levels," (6) the seasonal trolley will not "alleviate congestion," and (7) the trolley does not otherwise satisfy the criteria in RCW 36.73.020(1).¹⁰

The City of Yakima has invested taxpayer dollars in the Trolley for many years. The City should not invest additional funds in the Tourist Trolleys that do not qualify for transportation funding. The City should not assume responsibility for environmental, cultural resources, and other financial risks and liabilities rightly held by the trolleys. The Trolleys should fully address all legal concerns and explain their financial responsibilities and contributions to their enterprise.

Conclusion

Yakima is required to postpone any action on the Trolley "Operation License Agreement". SEPA requires SEPA review for any proposal which is defined as a "proposed action". WAC 197-11-784. An "action" is defined as any "...new or continuing activity ... entirely or partly financed, assisted, conducted, regulated, *licensed*, or approved by agencies." WAC 197-11-704. The City is required to conduct the SEPA process *before* licensing trolleys to operate on deteriorated/unsafe tracks that will not be usable for the foreseeable future.

Simultaneously, Yakima must also conduct the SEPA process and analyze cumulative impacts *before* working on any trolley-connected projects, such as 6th Avenue, BNSF diamond near River Road, or other degraded/missing segments of the 4-mile Selah line. SEPA requires comprehensive environmental and cultural resource review at the earliest possible stage, before committing to a particular course of action. *King County v. Boundary Review of King County*, 122 Wn.2d 648, 860 P.2d 1024 (1993).

SEPA requires cities to make a threshold determination for any proposal that meets the definition of action. "Under SEPA, the definition of 'action' covers just about everything, and within that category are project and nonproject actions," such as decisions on policies, plans or programs.¹¹ One of the fundamental principles of environmental review law is that when there is evidence that a project under review "will facilitate future action that will result in additional impacts," the impacts of said project must be analyzed simultaneously with those of the proposed future action, and the cumulative impact of these actions must be considered when making a threshold decision under SEPA.¹² Segmented or piecemeal environmental review is not allowed.

⁹ Quit Claim Deed from Yakima Valley Transportation Co., Grantor, to City of Yakima, Grantee (Dec. 19, 1985)

¹⁰ RCW 81.104.015(4); RCW Chapter 36.73; City of Yakima Ordinance 2017-002

¹¹ *King County vs. Friends of Sammamish Valley*, 3 Wn.3d 793 (2024); RCW 43.21C.033(1); WAC 197-11-310(1), -704(2)(b)

¹² *Boehm v. City of Vancouver*, 111 Wash. App. 711, 720 (2002).

The donation herein does not include any real property, structures, or other fixtures owned by YVT nor does it include any right of access to or right to utilize YVT's central shop complex at South Third Avenue and Pine Street in the City of Yakima.

Said donation is made without any warranties, covenants, or representations of any kind or nature by YVT or the City of Yakima.

The donation herein is effective at 2:30 p.m.,
the 18th day of November,
1985.

YAKIMA VALLEY TRANSPORTATION COMPANY

Attest: (Seal)

By _____
Secretary

By _____
President

EXHIBIT A

I. LOCOMOTIVES

- A. YVT "A" - 1909 Niles Electric No Serial No.
- B. 298 - 1922 General Electric 50 Ton Electric.
Serial No. 8788.

II. ROLLING STOCK

- A. Flat Car (F50-7) No. YVT 1014.
- B. Flat Car (F50-7) No. YVT 1015.
- C. Two (2) Section Cars.

III. VEHICLES

- A. 1956 International, Serial No. 5618074056 - Special
Truck used for Cantenary Maintenance.
- B. 1968 Chevrolet, Model 4FB Two Ton Flat Bed,
Serial No. CE638J162120.

IV. MACHINERY

- A. Chicago-Pneumatic Air Compressor, 20 hp,
Shop Number OWR&N 01368.
- C. Lodge & Shipley 14" Lathe, No Serial Number.
- D. National Bolt Threader, Serial Number 5470.
- E. Bickford Radial Arm Drill Press, No Serial
Number.

EXHIBIT A

- F. W. F. & J. Barnes 1/2" Drill Press
No Serial Number.
- G. Grinder - Shop Made, No Serial Number.
- H. Cincinatti Shaper, No Serial Number.
- I. Pedestal Grinder/Drill Bit Sharpener,
No Manufacturer's Data or Serial Number.
- J. General Electric Air Compressor,
Serial Number 1198417.
- K. General Electric Air Compressor,
Serial Number 1198418.
- L. Higley Metal Saw, No Serial Number.
- M. Niles-Bement-Pond 20" Pedestal Grinder,
Serial Number 41.
- N. 15 Ton Niles Overhead Bridge Crane
No Serial Number.
- P. P&H Gas Engine Driven Welder
Serial No. F186-5586.
- Q. Manual Screw Press, Shop Made No Serial Number.
- V. Duff 50 Ton Air Jack, Serial Number 5-528RX413.
- W. Duff 50 Ton Air Jack, Serial Number 5-528RX1114.
- X. Duff 25 Ton Screw Jack, Serial Number 2835.
- Y. Duff 25 Ton Screw Jack, Serial Number 2885.
- AA. Journal Jack.
- BB. Anvil.
- CC. Forge - Shop Made.
- DD. Pipe Vise.
- EE. Miscellaneous Vises - 5 ea.
- FF. Four (4) Fire Extinguishers Ansul Dry Powder.
- GG. One (1) Carbon Dioxide Fire Extinguisher.

EXHIBIT A

Electrical Equipment in YVTC Main Substation

Alternating Current Panel

1. Thomson Ammeters (4), 0-150 AC; General Electric Co., Schenectady, New York, patent April 2, 1901
2. Thomson Ammeters (3), 0-150 AC; General Electric Co., Schenectady, New York, patent June 1, 1909
3. Thomson Ammeter (1), 0-150 AC; General Electric Co., Schenectady, New York, patent June 13, 1911
4. Power Factor Indicators (2), .5 amp, 110 volt; General Electric Co., Schenectady, New York, patent May 26, 1903
5. Power Factor Indicator (1), .5 amp, 110 volt; General Electric Co., Schenectady, New York, patent June 1, 1909
6. Thomson Voltmeter (1), 0-175 volts; General Electric Co., Schenectady, New York, patent April 2, 1901
7. Operating Levers (3), 5 amp; General Electric Co., Schenectady, New York, no date visible
8. Relay (1), type P, form DB; General Electric Co., Schenectady, New York, no date visible
9. Demand Meter (1), 0-1200 kilowatts; General Electric Co., Schenectady, New York, no date visible
10. Watt-hour Meter; no name noted, no date visible
11. Alternating Current Contactors (2), three-phase; General Electric Co., Schenectady, New York, no date visible

Direct Current Panel

12. Relays (4), P2404; General Electric Co., Schenectady, New York, no date visible
13. Relay (1), P2405; General Electric Co., Schenectady, New York, no date visible
14. Relay (1), P2406; General Electric Co., Schenectady, New York, no date visible
15. Contactors (2), DC; General Electric Co., Schenectady, New York, patent December 6, 1921
16. Low Voltage Release for Circuit Breaker (1), 1200 volts; General Electric Co., Schenectady, New York, patent December 7, 1909
17. Circuit Breakers (2), 1200 amp, 650 volt; General Electric Co., Schenectady, New York, patent July 2, 1902
18. Overload Circuit Breaker (1), 800 amp, 1200 volt; General Electric Co., Schenectady, New York, patent December 12, 1911
19. Thomson Astatic Ammeters (4), 0-1500 amp; General Electric Co., Schenectady, New York, patent June 10, 1902
20. Thomson Astatic Ammeter (1); General Electric Co., Schenectady, New York, no date visible
21. Thomson Ammeter (1), 0-80 amps; General Electric Co., Schenectady, New York, patent April 2, 1901
22. Thomson Ammeter (1), 0-150 amp; General Electric Co., Schenectady, New York, patent April 2, 1901
23. Ammeter (1), Type D-7; General Electric Co., Schenectady, New York, no date visible

EXHIBIT A

24. Thomson Astatic Voltmeter (1), 0-750 volt; General Electric Co., Schenectady, New York, no date visible
25. I.G. Rheostat Stacks (5), with thermostats; General Electric Co., Schenectady, New York, patent July 4, 1910
26. Large Knife Switches (4), labeled "Main," "Selah," "Ahtanum," and "City #1"
27. Relays (2), 220 volt, 60 cycle; General Electric Co., Schenectady, New York, no date visible
28. Operating Lever for Circuit Breaker (1), Type HA-2; General Electric Co., Schenectady, New York, patent July 4, 1922
29. Relays (2), Type PB-55; General Electric Co., Schenectady, New York, no date visible
30. Overload Relays (2), inverse time limit; General Electric Co., Schenectady, New York, patent July 23, 1907
31. Overload Relay (1), definite time limit; General Electric Co., Schenectady, New York, patent July 23, 1907
32. Direct Current Reclosing Relay (1), Type RB-112; General Electric Co., Schenectady, New York, no date visible
33. Direct Current Underload and Reverse Power Relay (1), Type RB-21; General Electric Co., Schenectady, New York, no date visible
34. Rheostat Controller (1); General Electric Co., Schenectady, New York, no date visible
35. Direct Current Under Voltage and Reverse Polarity Relay (1), Type RB-113; General Electric Co., Schenectady, New York, no date visible
36. Relay (1), Type RG-1, 220 volt, 60 cycle; General Electric Co., Schenectady, New York, no date visible
37. DC Contactors (6); General Electric Co., Schenectady, New York, patent December 6, 1921

Note: The following are components of the motor-generator sets

38. Synchronous Motor (1), #1, 435 horsepower, 2300 volts; General Electric Co., Schenectady, New York, patent December 2, 1902
39. Continuous Current Generator (1), #1, 500 amps, 600 volts; General Electric Co., Schenectady, New York, patent April 2, 1912
40. Exciter (1), #1, 64 amp, 125 volts; General Electric Co., Schenectady, New York, patent April 2, 1912
41. Synchronous Motor (1), #2, 435 horsepower, 2300 volts; General Electric Co., Schenectady, New York, patent December 2, 1902
42. Continuous Current Generator (1), #2, 500 amps, 600 volts; General Electric Co., Schenectady, New York, patent December 2, 1902
43. Exciter (1), #2, 44 amp, 125 volt; General Electric Company, Schenectady, New York, patent April 11, 1902

Note: The silicon rectifier equipment installed in 1975 is listed below

44. Silicon Rectifier Equipment (1), #1, 480 volts AC, 600 volts DC; General Electric Co., March 1975
45. Dynamic Breaking Equipment (1), #1, 600 volts DC, 50 kilowatts; General Electric Co., March 1975

EXHIBIT A

46. Silicon Rectifier Equipment (1), #2, 480 volts AC, 600 volts DC; General Electric Co., March 1975
47. Dynamic Breaking Equipment (1), #2, 600 volts DC, 50 kilowatts; General Electric Co., March 1975
48. Heavy Duty Safety Switch (1), main disconnect, 480 volts AC, 800 amps; Westinghouse Corp., March 1975
49. Heavy Duty Safety Switch (1), Selah line, 600 amps, 600 volts; Westinghouse Corp., no date noted--installed 1975
50. Heavy Duty Safety Switch (1), Ahtanum line, 600 amps, 600 volts; Westinghouse Corp., no date noted--installed in 1975

Electrical Equipment in Wide Hollow Substation

1. Automatic Switching Equipment (1), K-2188454; General Electric Co., Schenectady, New York, patent October 15, 1918
2. Continuous Current Generator (1), 44 amps, 125 volts; General Electric Co., Schenectady, New York, patent April 11, 1905
3. Continuous Current Generator (1), 500 amps, 800 volts; General Electric Co., Schenectady, New York, patent December 2, 1902
4. Automatic Voltage Sensing Unit; General Electric Co., no date noted--installed in 1975
5. Silicon Rectifier Equipment (10, #3, 480 volts AC, 600 volts DC; General Electric Co., March 1975
6. Dynamic Breaking Equipment (1), #3, 600 volts DC, 50 kilowatts; General Electric Co., March 1975
7. Heavy Duty Safety Switch (1), main disconnect, 480 volts AC, 400 amps; Westinghouse Corp., no date noted--installed in March 1975

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BETTY MCGILLEN
YAKIMA COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR YAKIMA COUNTY

CONGDON ORCHARDS, INC., a
Delaware corporation,

Plaintiff,

vs.

NO. 86-2-00503-9

YAKIMA VALLEY TRANSPORTATION
COMPANY, a Washington corpora-
tion, THE CITY OF YAKIMA, a
municipal corporation, and
YAKIMA INTERURBAN LINES
ASSOCIATION,

Defendants.

MEMORANDUM OPINION

The Yakima Valley Transportation Company, hereinafter referred to as YVTC, obtained the right to build and operate a railroad line upon property owned by plaintiff's predecessors in interest, said grant by document dated August 2, 1909. (Exhibit D to plaintiff's memorandum). In said document the terms "railroad" and "railway" are used interchangeably and the Court concludes that both terms as used in this document have the same generic meaning.

On page 11 of said grant are found certain express conditions including:

"(1). That said Transportation Company shall complete the construction of said railroad on said right-of-way and have the same in regular and permanent operation in connection with the rest of its line to North Yakima, Washington, by April 1st, A.D., 1910, and that thereafter it shall regularly operate the same between the west end of the granted right-of-way and said North Yakima ..."

1 The grant also provided, on page 2:

2 "Now, therefore, in consideration of the premises
3 in the sum of ONE DOLLAR (\$1.00) to the Grantors
4 paid by the said Transportation Company, the said
5 Grantors, Chester A. Congdon and Clara B. Congdon,
6 husband and wife, do hereby grant, convey and
7 quitclaim to the Yakima Valley Transportation
8 Company, its successors and assigns, so long as
9 the same shall be used for electric or motor,
10 other than steam, railroad, and no longer, a
11 right-of-way of twenty (20) feet wide over and
12 across the parcels of land hereinbefore described ..."

13 There are other provisions in the document referring to the
14 grant continuing only so long as it is used as a railroad. The
15 grant also provides that its purpose was for the transportation of
16 passengers or freight.

17 Each party hereto has filed with the Court in support or opposi-
18 tion to plaintiff's motion for summary judgment many documents and
19 publications, some supported by affidavits and others not. Attached
20 to plaintiff's memorandum are Exhibits A through P. Attached to
21 defendants' memorandum are additional documents and publications.
22 While neither party specifically moved to have this material admitted
23 as exhibits, some are supported by affidavits and all were referred
24 to and otherwise used in their respective memorandum and in argument
25 to the Court without objection. Neither party contests the validity
26 of any document nor the accuracy of any publications supplied. The
27 Court will therefore consider all materials provided and used in
28 argument of counsel.

29 Much of the material is very interesting historically and useful
30 in setting the stage for current events but is not relevant to the
Court's decision and will be referred to, if at all, as background
information to help understand the Court's decision.

Commencing in 1909, YVTC acquired properties in an area west of
North Yakima. See Exhibit C to plaintiff's memorandum. While these
acquisitions were generally by agreement, there was at least one by

1 condemnation.

2 Attached to defendants' memorandum are copies of pages from
3 Apple County Interurban, a History of the Yakima Valley Transportation
4 Company in the Yakima Interurban Trolley Lines. It is interesting
5 to note in that publication, at page 47, it is stated that:

6 "All of Yakima Valley Transportation's starter
7 lines, North Fourth Street, North Eighth Street,
8 Fairview, and Maple Street, ostensibly were
9 built for the purpose of carrying passenger
10 traffic. Expansion by means of lines to Selah,
11 Henrybro, and Wiley City, however, tapped freight
12 business. Passenger travel over those routes was
13 merely incidental ...

14 "Acres and acres of apples had been planted in
15 the fertile land west of Yakima. Packing houses
16 sprang up at Wiley, Ahtanum, Henrybro, Westbrook
17 and Congdon, as well as at Selah to the north,
18 providing lucrative business for the Yakima
19 Valley Transportation Company."

20 It is also apparent from the grant that plaintiff's predecessor
21 intended to benefit from the railroad by provision contained on
22 page 10, that grantee, at grantor's request, would build a spur for
23 the purpose of loading and unloading on grantor's property.

24 YVTC was a common carrier subject to the Interstate Commerce
25 Act and it was owned by Oregon Shortline Railroad, a part of the
26 Union Pacific system. (See YVTC's application to abandon its rail-
27 road lines in Yakima County, Exhibit G, plaintiff's memorandum.)
28 The application details the decline in shipping, reduction in its
29 operations and losses suffered in the early 1980's. The application
30 is dated April 23, 1985.

On June 5, 1985, the Interstate Commerce Commission entered its
order authorizing abandonment of the system by YVTC. (Exhibit H,
plaintiff's memorandum).

By various documents YVTC donated its personal property and
relevant real property interests to the City of Yakima. (Exhibit I,
plaintiff's memorandum).

1 In 1974, YVTC had offered the City of Yakima the right to use
2 their tracks and facilities for a trolley operation. (Attachment to
3 defendants' memorandum entitled "Joint Facility Agreements and
4 Resolutions"). This offer was accepted by the City and trolley
5 operations commenced on Columbus Day that year and continued until
6 cold weather set in. (Affidavit of Robert E. Van Dyke).

7 In 1986, the trolley operation was transferred by the City to
8 the Yakima Interurban Lines Association, Inc., a nonprofit corpora-
9 tion, to operate the trolleys for purposes of tourist promotion.
10 (Exhibit L, plaintiff's memorandum). It should be noted that the
11 trolleys operate on Saturdays and Sundays from late spring to Labor
12 Day each year for public rides and at other times and into October
13 for special charter trips. (Affidavit of Barbara Thompson).

14 The issue before the Court is whether the present usage of the
15 line constitutes the operation of a railroad for the transportation
16 of passengers or freight as provided by the grant from Congdon to
17 YVTC dated August 21, 1909.

18 It is obvious from both case law, Lawson v. State, 107 Wn.2d
19 444, (1986), and the very explicit language of the grant itself that
20 if the present use is not in conformity with the purposes of the
21 grant, the right-of-way reverts to the original landowner.

22 The case of Burkheimer v. Seattle, 162 Wash. 645 (1931),
23 involved a similar issue on clearly distinguishable facts. In that
24 case, under a similar reversionary clause in the grant, the Street
25 Railway Company changed its main line so that it no longer crossed
26 appellant's property over which the grant was given. However that
27 line was still maintained as a trunk line. The Supreme Court held
28 that: "The term 'said railway' is broad enough to include the entire
29 plant of the grantee, whether it be its main line or whether it be
30 spur tracks or side tracks used and operated in connection with its

1 main line." While that portion of the decision is based upon such
2 different facts as to be of little aid to this Court, its ruling on
3 interpreting such grants is very helpful. The Court, in this regard
4 stated:

5 "The purport and intent of the parties to a
6 written instrument must be gathered, where
7 possible, from the language of the instrument
8 itself, considered with reference to the subject
9 matter to which it relates and with reference
10 to the surrounding conditions and circumstances,
11 not by what either party thereto may aver to be
12 its purport and intent. If the language of the
instrument is plain and unambiguous, and the
subject matter does not indicate that the words
used therein are employed in a technical or
restricted sense, the instrument will be given
the interpretation its language ordinarily
implies."

13 The Court finds no ambiguity in the language of this grant.
14 It is obvious that the agreement contemplated a railroad that would
15 primarily serve for transporting fruit from orchards to the distribu-
16 tion center in the city of Yakima

17 As pointed out in Johnsen's History of the Yakima Valley
18 Transportation Company, supra, passenger service over those routes
19 was merely incidental.

20 The Trolley Operating and Indemnification Agreement, Exhibit L,
21 plaintiff's memorandum, referred to the operation of two trolley
22 cars and their use was restricted thereby "to the operation of the
23 trolley cars for the transporting of passengers only, as a tourist
24 attraction and promotional activity ..."

25 Its operation has been restricted to operation on weekends
26 during warmer weather and at other times for special charter trips.

27 The use of the railway exclusively for the operation of trolleys
28 as a tourist attraction and for promotional activity was not within
29 the contemplation of the parties to the grant and could not be
30 considered as authorized use under the grant. Under the terms of

1 the grant, at page 11, the grantee, in regard to the railroad, was
2 to "have the same in regular and permanent operation in connection
3 with the rest of its line to North Yakima". The present operation
4 of the trolleys can hardly be termed "regular" as contemplated by
5 the parties and the contemplated use, instead of being permanent, has
6 been abandoned by the grantee. There are several definitions of the
7 "trolley" contained in Webster's Third New International Dictionary
8 by those applicable to that term's use in the case at bar are
9 "electric car, trolley car and streetcar".

10 The early case of Front Street Cable Ry. Co. v. Johnson, 2 Wash.
11 12 (1891), is very helpful in distinguishing between railroads and
12 what was variously referred to as a street railway, streetcar line
13 or cable railway. While concerned with a statutory lien foreclosure
14 action, the Court distinguished between railroads and street rail-
15 ways as follows:

16 "We deem it to be a clear proposition, also, that
17 these 'railways' are not 'railroads'; according
18 to the usual and ordinary meaning of the word,
19 to which reference must be had for the inter-
20 pretation of a statute. The difference between
21 these two valuable instruments of public conven-
22 ence was clearly pointed out in the earlier days
23 of street railways, in a contest for the possess-
24 ion of some of the streets of the city of Louis-
25 ville, Ky., between a railroad company and a
26 street railway company."

27 The Court then cited with approval from Louisville, etc., R. Co.
28 v. Louisville City Ry. Co., 2 Duv. 175, wherein the Kentucky court
29 stated:

30 "A 'railroad' and a 'street railroad' or way are,
in both their technical and popular import, as
distinct and different things as a 'road' and a
'street,' or as a 'bridge' and a 'railroad
bridge' . . . A street railway is not, in either
the popular or legislative sense, a railroad."

It would necessarily follow that a trolley or trolley car is
not a railroad in either their popular or technical sense and

1 certainly was neither contemplated nor intended by the language used
2 in the grant nor by the circumstances surrounding the giving of the
3 grant.

4 Plaintiff's motion for summary judgment must be granted.

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6 DATED this 8th day of April, 1987.

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10 JUDGE BRUCE P. HANSON
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(5)

RESOLUTION NO. D. 5887

A RESOLUTION authorizing and directing the City Manager and City Clerk of the City of Yakima to execute an agreement with Yakima Interurban Lines Association, Inc. for trolley car operation for 1991.

WHEREAS, the City owns a railroad system, donated to the City of Yakima Valley Transportation Company, over which system the Yakima Interurban Lines Association has previously operated trolley cars as a tourist promotion activity by agreement with the City, and

WHEREAS, Yakima Interurban Lines Association, Inc. desires to continue the trolley car operation for the year 1991 as provided by the attached agreement document; and the City Council deems it to be in the best interests of the City that the attached agreement be executed, accordingly, now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF YAKIMA:

The City Manager and City Clerk of the City of Yakima are hereby authorized and directed to execute an agreement with Yakima Valley Interurban Lines Association, Inc. for 1991, subject to Yakima Valley Interurban Lines Association, Inc. presenting to the City Manager proof of adequate insurance coverage in conformance with the terms of the "Trolley Operating and Indemnification Agreement" which is attached hereto and by reference made a part hereof.

ADOPTED BY THE CITY COUNCIL this 12th day of March, 1991.

Pat Sundt
Mayor

ATTEST:

Karen S. Roberts, cm
City Clerk

<u>Subdivision</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
S $\frac{1}{2}$ S $\frac{1}{2}$	30	" "	" "	" "
S $\frac{1}{2}$ S $\frac{1}{2}$	25	" "	17 E.	" "
S $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$	26	" "	" "	" "
N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$	27	" "	" "	" "

SEGMENT NO. 3 EASTMAN TO ORCHARD MAIN LINE

Beginning at Railroad Engineering Station 206+16.2 on the above-mentioned Yakima to Wiley City Main Line in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 27, T. 13 N., R. 18 E.;

thence in a westerly, northwesterly and northerly direction across the hereinafter identified Sections, Townships and Ranges, a distance of 5356.8 feet (1.01 miles), more or less, to the south line of West Chestnut Street (formerly known as Orchard Avenue in Railroad Company Records) in the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 21, T. 13 N., R. 18 E., of the Willamette Meridian in Yakima County, Washington.

Containing a net property area of 3.47 acres, more or less.

Said Segment No. 3 lying in and across the legal subdivisions identified as follows:

<u>Subdivision</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
SW $\frac{1}{4}$ NW $\frac{1}{4}$	27	13 N.	18 E.	Willamette
NE $\frac{1}{4}$	28	" "	" "	" "
S $\frac{1}{2}$ SE $\frac{1}{4}$	21	" "	" "	" "

SEGMENT NO. 4 YAKIMA TO SELAH MAIN LINE

Beginning at Railroad Engineering Station 41+60.1 on the above-mentioned Yakima to Wiley City Main Line in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 24, T. 13 N., R. 18 E.;

thence in a northwesterly and northerly direction across the hereinafter identified Sections, Townships and Ranges, a distance of 18,341 feet (3.47 miles), more or less, to the south line of Lot 6 of Block 1 of Selah Garden Tracts as recorded in Volume 1, Book of Plats at Page 39, and Volume 55 of

<u>Subdivision</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$	27	" "	" "	" "
S $\frac{1}{2}$	28	" "	" "	" "
SE $\frac{1}{4}$ SE $\frac{1}{4}$	29	" "	" "	" "
E $\frac{1}{4}$ E $\frac{1}{2}$	32	" "	" "	" "
Lot 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$	5	12 N.	" "	" "
N $\frac{1}{2}$ S $\frac{1}{2}$	6	" "	" "	" "
E $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ S $\frac{1}{2}$ SW $\frac{1}{4}$	1	" "	17 E	" "
N $\frac{1}{2}$ SW $\frac{1}{4}$	12	" "	" "	" "
SE $\frac{1}{4}$ SE $\frac{1}{4}$	2	" "	" "	" "
NE $\frac{1}{4}$ NE $\frac{1}{2}$	11	" "	" "	" "

SEGMENT NO. 2 - WIDE HOLLOW JUNCTION TO HENRYBRO MAIN LINE

Beginning at Railroad Engineering Station 264+13.3 on the above-mentioned Yakima to Wiley City Main Line in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 28, T. 13 N., R. 18 E.;

thence in a westerly and northwesterly direction across the hereinafter identified Sections, Townships and Ranges, a distance of 27,136.2 feet (5.14 miles), more or less, to approximate Railroad Engineering Station 535+49.5 in the Town of Gromore (formerly known as Henrybro in Railroad Records) in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27, T. 13 N., R. 17 E., of the Willamette Meridian in Yakima County, Washington.

Containing a net property area of 23.52 acres, more or less.

Said Segment No. 2 lying in and across the legal subdivisions identified as follows:

<u>Subdivision</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
SW $\frac{1}{4}$ SW $\frac{1}{4}$	28	13 N.	18 E.	Willamette
S $\frac{1}{2}$ S $\frac{1}{2}$	29	" "	" "	" "

EXHIBIT A

YAKIMA VALLEY TRANSPORTATION COMPANY

YAKIMA, WASHINGTON

All right, title and interest in and to the rights-of-way of the Yakima Valley Transportation Company, a Washington corporation, as now located and situated in Yakima County, Washington, the centerline of main tracks of said rights-of-way being described as follows:

SEGMENT NO. 1 - YAKIMA TO WILEY CITY MAIN LINE

Beginning at the intersection of the centerline of the main track of the Yakima Valley Transportation Company as now located and the northeasterly line of Third Avenue South where it crosses Pine Street in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 24, T. 13 N., R. 18 E., of the Willamette Meridian in the City of Yakima, Yakima County, Washington, said point of beginning being at approximate Engineering Station 30+30 of said Railroad Company;

thence in a westerly, southerly and southwesterly direction across the hereinafter identified Sections, Townships and Ranges, a distance of approximately 47,495 feet (9.00 miles), more or less, to approximate Railroad Engineering Station 505+25 at the intersection of said centerline of main track with the centerline of West Street in Wiley City, Yakima County, Washington and the east line of that certain first described strip of land heretofore conveyed from Yakima Valley Transportation Company to Gilbert Orchards, Inc., by Quitclaim Deed dated December 18, 1974, and filed in the Records of Union Pacific Railroad Company as Y.V.T. L.S. Deed Audit No. 405.

Containing a net property area of 23.31 acres, more or less.

Said Segment No. 1 lying in and across the legal subdivisions identified as follows:

<u>Subdivision</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
S $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$	24	13 N.	18 E	Willamette
N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$	25	" "	" "	" "
NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$	26	" "	" "	" "

STATE OF OREGON)
) ss.
County of Multnomah)

On this 18th day of November, 1985, before me personally appeared A. L. SHOENER, to me known to be President of YAKIMA VALLEY TRANSPORTATION COMPANY, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

H. W. Wiggins
Notary Public for the State
of Oregon

My Commission Expires: 9-14-86

TROLLEY OPERATING AND INDEMNIFICATION AGREEMENT

THIS AGREEMENT, executed this 15th day of March, 1991, by and between the City of Yakima, hereinafter called the City, and Yakima Interurban Lines Association. Inc., hereinafter called YILA:

WITNESSETH:

WHEREAS, the City owns a railroad system, with some tracks outside and some tracks inside the Yakima City boundary, consisting primarily of properties of the former Yakima Valley Transportation Company, as those properties were transferred and conveyed to the City by virtue of a "Bill of Donation", a "Donation Quitclaim Deed", and also by a "YVT Blanket Assignment of Third Party Agreements to City of Yakima", and

WHEREAS, the City has substantially reduced the size of such railroad system and desires to operate a portion of such railroad system which portion is depicted on the map (EXHIBIT A), and

WHEREAS, for the purpose of current storage of railroad equipment, the City occupies real property owned by Yakima Valley Transportation Company consisting of premises depicted on the attached map (EXHIBIT B) leased to the Yakima Interurban Lines Association, and

WHEREAS, the City owns one trolley car and exercises the management and control over another trolley car, owned by Yakima County, by virtue of an agreement between the City and Yakima County dated January 29, 1974, which trolley cars have been operated on such railroad system for a number of years as a tourist promotion by agreement currently between the YILA and the City of Yakima, and

WHEREAS, inasmuch as Yakima Valley Transportation Company discontinued its operation of that railroad system and conveyed most of it to the City, as recited above, the YILA desires to continue the operation of the trolley cars on that portion of such railroad system depicted on EXHIBIT A and to promote the trolley car rides as a tourist promotion activity for the benefit of the general public of the City and its environs; and the City recognizes that the general public will benefit from the continued operation of the trolley cars, and therefore the City is willing to allow YILA to operate the trolley cars on that railroad system depicted on EXHIBIT A as provided by this agreement, now, therefore,

In consideration of the premises, and the promises of the parties hereto; and in further consideration of the benefit to inure to the general public of the City of Yakima and its environs by the

continued operation of the trolley cars as provided by this agreement, the parties mutually agree as follows:

1. Delivery of Property to YILA

A. (1) Delivery of Railroad System. The City shall deliver possession to YILA of all property owned or claimed by the City constituting the railroad system including, but not limited to, the trolley cars, all equipment acquired from Yakima Valley Transportation Company listed on the Bill of Donation, and the track, catenary, appurtenances, and the right-of-way of the existing system both inside and outside the City boundary as depicted on the attached map (EXHIBIT A) which is incorporated herein.

(2) Licenses, Permits, Etc. Included in the delivery to YILA is the right and responsibility for the administration of pipeline crossing licenses, right-of-way use permits, leases, and similar agreements relating to the use of the right-of-way by third parties; and YILA is hereby assigned the right to collect and retain as revenue to YILA all fees provided by such licenses, permits, leases and similar agreements.

B. Use of Car Barn. The City does hereby grant to YILA the use of the car barn owned by the City on land owned by Yakima Valley Transportation Company referred to on the attached map (EXHIBIT B) which is incorporated herein.

2. YILA Acceptance of Delivery

A. Acceptance of Delivery. YILA shall possess the property referred to in Paragraph 1 hereinabove. YILA shall inventory and maintain yearly, by identifying and make a written list of all equipment, right-of-way, trolleys, barns, and all other property related to the maintenance and operation of the trolley cars and the railroad system.

3. Trolley System Operation - Use Restricted

A. System Operation. YILA shall operate the trolley cars and trolley system, and further shall administer the railroad system and its related equipment and properties, all without cost to or liability on the part of the City; and YILA shall perform and otherwise be responsible for obligations related to the possession and use of that railroad system, its equipment and related properties which would otherwise be obligations of the City in the absence of this agreement.

B. Use Restriction. The use to be made by YILA of the railroad system and related properties and equipment shall be limited to the operation of the trolley cars for the transporting of passengers, only, as a tourist attraction and promotional activity; and to activities necessarily related to that operation or otherwise

required to perform obligations under this agreement. The use of YILA of the trolleys, tracks or related property or equipment for any other purpose shall constitute grounds for the immediate termination of this agreement by the City.

4. Maintenance

A. Maintenance of Equipment. YILA shall maintain in good repair the trolley cars and the properties and equipment constituting the system to be operated by YILA, all without cost to or liability on the part of the City.

B. Track Maintenance. Tracks which are located on the portion of any City street right-of-way shall be maintained so that the tops of the rails thereof shall be level with the surface of the streets on which such tracks are located; provided, YILA shall not be required to superelevate or depress one rail of any track or otherwise to change the crosslevel of any track or tracks contrary to standard railroad engineering practices. YILA shall maintain the surface of the streets between the rails of the tracks and for a distance of eighteen (18) inches on the outside of each rail in a manner satisfactory to the City's Director of Public Works.

5. Personnel

YILA shall provide all personnel for the operation and maintenance of the trolley cars, property and the trolley system business, all without cost, or liability on the part of, the City.

6. Newly Acquired Equipment

Any equipment acquired by YILA for use in the trolley operation contemplated by this agreement shall remain the property of YILA unless the equipment is attached to or incorporated in property owned by the City so that its removal would result in substantial or irreparable damage to City property, in which event that equipment acquired by YILA shall become City property without payment or other consideration by the City to YILA.

7. YILA as Independent Contractor

It is the intention of the parties that YILA shall manage and operate a trolley business, and maintain the equipment and properties, as an independent contractor and not as an agent of the City. YILA shall have the authority to set the amount of fares and to retain all earned income and donations derived from the trolley business. No officer, employee or agent of YILA shall be deemed to be an agent or representative of the City in connection with the trolley operation. In promoting or operating the trolleys, YILA shall not use the designation "City of Yakima" or "County of Yakima" in any way which might give the appearance or impression that YILA is and agent of or otherwise connected with the City or County of

Yakima, except as an independent contractor; provided, that the two trolley cars to be operated pursuant to this agreement may retain their names of "City of Yakima" and "County of Yakima".

8. Tourist Promotion

To the extent to be determined by the City from time to time, the City may cooperate with YILA in the promotion of the trolley system as a tourist attraction in the greater Yakima area.

9. Compliance with Laws - Additional Regulations

A. Compliance With Laws. YILA shall obtain necessary permits or licenses from the City, State or federal government, or any other governmental agency having jurisdiction over the trolley business by YILA; and YILA otherwise shall operate the trolley cars, and the system and business, in accordance with all applicable laws, rules and regulations.

B. Additional Regulations. In addition to complying with all other applicable laws, rules and regulations, YILA agrees to comply with the following additional regulations in operating the trolley cars:

(1) The speed of the trolley cars and all other on-track equipment shall not exceed five miles per hour on 6th Avenue between Pine Street and Walnut Street, and shall not exceed twelve miles per hour elsewhere.

(2) The trolleys and other on-track equipment shall not be operated North of Pine Street and South of Fruitvale Boulevard during the following time periods on Mondays through Fridays:

Hours Prohibited:

1:00 a.m. to 9:00 a.m.

11:30 a.m. to 1:00 p.m.

4:30 p.m. to 6:00 p.m.

(3) All trolleys and all other on-track equipment shall obey signals at intersecting streets, and shall be preceded by a flag person at intersections which are protected by stop signs.

10. Indemnification

A. Debts and Liens. YILA shall allow no liens to attach to City property nor any tax or debt to be input to the City by YIL's possession, occupancy or use of City equipment or property; and in the event any such debt, tax, or lien is incurred or arises by operation of law, YILA shall immediately pay and satisfy the indebtedness, tax, or lien.

B. Indemnification. YILA shall defend, indemnify, and hold the

City, its employees, officers and agents harmless from all claims, liability or damage based on or resulting from the execution of this agreement or its performance including, but not limited to, the operation and maintenance of the right-of-way, or the operation of the trolley cars and the trolley system and business, including but not limited to all of the promises made in this agreement by YILA.

11. Insurance Requirement

Prior to its commencement of the trolley operation contemplated by this agreement, YILA shall obtain a general public liability policy insuring against bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000) for each incident. The City of Yakima, its officers, employees and agents shall be named as insured parties along with YILA. Further, the policy shall insure the contractual undertakings of YILA by its execution of this agreement, including the indemnification provisions of paragraph 10 B. immediately hereinabove.

12. Right-of-way Preservation

YILA may protect the track right-of-way by whatever legal means are necessary, in order to keep the complete right-of-way intact and usable. YILA may acquire such additional right-of-way and property as it deems necessary to provide for the trolley operation contemplated by this agreement. However, no power of eminent domain is purported to be delegated to YILA by this agreement; and this provision is not intended to require the City to exercise its power of eminent domain for the benefit of YILA or the trolley system or business.

13. Reservation Of Rights

A. The City reserves the right, as against any claim by or detriment to YILA, to control and regulate the public streets and other right-of-way over which any rail tracks traverse, and to improve its streets and right-of-way, and to install and maintain sewers, watermains and any other public works.

B. The City reserves the right to sell that portion of the railroad system described in Exhibit A, together with all appurtenances, from a point 1000 feet south of the center line of Southern Avenue in Selah, Washington to the northern terminus of said system in Selah, Washington. In the event of the conveyance of the aforementioned portion of the railroad system, the City shall notify YILA in writing prior to any transfer. From and after said transfer YILA shall not perform any activity covered by this agreement on said portion of the system without the written approval of the City.

14. Trolley Fund

Funds received from the salvage of abandoned portions of the YVT system shall be used for capital improvements to the system at the City's sole discretion.

15. Assignability

The rights of this agreement shall not be assigned by YILA to any other person, corporation or association without the prior written consent of the City.

16. Default - Termination

A. Notice Of Default - Termination. In the event of the default by YILA in its performance of this agreement, the City may terminate this agreement by delivering to YILA a written notice of intent to terminate, which notice shall specify the act or lack of performance which constitutes the default. In the event YILA fails to cure the default within forty-five (45) days from the delivery of the notice, then this agreement shall automatically terminate.

B. Immediate Termination. The provisions of paragraph 16.A immediately hereinabove shall not apply to a breach of this agreement by YILA in expanding its operations beyond the transporting of passengers, only, as a tourist attraction and promoting activity; nor shall those provisions apply in the event YILA fails to obtain or maintain in full force and effect the insurance policy required by this agreement. In either such event, this agreement will terminate immediately on notice by the City to YILA.

17. Notification - YILA Office Location

A. Notification. Any notice by either party to the other pertaining to this agreement or the trolley operation shall be given in writing and delivered by certified mail or by personal service as follows:

City of Yakima
Office of City Manager
City Hall
129 North 2nd Street
Yakima, Washington
(509) 575-6040

Yakima Valley Interurban Trolley
Lines
P.O. Box 649
Yakima, Washington 98907
(509) 575-1700

B. YILA Office Location. YILA shall maintain an office at the address stated above, or at some other place within the City of Yakima, with a telephone or telephone recording device. YILA shall immediately notify the City in writing of any change in the name of the responsible person to receive notification under Paragraph 18.A

above, or of any change in office address where notice is to be given, or telephone number.

18. Term

This agreement shall be effective when signed by an authorized representative of each party, and shall terminate at 12:01 a.m. on January 1, 1992.

19. Disputed Right-Of-Way

Both parties recognize that third persons may claim ownership of certain stretches of right-of-way described on Exhibit A. the parties recognize that the City does not warrant or guarantee title to, or the right of use of any right-of-way described in Exhibit A.

EXECUTED AT YAKIMA, WASHINGTON, the day and year first above written.

CITY OF YAKIMA:

By



R. A. ZAIS, Yakima City Manager

ATTEST:

Karen S Roberts

KAREN S. ROBERTS, City Clerk

City Contract No. 91-20
Resolution D-5887

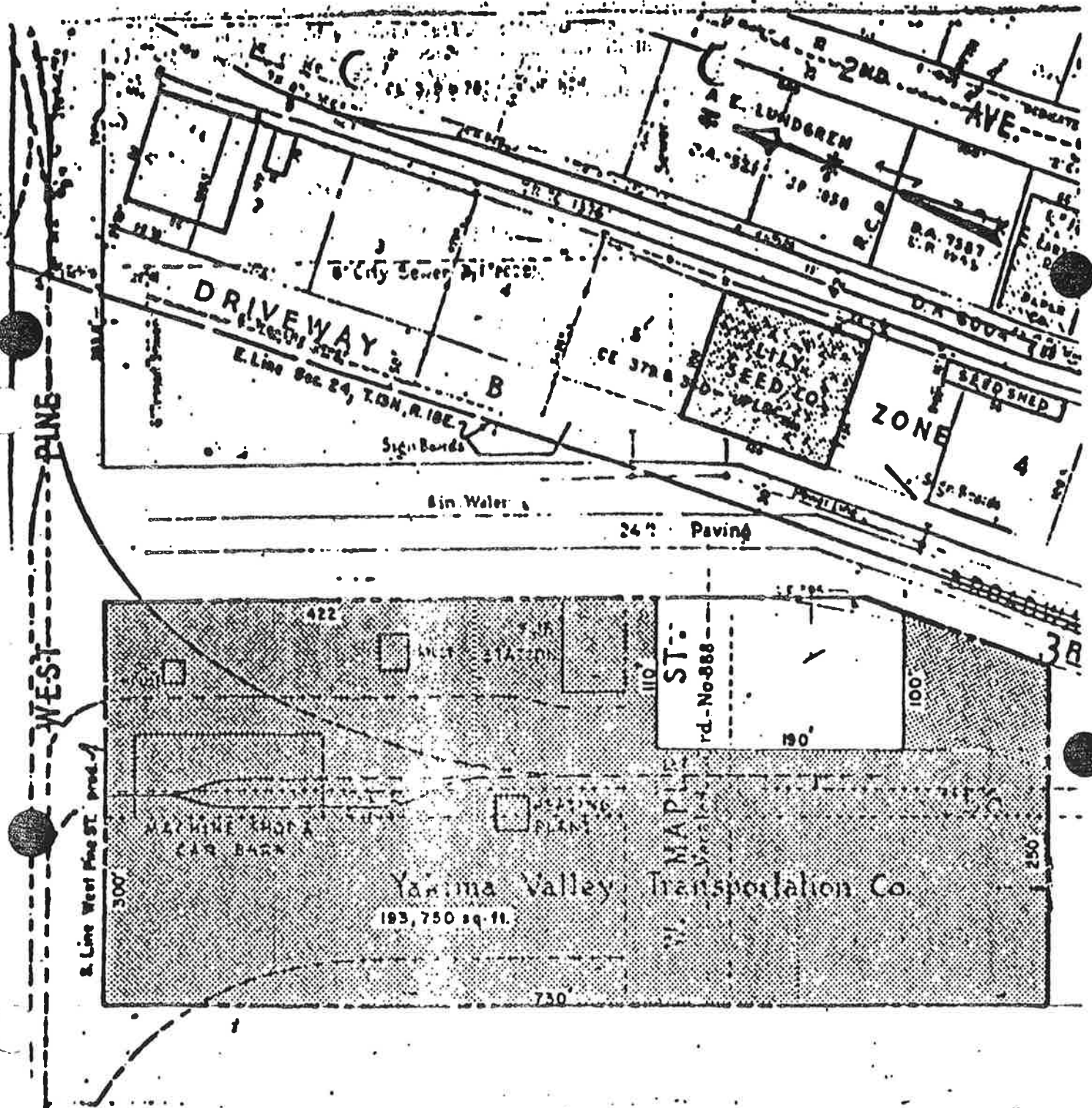
YAKIMA INTERURBAN LINES ASSOCIATION INC.

By

John R. Ainsworth Director

By _____

3/15/91 P. J. Gunn
Rec - only one
signature required
by YILA.



DONATION QUITCLAIM DEED

The Grantor, YAKIMA VALLEY TRANSPORTATION COMPANY, a Washington corporation, 1515 S. W. Fifth Avenue, Portland, Oregon, as a donation and without monetary or other consideration, conveys and quitclaims to the CITY OF YAKIMA, a Washington corporation, all right, title and interest in and to the real property situated in the County of Yakima, State of Washington, described in Exhibit "A" attached hereto and by this reference incorporated herein, together with all trackage, wires, poles, structures, and other fixtures and appurtenances located on said real property described in Exhibit A, and together with all trackage, wires, poles, and other appurtenances located in, on or across public streets or public rights of way.

EXCEPTING AND RESERVING from Exhibit A and from this conveyance and quitclaim all of those certain parcels of real property located in the County of Yakima, Washington, and all trackage, wires, poles, structures and fixtures thereon, heretofore acquired by Grantor by the following deeds:

<u>Instrument</u> <u>Grantor</u>	<u>Instrument</u>	<u>Date of Deed</u>	<u>Record</u> <u>Date</u>	<u>Book</u>	<u>Page</u>
H.B. and Julia R. Scudder	Bargain & Sale Deed	Dec. 20, 1909	Jan. 27, 1910	86	336
Lena F. and R.M. Beard	Warranty Deed	Dec. 16, 1909	Jan. 27, 1910	98	180
H.B. and Julia R. Scudder	Bargain & Sale Deed	Jan. 20, 1910	Jan. 27, 1910	86	337
T.R. Robinson	Warranty Deed	Apr. 12, 1911	Apr. 20, 1911	116	63
Coffin Brothers	Bargain & Sale Deed	Apr. 17, 1911	Apr. 20, 1911	116	64

Dated as of the 18 day of November, 1985.

Attest: (Seal)

[Signature]
Secretary

YAKIMA VALLEY TRANSPORTATION COMPANY

By [Signature]
President

Deeds at Page 663 of the Records of said County and State, being the south line of that certain strip of land heretofore acquired by the Yakima Valley Transportation Company from H. C. Treat and Mary A. Treat by deed dated November 8, 1911, and recorded December 26, 1911, in Volume 120 of Deeds at Page 524 of the Records of said County and State and subsequently disclaimed by said Transportation Company by Disclaimer dated October 22, 1981, and recorded April 21, 1985, in Volume 1098 of Deeds at Page 1287 of the Records of said County and State.

Also, all right-of-way underlying side trackage in the $S\frac{1}{2}SW\frac{1}{4}$ and $NW\frac{1}{4}SW\frac{1}{4}$ of Section 36, T. 14 N., R. 18 E., and the $NW\frac{1}{4}NW\frac{1}{4}$ of Section 1, T. 13 N., R. 18 E., of the Willamette Meridian in the Town of Selah, Yakima County, Washington.

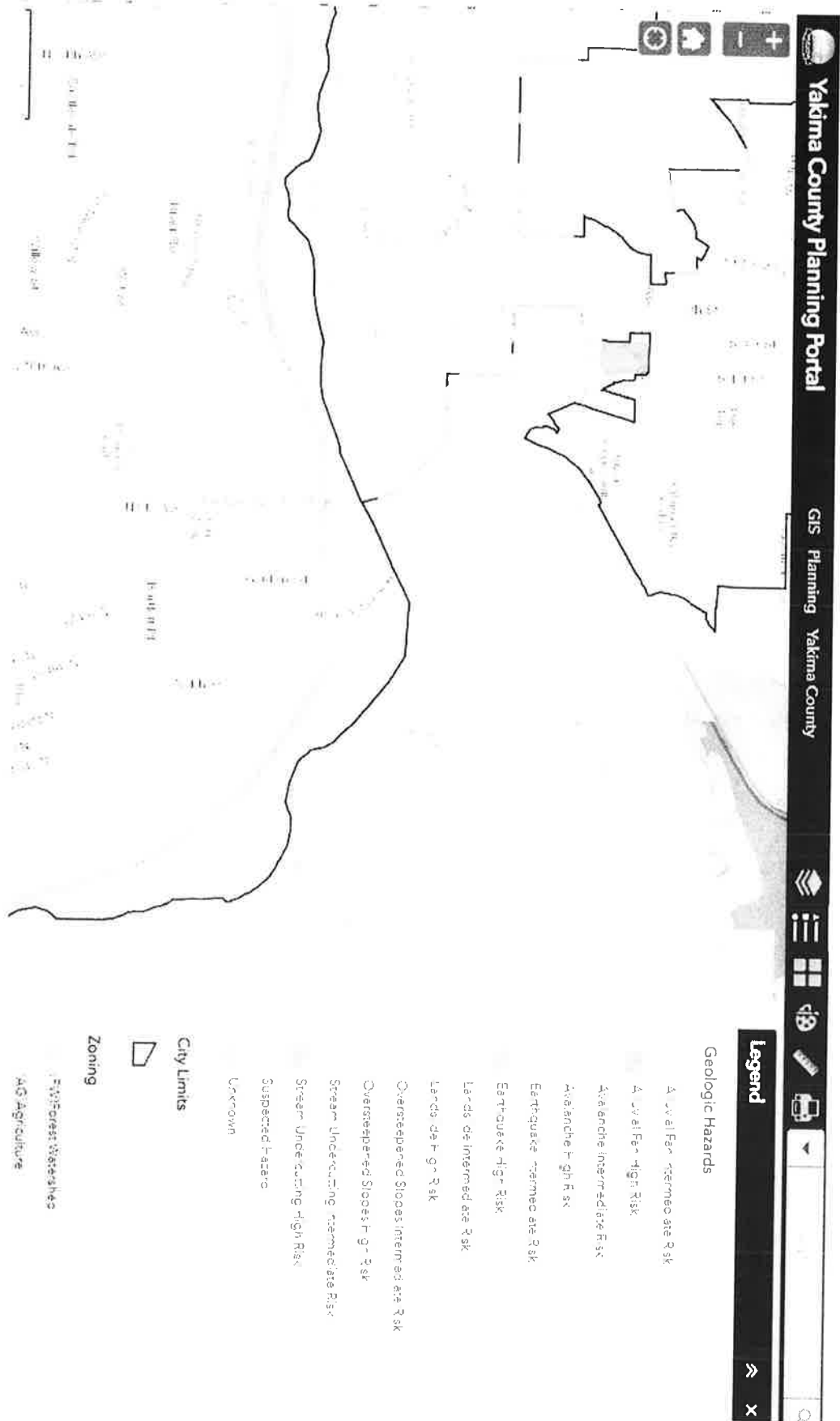
Containing a net property area of 18.59 acres, more or less.

Said Segment No. 4 lying in and across the legal subdivisions identified as follows:

<u>Subdivision</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
$SE\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}$	24	13 N.	18 E.	Willamette
$W\frac{1}{2}E\frac{1}{2}$	13	" "	" "	" "
$W\frac{1}{2}SE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $NW\frac{1}{4}$	12	" "	" "	" "
$W\frac{1}{2}SW\frac{1}{4}$, $NW\frac{1}{4}NW\frac{1}{4}$	1	" "	" "	" "
$NE\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}NE\frac{1}{4}$	2	" "	" "	" "
$SE\frac{1}{4}SE\frac{1}{4}$	35	14 N.	" "	" "
$S\frac{1}{2}SW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$	36	" "	" "	" "

The description hereinabove is subject to the exception and reservation set forth in the main body of the deed to which this description is an exhibit.

Landslide High Risk Info along Trolley Route



MEYER, FLUEGGE & TENNEY, P.S.

ROBERT C. TENNEY
MARK D. WATSON*
JEROME R. AIKEN*
PETER M. RITCHIE**
JAMES C. CARMODY

ATTORNEYS & COUNSELORS
230 SOUTH SECOND STREET, SUITE 101
YAKIMA, WASHINGTON 98901

JACOB A. LARA
ROBERT S. URLOCKER
PARDIES ROOHANI
MARIO BATKI

8

**Also admitted in Oregon*

***Also admitted in Oregon & Virginia*

January 20, 2026

Mayor Matt Brown
City of Yakima – City Hall
129 North Second Street
Yakima, WA 98901
matt.brown@yakimawa.gov

Deputy Mayor Reedy Berg
City of Yakima – City Hall
129 North Second Street
Yakima, WA 98901
reedy.berg@yakimawa.gov

RE: Transportation Benefit District Project List – Agenda Item 9B – Jan. 20, 2026 Meeting

Dear Mayor Brown and Deputy Mayor Berg:

We represent Yakima Taxpayers for Fiscal Responsibility (YTFR) and have previously corresponded with respect to use of Transportation Benefit District (TBD) funds for trolley tourist attractions. In the City Council packet for January 20, 2026 - Agenda Item 9B, City Staff present options to raise taxes on Yakima residents to pay for transportation system improvements through increased vehicle license fees or added sales tax. We are concerned about both a tax increase as well as the use of TBD funds. One option includes an expenditure of \$7 million on trolleys.

The City may establish a transportation benefit district for the purpose of acquiring, constructing, improving, providing, and funding a transportation improvement within the district that is consistent with any existing state, regional or local transportation plan and necessitated by existing or reasonable foreseeable congestion levels. RCW 36.73.020(1). In selecting transportation improvements, the district should consider to the extent practicable the criteria set forth in RCW 36.73.020(1). Under state law, city ordinances, and case law, it is *not* legal to use Transportation Benefit District (TBD) funds to pay for trolley tourist attractions. The inclusion of funding for trolleys would violate state law. As we have previously requested, City Council should obtain a formal written legal opinion from the City Attorney on the legal restrictions for use of TBD funds.

In a lawsuit **against** the City of Yakima and the trolley association, the court ruled in 1987 that Yakima's trolleys are "*not a railroad*" but instead are a "*tourist attraction*," and a streetcar line is not a railroad.¹

¹ Memorandum Opinion, *Congdon Orchards, Inc. v. City of Yakima, Yakima Valley Transportation Co., and Yakima Interurban Lines Association* (86-2-00503-9, April 8, 1987)

State law also says streetcars like the trolleys are not a "railroad," and are not "Public Transportation."²

Under state law, the trolley is *not* eligible for TBD funds: (1) the trolley is not a railroad, (2) the trolley is a seasonal tourist attraction, (3) the trolley is not "Public Transportation," (4) the trolley is not a "Transportation Improvement," (5) building trolley tracks is not "necessitated by existing or reasonably foreseeable congestion levels," (6) the seasonal trolley will not "alleviate congestion," and (7) the trolley does not satisfy the criteria in RCW 36.73.020(1).³

Moreover, there is no evidence that new trolley tracks on 6th Avenue between Walnut and River Road will be "Regionally Significant" as required under state law. There is no evidence that 6th Avenue trolley tracks are part of a regional plan nor is there evidence of regional coordination with Selah, Yakima County, and the State of Washington.

In 2024, H.A. Engineering estimated the cost to build trolley tracks & electric wires is about \$5 million per mile; and the cost to build the 4-mile Selah Line could be \$15 Million to \$20 Million. The current proposal to build only 1.5 mile of the proposed 4-mile Selah tracks will result in unusable "tracks to nowhere." City Council should request an updated Engineer's Estimate in 2026 Dollars to build the full 4-mile line.

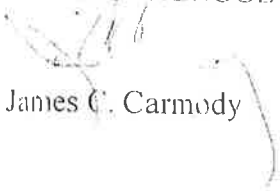
The City of Yakima has invested taxpayer dollars in the Trolley for many years. The City should not invest additional funds in Tourist Trolleys that do not qualify for transportation funding. The City should not assume responsibility for environmental, cultural resource, and other financial risks and liabilities rightly held by the trolleys. The Trolleys should be self-funded and self-insured and should fully address all legal concerns and financial responsibilities and contributions to their enterprise.

In times of financial stress, the use of available funds should be focused on maintenance and repair of existing streets and roads. The Council should also be cognizant of ever-increasing tax burdens and costs on taxpayers.

Thank you for consideration of our concerns.

Very truly yours,

MEYER, FLUEGGE & TENNEY, P.S.


James C. Carmody

² See, e.g., RCW 36.75.010(12) and RCW 81.104.015(4).

³ RCW 81.104.015(4); RCW Chapter 36.73; City of Yakima Ordinance 2017-002



YAKIMA CITY COUNCIL MINUTES

July 7, 2026

City Hall – Council Chambers – 129 N 2nd Street, Yakima, WA

5:30 PM City Council Regular Meeting – Conducted in person and virtually via Zoom.

Executive Session - 5:15 p.m.

Executive Session regarding pending litigation pursuant to RCW 42.30.110(1)(i)

MOTION: Berg moved and Byers seconded to adjourn to Executive Session to discuss pending litigation pursuant to RCW 42.30.110(1)(i), until 5:30 p.m. The motion carried by unanimous vote. Mayor Brown announced that Council is expected take further action following executive session.

Present for Executive Session: Mayor Matt Brown, Assistant Mayor Reedy Berg, and Councilmembers Patricia Byers, Rick Glenn, Felisa Gonzalez, Juliet Potrykus and Leo Roy

Executive session was held at 5:16 p.m. and adjourned at 5:23 p.m.

1) Roll Call

The meeting was called to order at 5:31 p.m.

Present: Mayor Matt Brown, Presiding; Assistant Mayor Reedy Berg and Councilmembers Patricia Byers, Rick Glenn, Felisa Gonzalez, Juliet Potrykus and Leo Roy

Staff: City Manager Vicki Baker, City Attorney Sara Watkins and City Clerk Rosalinda Ibarra

2) Pledge of Allegiance

Mayor Brown led the Pledge of Allegiance.

3) Interpreter Services

Mayor Brown introduced Nate Montgomery who announced interpreter services are available in Spanish.

4) Public Comment

The following individuals provided remarks about Council's recent action on the Flock cameras contract and encouraged funds to be reallocated to community programs: Noemi Sanchez (City resident), Andreina Rangel (County resident), Zachary Galland (City resident), Michael Morrison (City resident), Silvia Leija (City resident), Jessica Muoth (City resident), Amanda G (City resident), Alexia Wanoche (County resident), Stephen Eggleston (County resident), and Cole Brown (City resident).

Judy Sinclair (City Resident), Mike Kay (City resident) and Commissioner Kyle Curtis spoke about funding reductions to Camp Hope.

Debra Yergen (City Resident) and Jill Armstrong (County resident) expressed gratitude to the organizers and participants of America's 250th anniversary parade and festivities.

Anne Knapp (City Resident) stated concerns related to a Trolley grant application.

Tony Courcy (City resident) spoke about handicap ramps and crosswalks at a couple of intersections.

5) Open Discussion for the Good of the Order

5.A Recognition of retiring Yakima Valley Tourism President and CEO John Cooper
City Manager Vicki Baker recognized Yakima Valley Tourism President and CEO John Cooper for his retirement and thanked him for his years of service in the tourism industry.

5.B Introduction and Administration of Oath of Office to Interim Fire Chief Thomas Huntington

City Manager Baker introduced Thomas Huntington as the newly appointed Interim Fire Chief, effective July 6, 2026.

City Clerk Ibarra administered a ceremonial oath of office to Interim Fire Chief Thomas Huntington.

6) Council Reports

None.

7) Consent Agenda

Mayor Brown referred to the items placed on the Consent Agenda, questioning whether there were any additions or deletions from Council members present. Item 7J was removed from the Consent Agenda. The City Clerk read the Consent Agenda items, including resolutions and ordinances, by title. (Items on the Consent Agenda are handled under one motion without further discussion-see motion directly below.)

MOTION: Berg moved and Byers seconded to approve the consent agenda as read.
The motion carried by a 7-0 roll call vote.

7.A Approval of minutes from the June 9, 2026 and June 16, 2026 City Council regular meetings

7.B Resolution authorizing an amendment to Equitable Sharing Agreement and Certification with the United States Department of Justice

RESOLUTION NO. R-2026-095, A RESOLUTION amending an Equitable Sharing Agreement and Certification with the United States Department of Justice.

7.C Resolution authorizing an agreement with MBI Construction Services Inc. for the Public Works Wash Bay Enclosure Project 2857

RESOLUTION NO. R-2026-096, A RESOLUTION authorizing an agreement with MBI Construction Services Inc. for the Public Works Wash Bay Enclosure Project 2857.

7.D Resolution accepting Change Order No. 1 with Ascent Foundation & More LLC for the Stormwater System Spot Improvements Project SW2832

RESOLUTION NO. R-2026-097, A RESOLUTION accepting Change Order No. 1 to City Contract 2025-163 with Ascent Foundation & More LLC for Project SW2832 Stormwater System Spot Improvements.

- 7.E Resolution authorizing a contract with Interwest Construction, Inc. for the Industrial Waste Force Main Replacement at the Wastewater Treatment Facility Project WF2715
RESOLUTION NO. R-2026-098, A RESOLUTION authorizing a contract with Interwest Construction, Inc. for Project WF2715 Industrial Waste Force Main Replacement at the Wastewater Treatment Facility.
- 7.F Resolution authorizing an agreement with Interwest Construction Inc. for the 88th Avenue Apple Valley Elementary Sidewalk Improvements Project 2800
RESOLUTION NO. R-2026-099, A RESOLUTION authorizing an agreement with Interwest Construction Inc. for the 88th Avenue Apple Valley Elementary Sidewalk Improvements, Project No. 2800.
- 7.G Resolution authorizing the conditional settlement agreement to settle the lawsuit brought by the Estate of Amber M. Rodriguez, deceased, E.E.H, a minor child; and L.E.H, a minor child
RESOLUTION NO. R-2026-100, A RESOLUTION authorizing the conditional settlement agreement to settle the lawsuit brought by the Estate of Amber M. Rodriguez, deceased, E.E.H, a minor child; and L.E.H, a minor child.
- 7.H Resolution ratifying and approving the City Manager's execution of a reimbursable grant agreement with the Washington State Office of Public Defense
RESOLUTION NO. R-2026-101, A RESOLUTION ratifying and approving the City Manager's execution of a grant agreement with the Washington State Office of Public Defense accepting the terms and conditions for a reimbursable grant for 2026-2027.
- 7.I Resolution authorizing a Professional Services Agreement with HLA Engineering and Land Surveying, Inc. for the Water System Plan Update
RESOLUTION NO. R-2026-102, A RESOLUTION authorizing the City Manager of the City of Yakima to execute a Professional Service Agreement between the City of Yakima and HLA Engineering and Land Surveying, Inc. for preparation of the City's Water System Plan Update.
- 7.J Resolution authorizing an amendment to the City's current contract with CWA. Inc. for Yakima-Ellensburg Commuter Services
This item was removed from the Consent Agenda.
- 7.K Resolution authorizing a contract with J.U.B. Engineers, to perform contract management services for Runway Rehabilitation of Crosswind Runway 4-22, Yakima Air Terminal - McAllister Field (FAA/PFCs)
RESOLUTION NO. R-2026-104, A RESOLUTION authorizing the City Manager to execute an agreement between J-U-B Engineers, Inc. and the City of Yakima for Runway 4/22 Construction Management Services for the Yakima Air Terminal - McAllister Field.
- 7.L Resolution authorizing a contract with Interstate Concrete to perform construction services for Runway Rehabilitation of Crosswind Runway 4-22, Yakima Air Terminal-McAllister Field. (FAA/PFCs)
RESOLUTION NO. R-2026-105, A RESOLUTION authorizing the award and contract with Interstate Concrete & Asphalt for the Rehabilitation Legacy Crosswind Runway 4/22 Construction at the Yakima Air Terminal - McAllister Field.

- 7.M Ordinance amending the City of Yakima Municipal Code Section 2.20.060 Salaries
ORDINANCE NO. 2026-026, AN ORDINANCE amending the City of Yakima
Municipal Code Section 2.20.060.
- 7.N Ordinance amending the City of Yakima Municipal Code Section 2.20.085 Salaries
ORDINANCE NO. 2026-027, AN ORDINANCE amending the City of Yakima
Municipal Code Section 2.20.085.

Items Removed from the Consent Agenda

- 7.J Resolution authorizing an amendment to the City's current contract with CWA, Inc. for Yakima-Ellensburg Commuter Services
- Transit Manager Jim Hogenson briefed Council on the resolution noting that proposed increases are covered with grant funding and partnerships with the cities of Ellensburg, Selah, and Central Washington University.
- The City Clerk read the resolution by title only.
- MOTION: Potrykus moved and Byers seconded to adopt the resolution.** The motion carried by a 7-0 roll call vote.
- RESOLUTION NO. R-2026-103, A RESOLUTION** authorizing the City Manager to amend the City's current contract with CWA, Inc. for Yakima-Ellensburg Commuter Services.

8) Public Hearings

- 8.A Public hearing to consider: A) Resolution adopting the Six-Year Transportation Improvement Program for the period of 2027 through 2032, and to amend the 2040 Transportation System Plan; and B) Resolution amending the Yakima Comprehensive Plan Capital Facilities Element
- City Engineer Robert Washabaugh presented the City of Yakima's proposed 2027-2032 Six-Year Transportation Improvement Program (TIP) and the Transportation Systems Plan 2040. He identified and described the various transportation projects listed for which state gas tax or federal revenue can be used or applied for.
- Council members discussed at length the Naches River Bridge Repair and the 6th Avenue Roadway Improvements projects as they relate to funding for the trolley infrastructure improvements, Trolley operations, and bridge ownership. It was noted that Council previously allowed the Trolley organization time to raise funds.
- Mayor Brown opened the public hearing. The following individuals provided comments: Tony Courcy and Anne Knapp. With no one else coming forward or calling in to speak, Mayor Brown closed the public hearing.
- After extensive Council discussion,
- MOTION: Glenn moved and Potrykus moved to remove the Naches River Bridge from the Transportation Improvement Program [remove page 14].** The motion passed by a 4-3 roll call vote; with Byers, Gonzalez, and Roy voting no.
- MOTION: Glenn moved and Berg seconded to direct the City Manager to verify ownership of the Naches River Bridge.** The motion passed by a 6-1 vote; with Gonzalez voting no.

MOTION: Potrykus moved and Berg seconded to amend the TIP to specify that no City funds shall be used for trolley track infrastructure consistent with Council's previous direction regarding TBD funds, this does not apply to donated specific funds or Council approved funds. The motion passed by a 4-3 roll call vote; with Byers, Gonzalez, and Roy voting no.

MOTION: Berg moved and Glenn seconded to adopt both resolutions as amended. The motion passed by a 5-2 roll call vote; with Byers and Gonzalez voting no.

The City Clerk read both resolutions by title only.

RESOLUTION NO. R-2026-106, A RESOLUTION adopting the Six-Year Transportation Improvement Program (TIP) for the period of 2027 through 2032 for transportation improvements to arterial streets in the City of Yakima and amending the 2040 Transportation System Plan.

RESOLUTION NO. R-2026-107, A RESOLUTION to amend the Yakima Comprehensive Plan Capital Facilities Element to incorporate the Six-year Transportation Improvement Program (TIP) for the period of 2027 through 2032.

9) Department Items

- 9.A Resolution authorizing Right of Way Use Permit Application RL260006 for Minado Buffet Inc at 501 N Front St

City Engineer Robert Washabaugh briefed the Council on the proposed resolution requesting approval to place used cooking oil containers in the right of way at 501 N Front Street.

The City Clerk read the resolution by title only.

MOTION: Byers moved and Berg seconded to adopt the resolution. The motion carried by a 7-0 roll call vote.

RESOLUTION NO. R-2026-108, A RESOLUTION authorizing the issuance of a right-of-way use permit to allow a grease trap for Minado Buffet Inc.

10) City Manager Update

- 10.A Preview of upcoming topics

City Manager Baker talked about the County Commissioner's decision regarding their funding reduction to Camp Hope and the potential public safety impacts that it will have on homelessness issues in the city. Council members commended Camp Hope for the services they provide and voiced concerns about the County's transparency in the decision-making process and the lack of a proper transition plan for the individuals that will be displaced. City Manager Baker stated Commissioner Curtis will be invited to an upcoming meeting to discuss the matter further.

After Council discussion,

MOTION: Glenn moved and Byers seconded that the city allocate up to \$50,000 from whatever sources deemed available or appropriate to contribute to Camp Hope to keep them going while they search for a longer term solution. The motion carried by unanimous vote.

MOTION: Brown moved and Berg seconded that the Yakima City Council adopt a motion of no confidence in the Yakima County Board of Commissioners

Homeless Housing and Assistance Program funding allocation for the 2027-2028 biennium, specifically the reduction imposed on Camp Hope from the \$600,000 to the \$130,000 and direct the City Manager to transmit this motion to the Board of County Commissioners. The motion carried by unanimous vote.

11) Other Business

MOTION: Brown moved and Roy seconded to direct staff to prepare, within 90 days, an ordinance codifying Washington's ALPR protections, Laws of 2026 Chapter 239, into the Municipal Code for all Flock camera systems operating in the City, plus a companion resolution asking the County Commissioner's to adopt matching rules. The motion carried by a 5-2 roll call vote; with Glenn and Potrykus voting no.

MOTION: Glenn moved and Byers seconded to add a discussion of legislative priorities in early August and invite legislators. The motion carried by unanimous vote.

12) Adjournment

MOTION: Byers moved and Glenn seconded to adjourn to the next City Council regular meeting on July 14, 2026, at 5:30 p.m. in the City Hall Council Chambers. The motion carried by unanimous vote.

The meeting adjourned at 8:20 p.m.

CERTIFICATION

READ AND CERTIFIED ACCURATE BY

/s/ Signature on File

COUNCIL MEMBER

DATE

/s/ Signature on File

COUNCIL MEMBER

DATE

ATTEST:

/s/ Signature on File

CITY CLERK

/s/ Signature on File

MAYOR

Naches River Bridge Repair Project for Seasonal Tourist and Sightseeing

Trolleys is Not Eligible for STIP Inclusion (STIP ID WA-15913)

Summary Statement:

A seasonal, non-ADA-accessible tourist trolley that operates on summer weekends and holidays does not provide continuous or functional mobility and therefore does not qualify as “*transportation*” or “*public transportation*” for purposes of inclusion in the State Transportation Improvement Program (STIP). Federal and state planning statutes emphasize mobility, continuity, accessibility, and performance outcomes. Because the service is seasonal, non-accessible, and oriented toward tourism and sightseeing rather than mobility, it fails the statutory and regulatory definitions of transportation, is excluded under RCW 81.104.015(4), and would divert limited transportation funds from projects that advance essential, year-round mobility goals.

Background Information:

The Yakima Valley Transportation Company operated an electric railroad between 1907 and 1983 when it ceased operations and abandoned its tracks. The City of Yakima plans to renovate historic railroad tracks/bridge and then operate tourist and sightseeing trolley excursions on summer weekends using the abandoned railroad tracks on the Selah Line and across the Naches River Bridge.

The City of Yakima proposes to license Yakima Valley Trolleys to operate these seasonal tourist trolley excursions that are “*scenic*” but restricting the use to trolley rides “*as a tourist attraction and a tourist promotion activity.*” Yakima Valley Trolleys’ website says: “*Enjoy a charming ride through the picturesque Selah Gap and into downtown Selah. This route offers stunning river and valley views!*” The summer weekend tourist trolleys will not use the

bridge on more than 90% of the days in a year. Yakima Valley Trolleys are not part of the Yakima City Transit system.

The Naches River Bridge Repair project is intended to enable scenic tourist trolley excursions across the currently closed bridge. These tourist trolley excursions were not part of historic railroad operations. Contrary to Yakima's application for federal funding, the more modern Yakima Valley Trolleys are not listed on the National Historic Register. Yakima County Superior Court ruled that tourist trolleys are not a "*railroad*" but instead are a "*tourist attraction*." State law says seasonal tourist service is not "*public transportation*." Federal law says sightseeing tourist trolleys and charters are not "*public transportation*," which requires "*regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.*"

The Naches River Bridge Repair project currently excludes ADA access and excludes pedestrian access, notwithstanding prior federal and state grant commitments by Yakima to allow ADA and pedestrian bridge access. Using previous federal and state "*multimodal*" funds, Yakima contracted with a licensed professional structural engineer to design safe ADA and pedestrian access, but the current proposal excludes all public bridge access except for summer weekend tourist trolleys.

Moreover, the current proposal conflicts with a WA Utilities and Transportation Commission (UTC) Order and grant commitments providing for safety fencing to block pedestrians from crossing the nearby BNSF high-speed railroad bridge and instead to divert pedestrians to the safe City shared-use bridge walkway. These public safety measures were approved by BNSF Railway, as a party to the UTC Order. The current proposal also conflicts with Transportation Alternatives mobility policies to enhance (and not reduce) equitable, non-motorized pedestrian and ADA access to historic transportation facilities.

Therefore, the current Naches River Bridge Project is not eligible for inclusion on the STIP or local TIPs. But the project would be eligible for STIP inclusion if it is revised to comply with the UTC Order and fulfill prior grant commitments by including ADA and pedestrian bridge accessibility.

Notes:

1. Lack of Mobility Purpose

- Seasonal tourist trolleys primarily provide sightseeing, not functional mobility.
- Federal and state planning rules require projects to advance mobility for people and goods (23 C.F.R. § 450.104; 49 U.S.C. § 5302).
- NTD/FTA explicitly excludes sightseeing services from public transportation reporting.
- Washington RCW 47.01.330 and the Washington Transportation Plan emphasize mobility as a core planning goal.

2. Lack of Regularity and Continuity

- Operates on summer weekends/holidays → no year-round service other than isolated private charters.
- STIP and MPO/RTPO planning prioritize regular, continuing services.
- Seasonal-only operation fails continuity/mobility requirements (23 U.S.C. § 134(c); 23 C.F.R. § 450.200).

3. State Law Exclusion

- RCW 81.104.015: "Rail fixed guideway public transportation system ... does not include a system that is not public transportation, such as seasonal, tourist, or intraterminal service."
- Seasonal tourist trolleys are therefore excluded under Washington statute.

4. ADA Accessibility Concerns

- Federal STIP projects must meet ADA requirements (42 U.S.C. § 12141; 49 C.F.R. Part 37).
- Non-ADA-accessible trolleys (e.g., trolley with steep, narrow stairs only) cannot serve all potential riders, failing accessibility standards.

5. Inequitable Use of Transportation Funds

- STIP funds prioritize projects that provide inclusive, year-round mobility.
- Seasonal sightseeing trolleys do not meet this public purpose.

6. Precedent / Administrative Consistency

- WSDOT and FHWA STIP typically include trolleys/streetcars only when year-round, mobility-oriented, ADA-compliant, and integrated with the transit network.
- Seasonal tourist trolleys do not meet these criteria.

7. Failure to Advance STIP Performance Targets

- STIP projects must support federal performance targets (safety, congestion, accessibility, environmental).
- Seasonal tourist trolleys provide negligible mobility impact and do not advance measurable performance objectives.

BEFORE THE DEPARTMENT OF PUBLIC WORKS OF WASHINGTON
Division of Transportation

In re Electric Railway Service of
YAKIMA VALLEY TRANSPORTATION COMPANY
in Yakima County, State of Washington

Cause No. 6832

FINDINGS OF FACT AND ORDER GRANT-
ING DISCONTINUANCE OF SERVICE

This matter came on regularly for hearing at Olympia, Washington, on the 8th day of March, 1935, before W. D. Lane, Supervisor of Transportation, and W. W. Chamberlain, Examiner, and at Yakima, Washington, on the 1st day of April, 1935, before W. D. Lane, Supervisor of Transportation, pursuant to notice duly given.

The parties were represented as follows:

APPLICANT

By F. T. Merritt, Att'y,
Hayden, Merritt, Summers & Bucey,
540 Central Bldg., Seattle, Wash.;
Arthur A. Murphy, Pres., W. S.
Howard, Vice Pres. and Sup't, and
Geo. W. Beeman, Sec'y.

PROTESTANTS:

At hearing held March 8 -- none
At hearing held April 1:

LEE C. DELLE and L. D. LUCE

By Lee C. Delle, Att'y,
405-6 Miller Building,
Yakima, Washington.

JOHN D. MORRISSEY

By Self,
Route 2, Selah, Washington.

Witnesses were sworn and examined, documentary evidence was introduced, and the Department, being duly advised in the premises, makes and enters the following

FINDINGS OF FACT

The above entitled matter was heard upon the application of the Yakima Valley Transportation Company to discontinue interurban passenger service on the Ahtanum-Harwood and Selah-Speyers lines. Petitioner is the holder of a franchise for this service from Yakima County, dated October 7, 1907, and is now operating on its said Ahtanum-Harwood line on a regular schedule for the carrying of passengers, mail and express two round trips per day between Wiley City and Henrybro on the one hand and the intersection of Sixth Street and Yakima Avenue in the City of Yakima on the other, and upon its Selah-Speyers line

-2-

stantial increase of revenue in the future, and that substantial losses from passenger operation will continue; that the revenues derived from said passenger, mail and express service do not justify or require continuance of the operation, and that the continuance of such service is not required by public convenience and necessity.

We further find that the County Commissioners of Yakima County after a hearing on December 20, 1934, upon due public notice, entered an order on December 21, 1934, authorizing discontinuance of passenger, mail and express service, and amending applicant's franchise accordingly.

At the hearing in Yakima only three witnesses appeared to protest against the granting of the application, and of these only two use the transportation, L. D. Luce and Agnes Stever. They need the service, and are victims of changed conditions in transportation. The revenues derived from the carrying of passengers on the lines mentioned do not justify the Department in requiring the service to be continued.

O R D E R

WHEREFORE, IT IS ORDERED That Yakima Valley Transportation Company, a corporation, be, and hereby is, authorized to discontinue interurban passenger, mail and express service on its Ahtanum-Harwood and Selah-Speyers lines as prayed for in its application.

Dated at Olympia, Washington, *April 11, 1935*

DEPARTMENT OF PUBLIC WORKS OF WASHINGTON

By

E. K. Murray
Director

W. D. Lane
Supervisor of Transportation

Frank Paine
Supervisor of Public Utilities

12

From: Walker, Seth
To: Preston, Bill; Adolf, Alan
Cc: Kallevig, Dana; Washabaugh, Robert
Subject: Re: [EXTERNAL] Re: Trolley Bridge Rehab TAP funding
Date: Tuesday, January 20, 2026 3:08:45 PM

All, this is what I received from HQ regarding this project.

Based on my understanding of the project and questions, I have the following comments.

- Historic Preservation/Rehabilitation – The key on this depends on what's considered historic. Without trolley use, what's historic about the bridge itself? I would say the trolleys are what make the overall YVT system historic. If the bridge will no longer be used for trolleys, I'd say repair/rehab of the bridge is NOT eligible for TA as historic preservation/rehabilitation.
- Non-Motorized Facilities. If the bridge won't allow pedestrians (and I assume other non-motorized forms of transportation), then it would NOT be TA eligible as a non-motorized transportation facility.

Unless there's something I'm missing or misinterpreting, this project is NOT eligible for TA.

Seth Walker, P.E.
SCR Local Programs Engineer
509-480-2505

From: Preston, Bill <Bill.Preston@yakimawa.gov>
Sent: Thursday, January 8, 2026 7:44:03 AM
To: Adolf, Alan <alan.adolf@yvcog.us>; Walker, Seth <seth.walker@wsdot.wa.gov>
Cc: Kallevig, Dana <Dana.Kallevig@yakimawa.gov>; Washabaugh, Robert <Robert.Washabaugh@yakimawa.gov>
Subject: [EXTERNAL] Re: Trolley Bridge Rehab TAP funding

WARNING: This email originated from outside of WSDOT. Please use caution with links and attachments.

Thank you both for working on this so quickly. Much appreciated.

Bill

From: Alan Adolf <alan.adolf@yvcog.us>
Sent: Wednesday, January 7, 2026 4:11 PM
To: Walker, Seth <seth.walker@wsdot.wa.gov>

YAKIMA COUNTY-WIDE PLANNING POLICY

*A Policy Framework to Guide the Development of
Comprehensive Plans Under the
Washington State Growth Management Act*

Originally adopted June 1993

Revised and adopted October 2003

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INTRODUCTION

Countywide Planning Policies - A Policy Framework For Comprehensive Planning

The passage of the Growth Management Act (GMA) (ESHB 2929) by the Washington State Legislature in 1990 fundamentally changed the way comprehensive land use planning is carried out in the state. The GMA requires that cities and counties update their comprehensive land use plans consistent with statewide goals and minimum requirements as established by the statute, and coordinate their planning efforts with each other.

To assure that this principle is carried out, the 1991 Legislature passed companion legislation (ReESHB 1025) requiring counties and cities to coordinate the independent development of local comprehensive plans through a set of mutually developed county-wide planning policies. These written policy statements are to address eight subject areas:

- The designation of urban growth areas;
- Promotion of contiguous and orderly development and provision of urban services to such development;
- The siting of public capital facilities of a countywide or statewide nature;
- Countywide transportation facilities and strategies;
- The need for affordable housing for all segments of the population;
- Joint city and county planning within urban growth areas;
- County-wide economic development and employment; and
- Analysis of fiscal impact.

Optional subject areas may also be addressed. The *Yakima County-wide Planning Policy* also contains a section on:

- Coordination with special purpose districts, adjacent counties and state, tribal and federal governments.

Policy Development

1993 Plan

In 1991, hundreds of local citizens took part in *Vision Yakima 2010/Focus 2010*, two separate but similar visioning projects to develop a *preferred* future for the Yakima Valley based on the community's beliefs and values. In the Upper Valley, issue committees were formed in the areas of: Economic Development, Education & Employment Training, Environment, Growth Planning, Health Care, Housing, Humanity & Family, Quality of Life and Rural & Agriculture. In the Lower Valley, six issue topics were addressed: Urban Growth & Land Use, Government Services & Facilities, Housing, Transportation, Economic Development & Employment, and Environment & Resource Protection. Committees met separately over several months and submitted reports

that were edited only for style and format. Though each committee had a different assignment, there were dramatic similarities in the beliefs and values that drove their recommendations. Public forums were held to present the citizen reports. In recognition of this citizen-based effort, the Board of Yakima County Commissioners and city councils of the six upper valley communities approved the Upper Valley *Vision Yakima 2010* report as a foundation for more detailed comprehensive plans and implementation programs.

Much of the visioning effort bears direct relationship to the policy areas covered in this ***County-wide Planning Policy***. Accordingly, each policy section is headed by selected quotations from the visioning reports that relate to the particular policy area. In addition, a summary of applicable statewide planning goals and a discussion of the general philosophy underlying the development of each Countywide planning policy is provided.

A County-wide Planning Policy Committee of elected officials and staff from Yakima County, each of the cities and towns and the Yakama Nation was formed to oversee development of the planning policies. An initial draft was reviewed by the Committee in the fall of 1992. A second draft with Committee changes was circulated to agencies and organizations charged with implementing the community vision. A third draft was reviewed by city council and planning commission members. Additional changes were made, resulting in a public hearing draft. Hearings were held and further minor changes were recommended by the County-wide Planning Policy Committee. After approval by a majority of cities and towns, the Board of Yakima County Commissioners adopted the ***County-wide Planning Policy*** as required by the GMA.

The 2002-03 Update to the County-wide Planning Policy

The 1993 County-wide Planning Policy was updated during 2002-03. The entire policy document was reviewed. This review responded to state mandates that jurisdictions update their comprehensive plans every five years. That review cycle was later amended by the state to every seven years. The Vision For a Better Tomorrow, an upper Valley visioning effort, building from the previous vision effort, also provided a context for CWPP review.

Following review and discussion, amendments were made to Section A to address urban growth area issues and Section C, to accommodate the siting of secure community transition facilities. In addition, language throughout the document was updated to change Yakima Indian Nation to Yakama Nation.

The ***County-wide Planning Policy*** represents a composite framework, not a series of individual stand-alone concepts. Ideas represented here are intended to balance each other to create an overall direction for development of individual comprehensive plans. These policies establish the foundation for determining consistency of individual plans with each other and with the tenets of the Growth Management Act and will, like the planning documents they are intended to guide, evolve over time.

Guiding Principles - Coordination and Cooperation

The GMA is founded on the principle that it is in the best interest of the citizens of the State to foster coordination and cooperation among units of local and state governments. Cities and counties must engage in a collaborative planning process under the requirements of the Act. Specifically, the Act states that *"The Legislature finds that uncoordinated and unplanned growth ... pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of the State. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning"*.

The Legislature established "growth planning hearing boards" to which the state, a county, a city or a person with standing may request a review of whether a city or county has failed to timely adopt a county-wide planning policy, comprehensive plan, or development regulation or whether the county-wide planning policy, comprehensive plan, or development regulation is in compliance with the Act. Therefore, state government involvement in the local planning process will result if cities and the county do not achieve consensus. In order to avoid state involvement in the development of local land use plans, the following principle is declared:

- A. Local governments within Yakima County do hereby agree to strive toward the principle that all local planning differences should be discussed and settled locally. Appeals or requests for review shall be referred to the Eastern Washington Growth Planning Hearings Board only when the local resolution process has been exhausted.

The planning process should flow smoothly and logically beginning with the manner in which data is collected to the way in which land use plans and development regulations are crafted. The County and cities are utilizing a planning technical committee to develop consistent methods of data collection, land use plan formatting, and development regulations. Common format and consistent definitions will reduce complexity and better enable communication and understanding between citizens and elected and appointed officials. To this end, the following principle is declared:

- B. In order to enhance coordinated planning, Yakima County and the cities agree to develop a common system for data collection and analysis and consistent terms for comprehensive land use categories. *[Note: It is recognized that the planning process required by the GMA is presently underway in all Yakima County jurisdictions and that full implementation of this policy may not occur until after initial comprehensive plans are adopted.]*

It should be recognized that the countywide planning policy is a new process in Yakima County. At no other time has a similar document been prepared, adopted and implemented. Without a history to evaluate the impact and utility of this document, the policy should be dynamic and periodically monitored for applicability and effectiveness.

The Growth Planning Roles and Responsibilities of Yakima County, the Cities and the Yakima Valley Conference of Governments

Yakima County, the cities and the Yakima Valley Conference of Governments are all involved in planning activities related to their statutory authority and responsibility. The following further clarifies the role and land use planning authority of each type of governmental unit.

Yakima County is the regional government within the county boundaries providing various services within unincorporated and incorporated areas. Yakima County will:

- Be responsible for the development, adoption and implementation of comprehensive plans and development regulations and the processing of land use permits within the unincorporated portions of the County.
- Develop and maintain informational databases to support the regional geographic information system.
- Perform responsibilities as identified in the most recent GMA regional strategy.
- Enter into separate urban growth management agreements with each city to address joint issues identified in the countywide planning policy and other matters agreed to be of mutual interest.
- Define and implement procedures that assure opportunities for early and continuous public involvement throughout short and long range planning projects.
- Coordinate with other agencies as appropriate in multi-jurisdictional planning activities.

Cities within Yakima County provide a variety of services primarily to residents within their respective municipal boundaries. Cities will:

- Provide urban governmental services as identified in the GMA (Chapter 36.70A RCW) and adopted urban growth management agreements.
- Be responsible for the development, adoption and implementation of comprehensive plans and development regulations and the processing of land use permits within the incorporated city and within unincorporated portions of urban growth areas as may be agreed upon through interlocal agreements.
- Within their capabilities, develop and maintain informational databases to support the regional geographic information system.
- Perform responsibilities identified in the most recent GMA regional strategy.
- Enter into separate interlocal agreements with Yakima County to address joint issues identified in the countywide planning policy and other matters agreed to be of mutual interest.
- Define and implement procedures that assure opportunities for early and continuous public involvement throughout short and long range planning projects.
- Coordinate with other agencies as appropriate in multi-jurisdictional planning activities.

The Yakima Valley Conference of Governments was established by interlocal agreement to assure coordination, consensus, consistency and compliance over issues of common concern to its membership. The Yakima Valley Conference of Governments will:

- Serve as the Regional Transportation Planning Organization (RTPO) for the region.
- Perform responsibilities as identified in the most recent GMA regional strategy.
- Develop and maintain informational databases to support the regional geographic information system.
- Define and implement procedures that assure opportunities for early and continuous public involvement through short and long range planning projects.
- Coordinate with other agencies as appropriate in multi-jurisdictional planning activities.

YAKIMA COUNTYWIDE PLANNING POLICY

A. URBAN GROWTH AREAS

"We need to [e]ncourage the increased centralization and density of growth to mitigate the effects of unplanned, undefined growth in the regional area." (U.V. Vision, p.37).

"Designated urban growth areas (UGAs) will clearly define where urban level development ought to occur as distinguished from rural level development or no development at all." (L.V. Vision, p. 7).

A.1. STATEWIDE URBAN GROWTH AREA GOAL

The basic premise for designating urban growth areas is to encourage the location of urban density residential, commercial and industrial developments in areas where services can be most economically provided. The benefits of directing growth to designated urban areas include:

- * *Higher density residential development within walking distance of jobs, transit, schools, and parks.*
- * *Limiting urban expansion into rural, agricultural and forested areas.*
- * *Promotion of in-fill or redevelopment of existing urban areas.*
- * *Preservation of open space, critical areas and lands designated for resource protection.*
- * *Accommodation of employment growth in a concentrated pattern.*
- * *More economical provision and maintenance of streets, sewers and water lines and other public facilities.*
- * *Promotion of attractive residential neighborhoods and commercial districts which provide a sense of community.*

The GMA states that *"Urban growth should be located first in areas already characterized by urban growth that have existing public facility and service capacity to serve such development, and second in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources. Further, it is appropriate that urban government services be provided by cities, and urban government services should not be provided in rural areas."* [RCW 36.70A.110(3)]

A.2. COUNTYWIDE URBAN GROWTH AREA POLICY DEVELOPMENT

Designating urban growth areas alone will not assure that development follows a desired growth pattern. The potential remains for leapfrogging and scattered development patterns within a designated UGA unless policies are developed to guide decisions regarding the location and timing of development.

The policies in this section are concerned with encouraging growth in UGAs and discouraging urban growth outside of these areas. Also, development within UGAs should occur in a logical fashion outward from the edge of developed land in conjunction with service and infrastructure provision.

A.3. URBAN GROWTH AREA POLICY STATEMENTS

The following countywide policies are related to the process and criteria for establishing and amending urban growth areas in Yakima County:

- A.3.1. Areas designated for urban growth should be determined by preferred development patterns and the capacity and willingness of the community to provide urban governmental services.
- A.3.2. All cities and towns will be within a designated urban growth area. Urban growth areas may include areas not contained within an incorporated city. [RCW 36.70A.110]
- A.3.3. All urban growth areas will be reflected in County and respective city comprehensive plans.
- A.3.4. Urban growth will occur within urban growth areas only and not be permitted outside of an adopted urban growth area except for new fully contained communities. [RCW 36.70A.350]
- A.3.5. The baseline for twenty-year Countywide population forecasts shall be the official decennial Growth Management Act Population Projections from the State of Washington's Office of Financial Management plus unrecorded annexations. The process for allocating forecasted population will be cooperatively reviewed.
- A.3.6. Sufficient area must be included in the urban growth areas to accommodate a minimum 20-year population forecast and to allow for market choice and location preferences. [RCW 36.70A.110 (2)]
- A.3.7. When determining land requirements for urban growth areas, allowance will be made for greenbelt and open space areas and for protection of wildlife habitat and other environmentally sensitive areas. [RCW 36.70A.110(2)]
- A.3.8. The County and cities will cooperatively determine the amount of undeveloped buildable urban land needed. The inventory of the undeveloped buildable urban land supply shall be maintained in a Regional GIS database.
- A.3.9. The County and cities will establish a common method to monitor urban development to evaluate the rate of growth and maintain an inventory of the amount of buildable land remaining.

- A.3.10. The local jurisdiction may initiate an amendment to an existing urban growth area through the normal comprehensive plan amendment process, however in no case will amendments be processed more than once a year. [RCW 36.70A.130 (2)]
- A.3.11. Prior to amending an urban growth area the County and respective local jurisdiction will determine the capital improvement requirements of the amendment to ascertain that urban governmental services will be available within the forecast period.
- A.3.12. Annexations will not occur outside established urban growth areas. [RCW 35.13.005]. Annexations will occur within urban growth areas according to the provisions of adopted interlocal agreements, if any.

B. CONTIGUOUS AND ORDERLY DEVELOPMENT AND THE PROVISION OF SERVICES IN URBAN GROWTH AREAS

"As a means of achieving well planned, orderly growth and development, we believe that future growth in the Lower Valley should be managed by limiting and encouraging urban and industrial development to designated urban and rural settlement areas while promoting the continued development of agriculture, agricultural processing and related service industries. Designated urban growth areas (UGAs) will clearly define where urban level development ought to occur as distinguished from rural level development or no development at all." (L.V. Vision, p. 7).

"As the economic base of the region expands and diversifies the orderly flow of materials and labor must be accommodated. Additional access to developable properties will be needed to make such properties competitive. Certain streets and roads will require upgrading in order to handle the anticipated increase in truck, automobile, bicycle, and pedestrian traffic. Enhanced public transit availability will be required to effect the movement of the workforce and consumers in an efficient and orderly manner." (U.V. Vision, p. 39).

B.1. STATEWIDE GOAL(S) RELATING TO CONTIGUOUS AND ORDERLY DEVELOPMENT AND THE PROVISION OF SERVICES IN UGA'S

A basic goal of the GMA is to reduce sprawling, low-density development, and to avoid the inappropriate conversion of undeveloped land. While only a percentage of the land is available for urban development at any one time, it is important that land supply and densities within an UGA be sufficient to ensure a climate appropriate to a competitive development market. To help ensure this the GMA requires that ". . . those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards. [RCW 36.70A.020(12)]

B.2. COUNTYWIDE POLICY DEVELOPMENT RELATING TO CONTIGUOUS AND ORDERLY DEVELOPMENT AND THE PROVISION OF SERVICES WITHIN UGA'S

Upon designation of urban growth areas the County and cities will need to develop consistent implementation measures to ensure that development occurs in an orderly and contiguous manner. The intent of the following policies is to minimize differences in urban development regulations and standards between the County and the cities and to facilitate the economical provision of urban services to development.

B.3. POLICIES TO PROMOTE CONTIGUOUS AND ORDERLY DEVELOPMENT AND PROVIDING URBAN SERVICES TO SUCH DEVELOPMENT

The following policies relate to phasing growth and development with service and infrastructure provision:

- B.3.1. Urban growth should be located first in areas already characterized by urban growth that have existing public facilities and service capacities to serve such development, and second in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources. Further, it is appropriate that urban government services be provided by cities, and urban government services should not be provided in rural areas. [RCW 36.70A.110 (3)]
- B.3.2. Urban growth management interlocal agreements will identify services to be provided in an urban growth area, the responsible service purveyors and the terms under which the services are to be provided.
- B.3.3. Infill development, higher density zoning and small lot sizes should be encouraged where services have already been provided and sufficient capacity exists and in areas planned for urban services within the next 20 years.
- B.3.4. The capital facilities, utilities and transportation elements of each local government's comprehensive plan will specify the general location and phasing of major infrastructure improvements and anticipated revenue sources. [RCW 36.70A.070(3)(c)(d)]. These plan elements will be developed in consultation with special purpose districts and other utility providers.
- B.3.5. New urban development should utilize available/planned urban services. [RCW 36.70A.110(3)]
- B.3.6. Formation of new water or sewer districts should be discouraged within designated urban growth areas.

C. SITING PUBLIC FACILITIES OF A COUNTY-WIDE OR STATEWIDE NATURE

"New technologies will advance the areas of energy production and solid waste reduction. For example, in the year 2010 there will be integrated recycling, solid waste and solar facilities in areas of the Valley not in conflict with agricultural, residential or commercial uses." (L.V. Vision, p.39).

C.1. STATEWIDE GOALS RELATING TO THE SITING OF PUBLIC FACILITIES OF A REGIONAL OR STATEWIDE NATURE

The GMA requires local governments to inventory existing capital public facilities to identify location and to determine capacities to meet future demand for growth without decreasing levels of service and to include within their comprehensive plans a process for identifying and siting essential public facilities. The Washington State Office of Financial Management is responsible for identifying and maintaining a list of essential state public facilities that are required or likely to be built within the next six years as required by the GMA. Counties and cities are also required to coordinate the siting of countywide and statewide capital facilities to mitigate potential adverse impacts from the location and development of these facilities.

C.2. COUNTY-WIDE POLICIES RELATING TO THE SITING OF FACILITIES OF A COUNTY-WIDE OR STATE-WIDE NATURE

The siting of essential public capital facilities such as landfills and jails is a difficult task at best. Although these facilities are necessary for the common good, they are seldom welcome into a community or neighborhood. Recognizing that public facilities of a statewide or countywide nature are an essential part of our society, policies for their siting and construction are necessary to ensure a reasonable approval process. Each jurisdiction will utilize an appropriate public process for siting essential public facilities, as outlined in their respective comprehensive plans, policies or regulations.

C.3 POLICIES FOR SITING PUBLIC CAPITAL FACILITIES OF A COUNTYWIDE OR STATEWIDE NATURE

The following policies relate to the identification of needed facilities:

- C.3.1. The County and the cities will inventory existing capital facilities and identify needed facility expansion and construction. [RCW 36.70A.070(3)(a)(b)]

C.3.2. From local inventory, analysis and collaboration with state agencies and utility providers, a list of Countywide and statewide public capital facilities needed to serve the Yakima County region will be developed. These include, but are not limited to, solid and hazardous waste handling facilities and disposal sites; major utility generation and transmission facilities; regional education institutions; airports; correctional facilities; in-patient facilities including hospitals and those for substance abuse, mental health, group homes and secure community transition facilities; and regional park and recreation facilities.

The following policies relate to establishing a process and review criteria for the siting of facilities that are of a countywide or statewide nature:

C.3.3. When a public facility of a countywide or statewide nature is proposed in the Yakima County region a Facility Analysis and Site Evaluation Advisory Committee including citizen members will be formed to evaluate the proposed public facility siting. At a minimum this evaluation shall consider:

- a. The potential impacts (positive or negative) of the proposed project on the economy, the environment and community character;
- b. The development of specific siting criteria for the proposed project;
- c. The identification, analysis and ranking of potential project sites;
- d. Measures to first minimize and second mitigate potential physical impacts including, but not limited to, those relating to land use, transportation, utilities, noise, odor and public safety;
- e. Measures to first minimize and second mitigate potential fiscal impacts.

C.3.4. Major public capital facilities that generate substantial travel demand should be located along or near major transportation corridors and public transportation routes.

C.3.5. Some public facilities may be more appropriately located outside of urban growth areas due to exceptional bulk or potentially dangerous or objectionable characteristics. Public facilities located beyond urban growth areas should be self-contained or be served by urban governmental services in a manner that will not promote sprawl. Utility and service considerations must be incorporated into site planning and development.

C.3.6. The multiple use of corridors for major utilities, trails and transportation right-of-way is encouraged.

D. COUNTY-WIDE TRANSPORTATION FACILITIES & STRATEGIES

"A key factor in the Lower Valley's future growth and development will be an upgraded transportation system to accommodate the safe, efficient movement of people and goods." (L.V. Vision, p. 25).

"We envision a comprehensive, multi-modal transportation system that is well planned, safe, efficient, cost effective and capable of supporting increased levels of traffic over time." (Ibid).

"As the economic base of the region expands and diversifies the orderly flow of materials and labor must be accommodated. Additional access to developable properties will be needed to make such properties competitive. Certain streets and roads will require upgrading in order to handle the anticipated increase in truck, automobile, bicycle, and pedestrian traffic. Enhanced Public Transit availability will be required to effect the movement of the workforce and consumers in an efficient and orderly manner." (U.V. Vision, p. 39).

D.1. STATEWIDE TRANSPORTATION GOALS

The goal of the GMA is to encourage efficient multi-modal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans. To accomplish this goal the GMA establishes Regional Transportation Planning Organization (RTPO's) and directs that they develop a regional transportation plan. The RTPO is empowered to certify that local government transportation elements are consistent with the regional transportation plan.

Local government transportation elements must be consistent with and support the land use element of the plan. The transportation element must include an analysis and determination of the level of service standards for all arterials and transit routes to judge the performance of the system.

A multi-year financing plan is required and if funds fall short of meeting identified needs, a local government must either find a source of funds or reassess its land use assumptions to ensure that an adequate level of service will be met.

Once the transportation element and the comprehensive plan is adopted, local government must adopt ordinances which prohibit development approval if the development would cause the level of service on the transportation facility to decline below the adopted level of service. Such development may be approved, however, if transportation improvements or strategies to accommodate the impacts are made "concurrent" with the development. Concurrent means the system improvements or strategies are in place at the time of development, or a financial commitment is made to complete the improvement or strategies within six years.

D.2. COUNTYWIDE TRANSPORTATION POLICY DEVELOPMENT

The Yakima Valley Conference of Governments serves as the lead agency for the RTPO for the Yakima County area and is responsible for development of a regional transportation plan. Cities and the County will each develop a transportation element to their comprehensive plans that emphasizes local transportation needs. In developing these transportation elements, specific linkages will be undertaken in order to integrate the local and regional plans.

D.3. TRANSPORTATION POLICY STATEMENTS

The following policies relate to the development of an integrated multi-modal transportation system within Yakima County:

- D.3.1. The transportation plan element for each jurisdiction will be consistent with and support the land use element of its comprehensive plan. [RCW 36.70A.070(6)]
- D.3.2. Each transportation plan element will include the following sub-elements:
 - a. Land use assumptions used in estimating travel;
 - b. A statement of facilities and service needs, including:
 - i. An inventory of air, land and water transportation facilities and services to define existing capital facilities and travel levels as a basis for future planning;
 - ii. Level of service standards for arterials, collectors and transit routes, which will be regionally coordinated;
 - iii. Specific actions and requirements for bringing into compliance any facilities or services that are below an established level of service standard;
 - iv. Forecasts of traffic for at least ten years based on the adopted land use plans to provide information on the location, timing and capacity needs of future growth; and
 - v. Identification of system expansion needs and transportation system management needs to meet current and future demands. [RCW 36.70A.070(6)(a)(b)]
- D.3.3. Comprehensive plans for each jurisdiction will contain a multi-year financing plan which includes an analysis of the jurisdiction's ability to fund existing or future transportation improvements and identifies existing and new revenue sources, which may include impact fees. If identified funding falls short, the jurisdiction will reassess land use assumptions to assure that level of service standards will be met. [RCW 36.70A(6)(c)]
- D.3.4. Transportation improvements or strategies to accommodate the impacts resulting from new development will be implemented concurrent with new development. "Concurrent with new development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years. [RCW 36.70A.070(6)(e)]
- D.3.5. Local jurisdictions will coordinate transportation planning efforts through the Yakima Valley Conference of Governments, which is designated as the Regional Transportation Planning Organization (RTPO). This regional coordination will assure that an assessment of the impacts of each transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions is conducted and conflicts prevented.

E. AFFORDABLE HOUSING

"We value communities that offer affordable housing choices to their residents; where there exists a partnership between the public and private sectors, and results in a diverse choice of housing affordable to all income ranges from the very low to the upper income; a community that offers affordable housing to special needs people, e.g., persons with mobility limitations, elderly, and developmentally disabled. We [envision a future in which] communities have addressed the need for housing of [their] permanent and transient agricultural labor force." (U.V. Visioning Report, p. 59).

"Shelter is one of man's most basic needs. The comfort and security of one's shelter contribute to a sense of personal well being and the well being of the community as a whole. To a large degree, the vitality of a community is reflected in its housing stock." (L.V. Visioning Report, p. 19).

E.1. STATEWIDE HOUSING GOAL

A goal of the GMA is to encourage the availability of affordable housing to all economic sectors, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock. The GMA requires the comprehensive plans of local governments to include a housing element which, among other things, inventories and analyzes housing needs, identifies sufficient land for all types of housing stock and provides for the needs of all economic segments of the community.

E.2. COUNTYWIDE HOUSING POLICY DEVELOPMENT

"Affordable housing" is a term which applies to the adequacy of the housing stock to fulfill the housing needs of all economic segments of the population. The underlying assumption is that the marketplace will guarantee adequate housing for those in the upper economic brackets, but that some combination of appropriately zoned land, regulatory incentives, financial subsidies, and innovative planning techniques will be necessary to make adequate provisions for the needs of middle and lower income persons.

Local residents have discussed housing problems through the countywide visioning effort. The results of this effort have been used as the basis for the following policy statement. The purpose of this policy directive is to provide a common ground and some universally acceptable parameters to help guide decision-makers through the complex topic of affordable housing.

E.3. AFFORDABLE HOUSING POLICY STATEMENTS

The following policies relate to the provision of affordable housing:

- E.3.1. The County and the cities will inventory the existing housing stock and correlate with the current population and economic condition, past trends, and twenty-year population and employment forecasts to determine short and long range affordable housing needs. [RCW 36.70A.070(2)]

- E.3.2. Local housing inventories will be undertaken using common procedures so as to accurately portray countywide conditions and needs.
- E.3.3. Each jurisdiction will identify specific policies and measurable implementation strategies to provide a mix of housing types and costs to achieve identified affordable housing goals. Affordable housing strategies should:
- a. Encourage preservation, rehabilitation and redevelopment of existing neighborhoods, as appropriate;
 - b. Provide for a range of housing types such as multi-family and manufactured housing on individual lots and in manufactured housing parks;
 - c. Promote housing design and siting compatible with surrounding neighborhoods;
 - d. Facilitate the development of affordable housing (particularly for low-income families and persons) in a dispersed pattern so as not to concentrate or geographically isolate these housing types; and
 - e. Consider public and private transportation requirements for new and redeveloped housing.
- E.3.4. Housing policies and programs will address the provision of diverse housing opportunities to accommodate the elderly, physically challenged, mentally impaired, migrant and settled-out agricultural workers, and other segments of the population that have special needs.
- E.3.5. Local governments, representatives of private sector interests and neighborhood groups will work cooperatively to identify and evaluate potential sites for affordable housing development and redevelopment.
- E.3.6. Public and private agencies with housing expertise should implement early and continuous cooperative education programs to provide general information on affordable housing issues and opportunities to the public including information intended to counteract discriminatory attitudes and behavior.
- E.3.7. Mechanisms to help people purchase their own housing will be encouraged. Such mechanisms may include low interest loan programs and "self-help" housing.
- E.3.8. Local comprehensive plan policies and development regulations will encourage and not exclude affordable housing. [RCW 36.70A.070(2)(c)(d)]
- E.3.9. Innovative strategies that provide incentives for the development of affordable housing should be explored.
- E.3.10. The County and the cities will locally monitor the performance of their respective housing plans and make adjustments and revisions as needed to achieve the goal of affordable housing, particularly for middle and lower income persons.

F. JOINT PLANNING WITHIN UGA'S

"Cluster communities comprising the regional area should look to combine and assist in service areas such as criminal justice, fire protection, public transit, water/sewer, administration, and other services where such combinations implement efficient, cost effective delivery of services. Cooperation among and between the separate governmental entities of each cluster will be encouraged, and the citizens should hold elected and appointed officials accountable for carrying out such a vision." (U.V. Vision, p. 49).

"Individual communities will continue to provide the public services now available to citizens but a new spirit of coordination and cooperation among all levels of government, including federal, state, county, municipal, and tribal governments, will result in a more equitable, better balanced delivery of services. Residents of the Lower Valley will benefit from this improved level of coordination by less duplication of services, streamlined delivery, and cost efficiencies." (L.V. Vision, p. 13).

F.1. STATEWIDE JOINT PLANNING GOALS

Consistent with a goal of the GMA to ensure coordination between communities and jurisdictions to reconcile conflicts, the countywide planning policy must address coordination of planning efforts within urban growth areas. It is recognized that in many instances, land use activities may be affected by the plans and regulations of several jurisdictions including Yakima County, a city and special purpose districts. Coordinated planning is not only a requirement of local government; it will facilitate implementation of plans, lead to more efficient delivery of urban governmental services and will promote a sense of community through common, agreed upon development standards.

F.2. COUNTYWIDE JOINT PLANNING POLICY DEVELOPMENT

The UGA is not only a line which distinguishes urban level growth from rural growth, it also carries implications about coordination of planning within the UGA. Because the UGA defines where the city is financially capable of providing urban services and may ultimately annex, land use decisions need to respect the desires of the community. Agreement on land use planning within the UGA is as important as designating the boundary itself.

F.3. JOINT PLANNING POLICY STATEMENTS

The following policies relate to coordinated planning for land use, capital facilities and infrastructure within urban growth areas:

F.3.1. The County and cities will work with special purpose districts and other agencies to establish a process for mutual consultation on proposed comprehensive land use plan policies for lands within urban growth areas. Actions of special purpose districts and other public service providers shall be consistent with comprehensive plans of the County and the cities. [RCW 56.08.020, RCW 57.16.010]

F.3.2. The use of interlocal agreements is encouraged as a means to formalize cooperative efforts to plan for and provide urban governmental services.

F.3.3. Joint financing ventures should be identified to provide services and facilities that will serve the population within the urban growth area.

The following policy relates to the process for comprehensive plan amendments, zone changes and development review and approval within urban growth areas:

F.3.4. While it is recognized that nothing in the county-wide planning policy will be construed as altering the land use planning authority of the County or the cities, adopted interlocal agreements shall specify the process by which affected local governments may review and comment on comprehensive plan amendments, zone changes and development applications processed by another jurisdiction within urban growth areas.

The following policy relates to the establishment of common and consistent development and construction standards:

F.3.5. Each interlocal agreement will require that common and consistent development and construction standards be applied throughout that urban growth area. These may include, but are not limited to standards for streets and roads, utilities and other infrastructure components.

G. COUNTY-WIDE ECONOMIC DEVELOPMENT & EMPLOYMENT

"Indeed, we support future growth in the Lower Valley that is well planned and supportable by infrastructure and which minimizes conflicting or incompatible uses in proximity to one another." (L.V. Vision, p. 7).

"With economic diversification and expansion, we will see the development of desirable jobs and full employment. We envision an economic and educational climate that enables our citizens to find gainful employment within the Valley". (Ibid).

"The next 20 years will see a broadening of the Upper Yakima Valley's economy. High-tech industries and new businesses will complement and enhance the agricultural base." (U.V. Vision, p. 92).

"Adequate developable property will be made available through land use planning and appropriate zoning implementation. A diverse mixture of industrial, commercial, residential, recreational and agricultural land uses will be planned for to concentrate development within set community boundaries to encourage community revitalization and increased land use density where it is specifically planned." (U.V. Vision, p. 43).

G.1. STATEWIDE ECONOMIC DEVELOPMENT GOALS

The goals of the GMA encourage economic development throughout the state that is consistent with adopted comprehensive plans; promote economic opportunity for all citizens of the state, especially for unemployed and disadvantaged persons; and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services and public facilities.

G.2. COUNTYWIDE ECONOMIC DEVELOPMENT POLICY DEVELOPMENT

Countywide economic development policies should promote a regional economic development program consistent with local community preferences. The rural and urban economies within the county are inextricably connected, and economic development opportunities should strengthen linkages between population centers and outlying areas. A Countywide economic development plan will be built in partnership with local jurisdictions to ensure that economic development goals and objectives are community based.

G.3. COUNTYWIDE ECONOMIC DEVELOPMENT POLICY STATEMENTS

The following policies relate to a general strategy to help ensure future economic vitality, broaden employment opportunities to meet the needs of projected future growth while maintaining a high-quality environment:

- G.3.1. Encourage economic growth within the capacities of the region's natural resources, public services and public facilities.
 - a. Identify current and potential physical and fiscal capacities for municipal and private water systems, wastewater treatment plants, roadways and other infrastructure systems.
 - b. Identify economic opportunities that strengthen and diversify the county's economy while maintaining the integrity of our natural environment.
- G.3.2. Local economic development plans should be consistent with the comprehensive land use and capital facilities plans, and should:
 - a. Evaluate existing and potential industrial and commercial land sites to determine short and long term potential for accommodating new and existing businesses;
 - b. Identify and target prime sites, determine costs and benefits of specific land development options and develop specific capital improvement strategies for the desired option;
 - c. Implement zoning and land use policies based upon infrastructure and financial capacities of each jurisdiction;
 - d. Identify changes in urban growth areas as necessary to accommodate the land and infrastructure needs of business and industry;
 - e. Support housing strategies and choices required for economic development.
- G.3.3. Coordination of efforts between the many diverse economic development organizations and other related agencies within Yakima County should be encouraged by:
 - a. Identifying linkages between economic development issues and strategies and other growth planning elements (i.e. housing, transportation, utilities and land use);
 - b. Defining roles and responsibilities for carrying out economic development goals, objectives and strategies.

H. FISCAL IMPACT ANALYSIS

"Cluster communities comprising the regional area should look to combine and assist in service areas such as criminal justice, fire protection, public transit, water/sewer, administration, and other services where such combinations implement efficient, cost effective delivery of services" (U.V. Vision, p. 49).

"Cooperation among and between separate service/government entities of each cluster should be encouraged,..." (Ibid).

H.1. STATEWIDE FISCAL IMPACT ANALYSIS GOALS

The GMA requires that local governments, as part of the countywide planning policies, address the issue of fiscal impact analysis. The legislature did not define or give specific guidance on matters to be considered in analyzing fiscal impacts. Since the GMA devotes much of its text to the provision of cost-effective urban infrastructure, the ability to pay for needed capital facilities and the development of affordable housing, it is presumed that these areas should be the focus of the fiscal impact analysis.

H.2. COUNTYWIDE POLICY DEVELOPMENT

Local plan development should provide for cooperation between the public and private sectors to insure coordination of capital improvements with emphasis on the efficient provision of service at adopted levels concurrent with the demand for such service.

Local government should consider the use of innovative financing strategies for capital improvements which minimize the financial cost to taxpayers and provide for the equitable assignment of costs between existing and new development.

Annexation is another area which may impact the fiscal resources of local government. Cost and revenue sharing are techniques that should be examined to help alleviate the fiscal impacts associated with annexation.

H.3. FISCAL IMPACT POLICY STATEMENTS

The following policies are related to the provision of cost-effective urban infrastructure:

H.3.1. Each local government will prepare a capital facilities plan consisting of:

- a. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities;
- b. A forecast of the future needs for such capital facilities;
- c. The proposed locations, capacities and costs of expanded or new capital facilities;
- d. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and
- e. A requirement to reassess the land use element if probable funding falls short of

meeting existing needs and to ensure that the land use element, the capital facilities plan element and financing plan within the capital facilities plan element are coordinated and consistent.

- H.3.2. As part of the planning process, the County and the cities should coordinate with capital facilities providers and other interested parties to ensure that consideration is given to all capital service requirements and the means of financing capital improvements.
- H.3.3. The County and the cities should consider an impact fee process, as provided for in RCW 82.02.050-090, to insure that new development pays its fair share of the cost of improvements necessitated by growth and contributes to the overall financing of capital improvements.
- H.3.4. To minimize the potential economic impacts of annexation activities on the County and cities, consideration will be given to negotiating agreements for appropriate allocation of financial burdens resulting from the transition of land from county to city jurisdiction.

I. POLICIES PERTAINING TO COORDINATION WITH SPECIAL PURPOSE DISTRICTS, ADJACENT COUNTIES AND STATE, TRIBAL AND FEDERAL GOVERNMENTS

Special purpose districts, adjacent counties, state agencies, Yakama Nation and the federal government are distinct entities that have unique authorities, responsibilities, interests and/or treaty rights affecting land use and other activities. Since the impacts of future growth and development in Yakima County will affect all governmental units, all agencies must be well informed and continuously involved in regional and local planning.

The following policies relate to coordination among jurisdictions:

- I.1. The County and the cities will work with special purpose districts, adjacent counties, state, tribal and federal governments to formalize coordination and involvement in activities of mutual interest.
- I.2. Jurisdictions will be encouraged to coordinate plans among and between governments and agencies to make plans consistent and compatible for lands over which they have authority.
- I.3. Special districts, adjacent counties, state agencies, the tribal government and federal agencies will be invited to participate in comprehensive planning and development activities that may affect them, including the establishment and revision of urban growth areas; allocation of forecasted population; regional transportation, capital facility, housing and utility plans; and policies that may affect natural resources.
- I.4. Each of the governmental entities will be included in the normal public notice and comment procedures of other agencies and kept informed of matters of interest to them.

APPENDIX

PLANNING GOALS OF THE GROWTH MANAGEMENT ACT (from RCW 36.70A.040)

The Washington State Legislature adopted the following goals to guide the development of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under the Growth Management Act (Yakima County was one of the original counties required to plan under the Act). The following goals are not listed in order of priority:

1. **Urban Growth.** Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
2. **Reduce Sprawl.** Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
3. **Transportation.** Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
4. **Housing.** Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.
5. **Economic Development.** Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.
6. **Property Rights.** Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.
7. **Permits.** Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.
8. **Natural Resource Industries.** Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.
9. **Open Space and Recreation.** Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.
10. **Environment.** Protect the environment and enhance the state's high quality of life, including

air and water quality, and the availability of water.

11. **Citizen Participation and Coordination.** Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.
12. **Public Facilities and Services.** Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.
13. **Historic Preservation.** Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

GLOSSARY OF TERMS

Unless otherwise noted, the following terms used in the *County-wide Planning Policy* are defined by the Growth Management Act (RCW 36.70.030) or Washington Administrative Code (WAC 365-195-210). Definitions are restated here for convenience of the reader.

1. "**Adequate public facilities**" means facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.
2. "**Affordable housing**" is a term which applies to the adequacy of housing stocks to fulfill the housing needs of all economic segments of the population. Affordable housing for middle and lower income persons is targeted to those whose incomes are 120% of median income or less.
3. "**Available public facilities**" means that facilities or services are in place or that a financial commitment is in place to provide the facilities or services within a specified time.
4. "**Concurrency**" means that adequate public facilities are available when the impacts of development occur. This definition includes the two concepts of "adequate public facilities" and of "available public facilities" as defined above.
5. "**Financial commitment**" means that sources of public or private funds or combinations thereof have been identified which will be sufficient to finance public facilities necessary to support development and that there is reasonable assurance that such funds will be timely put to that end.
6. "**Interlocal agreements**" are authorized by state law and allow local governments (through written agreements) to cooperate with each other on a basis of mutual advantage to provide services and facilities in a manner that best meets the needs and development of local communities. [Paraphrase of RCW 39.34.010]
7. "**Level of Service**" means an established minimum capacity of public facilities or services that must be provided per unit of demand or other appropriate measure of need.
8. "**New fully contained community**" is a development proposed for location outside of the existing designated urban growth areas which is characterized by urban densities, uses and services and meets the criteria of RCW 36.70A.350.
9. "**Public facilities**" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.
10. "**Public services**" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

11. **"Rural lands"** means all lands which are not within an urban growth area and are not designated as natural resource lands having long term commercial significance for production of agricultural products, timber, or the extraction of minerals.
12. **"Transportation level of service standards"** mean a measure which describes the operational condition of the travel stream and acceptable adequacy requirements. Such standards may be expressed in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility and safety.
13. **"Urban growth"** refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.
14. **"Urban growth area"** means those areas designated by a county pursuant to RCW 36.70A.110.
15. **"Urban governmental services"** include those governmental services historically and typically delivered by cities, and include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas.
16. **"Visioning"** means a process of citizen involvement to determine values and ideals for the future of a community and to transform those values and ideals into manageable and feasible community goals.

COUNTY-WIDE PLANNING POLICY COMMITTEE

(Representation as of January 2, 2002)

<u>Jurisdiction</u>	<u>Elected Designee</u>	<u>Alternate(s):</u>
GRANDVIEW	Mike Bren	Jim Sewell
GRANGER	David Leach	Alice Koerner
HARRAH	Barbara Harrer	Pat Krueger
MABTON	David Conradt	Ildia Jackson
MOXEE	Greg LaBree	Bill Hordan
NACHES	Charles Ross	
SELAH	Bob Jones	Dennis Davison
SUNNYSIDE	Ed Prilucik	Pete Squires
TIETON	Jenny Korens	
TOPPENISH	Bill Rogers	Edna Brooks-Pittman, Clara Jimenez
UNION GAP	Lea Driskill	Bill Rathbone
WAPATO	Don Stellwagen	Dean DeMaintenon
YAKAMA NATION	(Did not participate in 2003 Update)	
YAKIMA	Mary Place	Dan Valoff
YAKIMA COUNTY	Ron Gamache	Jim Lewis, Jesse Palacios, Dick Anderwald
ZILLAH	Gary Fox	Gary Clark
<u>Others receiving Agenda materials:</u>		
YVCOG	Michael Buchanan, Don Skone,	
Other County	Doug Cochran, Lisa Freund, Ken Irwin, Ron Zirkle	
County Planning	Anne Knapp	
Chamber of Commerce	Gary Webster	
New Vision YCDA	Dave McFadden	

BOARD OF YAKIMA COUNTY COMMISSIONERS

IN THE MATTER OF ADOPTING THE)
YAKIMA COUNTY-WIDE PLANNING) RESOLUTION NO. 553-2003
POLICY AS REQUIRED BY THE)
WASHINGTON STATE GROWTH)
MANAGEMENT ACT)

WHEREAS, the Washington State Growth Management Act requires Yakima County to adopt and update a county-wide planning policy in cooperation with the cities and towns located within the county; and,

WHEREAS, the process and framework for adoption of the county-wide planning policy is contained within an interlocal agreement entitled "*Framework Agreement for the Adoption of the County-wide Planning Policy*" which was previously adopted by the Board of Yakima County Commissioners under Resolution No. 83-1992; and,

WHEREAS, the original 1993 *Yakima County-wide Planning Policy* was approved and adopted by the Board of Yakima County Commissioners under Resolution No. 322-1993 on June 29, 1993; and,

WHEREAS, under terms of the interlocal agreement, a County-wide Planning Policy Committee of local elected officials and staff was reconvened and has worked with Yakima County to review and update the *Yakima County-wide Planning Policy*, attached hereto as 'Exhibit A'; and,

WHEREAS the County-wide Planning Policy Committee recommends to individual jurisdictions that the policy document should now be approved and recommended for adoption by the Board of Yakima County Commissioners; and,

WHEREAS, the Board has received resolutions recommending adoption of the *Yakima County-wide Planning Policy* from fourteen of fourteen city and town councils; and

WHEREAS, the Board of Yakima County Commissioners held a public hearing on October 7, 2003 to receive public testimony concerning the proposed planning policy and is satisfied that the matter has been fully considered; now, therefore,

BE IT HEREBY RESOLVED by the Board of Yakima County Commissioners that the *Yakima County-wide Planning Policy* is approved and hereby adopted as the policy framework to guide revisions to comprehensive plans under the Washington State Growth Management Act.

Done this 7th day of October 2003.

Excused

Jesse S. Palacios, Chairman

James M. Lewis
James M. Lewis, Commissioner

Attest:

Carla M. Ward
Carla M. Ward
Clerk of the Board

Ronald F. Gamache
Ronald F. Gamache, Commissioner

*Constituting the Board of County Commissioners
for Yakima County, Washington*





Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

14

December 3, 2025

Sent via electronic mail

Trevor Martin AICP
City of Yakima Community Development Department
Planning Division
129 N. 2nd Street
Yakima, WA 98901

Re: SEPA Application #014-25 - Yakima Valley Trolleys Operation Agreement

Dear Mr. Martin:

The Yakama Nation Cultural Resources Program has reviewed the referenced State Environmental Policy Act (SEPA) checklist for Application #014-25. We find this application fundamentally deficient and unable to support informed environmental and cultural resources review. The application's widespread use of "N/A" responses without explanation, contradictory project descriptions, and absence of basic geographic, environmental, and cultural information render it incomplete under SEPA requirements and inconsistent with the associated responsibilities.

Contradictory Project Description

The application contains conflicting statements about the project scope that prevent meaningful review:

- Question 11 (Brief Description) states this application is *"only analyzing the Yakama Valley Trolleys responsibility for operating and maintaining the existing Trolley System"* and that *"there is no specific project action associated with this SEPA proposal."*
- Question 6 (Timing/Schedule) indicates a 5-year operational period from January 1, 2026 through December 31, 2030.
- Question 8 references a *"Safety Plan (per WAC 468-550-040(4))"* and *"Inventory of assets (Exhibit C)"* that are not included with the application.
- Question 7 acknowledges *"routine operations and maintenance"* of trolley facilities but provides no detail about what these activities entail.

These statements indicate ongoing operational activities with environmental implications, not a purely administrative agreement transfer without a project action. Even non-project

SEPA reviews under WAC 197-11-442 require analysis of a program's cumulative environmental effects. The application cannot simultaneously claim *"no specific project action"* while describing multi-year operational activities requiring safety plans, asset inventories, and routine maintenance.

Systematic Misuse of 'N/A' Without Justification

The applicant has marked numerous environmental checklist questions as "N/A" without providing any explanation for why they do not apply to trolley operations and maintenance. SEPA instructions explicitly state that "N/A" should only be used *"when you can explain why it does not apply and not when the answer is unknown."*

The following sections demonstrate either lack of due diligence or deliberate avoidance of required environmental analysis:

Surface Water (Questions 1-5, Pages 4-5)

All surface water questions are marked N/A despite the trolley route crossing multiple waterways and drainage features in the Yakima Valley. Maintenance activities, vegetation management along the right-of-way, and stormwater runoff from rail infrastructure all have potential surface water impacts. Question 2 specifically asks about work *"within 200 feet"* of waters, yet receives an N/A response with the note *"operations and maintenance only, project specific actions will require additional SEPA review."* This circular logic suggests the applicant acknowledges potential impacts but declines to analyze them in this review.

Ground Water (Questions 1-2, Page 6)

Groundwater questions are marked N/A without explaining why infrastructure maintenance, potential chemical use (herbicides for vegetation management), or waste material disposal would not affect groundwater. Historic rail corridors commonly have legacy contamination issues that should be addressed.

Plants and Animals (Questions 3-5, Pages 6-7)

Question 3 (threatened/endangered species) is marked N/A without documentation of Endangered Species Act consultation or biological survey. Question 4 (landscaping/vegetation preservation) is marked N/A despite obvious vegetation management needs along a linear transportation corridor. Question 5 (noxious weeds) is marked N/A without any invasive species assessment or vegetation management plan.

Environmental Health (Questions 2-5, Page 8)

Questions 2 through 5, addressing site contamination, hazardous chemicals, toxic materials, and emergency services, are all marked N/A without acknowledging that historic rail corridors commonly contain contaminated soils from legacy pollutants. No Phase I Environmental Site Assessment or contamination screening appears to have been conducted.

Land and Shoreline Use (Questions 2, 13-14, Pages 8-10)

Question 2 asks about conversion of agricultural or forest lands and receives an N/A response without analyzing whether the trolley route traverses these land use

categories. Questions 13-14 regarding compatibility with existing land uses and nearby agricultural/forest operations are marked N/A without assessment of potential conflicts.

Complete Avoidance of Supplemental Nonproject Section

Section D (Supplemental Section for Nonproject Actions Only) represents deficiency in this application. WAC 197-11-960 and SEPA guidelines specifically require nonproject proposals to address questions about:

- How the proposal would increase discharges to water, emissions to air, or noise production
- Effects on plants, animals, fish, or marine life
- Depletion of energy or natural resources
- Use or effects on environmentally sensitive areas
- Effects on land and shoreline use
- Increased demands on transportation or public services
- Potential conflicts with environmental laws or requirements

The applicant marked ALL SEVEN questions (Questions 1-7, Pages 13-15) as "N/A" without any explanation. This defeats the purpose of completing the supplemental section and fails to satisfy SEPA's requirement for informed decision-making.

Insufficient Location and Geographic Information

Question 12 (Location of Proposal) identifies "306 W Pine Street/404 S. 3rd Ave, Yakima, WA; trolley lines within Yakima and Selah" but provides no:

- Linear footage or mileage of track to be maintained
- Total acreage of right-of-way affected by operations
- Map or geographic coordinates showing the route
- Identification of watercourse crossings
- Proximity analysis to archaeological sites or culturally sensitive areas
- Slope conditions and mass wasting potential along the corridor

The application notes that legal description is "*provided in Exhibit B of the agreement*" but this exhibit is not included. Without basic geographic data defining the project area, it is impossible to assess potential impacts to any environmental or cultural resource. The trolley route is a significant linear feature traversing landscapes occupied by Yakama ancestors for

thousands of years. We cannot complete meaningful review without knowing where maintenance activities will occur further this SEPA is not a functional.

Inadequate Cultural Resources Analysis

The Historic and Cultural Preservation section (Page 11) presents several concerning deficiencies:

- Question 1 acknowledges the trolley system is listed on national and local registers of historic places, demonstrating the corridor's significance. However, this historic designation applies to the rail infrastructure itself and does not address archaeological resources along the route or traditional cultural properties that may be affected by operations and maintenance activities.
- Question 2 asks about "landmarks, features, or other evidence of Indian or historic use or occupation" and receives the response "None known along trolley route." This statement is inconsistent with the known archaeological sensitivity of the Yakima Valley and the thousands of years of continuous Yakama occupation in this region. The response "none known" suggests no professional cultural resources survey or tribal consultation has been conducted. The Yakima Valley contains numerous recorded archaeological sites, traditional use areas, and culturally significant landscapes.
- Question 3 asks for proposed measures to "avoid, minimize, or compensate for loss, changes to, and disturbance to resources" and receives the response "Continued operations of the Yakima Trolleys for educational and cultural purposes." This response does not address archaeological site protection, inadvertent discovery protocols, or cultural resource management measures that could be helpful.

The linear nature of the trolley corridor presents unique cultural resource concerns. Archaeological sites adjacent to or within the rail right-of-way are susceptible to slope movement and mass wasting, which can have significant upslope and downslope impacts. Vegetation management, track maintenance, drainage work, and visitor access ground-disturbing activities with potential to affect buried archaeological deposits.

Once the scope of the project is defined the applicant could then demonstrate some understanding in order to inform the checklist and the necessary inventory and permitting requirements.

Missing Required Documentation

The checklist references but does not include several pieces of information necessary to understanding project scope and environmental implications:

- Inventory of assets (Exhibit C, referenced in Question 8)
- Yakima Valley Trolleys Operation Agreement
- Legal description (Exhibit B of the agreement, referenced in Question 12)

These documents are essential for reviewers to understand what activities are authorized, where they will occur, what infrastructure exists, and what safety and operational protocols govern the proposal.

Conclusion and Path Forward

This SEPA checklist does not provide sufficient information to complete environmental and cultural resources review pursuant to the State Environmental Policy Act (RCW 43.21C). The wholesale use of "N/A" without explanation, contradictions between claiming "*no project action*" while describing 5-year operational activities, and absence of basic geographic and archaeological data render this application incomplete.

The Yakama Nation is not opposed to trolley operations that preserve this significant historic transportation resource and provide educational and cultural benefits to the community. However, we cannot complete our review or provide informed comment without understanding what this proposal actually entails.

We respectfully request the City of Yakima withdraw this incomplete application and resubmit with the following information:

**Clarification of Project Scope
Completion of Section D
Geographic and Location Data
Cultural Resources Assessment
Operational Details and Measures to Avoid or Mitigate
Attachment of Referenced Documents**

Provide these documents in complete form via email to the Yakama Nation Tribal Council Chairman, Gerald Lewis via Gerald_Lewis@yakama.com as well as Cultural Resource Program Manager, Casey Barney @ Casey_Barney@Yakama.com.

The Yakama Nation looks forward to meaningful consultation on this project once adequate information is provided. We are committed to working cooperatively with the City of Yakima to ensure trolley operations can proceed in a manner that protects cultural resources, preserves this important historic asset, and honors our shared stewardship responsibilities for the Yakima Valley landscape.

Please contact our office if you have questions about these comments or need clarification on information requirements. Thank you for the opportunity to comment on this project.

Respectfully,



Noah Oliver
YNCRP Geographer and Archaeologist
Yakama Nation Cultural Resource Division

ROBERT C. TENNEY
MARK D. WATSON*
JEROME R. AIKEN*
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MEYER, FLUEGGE & TENNEY, P.S.

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JACOB A. LARA
ROBERT S. URLOCKER
PARDIES ROOHANI
HARLEY MONTOYA
NICHOLAS FRONTIN
MARIO BATKI

*Also admitted in Oregon

**Also admitted in Oregon & Virginia

December 3, 2025

Trevor Martin, AICP
City of Yakima Planning Division
129 N. 2nd St.
Yakima, WA 98901
Email: trevor.martin@yakimawa.gov

RE: Environmental Review for Trolley Operation and Maintenance Agreement -- SEPA#014-25

Dear Planning Manager Martin:

We represent Yakima Taxpayers for Fiscal Responsibility (YTFR), an unincorporated association and provide these comments on the Notice of Environmental Review, Land Use Application, and SEPA Environmental Checklist for Operation License Agreement between City of Yakima and Yakima Valley Trolleys -- SEPA#014-25. While we have specifically provided comment on the proposed Operation License and associated environmental review, we were not provided notice or copies of the request for comments on the project application. I have been in hearings which concluded late last night and have just learned of the request for comments. We request that you consider these comments because of the failure to provide specific notification to a party with known interest in the application.

Overview of Proposed Project and Operations Agreement.

Yakima Valley Trolleys has proposed to enter into an *Operation License Agreement* for a three (3) year license to operate and use the City's electric railway system over a rail line that spans across jurisdictional boundaries of the City of Yakima, City of Selah, and unincorporated Yakima County. The electric railway system is depicted on *Exhibit A* to the *Operation License Agreement*. Also included is use of the electric railway barn and museum of 306 West Pine, Yakima, WA. Assets included are set forth on *Exhibit C*.

By way of background, public records disclose that passenger rail service on these tracks was abandoned in 1935 pursuant to an Order of the State Supervisor of Transportation. Freight rail service on these tracks was abandoned in 1985 pursuant to an Order of U.S. Interstate Commerce Commission. There is nothing in the record documenting established railway use rights or authority for operation of the line.

Land Use Application is Incomplete and Deficient.

To begin, the Notice of Environmental Review and Land Use Application Form are inaccurate and incomplete. These documents identify the "Applicant" as the City of Yakima and Planning Manager Trevor Martin. The Applicant should be Yakima Valley Trolleys because the trolley association is requesting the operation and maintenance license agreement from the City -- the City is not granting a license agreement to itself. The application needs to accurately identify the party requesting the license.

We are concerned that City officials view themselves as both the applicant and the responsible official for administering SEPA procedures. This would be a conflict of interest. Under WAC 197-11-926(2), the people

be conducted by an independent reviewing body.

Neither the Land Use Application nor SEPA Notice disclose the *Location, Tax Parcel Numbers, Legal Description* (for the line), *Zoning*, or *Property Owners*. We have seen no certification regarding service on adjacent properties, agencies, or departments.

The Location is listed as "Citywide" but major portions of trolley operations and maintenance would occur outside of Yakima, in the City of Selah and unincorporated Yakima County. The trolley system is over a defined pathway that extends beyond municipal boundaries. The Parcel Numbers are incomplete and incorrectly listed as "Citywide". The parcel numbers are readily available from the County Assessor for properties subject to the four miles under or bordering the line as it crosses miles of property in Yakima, Selah, and unincorporated Yakima County. The Legal Descriptions across Yakima, Selah, and unincorporated Yakima County are missing and are not attached to the application as required. Only a tiny fraction of property legal descriptions was included (trolley barn and museum).

The required "Current Zoning Designations" are not provided. This is required for the entire line. North of the intersection of River Road and 6th Avenue, the abandoned railroad tracks cross at least 15 privately owned parcels in Yakima, Selah, and Yakima County. There are many more private landowners underlying the tracks in city street right-of-way easements along 6th Avenue and Pine Street. These private landowners apparently were not given notice of the SEPA process, nor was notice given to all property owners within 300 feet of the abandoned railroad tracks as required by YMC Chapter 6.88.

As an additional point, it is our understanding that the railroad easements that the trolley wishes to rely on in 2026 were extinguished when Yakima Valley Transportation Company (YVTC) abandoned passenger service in 1935 and abandoned freight service in 1985. In *Congdon Orchards v. City of Yakima et. al* (1987), Yakima County Superior Court ruled that the Yakima Trolleys are not a "Railway" or "Railroad" but instead are a "Tourist Attraction." The court also ruled that abandoned railroad tracks reverted to the original landowners because tourist trolleys were never part of YVTC's railroad operation. Private property rights need to be established in the SEPA documents.

The Naches River Bridge is a structure and fixture attached to real estate owned by BNSF Railway and as such appears to be owned by BNSF, not by the City of Yakima. The 1985 "Bill of Donation" from Yakima Valley Transportation Company YVTC to the City of Yakima specifically excluded structures and fixtures like the bridge. The 1985 Quit Claim Deed from YVTC to Yakima was for *YVTC right-of-way* and did not include the *BNSF right-of-way* in Selah Gap. There was no after-acquired title clause in the Quit Claim Deed. Due to the abandonment of passenger rail service in 1935 and the abandonment of freight service in 1985, it appears that Yakima owns no property and holds no easements north of the Naches River.

SEPA Checklist Comments and Concerns.

The electric rail system spans Yakima, Yakima County, and Selah. SEPA Checklist #10 states that there are "no pending applications" for the operational use authorization. We disagree. The available environmental documents do not disclose any land use, operating, or environmental permits for the electric railway system and its associated operations. Government approvals and permits are required from the City of Yakima, Yakima County, City of Selah, State of Washington, and perhaps others. Each of the required permits needs to be identified and submitted before final operational approval can be granted to Yakima Valley Trolleys.

Second, SEPA Checklist #11 states that "...[t]his SEPA review is only analyzing the Yakima Valley Trolley's

responsibility for operating and maintain [sic] the existing Trolley system, which is a City of Yakima asset. *There is no specific project action associated with this SEPA proposal.* (Italics added). "Actions" include "...[n]ew and continuing activities (including projects and programs) entirely or partly...licensed, or approved by agencies." WAC 197-11-704(1). A project action involves a decision on a specific project, such as a...*management activity located in a defined geographic area.*" WAC 197-11-704(2)(a). Projects include decisions to "...[l]icense, fund or undertake any activity that will directly modify the environment, whether the activity will be conducted by the agency, an applicant, or under contract." WAC 197-11-704(2)(a)(i). The Operating License includes not only the licensing but also partial funding and oversight of the activity. The SEPA Checklist does not identify or consider any of these activities.

On a more specific environmental point, about a mile of the electric rail system tracks pass through a designated Geologically Hazardous Critical Area with "High Risk" Over steepened Slopes. The SEPA Checklist incorrectly claims the site is "flat" with a grade "less than 5%." There is a history of rockslides and unstable soils in the immediate vicinity. Yakima Valley Trolleys notified the City that this area is "*dangerous to rail traffic*" from large two-man boulders falling onto the tracks where tourist trolleys would operate along the toe of the high risk over steepened slopes. Yakima Valley Trolley operations and maintenance activities include ground disturbance, excavations, and/or rockslide removals in the geologically hazardous Critical Area. A critical area report and geotechnical analysis is required for these identifiable areas.

The use area contains cultural resource considerations, critical areas, shorelines and other environmentally sensitive areas. Prior to authorizing trolley operations north of the Naches River, the City is required to: (1) hire a geotechnical engineer to assess the risk to public safety and the environment in this Geologically Hazardous Critical Area, (2) hire an archaeologist to survey and prepare cultural resource assessments, and (3) prepare critical area report, and (4) apply for Critical Area and Shoreline permits. See e.g. *Confederated Tribes and Bands of the Yakima Nation v. Yakima County*, 195 Wn.2d 831, 466 P.3d 762 (2020). SEPA checklist fails to include sufficient detail and information.

Proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same environmental document. WAC 197-11-060. Since this proposal spans numerous jurisdictions, the environmental review for all permits should be consolidated and coordinated in a single environmental review process. A lead agency shall be designated following procedures set forth in WAC 197-11-922. The piecemeal review by multiple jurisdictions is contrary to SEPA requirements and procedures.

Public safety will be compromised because proposed trolley operations preclude pedestrian recreational and ADA access, contrary to the State Utilities and Transportation Commission Order to divert pedestrians to the multimodal Naches River Bridge, to prevent pedestrians from accessing the dangerous BNSF bridge. BNSF agreed in writing to this public safety measure.

Yakima Valley Trolley operations include re-building high-voltage electric catenary wires that they may not be qualified to engineer and install under National Electrical Safety Code. Similarly, the car repair barn has exposed conductors of 600 volts DC hazards.

Operations Over Floodplains and Within Shorelines.

Trolley operations/maintenance will occur across floodplains, within shoreline areas designated as "Urban Conservancy," and within 200 feet of the Yakima and Naches Rivers. The SEPA Checklist (p. 4 Surface Water) fails to disclose that trolley operations/maintenance will occur over water, in water, and on land within 200 feet of major rivers. There is a water pollution risk to the Naches and Yakima Rivers from diesel fuel spills, bridge deck

and abutment maintenance, painting or rust abatement, work on creosote timbers, and scour pier maintenance.

SEPA Checklist fails to identify surface waters (Naches River and Yakima River) or disclose activities within or near shorelines.

The SEPA Checklist (p. 10) incorrectly states that the "trolley system" is listed on the National Register of Historic Places. The trolleys are not listed on the National Historic Register. The tracks, car barn, and bridge are listed on the National Register and have federal funds invested—the City must conduct the Section 106 process under National Historic Preservation Act and analyze how trolley operations and maintenance could affect the national register listing, proposed National Historic Landmark designation, and the William O. Douglas Historic Trail.

The museum and car repair barn at South 3rd Avenue and Pine Street are on a designated hazardous waste site and there are site use restrictions, environmental covenants, and institutional controls in effect. Past railroad operations released hazardous substances. SEPA Checklist fails to disclose these facts.

The SEPA Checklist (p. 11 Transportation) fails to disclose that the abandoned YVTC tracks are in the immediate vicinity of the BNSF Railway. As a seasonal tourist attraction, the trolley is not a "transportation improvement," will not "alleviate congestion," and does not qualify for TBD funding under RCW 36.73.020(1).

Yakima Valley Trolleys has proposed a series of project and nonproject actions, physically or functionally related to each other, including volunteer work to re-engineer and re-build demolished overhead electric catenary lines, replace and/or maintain tracks and electric power poles that are more than 100 years old, purchase new equipment (unknown if diesel or electric), conduct ground disturbance activities at the base of high risk over steepened slopes, and operate tourist trolleys at the toe of the potential landslide area. The City must analyze cumulative environmental impacts of connected and reasonably foreseeable actions related to trolley operations and maintenance such as 6th Avenue, Naches River Bridge, and BNSF diamond projects. Segmentation or piecemeal environmental review is barred under case law.

Comments and Concerns Regarding the Operating Agreement.

We have a number of concerns with respect to the *Operation License Agreement*. We will try to highlight a number of the more significant concerns.

To begin, the *Operation License Agreement* contemplates a joint management and financial relationship in which the City bears both legal and financial responsibility for operation of the electric railway system. Financial responsibilities include City funding of work on structures and property exceeding \$1,000; appropriation and funding of reimbursable items set forth on *Exhibit D*; provision of liability insurance subject to reimbursement; and ultimate liability for operations. Agreements to reimburse or indemnify the City by an undercapitalized nonprofit corporation is a recipe for disaster.

Community Development Director has oversight responsibility for annual operation schedules; oversight of museum operation schedules; maintenance funding in excess of \$1,000; budgeting for administrative costs associated with maintenance and operation of the electric railway system and electric railway museum; approval of required maintenance and operation expenditures; and compliance with purchasing policies. *Operation License Agreement* ¶ 8 contains boilerplate language reflecting the City's understanding and agreement that YVT is an independent contractor with regard to the use, operation, promotion and maintenance of the City's electric railway system and electric railway museum. This is contrary to the express terms of the agreement, and it is our opinion

that the City is entering into a joint venture with a marginally solvent organization that places significant financial risk on the citizens of this community. A similar risk exists with respect to environmental liability, debts and liens, and operational liabilities.

The draft Operation License Agreement authorizes Yakima Valley Trolleys to use, operate, maintain and promote the City's electric railway system and electric railway museum. However, County Superior Court ruled that the trolleys are not a railway or a railroad and instead our tourist attraction. The seasonal tourist excursion trolleys are not railroad transportation under state law definitions. The draft agreement has restrictions for use as a tourist attraction and a tourism promotional activity. Since the system is not a railway, all references to "railway" or "electric railway" should be stricken from the agreement.

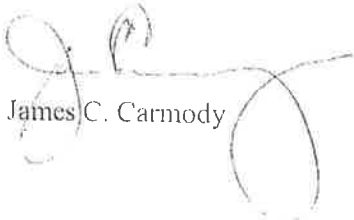
We are concerned about the manner in which liability insurance is implemented. *Operations License Agreement* ¶16. City should not provide YVT with liability, officers, and directors insurance. YVT should acquire insurance for system operations with City named as additional insured. Indemnification provisions are meaningless without adequate and appropriate insurance.

The previous 2020 trolley license agreement expired on December 31, 2024, before City Council took any action to authorize a contract extension or renewal. Thus, during 2025 the trolley group operated without a contract. The prior contract specified that all operation revenues must be used for the system, and for no other purpose; but the latest draft license has a new provision allowing city-owned property to be rented out and the trolley group can use those revenues however they deem appropriate - this may be an unconstitutional lending of property or gift of public funds. Another possible gift of public funds involves the City procuring liability and directors and officers insurance for private persons and entities if the trolley group reimburses the City at less than market value for insurance benefits conferred on private individuals (draft License ¶ 16). This would be incompatible with the trolley association's indemnities in License ¶ 15.

Conclusion.

We appreciate your consideration of our comments on both the environmental review and the substance of the licensing agreement. The environmental deficiencies are patent and the financial and operational structure weak and lacking normal protections for the interest of the City and its citizens. YVT has literally no financial strength or ability to protect the City in the event of even insignificant liability events. We believe that the City Attorney should provide both the City Manager and City Council with written opinion that the process has followed applicable environmental laws and that the proposed *Operating License Agreement* provides substantive and legally supportable protections for the municipality.

Very truly yours,
MEYER, FLUEGGE & TENNEY, P.S.



James C. Carmody

16

YAKIMA VALLEY TRANSPORTATION COMPANY

OFFICE OF THE PRESIDENT

1515 S.W. FIFTH AVENUE, SUITE 400
PORTLAND, OREGON 97201

November 14, 1983

RECEIVED

NOV 16 1983

ARCHAEOLOGY AND
HISTORIC PRESERVATION

Mr. Jacob E. Thomas
State Historic Preservation Officer
Office of Archeology and Historic
Preservation
111 West 21st Avenue, KL-11
Olympia, WA 98504

File: (C 350-0-5)

**Objection to Nomination to National
Register of Historic Places**

**Property Name: Yakima Valley Transportation
Company**

**Location: 3rd Avenue and Pine Street,
Yakima, Washington**

Dear Mr. Thomas:

Yakima Valley Transportation Company, a Washington corporation, objects to nomination and listing of any or all of its real and personal property in the National Register of Historic Places. I am the president of the Yakima Valley Transportation Company (YVT) and I hereby certify that YVT is the sole owner of the real and personal property nominated for inclusion on the National Register as more fully described in the nomination form prepared by your office. I further certify that the City of Yakima does not own any property or equipment described on the nomination form. The City owns the public streets in which some YVT trackage is located and franchises use of those streets to YVT. I further certify that the name of the property has been the Yakima Valley Transportation Company since at least 1907 and that YVT has never been known as the Yakima Valley Electric Interurban Railroad.

In addition to objecting to listing, it is YVT's position at this time that the property is not eligible for nomination to the National Register of Historic Places. YVT is no longer an electric railroad and does not provide electric freight or passenger service. It is a small railroad

Mr. Jacob E. Thomas
Page Two
November 14, 1983

switching operation in and adjacent to the Cities of Yakima and Selah and, as such, is indistinguishable from any number of similar operations across the country. YVT is in the business of providing rail service to shippers located on its lines and is not a museum or excursion operation. YVT uses a diesel locomotive in its operation.

YVT has licensed the City of Yakima to operate two tourist trolley cars purchased in Portugal over its lines. This is not part of YVT's operation and, in any event, the license to operate said cars has been cancelled.

Accordingly, YVT objects to the listing and requests that the nomination of its property not be forwarded to the keeper of the National Register of Historic places.

Very truly yours,

A handwritten signature in dark ink, appearing to read "A. L. Shoener", with a stylized flourish at the end.

A. L. SHOENER
President
Yakima Valley Transportation Company

STATE OF OREGON)
) ss.
County of Multnomah)

On this 14 day of November, 1983,
before me personally appeared A. L. SHOENER, known to me
to be the President of YAKIMA VALLEY TRANSPORTATION COMPANY,
a Washington corporation, the corporation that acknowledged
the within and foregoing instrument, and acknowledged said
instrument to be the free and voluntary act and deed of said
corporation, for the uses and purposes therein mentioned, and
on oath stated that he was authorized to execute said instrument,
and that the seal affixed is the corporate seal of said
corporation.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed my official seal the day and year first above
written.

R. L. Humatage
Notary Public for Oregon
Residing at: Beaverton
My Commission Expires: 5/28/85

17

Form 3484

11-18-11 1M RP

Northern Pacific Railway Co.

RIGHT OF WAY DEPARTMENT

Hope to Ellensburg

Agreement DEED.

Dated Jan. 15th 1912.

From N. P. Ry. Co.

To Yakima Valley Transportation Co.

Description Covering right to occupy

a portion of N. P. Rwy in Sec's 1 & 12

T. 13 N. R. 10 E. 104 + 104th N. 31

Noted on Right of Way Plat No. 104, 105 3/20/12

Noted on Track Profile M.P. 92 & 93

Noted on Station Plat.

Noted on Record Book No. 21 Page 94^{11/11} 100p.

R. of W. Change Memo. No. 181

Corres. File No.

Abstract of Title

Opinion on Title

Voucher

Contract

Report of Negotiations

Deed No. 422

422

THIS AGREEMENT made this 15th day of January A. D. 1912, between the NORTHERN PACIFIC RAILWAY COMPANY, hereinafter called the "Pacific Company", and the YAKIMA VALLEY TRANSPORTATION COMPANY, hereinafter called the "Valley Company", WITNESSETH:

WHEREAS, the Pacific Company owns a right of way four hundred (400) feet in width, being two hundred (200) feet on each side of the center line of its railway as now constructed through and over sections one (1) and twelve (12) in township thirteen (13) North, range eighteen (18) E. W. M., in Yakima County, Washington; the said right of way and railway being, as shown on the map hereto attached, marked "Exhibit A" and made a part hereof, and;

WHEREAS, the Valley Company desires to construct a single or double track railway on the right of way aforesaid, and, for such purpose the Pacific Company is willing to grant to the Valley Company an easement to occupy perpetually, for a main line railway, a strip of land upon said right of way fifty (50) feet in width; provided the right so granted shall not in any manner interfere with the occupation of any other portion of the aforesaid right of way by the Pacific Company, and shall not cause any additional burden or expense to the Pacific Company in occupying or using the same:

THEREFORE, in consideration of the sum of One Dollar (\$1.00) to it paid and the covenants to be performed by the Valley Company the Pacific Company does hereby grant to the Valley Company, to the full extent of its legal right to make such grant the right perpetually to occupy and use for its main line, single or double track railway, the strip of land fifty (50) feet in width over and upon the Pacific Company's right of way aforesaid, which is colored in red as shown upon Exhibit A; Provided, however, that the location of said strip may be changed as hereinafter provided.

Said grant being subject to the following conditions and covenants:

Section I The center line of the Valley Company's nearest or northerly track shall be initially constructed at least fifty-four (54) feet from the present center line of the main track of the Pacific Company as shown on Exhibit A.

The Valley Company's road-bed shall be so constructed as to enable the Pacific Company to excavate, use and occupy a strip of ground forty (40) feet in width parallel to and southerly from the present center line of its main track, and at such time as the Pacific Company shall elect to revise its alignment by reducing its present 6 degree curve to a maximum of 3 degrees, the Valley Company will either remove its tracks to such distance from the revised center line as will enable the Pacific Company to similarly occupy a strip of ground forty (40) feet in width upon the southerly side of said revised center line, or pay the extra cost of re-constructing the Pacific Company's railroad upon a center line re-established satisfactorily to the Pacific Company, which shall not increase the present total curvature, or exceed a maximum rate of 3 degrees; and in the event that the tracks of the Valley Company are moved as in this sentence provided, then the location of the 50 foot strip, the right to use which is by this instrument granted to the Valley Company, shall be changed to correspond.

A true copy

RAK

Such slopes of cuts and fills of the the Valley Company's road-bed as shall encroach upon said forty foot strip shall be removed by the Valley Company whenever said strip is desired for occupation by the Pacific Company, and the Valley Company, at all times at its sole expense, will build and maintain such retaining walls as the Pacific Company may deem necessary properly to protect said strip for unobstructed use by the Pacific Company,

The Valley Company, at all times and at its sole expense will build and maintain such snow sheds, rock sheds or other protective structures, made necessary as a result of the construction of the Valley Company's line, when and as the same are required by the Pacific Company to protect its operation from snow, rock, gravel or other material.

The slopes of the Valley Company's road-bed, either permanent or temporary, shall be retained at least ten (10) feet from the center line of the Pacific Company's nearest track or the siding as shown upon said Exhibit A.

Section 2. The Valley Company shall have the right to extend the slopes of its main line road-bed beyond the limits of the right of way hereby granted, subject to the conditions contained in Section 1 hereof. Both of the said companies shall have the right to joint occupation of such portion of the slopes between their respective road-beds as lies upon the fifty (50) foot right of way granted the Valley Company for telegraph, telephone and signal wires or apparatus.

Section 3. In case it shall at any time in the future become necessary for the Pacific Company to occupy a greater width than the forty (40) foot strip before defined, the Valley Company at its sole expense will remove its tracks to such increased distance from the Pacific Company's line as shall be necessary therefor; but in that event the Pacific Company will pay the Valley Company the value of any work done by it, which it would have been necessary for the Pacific Company to do had the Valley Company not occupied the right of way hereby granted.

Section 4. The grant herein contained is subject to all the terms and conditions of the contract existing between the Pacific Company and the State of Washington, providing for the occupancy of the right of way of the Pacific Company by the State and the right of the State of Washington to take rock therefrom; the Pacific Company hereby consenting to the change in the location of the Stockade and buildings belonging to the State as indicated upon Exhibit A. The Valley Company will secure the consent of the State of Washington to such proposed change.

The Valley Company agrees that it will construct its line of railroad in a manner that will not interfere with the operation of the rock crusher belonging to the State of Washington, situated adjacent to and served by the Pacific Company's line, provided it shall be permitted to occupy the temporary alignment at the said crusher, shown upon the said Exhibit A, and marked thereon "Temporary Alignment", so long as such occupation does not interfere with the requirements of the Pacific Company or the State of Washington in connection with the operation of the rock crusher, and upon notice of such interference from either the Pacific Company or the State, the Valley Company will move its track or tracks to the extent necessary to avoid such interference.

Section 5. This grant is made subject to the rights of the public in and to any county road now existing upon the right of way of the Pacific Company, and the Valley Company assumes all liability and expense arising from interference with or relocation of any such road caused by its occupation of said right of way.

Section 6. It is further agreed that rock excavations in cuts adjacent to the Pacific Company's operated track will be handled by the Valley Company, with extreme care, and in such manner as to avoid in every possible way interference with the operation of the trains, telegraph or telephone lines of the Pacific Company, and any injury to its property of every nature.

Section 7. The Valley Company assumes, indemnifies and insures the Pacific Company against all loss and damage whatsoever suffered by the Pacific Company or by any other persons or corporation caused or in any way growing out of the construction, reconstruction or repair of any work which the Valley Company may do hereunder, or out of the operation of the Valley Company's line, except when occurring from the negligence of the employees of the Pacific Company. The Valley Company further agrees to reimburse the Pacific Company for any increased cost of constructing additional tracks, over what would have been the cost of the same construction had this grant not been made; such payment will be made as and when such increased expenditures are incurred.

By reason of the fact that the rights granted to the Valley Company are granted without any substantial consideration to the Pacific Company, the Valley Company hereby releases and agrees to hold harmless the Pacific Company from any loss, cost damage or injury which the Valley Company, its passengers, employees or property in its possession may suffer by reason of the construction of additional tracks by the Pacific Company whether caused by the negligence of its contractors, agents, servants or employees, or otherwise, but the Valley Company may recover from contractors of the Pacific Company for the negligent acts of such contractors.

Section 8. In case any claim for damage is made against the Pacific Company, which damage the Valley Company has assumed under the provisions of this contract, the Pacific Company may give written notice to the Valley Company of the claim or the pendency of suit thereon, and thereafter the Valley Company may handle the compromise of the claim or the defense of any action brought thereon in the name of the Pacific Company, but at the sole cost and expense of the Valley Company.

Section 9. The right herein granted is for the purpose of main line operation only by the Valley Company and it will not receive or deliver passengers or freight at any point upon the right of way herein granted. Nothing herein contained shall in any way restrict the right of the Pacific Company to make such use as it may deem proper of the remainder of its right of way not covered by this agreement and the right is reserved to make crossings for any purpose of the right of way strip granted to the Valley Company, provided such crossings are made in a safe and substantial manner so as not to interfere with or endanger the operation of the Valley Company's railway or its telegraph, telephone or power transmission lines.

Section 10. Each covenant in this agreement shall be construed to extend to and bind the successors and assigns of the parties obligated thereby and the benefit of each covenant hereof, shall inure to the successors and assigns of the parties benefited.

IN TESTIMONY WHEREOF, the respective parties hereto have caused these presents to be executed by their respective officers, thereto duly authorized, the day and year above written.

(SEAL)

Attest:

R.H. Relf,

Asst Secretary

NORTHERN PACIFIC RAILWAY COMPANY

By Howard Elliott,

T.C.

President.

(SEAL)

Attest:

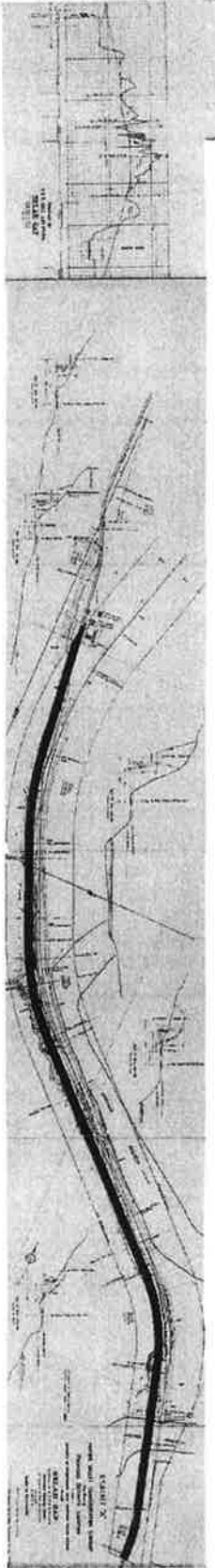
R. E. Allingham

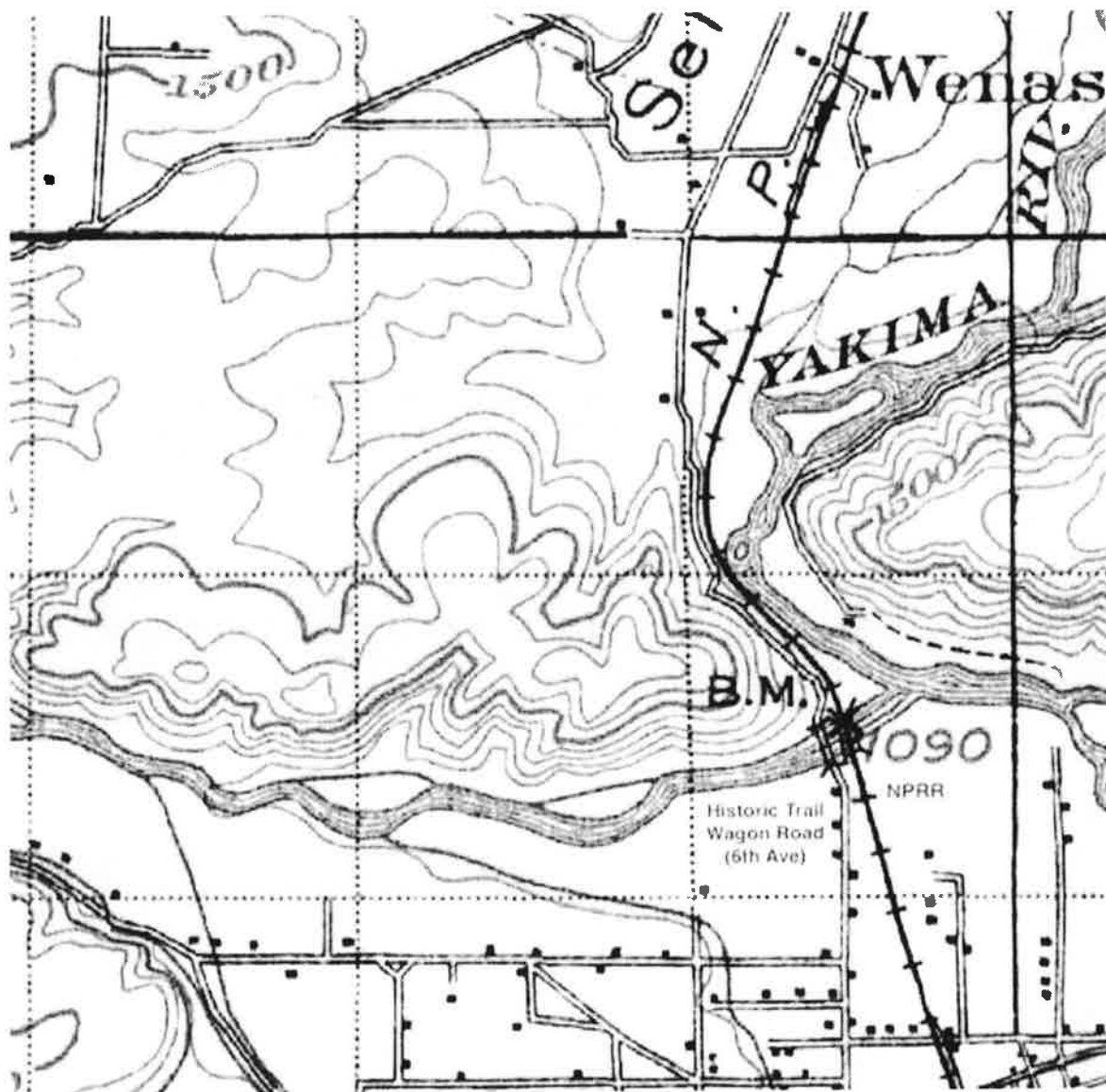
Secretary.

YAKIMA VALLEY TRANSPORTATION COMPANY

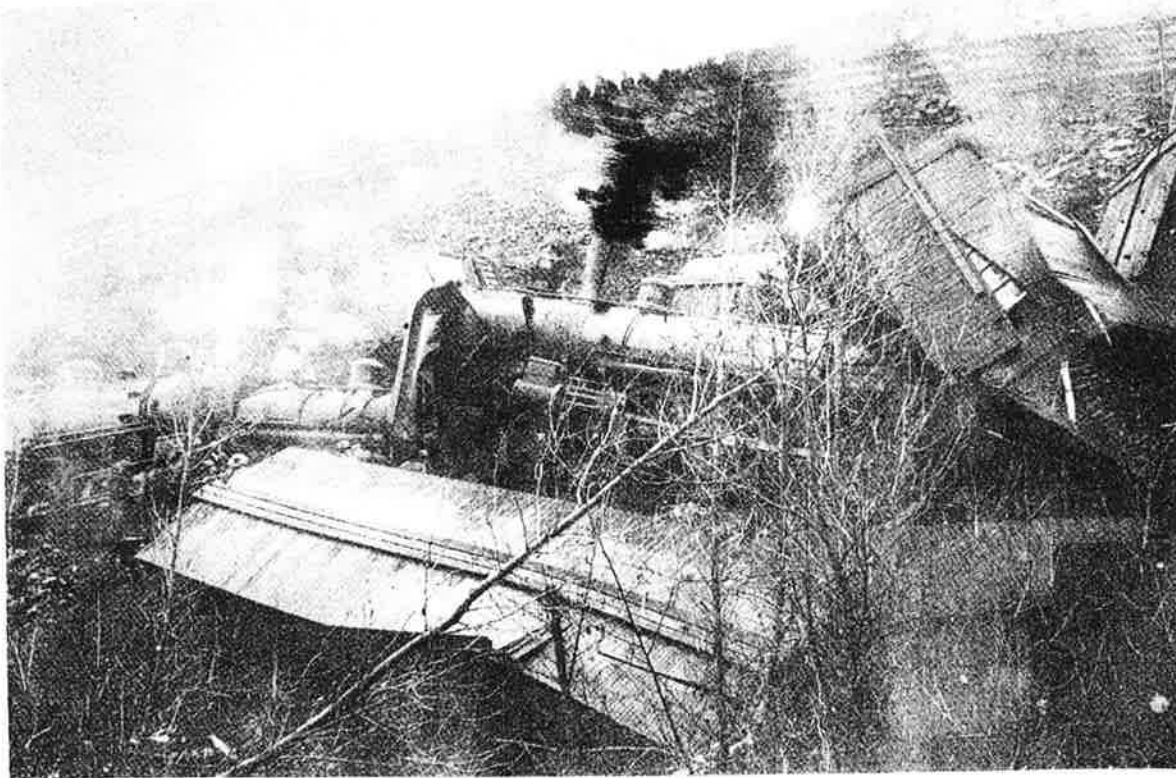
By N. C. Richards,

President.





USGS Topographic Map ca. 1905



Wreck located in Selah Gap, near Naches River. Sightseers on old Pioneer Road in background. On December 8, 1901, a two-locomotive freight train from the Selah met

head-on with a single locomotive freight train from Yakima. Many were to lose their lives and photo shows one locomotive telescoping another.

The Selah Story: History of the Selah, East Selah and Wenas Valley in Yakima County, Washington
By Robert S. Lince (1984, Selah Valley Optimist Printing)

(19)

PAUL D. EDMONDSON

Attorney-at-Law

313 NORTH THIRD STREET

YAKIMA, WA 98901

(509) 452-7963

June 23, 2022

Ken Johnsen, President
Yakima Valley Trolleys
PO Box 161
Renton, WA 98057

Re: Pedestrians on City Railway

Dear President Johnsen:

You have inquired about a proposal to permit pedestrians to use the City-owned railroad tracks now used by Yakima Valley Trolleys over the Naches River between Yakima and Selah, WA. I understand that the group asking for City permission is a hiking group interested in traversing the Naches River bridge into Selah Gap where the tracks are located along a narrow shelf adjacent to the BNSF mainline tracks which are used for mile-long 100 car freight trains returning to North Dakota from Western Washington oil refineries. I further understand that the Naches bridge has no special accommodation for pedestrians or hikers although an adjacent freeway bridge a short distance downriver does have pedestrian facilities to allow foot access into Selah from the Yakima Greenway.

From a legal perspective the most serious issue obviously confronting the City is the enormous expansion of City liability in endorsing pedestrian use of a railroad bridge and narrow right-of-way expressly built for railway use only. I know of no other city in America which has done so. I also do not know of the position of BNSF, the owner of the right-of-way, as opposed to the City-owned easement upon which the tracks lie. Since the easement is

for railway purposes only the addition of pedestrian use would obviously be beyond the scope of the easement and unlawful, thereby exposing the City to possible litigation and damages from BNSF who I am quite sure do not want people hiking on their right-of-way adjacent to long oil trains.

At the present time the right-of-way is posted to warn trespassers to keep out. If the City decides to invite pedestrian use of the bridge and tracks the legal doctrine of an "attractive nuisance" would appear to become relevant. A common example is a homeowner's liability for a swimming pool in his backyard which is used by kids in the neighborhood. This creates substantial risk for the owner who has "invited" the users explicitly or impliedly. This is the reason for the warning signs presently posted in Selah Gap and by the bridge.

In addition from the aforementioned dangers it should be noted that the Selah Gap hillside next to the trolley tracks is very steep. In places it is a vertical rock wall right next to the trolley tracks and the oil trains on the downhill side. Every Spring large two-man boulders fall down the hillside onto the tracks below creating a dangerous situation for rail traffic, not to mention pedestrians. Every Spring and Summer weekends trolley members clear out these boulders to keep the tracks clear and safe. Encouraging people to walk in this narrow corridor anytime during the boulder season is obviously not in the City's interest.

In summary, permitting pedestrians on city railroad tracks is just asking for litigation by invitees, no longer trespassers. It is unthinkable as a matter of prudent public policy.

Very truly yours,

Paul D. Edmondson
WSBA 3634, HSBA 6687
EOIR XN 287101



1300 S. Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250
(360)664-1257 or (360)664-1100
Fax: (360)586-1150
Web: www.wutc.wa.gov
E-mail: records@utc.wa.gov

**GRADE CROSSING PROTECTIVE FUND
APPLICATION FOR FUNDING**

The Washington Utilities and Transportation Commission (commission), through its Grade Crossing Protective Fund (GCPF), funds projects that eliminate or mitigate public safety hazards at railroad crossings and along railroad rights-of-way in Washington State. Any public, private, or non-profit entity may submit an application to the commission for GCPF monies.

Please complete and submit the following information as part of the application process:

Applicant Information

Applicant Name: Dick Zais, City Manager
Organization: City of Yakima
Address: 129 North Second Street, Yakima, WA 98901
Phone: (509) 575-6040
E-mail:
Fax: (509) 576-6335

Please list all other companies, organizations or state or local agencies that may be involved in implementing this proposal and the contact name, address and phone number for each.

Yakima Valley Trolleys
Kenneth G. Johnson
P.O. Box 796
Yakima, WA 98907-0796
yakimavalleytrolleys@hotmail.com

Burlington Northern Santa Fe Railroad Company
Daniel MacDonald, P.E.
Managing Engineer - Seattle
2454 Occidental Avenue South, Suite 1_A
Seattle, WA 98134
(206) 625-6150, Fax (206) 625-6115
daniel.macdonald@bnsf.com

2008 OCT -7 PM 1:48
RECEIVED

TR-072009

#20

Grade Crossing Protective Fund Application Form

Project Information

1. *Provide a detailed summary of the hazard being addressed. Include:*
 - *Any information about accidents or incidents at the site.*
 - *Photographs, drawings or other materials that supports the application.*

Currently, there are only two pedestrian crossing facilities for crossing the Naches River at the northern city limits of the City of Yakima. One is located at the eastern city limits (I-82) and the other is at the western city limits (Powerhouse Road). Due to this lack of pedestrian facilities, and despite "No Trespassing" signs, pedestrians occasionally use the BNSF railroad bridge to cross the Naches River. On July 12, 2007, a man and woman who were crossing the Naches River on the railroad bridge were struck by a passing train and seriously injured.

On several occasions recently, railroad police hired by BNSF have had to remove trespassers from the railroad property in this vicinity.

2. *Provide a detailed description of the proposed project and explain how it will eliminate or mitigate the hazard. Include any drawings or construction plans for the proposed project.*

This project will construct six-foot chain link fence to impede pedestrian and motor vehicle trespass onto BNSF property in the vicinity of the Naches River Bridge. As part of the William O. Douglas Trail project, a pedestrian pathway is planned to be constructed across the trolley bridge within the next couple of years. Fencing as shown on the attached drawing would deter pedestrians from accessing the railroad bridge. The fence would begin where Gordon Road crosses underneath the railroad tracks, then heads west approximately 150 feet across the trolley tracks to approximately 8-feet west of the trolley tracks, then head in a northwesterly direction parallel to the trolley tracks for approximately 670 feet, then make a 90 degree turn across the trolley tracks, then head in a northeasterly direction for approximately 70 feet to end adjacent to the BNSF south bridge abutment. At both locations where the fence crosses the trolley tracks, 20-foot gates will be installed. The fencing will continue east of the BNSF bridge for approximately 150 feet parallel to the Greenway Path.

In addition to improving safety, this fencing project may reduce the railroad's requirement for police enforcement.

3. *Provide cost estimates. Include:*
 - *Total costs of the project.*
 - *Names of parties contributing to the project and the amount each is contributing.*

Total project costs are estimated to be \$37,000. The City is requesting a grant of \$20,000 toward this total from WUTC.

Grade Crossing Protective Fund Application Form

4. *Provide the name of the party responsible for long-term maintenance.*
The City of Yakima and/or the Yakima Greenway Foundation will provide longterm maintenance of the fence.
5. *Provide an estimated timeline of project, if approved.*
Weather permitting; the project will be completed this fall. If not, the project will be completed next spring
6. *Provide a description of how the project's success would be measured.*
Success of this project can be measured by demonstrating a decrease in trespass incidents and pedestrian accidents on the BNSF Bridge.
7. *Provide any other information the applicant believes would be useful to the commission in considering the project.*
At several recent meetings, BNSF personnel have expressed their encouragement and approval of our plans to channel pedestrians away from railroad property and to reduce trespass by means of fencing.
8. *If the project involves any construction, modification or demolition on a railroad right-of-way, complete the attached Railroad Commitment form. This includes fencing, gates or other structures located near enough to the tracks to be on the railroad right-of-way, modification to a grade crossing or any other project that involves railroad property or rights-of-way.*
See accompanying email from BNSF engineer Daniel MacDonald expressing the railroad's concurrence with this project.

Submitting the Application

After completing the GCPF application, please send the original to:
Washington Utilities and Transportation Commission
Attention: Grade Crossing Protective Fund
1300 S. Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250

A signed application may be filed electronically at records@utc.wa.gov. When filing electronically, please specify "Grade Crossing Protective Fund" in the subject line.

Assistance

For questions or assistance, please contact:

- Kathy Hunter at (360)664-1257 or by e-mail at khunter@utc.wa.gov.
- David Pratt at (360)664-1100 or by e-mail at dpratt@utc.wa.gov.

Railroad Commitment
TR-072009

The undersigned represents the Railroad Company in the GCPF application described as (enter a brief description):

The City of Yakima has applied for GCPF funds to erect fencing for trespass abatement purposes. The City's trolley bridge and the adjacent BNSF Railway bridge cross the Naches River at the northern end of Yakima City limits. See attached photos for location of fencing. It is believed the BNSF has a 200 ft. right-of-way at this location and much of the fencing would be on that right-of-way. The City of Yakima and/or the Yakima Greenway Foundation will provide long-term maintenance of the fence.

We have reviewed the application and are satisfied the conditions are the same as described by the applicant in this matter. We agree to allow construction, modification or demolition on a railroad right-of-way as described in the application.

See Notes below.

John Li

Printed name of Railroad Representative



Signature of Railroad Representative

Manager, Public Projects

Title

206 625 6146

Phone

john.li@bnsf.com

E-mail

Date:

4/21/08

Notes: BNSF supports this application for safety improvements. The final design and location of the fencing will need to be approved by BNSF prior to its installation. The City will also need to obtain a permit from BNSF with current indemnity language and insurance limits and with a 30-day cancellation clause, if the fencing would be on BNSF's Right-of-Way.

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RECEIVED
BNSF
FILE
COMMISSION

From: MacDonald, Danniell
To: Wayenberg, Karen
Cc: Polnick, Bruce K; Agee, David W
Subject: RE: Yakima, WA - UTC Grant Application
Date: Friday, October 05, 2007 3:24:51 PM

Ms. Wayenberg,

Thank you for the opportunity to review the City of Yakima's UTC GCPF application. BNSF supports this application for safety improvements. The final design and location of the fencing will need to be approved by BNSF prior to its installation. We look forward to working with the City of Yakima address this safety concern.

Please contact me if you need additional information regarding BNSF's participation. Again, we look forward to working with the City on this issue.

Respectfully,

Dan

Danniell MacDonald, P.E.
Manager Engineering - Seattle
BNSF Railway Company
2454 Occidental Avenue South, Suite 1A
Seattle, WA 98134
Office: (206) 625-6150
Fax: (206) 625-6115
danniell.macdonald@bnsf.com

From: Wayenberg, Karen [mailto:kwayenbe@ci.yakima.wa.us]
Sent: Friday, October 05, 2007 12:53 PM
To: MacDonald, Danniell
Subject: RE: Yakima, WA - UTC Grant Application

Thanks for reviewing our application and the page requiring BNSF signature. Feel free to call me or reply to this email.

From: MacDonald, Danniell [mailto:Danniell.MacDonald@BNSF.com]
Sent: Friday, October 05, 2007 12:47 PM
To: Wayenberg, Karen
Subject: Yakima, WA - UTC Grant Application

Ms. Wayenberg,

With reference to our conversation this afternoon, my contact information is following. I look forward to reviewing this application.

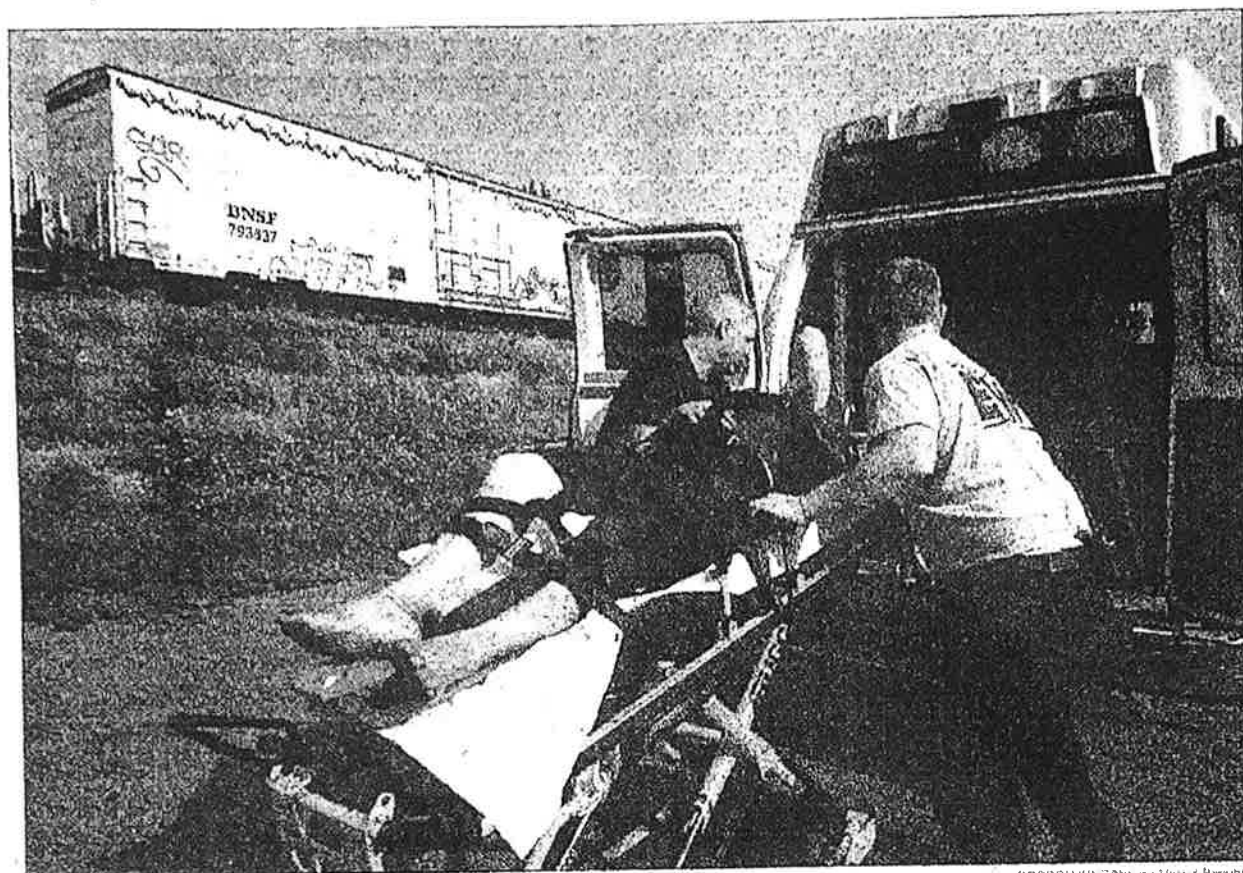
Respectfully,

Dan

Danniell MacDonald, P.E.

HOME FRONT

Yakima Herald-Republic
Friday, July 13, 2007



GORDON KING/Yakima Herald-Republic

A woman is placed in an ambulance after nearly being struck by a train near Berglund Lake in Yakima on Thursday. She was injured when she was thrown off the tracks by a companion as the train approached.

Man hit by train after saving companion

By BOB ANTON
YAKIMA HERALD-REPUBLIC

A man was struck by a train Thursday morning after Yakima police said he saved a woman moments earlier by throwing her from a trestle as the train bore down on them.

The man, who has not been identified, suffered serious injuries and was taken to Seattle's Harborview Medical Center.

The two were among four people attempting to walk across a railroad bridge over the Naches River shortly after 8 a.m.

Although two of the men reached safety, the woman fell on the tracks, police said. She was helped to her feet by the third

He tosses woman from the tracks

man, who attempted to get them both to safety. But he ended up throwing her down a 10 to 15 foot embankment moments before being struck, police said.

The crew of the train, an east-bound Yakima day-switcher returning from Ellensburg with two locomotives and two refrigerated boxcars of corn, tried to warn the group by sounding the horn and then applying emergency brakes, said Burlington Northern Santa Fe spokesman Gus Melonas.

The train had slowed from 35 mph to between 10 and 15 mph when it struck the man, he said.

"This is an unfortunate situ-

ation," he said. "But this time of year we see an increase in trespassing situations.

"People take shortcuts and risks often by crossing railroad property and we encourage the public to use designated areas."

Yakima police initially said the man may have suffered back injuries. Authorities initially said it appeared the woman, who was also not identified, broke a leg when she landed on rocks below the trestle.

Melonas later said she suffered only cuts and bruises. There was no immediate word on their conditions. Although Yakima police



TJ MULLINAX/Yakima Herald-Republic

handled the initial investigation, it has been handed off to BNSF investigators.

Melonas said nine people have been killed on railroads this year in Washington state.

'No doubt he saved my life'

Train encounter broke
victim's leg, pelvis

By **ROD ANTONIO**
YAKIMA HERALD REPUBLIC

As they crossed the bridge over the Naches River, Lisa Boitano was telling her three friends how cool it would be to see a passing train from up close.

That's when they saw the locomotive bearing down.

From her hospital bed Friday, Boitano recalled her friend Mark Brown's reaction.

"He said, 'You might get your chance — run.'"

But as they ran, Boitano fell, and her right leg slipped and became stuck between the wooden ties.

"I was freaking out and tried to pull myself up," she said. "But Mark came up behind me, grabbed both arms and pulled me out."

"No doubt he saved my life."

As the two prepared to leap off the tracks to an embankment about 10 to 15 feet below the tracks, they were struck.

"I felt the train hit my lower back, but he got the full force of it," said 21-year-old Boitano.

The impact threw them about 20 feet into the rocks below. Boitano said she broke her nose and fractured her right leg and pelvis. But then she looked up she saw that Brown, or Green as he is known to his friends, was hurt much worse.

"It was the scariest thing I've ever seen. Blood was everywhere," she said. "I kept saying, 'Green, don't die, Green, don't die. Wake up, wake up.'"

TRAIN

Continued from Page 1A

The crew of the train, an eastbound Yakima day-switcher returning from Ellensburg with two locomotives and two boxcars, spotted the group and began sounding the horn and applying emergency brakes, which slowed the train from 35 to about 10 to 15 mph, Burlington Northern Santa Fe spokesman Gus Melonas said Thursday.

Boitano said that the horn came too late — the train was almost on them when it sounded. And while braking probably saved their lives, she had no idea at the time that the train had slowed at all.

"It sure as hell didn't feel like it was going 15 mph when it hit us," she said.

Although Melonas said that technically the four were trespassing on railroad property, he did not say whether BNSF would pursue charges.

Boitano said she and her friends did not know they were

trespassing.

All she does know is that Brown, a man whom she described as being like a brother to her for the past four to five years, was willing to sacrifice himself to save her. The two met while she was a teenager living on the streets and have been close friends ever since.

"I would have been stuck in the tracks if he hadn't helped me out," she said. "He's just a wonderful person."

• Rod Antonio can be reached at 577-7626 or rantono@yakimaherald.com.

Form

She is now at Yakima Memorial Hospital. Brown, 26, was taken to Seattle's Harborview Medical Center, where he was listed in serious condition after undergoing surgery Friday.

Boitano said doctors there told her he suffered multiple injuries, including two broken legs, a shattered pelvis, a broken jaw and a broken arm.

"He would have been okay if he had just jumped, if he hadn't stopped to help me," she said.

Earlier that morning, the four had watched the sunrise from the ridge between Yakima and Selah. They were walking the tracks back to Yakima, and were crossing the bridge shortly after 8 a.m.

Boitano said two of her friends had nearly reached the end of the bridge; she and Brown were only about halfway across.

SEE **TRAIN** PAGE 8A



SARA GETTYS/Yakima Herald-Republic

Lisa Boitano recovers in Yakima Valley Memorial Hospital on Friday, after being hit by a train while she and three others were crossing the trestle over the Naches River.



TR-072009

Boston, Bob (UTC)

From: Sheffield, Brett [bsheffie@ci.yakima.wa.us]
Sent: Tuesday, November 04, 2008 11:59 AM
To: Boston, Bob (UTC)
Subject: Grade Crossing Protective Fund Grant
Attachments: YVT Fence.pdf

Bob,

As we have discussed, part of the William O. Douglas Trail will include a pathway across the Trolley Bridge to allow pedestrians access across the Naches River. I believe that the description in the original application should have been modified to read like the following:

This project will construct six-foot chain link fence to impede pedestrian and motor vehicle trespass onto BNSF property in the vicinity of the Naches River Bridge. As part of the William O. Douglas Trail project, a pedestrian pathway is planned to be constructed across the trolley bridge within the next couple of years. Fencing as shown on the attached drawing would deter pedestrians from accessing the railroad bridge. The fence would begin where Gordon Road crosses underneath the railroad tracks, then heads west approximately 150 feet across the trolley tracks to approximately 8-feet west of the trolley tracks, then head in a northwesterly direction parallel to the trolley tracks for approximately 670 feet, then make a 90 degree turn across the trolley tracks, then head in a northeasterly direction for approximately 70 feet to end adjacent to the BNSF south bridge abutment. At both locations where the fence crosses the trolley tracks, 20-foot gates will be installed. The fencing will continue east of the BNSF bridge for approximately 150 feet parallel to the Greenway Path.

In addition to improving safety, this fencing project may reduce the railroad's requirement for police enforcement.

I have also attached a drawing showing the proposed fencing project. If you have any questions or require additional information, please don't hesitate to contact me. Thanks for your help.

Brett H. Sheffield, P.E.
Chief Engineer
City of Yakima
PH. (509) 576-6797
Fax (509) 576-6305



YAKIMA CITY COUNCIL MINUTES

February 17, 2026

City Hall - Council Chambers - 129 N 2nd Street, Yakima WA

5:30 PM City Council Regular Meeting - Conducted in person and virtually via Zoom

1) Roll Call

The meeting was called to order at 5:32 p.m.

Present: Mayor Matt Brown, presiding; Assistant Mayor Reedy Berg and Councilmembers Patricia Byers, Rick Glenn, Felisa Gonzalez, Juliet Potrykus and Leo Roy

Staff: City Manager Vicki Baker, City Attorney Sara Watkins and City Clerk Rosalinda Ibarra

2) Pledge of Allegiance

Mayor Brown led the Pledge of Allegiance.

3) Interpreter Services

Mayor Brown introduced Jorge Villaseñor who announced interpreter services are available in Spanish.

4) Public Comment

Joan Walsh, City resident; and Lulu Dufault, non-City resident; spoke in support of the Yakima Valley Trolleys.

Michelle Hotchko, City resident, spoke in favor of Lions Pool.

Joseph Kopsick (via Zoom), City resident, spoke about tax revenue collection.

5) Open Discussion for the Good of the Order

None.

6) Council Reports

None.

7) Consent Agenda

Mayor Brown referred to the items placed on the Consent Agenda, questioning whether there were any additions or deletions from Council members present. Item J was removed from the Consent Agenda. The City Clerk read the Consent Agenda items, including resolutions and ordinances, by title. (Items on the Consent Agenda are handled under one motion without further discussion-see motion directly below.)

MOTION: Berg moved and Byers seconded to approve the consent agenda (as amended). The motion carried by a 7-0 roll call vote.

- 7.A Approval of minutes from the February 3, 2026 Council regular meeting and February 10, 2026 Council study session
- 7.B Approve payment of disbursements for the period January 1-31, 2026
- 7.C January 2026 Investment Transaction Report
- 7.D Project Completion and Contract Acceptance with Washington Roofing Solutions LLC for Fire Station 94 Re-Roofing Project 2851
- 7.E Project Completion and Contract Acceptance with Central Washington Asphalt for 2024 Northside Alley Paving Project 2759
- 7.F Project Completion and Contract Acceptance with Iron Horse LLC for Project SC2819 2025 Wastewater Collection System Rehabilitation
- 7.G Project Completion and Contract Acceptance with Interwest Construction Inc for Project SC2783 Maclaren Vicinity Wastewater Improvements
- 7.H Resolution accepting and approving 4th Quarter 2025 Claim Report
RESOLUTION NO. R-2026-024, A RESOLUTION accepting and approving the 4th Quarter 2025 Claim Report for the City of Yakima.
- 7.I Resolution approving an agreement with the Yakima Herald-Republic for legal advertising services
RESOLUTION NO. R-2026-025, A RESOLUTION approving an annual agreement with the Yakima Herald-Republic for legal advertising services.
- 7.J *This item was removed from the Consent Agenda*
- 7.K Resolution authorizing an Interlocal Agreement between SunComm and Yakima County Technology Services for network equipment maintenance and repair
RESOLUTION NO. R-2026-027, A RESOLUTION authorizing an interlocal agreement with Yakima County Technology Services for network equipment maintenance and repair on the Spillman Computer Aided Dispatch workstations.
- 7.L Resolution authorizing an Equitable Sharing Agreement and Certification with the United States Department of Justice
RESOLUTION NO. R-2026-028, A RESOLUTION authorizing an Equitable Sharing Agreement and Certification with the United States Department of Justice.
- 7.M Ordinance amending the Yakima Municipal Code Section 1.06.010 Meetings of the City Council
ORDINANCE NO. 2026 004, AN ORDINANCE amending the City of Yakima Municipal Code Section 1.06.010 Meetings of the city council.

Item Removed from the Consent Agenda

- 7.J Resolution authorizing an Interlocal Agreement with Washington Traffic Safety Commission to provide funding for a law enforcement liaison program
Lt. Ira Cavin briefed Council on the proposed resolution. The City Clerk read the resolution by title only.
MOTION: Byers moved and Berg seconded to approve the resolution for Item J. The motion carried by a 7-0 roll call vote.
RESOLUTION NO. R-2026-026, A RESOLUTION authorizing an Interlocal Agreement with the Washington Traffic Safety Commission for funding a Law Enforcement Liaison.

8) Public Hearings

8.A Public Hearing and Ordinance relating to Material Changes for the Transportation Benefit District (TBD) project list

Community Development Director Bill Preston briefed Council on the proposed ordinance related to material changes affecting the Transportation Benefit District project list. He described funding options and proposed schedule for consideration.

Mayor Brown opened the public hearing.

The following individuals provided comments and testimony: Josh Zeigler, Aileen Kane, Barry Bernfeld, Pattie Graffe (Selah Downtown Association), Nancy Davis, Greg Johnsen, Joan Walsh, Dave Cox (Northern Pacific Railway Museum), Maria Ramos, Stephen Rechtlen, David Foster, Badger Wentworth, and Brian Korst.

With no one else coming forward or calling in to speak, Mayor Brown closed the public hearing.

After extensive Council discussion,

MOTION: Potrykus moved and Glenn seconded that no Transportation Benefit District (TBD) funds shall be used for the repair, replacement, relocation, installation, or re-installation of trolley rail infrastructure as part of the 6th Avenue project. The motion carried by a 5-2 roll call vote; with Byers and Gonzalez voting no.

After further Council discussion, the City Clerk read the ordinance by title only and Council took the following action related to passage of the ordinance:

MOTION: Byers moved and Berg seconded to choose the option that removes the trolley tracks from the TBD list and move forward with the .01% sales tax. The motion carried by a 6-1 roll call vote; with Gonzalez voting no.

ORDINANCE NO. 2026-005, AN ORDINANCE of the City of Yakima, Washington, relating to a Transportation Benefit District; updating project costs for the transportation improvements to be funded by the district.

MOTION: Brown moved and Berg seconded to place on a April Council meeting agenda a discussion regarding a proposed charter amendment to permanently prohibit City Council members from imposing a car tab fee, in any form, and direct the City Attorney to prepare proposed Charter language for that meeting. The motion carried by unanimous vote.

9) Department Items

9.A Ordinance establishing a 0.1% sales tax for the Transportation Benefit District

Community Development Director Bill Preston briefed the Council on the proposed ordinance to establish a 0.1% sales tax for the Transportation Benefit District.

The City Clerk read the ordinance by title only.

MOTION: Byers moved and Berg seconded to approve the ordinance. The motion carried by a 7-0 roll call vote.

ORDINANCE NO. 2026-006, AN ORDINANCE of the City of Yakima, Washington, adding a new Section, 3.78.062 to the Yakima Municipal Code imposing an additional sales and use tax of one-tenth of one percent within the boundaries of the City of Yakima Transportation Benefit District for the purpose

of financing the costs associated with transportation improvements in the district as authorized by the Revised Code of Washington.

9.B Ordinance repealing the \$20 car tab fee

Community Development Director Bill Preston briefed the Council on the proposed ordinance to repeal the \$20 car tab fee.

The City Clerk read the ordinance by title only.

MOTION: Byers moved and Berg seconded to pass the ordinance. The motion carried by a 7-0 roll call vote.

ORDINANCE NO. 2026-007, AN ORDINANCE of the City of Yakima, Washington repealing Ordinance No. 2017-033 which established an annual vehicle license fee.

9.C Resolution authorizing an Interlocal Agreement with Yakima County Fire District #4, East Valley Fire Dept. for temporary access and use of City Knox Box Master Keys

Yakima Fire Chief Aaron Markham briefed Council on the proposed resolution that will allow Yakima County Fire District #4 to utilize the city's master key during emergencies to gain access to Knox boxes located within the City of Union Gap.

The City Clerk read the resolution by title only.

MOTION: Berg moved and Byers seconded to adopt the resolution. The motion carried by a 7-0 roll call vote.

RESOLUTION NO. R-2026-029, A RESOLUTION authorizing an Interlocal Agreement with Yakima County Fire District #4 for temporary use of City Knox Box master keys.

9.D Resolution authorizing application for grants from the Washington State Department of Transportation (WSDOT) and the Federal Aviation Administration (FAA)

Director of Yakima Air Terminal Christopher Hopkins briefed Council on the proposed resolution authorizing the City to apply for grant funding for improvements to the crosswind runway at the Yakima Air Terminal.

The City Clerk read the resolution by title only.

MOTION: Berg moved and Byers seconded to adopt the resolution. The motion carried by a 7-0 roll call vote.

RESOLUTION NO. R-2026-030, A RESOLUTION authorizing application for grants from the Washington State Department of Transportation (WSDOT) and the Federal Aviation Administration (FAA) for construction of the crosswind runway, a capital improvement project at the Yakima Air Terminal-McAllister Field.

9.E Discussion regarding the Request For Interest (RFI) letters for the operation of Washington Fruit Community Center and Harman Senior Center

Parks & Recreation Manager Ken Wilkinson briefed Council on the proposed draft Letters of Interest to solicit interest from organizations to manage and operate the Washington Fruit Community Center and Harman Senior Center. The Washington Fruit Community Center is budgeted until June 30, 2026, and

the Harman Senior Center is budgeted until December 31, 2026. The letters of interest would be used to initiate the Request for Proposal (RFP) bid process. No action from the Council was required to move forward at this time.

10) City Manager Update

10.A Preview of upcoming topics

City Manager Vicki Baker provided updates to Council regarding fundraising efforts for Lions Pool and noted that currently no sales tax funds are available to fund park maintenance and Lions Pool. State Representative Chris Corry submitted a budget proviso for Lions Pool. The city has been in ongoing discussions with the YMCA to help fill the community needs. Further updates will be provided in March when the pool has closed and maintenance costs are better determined.

Mrs. Baker mentioned that the three-business meeting format change approved by Council will be implemented in April and will include an open discussion section.

She also provided a brief preview of upcoming topics related to Council's Principles of Conduct and Code of Ethics, engineering and licensing fees, capital improvements projects, and infrastructure updates.

11) Other Business

MOTION: Byers moved and Berg seconded to bring to some future Council meetings, over the next two or three months, a discussion about the Charter and suggested changes for Council. The motion carried by unanimous vote.

MOTION: Berg moved and Brown seconded to add to a business meeting in March or April a discussion regarding enforcement of YMC Chapter 6.91 (Unlawful Camping Ordinance) on all public property. The motion carried by unanimous vote.

12) Adjournment

MOTION: Byers moved and Berg seconded to adjourn to the next City Council regular meeting on March 3, 2026, at 5:30 p.m. in the City Hall Council Chambers. The motion carried by unanimous vote.

The meeting adjourned at 7:46 p.m.

CERTIFICATION

READ AND CERTIFIED ACCURATE BY

/s/ Signature on File

COUNCIL MEMBER

DATE

/s/ Signature on File

COUNCIL MEMBER

DATE

ATTEST:

/s/ Signature on File

CITY CLERK

/s/ Signature on File

MAYOR

d. An inventory of the City's electric railway system, including trolley cars, engines, way cars, associated railway rolling stock, and electric railway system parts, overhead wiring, track, supplies, tools, machines, and other associated equipment and materials is attached hereto as Exhibit "C" and incorporated herein by this reference. YVT should update this inventory as necessary and provide an updated Exhibit to the City to attach to this Agreement.

2. Electric Railway System and Museum Use Restricted.

a. Electric Railway System Use Restriction. The operation, use and promotion license granted herein for the City's electric railway system shall be restricted to the use and operation of the electric railway system on a non-profit basis for the transport, benefit, and enjoyment of the public, as an educational resource, as a tourist attraction and a tourism promotional activity, and to activities necessary for the maintenance of the electric railway system.

b. Electric Railway Museum. The operation, use and promotion license granted herein for the City's electric railway museum shall be restricted to the use and operation of the electric railway museum on a non-profit basis for the benefit, education and enjoyment of the public, as a tourist attraction and a tourism promotional activity, and to activities necessary for the care and maintenance of the electric railway museum.

3. Maintenance.

a. General Maintenance. In consideration of the license granted herein, YVT assumes responsibility for and agrees to maintain the City's electric railway system, including trolley cars, engines, way cars, associated railway rolling stock, and electric railway system parts, overhead wiring, track, supplies, tools, machines, and other associated equipment and materials, and electric railway museum in good repair and in as clean, neat and orderly manner as reasonably possible. YVT must coordinate all significant general maintenance work with the Public Works Director and the City Engineer, or their respective designees.

b. Track Maintenance. YVT shall maintain all electric railway system railway track located on a City street in a manner that provides that the top of the rails shall be level with the surface of the street; provided, however, that YVT shall not be required to elevate or depress a rail in a City street in a manner that is contrary to standard railroad engineering practices. YVT must coordinate all significant track maintenance work with the Public Works Director and the City Engineer or their respective designees.

4. Budget and Expenditures.

a. Annual Operation and Maintenance Budget. With assistance from the City Manager and/or their staff, YVT shall submit a proposed annual budget to the City for the operation and maintenance of the electrical railway system and the electrical railway museum. This proposed budget shall be submitted during the City Council's normal budget preparation cycle. YVT will coordinate with the City Finance Director to provide a budget consistent with City format for timely internal review by the City.

b. City Approval Required for Maintenance and Operation Expenditures. To the extent that YVT requires and seeks funding from the City (including the "trolley fund") for any expense and/or costs related to the maintenance and/or operation of the City's electrical railway system and electrical railway museum, YVT shall seek and obtain approval of the City before incurring the respective expense and/or costs in accordance with the following: