

RESOLUTION NO. R-2021-

A RESOLUTION authorizing settlement of a damage claim filed by Central Washington Railroad ("CWRR") and the associated suit for declaratory judgment filed by Yakima County, including all cross claims and counter claims between the parties

WHEREAS, on February 10, 2020, CWRR filed a Standard Tort Claim Form with the City of Yakima and shortly thereafter also filed such a claim with Yakima County, each of which alleged that CWRR sustained damages as a result of an arson fire that occurred on or about August 11, 2018, and which destroyed a signal bungalow identified by USDOT as 103890Y located at the N. 16th Ave railroad crossing near W. Madison Ave in Yakima, Washington (hereafter called the "Fire");

WHEREAS, in 1977 Yakima County entered into a railway agreement with CWRR's predecessor in interest, Burlington Northern Inc. for the installation of grade crossing warning devices ("signals"), and the agreement specified a cost sharing ratio of 75% to be borne by the County and 25% to be borne by the railroad in the event that the signals were damaged and the cost of repair or replacement cannot be recovered from the person responsible for such damage. The terms of the railway agreement specify that it is binding on the parties' successors;

WHEREAS, the individual or individuals responsible for the Fire have not been identified;

WHEREAS, the City of Yakima annexed the location of the Fire in 1988 by Ordinance 3133;

WHEREAS, on August 13, 2020, Yakima County filed a Complaint for Declaratory Judgment in Yakima County Superior Court cause number 20-2-01620-39, seeking a determination that, due to the annexation, the City was its successor under the 1977 railway agreement;

WHEREAS, the City Council of the City of Yakima deems it to be in the interest of the City to authorize settlement of this damage claim and related lawsuit, now, therefore

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

The City of Yakima approves the Mutual Release and Settlement Agreement negotiated by the City of Yakima, CWRR, and Yakima County to resolve and settle the claims brought by the above-named parties. The City Manager and/or the City's legal counsel are hereby authorized to execute all documents necessary to conclude settlement as consistent with this Resolution.

ADOPTED BY THE CITY COUNCIL this 20th day of July, 2021.

Patricia Byers, Mayor

ATTEST:

Sonya Claar Tee, City Clerk