

# **PWR MODEL TRAIN MUSEUM PROJECT ADDITIONAL INFORMATION**

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## **MUTUAL SUPPORT FOR ECONOMIC DEVELOPMENT GOALS**

The City and Snoqualmie Tribe have worked together over the past several years in a positive way to accomplish economic goals through the initial wastewater agreement; the recent wastewater amendment expanding volume and upgrades to the City's water reclamation facility capital to support the Snoqualmie Casino expansion and hotel addition; and the City's support for the Tribe's BIA application to transfer Salish Lodge & Spa and other properties from Fee to Trust. The City also supports the Snoqualmie Tribe's recent projects such as the remodel of the Snoqualmie Falls Gift Shop and Visitor's Center; and a new awning structure and remodel at the Salish Lodge & Spa. Even with the close proximity of some of these projects to Snoqualmie Falls, the City recognizes that economic goals and projects are critical to the fiscal vitality of the Snoqualmie Tribal government and the services provided to its tribal members.

The City believes the model train project will mutually benefit both the City and Snoqualmie Tribe economically by drawing tourists to Snoqualmie, where they can visit both train museums, the model train and NW Railway, and stay for lunch or spend the night in one of our local hotels. The location at Gateway Park will provide synergies between the model train and NW Railway, as the tourists will visit the "miniature" train museum, then ride a real train and visit the NW Railway Museum. The museums will draw a variety of generations, which will visit the site and have the opportunity to learn about ancestral lands movement and overall history of the Snoqualmie Tribe.

We sincerely hope the Snoqualmie Tribe will provide mutual support for the City's economic development goals for this gateway project. The movement of the Salish Lodge & Spa and other properties into Trust is a welcome development, but it also will impact the City's tax roll revenues, which in turn affects the City's financial ability to provide certain municipal services. We believe that both the City and the Snoqualmie Tribe have a mutual interest in the City maintaining current funding levels for municipal services. The model train museum is one means by which the City can encourage economic activity that will ultimately benefit both the City's interests as well as that of the Snoqualmie Tribe.

It is our goal and intent, as well as the applicant's, that this project and the land parcel honor the past while moving into the future, showing that history and development can co-exist by telling a historic and modern-day story.

The City values its relationship with the Snoqualmie Tribe and our cooperative efforts to promote the environmental integrity, cultural history, and economic vitality of the Snoqualmie Tribe and the City of Snoqualmie.

## **CONVERSATIONS WITH THE SNOQUALMIE TRIBE**

Through our conversations with the Snoqualmie Tribe, we have heard their concerns and are addressing these as described in the section “Responses from Applicant”.

### **RESPONSES FROM APPLICANT:**

**Project distance from Kimball Creek:** Olson Kundig Architects have come up with a design that pushes the building as close to Snoqualmie Parkway as possible, with the goal to respect Kimball Creek and the flora and fauna within. This area along the forest boundary deserves respect; providing an improved environment for plants and wildlife to thrive would be a part of our mission.

**Minimize Impact to Existing Vegetation:** From the earliest stage of the project, we've discussed the goal of using native vegetation for landscaping. We would seek the Snoqualmie Tribe's help and input in choosing the vegetation that would extend outward from the creek to the museum structure and campus. We believe the site could provide much greater vegetation than how it is currently utilized. We would greatly appreciate the Tribe's input for ways to showcase and educate the public on the importance of the different varieties of vegetation.

**Consider the impact railroads had on the Snoqualmie Tribe's way of life:** We believe there is an opportunity to educate the general public on the negative impact that railroads had on the Snoqualmie people, as well as other Native Americans throughout the country. We would seek the Tribe's help in telling this story, providing a space within the museum, on the campus, or in both locations, where this history could be told. Additionally, to the written education, we have a wonderful mural artist that has worked alongside a Tulalip Tribal member. We would love for the tribe to work alongside the artist to provide a meaningful mural that they would like to share with visitors to the Snoqualmie Valley.

**Ancestral Lands Movement:** Being named Gateway Park, this site could provide a space for the Snoqualmie Tribe to share the importance of how to respectfully recreate on their ancestral lands throughout the valley and beyond. If the Tribe were interested, we would look to provide a highly visible space within the museum or campus to share how visitors can recreate on native lands in a respectful manner.

The City will administer all applicable land development regulations and require careful adherence to archeological standards while taking into consideration Snoqualmie Tribe feedback and comments throughout the development process. None of the project will infringe on the conservation easement area, nor the site line of Snoqualmie Falls, which is not visible from the land parcel.

The City and project applicant are happy to continue our dialog with the Snoqualmie Tribe on the project. There have been conversations with the Snoqualmie Tribe this year, in addition to the “government to government” meeting in March.

- **On March 1, 2023**, Mayor Ross met with Chairman De Los Angeles for coffee. One of the topics included the proposed model train project. The Chairman raised concerns about limited parking for the Snoqualmie Falls, if the model train were to be located at Gateway Park. They discussed other parking options, better parking signage and a potential shuttle service that would service the Salish Lodge, model train, Historic downtown, and Snoqualmie Casino. Mayor Ross followed up with an email to Chairman de los Angeles providing more information on the model train including two videos regarding the model train project: 11+ minute video of the Northwest Trunk Lines model railroad and King 5's Evening segment about the model train.
- **On March 9** there was a virtual government to government meeting with Councilmember Castleberry and Jaime Martin, Mayor Ross, City Administrator Mike Sauerwein, and Councilmember Jim Mayhew. CM Castleberry raised concerns of proximity to Kimball Creek. He was also concerned about the potential increase in the amount of traffic it may cause. Jaime Martin stated the Tribe is against building on that lot, and wanted it restored to original prairie grass. She spoke to the history of impact railroads had on the Tribes, and proximity to a sacred space, the Snoqualmie Falls. Jaime provided an update that the Tribe was currently remodeling the gift shop located at the Falls. At the end of the meeting, a follow-up meeting was scheduled for March 29.
- **On March 14** Mayor Ross spoke with CM Castleberry on the phone regarding a variety of topics, including the model train.
- **On March 29** CM Castleberry sent an email at 2:38PM stating they have no updates on their end, so suggested canceling the meeting that was scheduled for 4pm. The meeting was cancelled.
- **On April 6** Mayor Ross had a meeting with CM Castleberry. Mayor Ross provided an update on the planning process for the model train, and talked about the importance of this location as it is the gateway and first impression of Snoqualmie after visiting Snoqualmie Falls and asked for the Tribes support on the project, or at least not oppose it.
- **On April 26** Mayor Ross spoke with Chairman de los Angeles at the State of the Cities and mentioned the model train project, asking for support of the project, or at least to not oppose it. The Chairman mentioned he would talk with his Council and would get back to her.
- **On July 20** Chairman de los Angeles responded with a letter to Mayor Ross opposing the project. Mayor Ross reached out to the Chairman on July 26 hoping to have a conversation and left a message that the City's response would be provided the next week.
- **On August 1** Mayor Ross sent a letter to Chairman de los Angeles with the City's response to the July 20 letter.

***The City Council looks forward to our meeting to further discuss this project with the Snoqualmie Tribal Chairman, Chief and Council on August 25.***

**VIABILITY: PROTECTIONS TO ENSURE PROJECT COMPLETION AND OPERATION**

1) Section 4.4 the Notice to Proceed section of the development agreement contains conditions under which the museum may break ground. Specifically, it requires the applicant, PWRF (Pacific West Railway Foundation), may issue its Notice to Proceed to its general contractor upon receipt of the following:

(a) concurrence by the City Administrator that the Final Project Budget is consistent with the cost of completing construction of the Final Project Design, based on their review of the most recent construction cost estimates provided by PWRF;

(b) the determination of the City Administrator, based on their review of the status of PWRF’s fundraising efforts against its Fundraising Plan, that PWRF has timely access to sufficient funds from all available sources, including private individuals, corporations and foundations and public sources other than the City, to fully fund the cost of completing construction of the Project, as reflected in the Final Project Budget; and

(c) concurrence by the City Administrator that (i) PWRF’s general contractor has agreed to a guaranteed maximum price to construct the Project as represented in the Final Project Design and consistent with the Final Project Budget; and (ii) PWRF’s contract with its general contractor provides for the requirements for construction under this Agreement.

2) Should the museum be unable to continue to operate, the building would revert to City ownership. The facility could then be leased for an approved use or operated by the City to serve as an events/conference space or cultural purposes.

**GATEWAY LAND PARCEL BACKGROUND, ALLOWED USES**

The proposed project would develop the land parcel as a park with a museum in the Open Space (OS) District consistent with the provisions of the Final Plan and zoning. This open Space (OS) District intended to provide areas appropriate for active and passive recreation and certain institutional uses such as a museum. An institutional use, including museum is a conditional use permitted with the shoreline designation, Urban Floodplain Environment.

The project location at the Gateway to Snoqualmie on the corner of Railroad Ave/SR 202 and Snoqualmie Parkway is addressed in the Comprehensive Plan, as gateways serve as entrances to the city and its different areas and districts. Per the Comprehensive Plan, *“Protection and enhancement of gateways is important for*

*preserving unique images for those traveling into and through the City, as they often present the first face and impression of a place.”*

Currently what visitors see at this gateway is a vacant, minimally maintained lot. The PWR Project would enhance this property and contain a visually appealing park and museum. The Comprehensive Plan also identifies this specific area as the *Gateway Neighborhood* noting it is “*reserved pending future development.*”

The project will be complementary to the popular Railway Museum train excursion, serving to further increase tourism tax revenue by drawing more visitors to our downtown corridor. The project also complements railway history of Snoqualmie, which is a significant, established tourist attraction that supports the local business community. Additionally, the park component of the project provides an amenity for residents and visitors, and space for events and gatherings.

There are limited uses allowed at this site that meet current zoning code. A viable, allowed-usage project for this City-owned property – one that also aligns with defined economic development and tourism goals of the Comprehensive Plan and City Council priorities - has not been presented to the City in nearly two decades. Given that the City has completed nearly all of its 20-year vision plans for the downtown core and enhanced downtown’s connection to Snoqualmie Falls, this project is an optimal fit. Additionally, the project team will fund it, the project will not require additional taxpayer dollars - which means the return on investment is significant. Snoqualmie Venturing Crew 115 has used this land parcel for free each winter as the site of its annual Christmas Tree lot. The City recognizes the community’s connection to this holiday tradition and looks forward to exploring all alternative options that will continue to offer Christmas tree sales.

**Applicant Response:** PWR is still exploring a potential location on the site for Venturing Crew #115, the Christmas Tree Lot. As a longstanding tradition for many families within the area, we would do our best to offer a space for trees to be sold. The design process is still in its infancy, so no promises can be made, but we will do our best.

Historically, the vacant parcel has also been used for PSE storage, it provides overflow parking area for the Salish Lodge & Spa and the Snoqualmie Falls, and as a staging area for construction projects and the Boeing Classic golf tournament. None of these uses support the City’s Comprehensive Plan or Council priorities. Nearly 20 years ago, a park was proposed for this site that included a railroad spur, train display, visitor’s center, and restroom. It was this project that resulted in paver bricks that currently cover a portion of the property, as well as the railroad spur and rotary plow on display. At that time a City consultant – Roger Brooks of Destination Development – who was helping create the long-term visioning plan for the downtown corridor to enhance tourism, advised that until the downtown revitalization work was complete, this type of park - in this location – was likely to serve as a place for visitors to stop and then head up

Snoqualmie Parkway and leave, rather than draw them toward downtown. This is one of the reasons the project never made it to completion, along with a change in leadership at the Snoqualmie Valley Rotary.

## **CONTRIBUTION TO LOCAL ECONOMY | DESIGN STANDARDS | TRAFFIC MITIGATIONS | SIGNAGE STANDARDS**

There have been some questions from Councilmembers pertaining to building design and land parcel landscaping standards. While valid concerns, many of these concerns will be addressed as part of the City's established design review process administered by Community Development Department and the Planning Commission. Some of the concerns - traffic for example - are bigger than this project and may require offsite improvements to correct longstanding design features that contribute to downtown traffic congestion, as well as the regional traffic on SR202. The Parks & Public Works Department is currently considering several options to improve these downtown corridor design deficiencies and looks forward to bringing them forward to Council for review and consideration. If there are design elements or standards that the Council believes are essential for this project but which are not reflected in current City Code, the Council can propose to include those additional elements and/or design standards in the Development Agreement (subject to the applicant's assent), so that the Design Review Board can apply them when conducting the design review process provided in the code and required by the agreement.

**Conceptual Building Design Applicant Response:** The initial designs are very preliminary and will be refined during the established design review process. One of the reasons for the long, flat wall in the conceptual design is the exhibit within. The model railroad scenery is very susceptible to UV damage, and reducing natural light will help to preserve the exhibit. That said, this is still very early in design. We are extremely open to building and landscape design that improve the overall feel and experience. We continue to see this project as a partnership, one in which the city, tribe and community provide feedback.

## **MUSEUM NAME AND OUTDOOR STAGE CLARIFICATION**

There has been a concern that the museum name – Pacific West Railway Museum – is similar to the Northwest Railway Museum and could cause confusion for tourists. The applicant responded to the City Council at its July 31 Special Meeting, explaining that considerable costs had already been incurred establishing the nonprofit.

The applicant was, though, willing to consider other, including opportunities to brand with a tag line indicating “model train” and on website and collateral materials, this tagline would be clearly stated to provide additional clarity.

**Applicant Response:** We've altered our name from Northwest Trunk Lines to Pacific West Rail. The museum would use a tagline, "A Miniature Train World" or something similar that would

explain that this is very different from the established NWRM just down the road. This tagline could appear on our building, website, and other locations. We would also look to provide signage, QR codes and docent training to help navigate visitors to the Northwest Railway Museum.

The project's preliminary site plan does not contain plans for an outdoor stage component. If it had, this issue would be resolved through the City's established development process. Additionally, section 5.1 of the Ground Lease permits these specific property uses: "Tenant shall use the Premises for Museum purposes (including the display of Museum Property, and cultural, educational, and special events), ancillary purposes (including cafe and gift shop), functions and events hosted or sponsored by Tenant, and related office, educational, research, administrative, storage, and back-of-house uses only." This ground lease language would not support public assembly uses at an outdoor stage.

### **Outdoor Stage & Seating**

The project's preliminary site plan does not contain plans for an outdoor stage component. If it had, this issue would be resolved through the City's established development process.

**Applicant Response:** There are no plans to provide an outdoor stage. The seating that is provided outdoors is more of what one would find within a park environment, not for any performance. There may have been some confusion with the steps leading up to the museum, as this may have appeared as if they were providing a stage for performances. The reason for the steps is that the building can be pulled closer to the rail line if we go with that design. Olson Kundig Architects can provide further details.

## **CITY COUNCIL PRIORITIES AND GOALS**

The project supports identified City Council priorities, including 'encouraging economic vibrancy,' 'bolstering neighborhood livability,' and 'enhancing quality of life.' The project will help attract retail development to the City and supports efforts to increase economic development and tourism to bolster tax revenue that supports the general fund. It will also improve the streetscape at this highly visible location.

This project both creates and promotes the Snoqualmie brand identity supporting railway associated tourism initiatives and implementing another opportunity to expand recreational programs and activities for visitors and residents.

The project supports the Snoqualmie 2032 Comprehensive Plan Vision Plan of a *Healthy, Diverse Economy; a Distinctive Sense of Place; and Livable and Complete Community* by:

- 1) Promoting a diverse economic base that generates sufficient revenue to provide and maintain the facilities and services needed and expected by citizens.

- 2) Enhancing vibrant pedestrian-oriented retail districts with a recognized character distinctive to Snoqualmie rather than “anywhere USA.”
- 3) Promoting well-maintained public and private properties and infrastructure conveying a unified sense of community pride.
- 4) Enhancing a robust and well-integrated system of parks, open spaces, trails, activity venues, and programs, along with land use and community design strategies that encourage residents to maintain active, healthy lifestyles, enjoy the outdoors, and serve as worthy stewards of our natural environment.

## **WHY NOW, WHY SNOQUALMIE?**

PWR needs a permanent home. It had approached and considered other locations for its proposed museum, including neighboring North Bend and the City of Tacoma, but prefers Snoqualmie due to the beneficial location; team member ties to the City; and the significant, established tourism base revolving around the NW Railway Museum and Snoqualmie Falls.

This project, combined with upcoming improvements to the Centennial Trail, will provide improved connection between Snoqualmie Falls and downtown Snoqualmie, and offer a new tourist attraction along this route. Not only will the project support the City’s economic development and tourism goals, but it will also provide an educational activity for Snoqualmie youth, while also creating a potential partnership opportunity with other Valley agencies.

## **BENEFITS TO CITY AND RESIDENTS**

- **Educational Model Railroad Exhibit:** PWR will provide the Northwest with its largest and best model railroad exhibit. The opportunity to be the best of its kind is rare to any community and a single, powerful ingredient for the success of the total attraction.
- **Interpretive Center of American History and Culture:** Importantly, PWR will interpret rail transportation history, technology, and culture, with public programs for visitors and students.
- **Educational Center:** The model railroad is a valuable technical and cultural resource, capable of inspiring and motivating students. Trained docents and staff will share information during tours, and informal programs will stress STEAM (Science, Technology, Engineering, Arts, Math) and support public education learning requirements.
- **Meeting and Business Venue:** The museum and its event and meeting facilities can be an adjunct to the convention and business activities of the Snoqualmie Corridor. Convention planners will find that PWR provides a valuable new venue for breakout meetings and social and cultural programs that can help attract business.



- **Regional Special Event Venue:** Cultural attractions have begun to establish their popularity as unique event locations, attracting various social, cultural, and entertainment events.
- **Community Meeting Place:** PWR will have a meeting room that groups can use, establishing the museum as a locus of community service. In addition, special arrangements for non-profit organizations, trade-out agreements with clubs, and nominal fees for space use will make PWR accessible for many good causes.
- **Entertainment and Shopping:** The entertainment of the miniature world is inviting. The specialty shop, decorated with a railroad and travel motif, will cater to a large segment of tourists. Day and night, inside and on the outdoor plaza, social and cultural events will add constant activity and color to the institution.
- **Destination Attraction:** With all the above elements working together, a synergism will create a powerful draw. This broad market service will establish PWR as a thriving destination attraction for the region, one that can bring new visitors to enhance the cultural community. PWR will enrich resident and visitor experiences in Snoqualmie.
- **Visitor's Center and Event Space:** Per the City's request, the applicant will incorporate some type of visitor's center into the museum, as well as event space. The visitor's center will share Snoqualmie Valley history, tourist attractions, and direct visitors to City retail areas. The event space will provide additional space for meetings and community events, which is greatly needed in the Snoqualmie Valley.

## **DEVELOPMENT AGREEMENT CLARIFICATIONS**

There has been concern expressed by Council regarding approval of the project's final design – that the final design could be different than the design presented to Council and incur a different cost.

Language in the proposed development agreement addresses these concerns:

### **Section 3.2.1 addresses applicant (PWRF) Funds and Fundraising.**

(a) As reflected in Exhibit D, the Preliminary Project Budget currently totals between Twenty-two Million Nine Hundred Ninety-Five Thousand Fifty to Thirty Million Five Hundred Sixty-four Thousand Five Hundred Dollars (\$22,995,050 – \$30,564,500) to complete the development and construction of the Project, to be provided from all available sources. PWRF will be responsible for securing the funding needed to fully fund the eventual Final Project Budget, increased, or decreased as appropriate resulting from scope, design and schedule changes and any cost overruns, all as provided herein. PWRF's fundraising commitment shall be increased to reflect the additional cost of any financing necessary to ensure the availability of funding as needed during construction of the Project (above the projected cost of any such financing reflected in the Final Project Budget). PWRF agrees to use its best efforts to secure commitments from private individuals, corporations and foundations, and governmental sources (other than the City) for such funds on a schedule consistent with its Fundraising

Plan, attached hereto as Exhibit E. PWRF's success in achieving its fundraising objectives shall be evaluated by the City Administrator when making their determinations under Section 4.4. Such evaluation shall include review of PWRF's private sector donor pledges, pledge payment experience and such other relevant information the City Administrator may reasonably require. PWRF's private sector donor pledges will be reviewed by the City Administrator under procedures to protect the confidentiality of donors and PWRF donor-related information to the extent possible. PWRF will submit to the City Administrator a copy of the pledges in a form acceptable to the City Administrator, with donor names verified by the City Administrator but omitted from the copy submitted. The City Administrator will approve a pledge if it is from a person or entity of substantial net worth in relation to the amount pledged and the City Administrator knows of no reason the pledge will not be honored.

**(b)** If requested by PWRF, the City will consider providing financing or credit enhancement for PWRF financing that may be needed to bring City-approved pledges forward to facilitate commencement of construction.

**(c)** If PWRF determines that, its best efforts notwithstanding, it is unlikely to be able to secure sufficient funding to complete the Project as presently conceived and as represented in the Preliminary Project Design, it shall so advise the City. The Parties shall confer and determine whether a mutually agreeable alternative project may be constructed and operated within projected reasonably available resources. In the event the Parties concur that such an alternative project would be mutually acceptable, the requirements of this Agreement may be modified to reflect such a modified project, including revising the Project design, budget, and schedule for completing it, as appropriate. If the Parties cannot achieve concurrence on such an alternative project, particularly if the PWRF concludes, in its sole discretion, that its fundraising efforts are unlikely to yield sufficient resources to construct any project that would fulfill its vision and aspirations, this Agreement shall be terminated, as provided in Section 6.16.2.

Section 4.2.1 addresses the design process, placing design review and approval with the Planning Commission or the "City Design Review Board." Section 4.2.1 states "City Design Review and Approval. Sequential, major phase design documents (including schematic design, design development and permit documents) shall be reviewed and approved by the City Design Review Board, which approval shall not be unreasonably denied, conditioned, or delayed. The Project's Preliminary Project Design is attached hereto as Exhibit C. Upon the City Design Review Board's approval of the Project's one hundred percent (100%) construction documents, such documents shall constitute the Final Project Design for purposes of this Agreement. The Final Project Budget for construction of the PWR Museum consistent with the Final Project Design shall be determined by PWRF and is subject to the approval of the City as provided in Section 4.4.

If the Council believes that the City's current codes and design standards are insufficient or do not contain desired criteria for approval of this museum project, the Council can propose to include additional elements and/or design standards in the Development Agreement (subject to the applicant's assent), so that the Design Review Board can apply these standards when conducting the design review process provided in the code and required by the agreement.

Section 4.2 addresses design changes. Section 4.2.2 Material Change states: Any material changes to the Final Project Design require the prior approval of the City Design Review Board, which approval shall not be unreasonably withheld or delayed. A material change is any change estimated to cost Two Hundred Thousand Dollars (\$200,000) or more to complete and that, in the reasonable determination of the City Administration, materially affects the design, function or utility of the Project, including but not limited to elimination or addition of a significant element or feature; discernible or functional alteration in the quality or projected performance of any significant feature or system; or any significant change in the use or appearance of any major space or component. PWRF shall notify the City Administrator of any proposed material changes. Any dispute between the Parties as to whether a proposed change is material shall be resolved in favor of requiring the City Design Review Board's approval. Before PWRF gives its construction contractor its Notice to Proceed with construction, the Parties shall develop a process under which any proposed material changes shall be reviewed by the City Design Review Board, including a timeline for such review designed to minimize potential delays in completing the Project consistent with the Final Project Schedule. Nothing in this paragraph shall be construed as limiting the authority of the City to approve or disapprove proposed changes to the Project when acting in its regulatory capacity. This development agreement section delegates approval authority for material changes to the Planning Commission.

## **GROUND LEASE CLARIFICATIONS**

Council has expressed concern that the proposed ground lease does not guaranty a museum will be built on the city-owned land parcel. Section 5.1 of the Ground Lease states: Use. Tenant shall use the Premises for Museum purposes (including the display of Museum Property, and cultural, educational, and special events), ancillary purposes (including café and gift shop), functions and events hosted or sponsored by Tenant, and related office, educational, research, administrative, storage, and back-of-house uses only. Section 3.5 also specifically requires when the museum must be open to the public.

Additionally, Section 3.4 of the ground lease – Public Benefits – requires that a museum be constructed, through the “identification of and Tenant's commitment to the ongoing provision of certain public benefits as described herein. In fulfillment of Tenant's commitment, from and after the Opening Date, Tenant shall, subject to casualty, Force Majeure and any renovations, operate or cause to be operated the Museum and shall perform or ensure the provision of certain Public Benefits identified in Exhibit C during the Term of this Lease, all at no cost to Landlord.”

Council has expressed concern regardless the ground lease start/effective day and whether it should be when the design is approved, and all construction funds secured. The ground lease starts on the “Commencement Date”, which is defined in Section 1.3 to be the date when construction starts after the Notice to Proceed is delivered. A notice to proceed would not be issued until the design is approved and funds have been secured. The development agreement addresses fundraising language and is referenced in Section 2.3 Termination of Development Agreement: “The parties acknowledge and agree that the Development Agreement contains certain termination rights and that in the event the Development Agreement is terminated this Agreement shall terminate concurrently.”

Council has addressed concern that since the lease becomes effective almost immediately, would the city lose the ability to use the land parcel – e.g., equipment staging, nonprofit uses, overflow parking - before the museum project construction commences. As noted above, the lease does not begin until the Commencement Date, which is when construction begins. The City also has a verbal commitment from the applicant for continued usage during project fundraising.

**Should the liability insurance increase over time?:** We asked WCIA to recommend appropriate insurance requirements for both the Lease and the DA. We incorporated their recommendations. But your point about the length of the lease is a good one and we can inquire about options for adjusting the minimum liability limits over the 50-year term to reflect increases in potential exposure. Note, too, that this provision is a mandatory minimum insurance provision. PWRF has its own economic incentives to maintain adequate liability coverage for its own operations at the museum throughout the course of the lease term so as not to be exposed to huge risk of financial loss.

**Should property insurance prohibit self-insurance and specify maximum deductible levels?** The lease does not allow full “self-insurance.” Section 4.3 requires the tenant to maintain a “standard form property insurance policy” on both the Improvements (i.e., the building) and the Museum Property (i.e., the exhibits). The Improvements insurance policy must provide 100% replacement cost coverage. The policy also must have a “commercially reasonable deductible” (some policies refer to the deductible as a “self-insured retention”). In other words, the deductible cannot be so high that it would be commercially unreasonable to expect the foundation to be able to pay it from its budget. The “Museum Property” insurance requirements are a little more flexible because the exhibits belong, and will always belong, to the foundation. The lease allows some flexibility in determining the level of “replacement value” property coverage for what are very unique assets that are extremely difficult to value and may, in a practical sense, be impossible to truly “replace.”

**Should lessee and its assets liability exemption be removed?** The City is not waiving claims against the museum. Section 4.6 says that the City will not have recourse for damages or indemnification against the “Museum Property” (i.e., the model train exhibits) or its endowment/pledges or against the officers/trustees/etc. personally.

The City would have recourse to insurance coverages/proceeds in the event the foundation fails to pay a damages claim or indemnification owed to the City. We can ask to revise this if the Council feels these protections are insufficient (i.e., we could request that the City have recourse against museum operating revenue and/or donations or endowments for operating expenses).

**Should non-minor changes in building and premise uses be approved by Council?** Section 6.1 of the lease – Alterations - states, “At any time and from time to time during the Term, Tenant may make, at its sole cost and expense and without the prior consent of Landlord, Alterations to the Improvements, provided that Landlord shall have the right to consent to any major re-development of the Improvements after construction of the Museum, provided further that such consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall be responsible for obtaining permits necessary for any repairs, replacements, or Alterations. No change or alteration to the Premises or the Improvements shall be undertaken until Tenant shall have procured all required permits, licenses, and authorizations for such alterations. All changes and Alterations shall be made in a good and workmanlike manner and in compliance with all Legal Requirements.” The applicant/tenant is still subject to permits and plan review that same every building in the City and significant alterations to the exterior of the structure would trigger Planning Commission review, which is established in the City’s design review process.

The intent of this Section 6.1 is to allow the foundation to modify the exhibits and make minor alterations to the structure and grounds without having to through a full Design Review Board process. “Major redevelopment of the Improvements” – i.e., significant changes to the design of the structure and grounds—would require City approval. The City must be reasonable in its consideration, processing, and conditioning of any consents to “major redevelopment” proposals. All alterations to the building and premises that would require a permit must go through the permitting process, just as with other landowners and tenants in the City.

**Should lease transfers require City Council approval?** Section 12.1 does not allow transfer to be approved by staff. Transfers under 12.1 require “written consent of Landlord.” The City is the landlord, and the City Council is the body within the City that has the authority to approve leases and transfers of City property.