

## MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into this 28th day of November 2022 (the “Effective Date”), by and between the CITY OF SNOQUALMIE, a Washington municipal corporation (“City”), and the NORTHWEST TRUNK LINE MUSEUM, a Washington nonprofit corporation (“NWTLM”), on the terms and provisions set forth below.

### RECITALS

A. Peter Hambling (“Hambling”) is a principal in NWTLM and the owner of a one of the largest model railroads in the country. Mr. Hambling desires to donate the model railroad to NWTLM in order to enable NWTLM make the model railroad available for public recreation, education and enjoyment on a suitable public park property and in a suitable museum facility ( “Public Park/Museum”).

B. NWTLM wishes to begin a capital campaign to raise funds to pay for the costs to design, develop, and operate a Public Park/Museum.

C. City owns fee title interest in certain real property located at: Parcel number: 3024089089. Address: 7001 Railroad Ave SE Snoqualmie 98065 and identified as suitable for the Public Park/Museum (map of property below) (“the Property”).



D. The City and NWTLM desire to enter into this MOU to memorialize their intent to (i) negotiate regarding the possible development of a Public Park/Museum on the Property and (ii) set forth the respective obligations of City and NWTLM pursuant to this MOU.

**NOW, THEREFORE**, in consideration of the above Recitals, which are incorporated herein by this reference, and the mutual covenants and conditions contained herein, the parties hereto agree as follows:

#### **1. Term.**

This MOU shall commence as of the Effective Date and, unless earlier terminated pursuant to the terms of this MOU, shall remain and continue in effect for a period of 4 months (“Term”). Upon expiration of the Term, this MOU shall automatically terminate unless extended as provided herein. Notwithstanding the foregoing, the Snoqualmie Mayor shall have the right, but not the obligation, to grant an administrative extension of this MOU for up to one hundred (120) days. If the Term plus any administrative extension is not sufficient to organize the required information for review, upon mutual agreement of City Council and NWTLM, this MOU may be extended for up to two additional Terms (“Renewal Term”) of 3 additional months each.

## **2. Scope of MOU.**

The roles and responsibilities of City and NWTLM pursuant to this MOU are defined below:

### **A. City’s Obligations.** During the term of this MOU, City shall:

1. Negotiate in good faith with NWTLM regarding towards the basic terms of a transaction that could, if approved by the Snoqualmie City Council, culminate in a ground lease (“Proposed Lease”) and/or Lease / Lease Back arrangement under RCW 35.42.070 (“Lease / Lease Back”); a Design-Build or General Contractor / Construction Manager Agreement under Ch. 39.10 RCW (“Design-Build Agreement”); and/or an Operations and Maintenance Agreement (“O&M Agreement”); all for the purpose of facilitating the design, construction and operation of a Public Park / Museum on the Property; provided, nothing in this Section 1 obligates the City to approve a Lease/Lease Back, Design-Build, or O&M Agreement for a Public Park/Museum.

2. Provide information on the physical properties of the Property, and the process for design, construction and development of a Museum building, which process would occur subsequent to a lease or lease / lease back, design-build agreement, if approved.

3. Provide relevant information on funding and financing available to City for cultural development.

4. Review and respond in good faith to all submittals made by NWTLM pursuant to this MOU.

### **B. NWTLM’s Obligations.**

During the term of this MOU, NWTLM shall:

1. Negotiate in good faith with City towards the basic terms of a transaction that could, if approved by the Snoqualmie City Council and NWTL, culminate in a Proposed Lease and/or Lease / Lease Back, Design-Build, and/or an Operations and Maintenance Agreement for design, construction and operation of a Public Park / Museum on the Property.

2. Submit to City for review, no later than 4 months after the Effective Date, the following:

- a. A site plan and preliminary structure design for the Public Park/Museum on the Property;
- b. A cost estimate for building the Public Park/Museum.

- c. A funding and financing plan for building the Public Park/Museum, including identification of funding sources and amounts attributable to each source;
- d. A proposed schedule for designing, constructing, developing and operating the Public Park/Museum;
- e. Legal documents creating a Washington non-profit corporation to receive a donation of the model railroad, initiate fundraising and financing, and operate and maintain the Public Park/Museum following completion of construction;
- f. A business plan that assures sustainable operation and maintenance of the Public Park/Museum, and public education and service; and
- g. Such other information that the Mayor and City Council require to make decisions on the steps described in this MOU related to a proposed Public Park/Museum on the Property.

3. Review and respond in good faith to all comments and requests for information made by the City pursuant to this MOU.

#### **4. No Predetermination of City Discretion.**

City and NWTL acknowledge and agree that nothing in this MOU in any respect does or shall be construed to affect or prejudice the exercise of City's discretion concerning the designation of a proposed site, consideration of a Public Park/Museum, a Proposed Lease, Lease / Lease Back, Design-Build Agreement or O&M Agreement or any other submittal by NWTL with respect to any of the foregoing. City and NWTL acknowledge and agree that they have not agreed upon the essential terms of the subject matter of a transaction, and that such essential terms will be the subject matter of further negotiations. Notwithstanding any submittals to be made by NWTL hereunder, and/or any authorization by the Mayor to extend the term of this MOU, City and NWTL acknowledge and agree that any Proposed Lease, Lease / Lease Back, Design-Build Agreement or O&M Agreement would not be effective until it has been considered and formally approved by the City Council and thereafter has been executed by authorized representatives of each of the City and NWTL or, as applicable, a developer, design-builder or general contractor / construction manager.

#### **5. Assignment.**

NWTL may not assign, hypothecate, encumber, or otherwise transfer (voluntarily or involuntarily) this MOU or any of its rights or obligations hereunder (whether in whole or in part) (each, an "Assignment") without the prior written approval of the Mayor or her designee, which approval may be given or withheld in the Mayor's sole and absolute discretion

#### **6. Real Estate Commissions.**

Each party represents and warrants to the other party that the representing party has not engaged a broker, agent, or finder in connection with this transaction. Each party agrees to defend, indemnify, and protect and hold the other party harmless from any such claims contrary to the representation or warranty of the applicable party in the preceding sentence.

#### **7. General Provisions.**

A. Governing Law and Venue.

This MOU shall be governed by the laws of the State of Washington. Venue for any action arising out of the MOU shall be brought in King County Superior Court.

B. Attorney's Fees. Each party shall be responsible for their own respective attorneys' fees and costs incurred in the course of execution, implementation and/or termination of this MOU.

C. Termination.

Notwithstanding the term hereinabove set forth, either party may terminate this MOU at any time with or without cause, by providing seven (7) days' advance written notice of termination to the other parties' representative as set forth in subsection D below. Termination shall be effective on the 7th day following delivery of notice.

D. Notices, Demands and Communications Between the Parties.

All communications, notices, and demands of any kind that a party under this Agreement requires or desires to give to any other party shall be in writing and either (i) delivered personally, (ii) sent by facsimile transmission with an additional copy mailed first class, or (iii) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

If to the City:  
City of Snoqualmie  
c/o City Administrator  
P.O. Box 987  
Snoqualmie, WA 98065

If to Owner:  
Northwest Trunk Line Museum

\_\_\_\_\_, WA 98\_\_\_\_

Notice by hand delivery or facsimile shall be effective upon receipt, provided that notice by facsimile shall be accompanied by mailed notice as set forth herein and shall be evidenced by a machine-printed confirmation of successful transmission. If deposited in the mail, certified mail, return receipt requested, notice shall be deemed delivered forty-eight (48) hours after deposited. Any party at any time by notice to the other party may designate a different address or person to which such notice or communication shall be given.

E. Entire Agreement, Waivers, and Amendments.

This MOU integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this MOU must be in writing and signed by the appropriate authorities of the party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of City and NWTL. Without limiting the foregoing, the parties understand that the

results of this MOU may lead to future agreements or obligations which shall only become valid (if at all) upon full execution of such future agreements.

**F. Successors.**

Subject to the limitations on Assignments above, this MOU shall be binding upon and shall inure to the benefit of the permitted successors of each of the parties hereto.

**G. Further Assurances.**

The parties hereto each agree, without further consideration, to execute such other and further documents, and to perform such other and further acts, as may be reasonably necessary or proper in order to consummate the transaction set forth in and contemplated by this MOU.

**H. Severability.**

In the event any section or portion of this MOU shall be held, found, or determined to be unenforceable or invalid for any reason whatsoever, the remaining provisions shall remain in effect, and the parties hereto shall take further actions as may be reasonably necessary and available to them to effectuate the intent of the parties as to all provisions set forth in this MOU.

**I. No Third Party Beneficiaries.** Nothing in this Agreement shall be construed to inure to the benefit of any third party.

**J. Mutual Drafting.** Both the City and Owner have participated fully in the drafting of this MOU, and the rule of construction of ambiguities against the drafter shall not apply to either party.

**K. Headings.** The headings in this MOU are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this MOU.

**8. Implementation of MOU**

The City shall maintain authority to implement this MOU through the Mayor and City Administrator (or his or her duly authorized representatives). Any substantive approvals, waivers, or amendments arising out of this MOU shall require the consideration of and approval by the City Council.

**IN WITNESS WHEREOF**, City and NWTLM have executed this MOU on the respective dates set forth below.

CITY OF SNOQUALMIE

By: \_\_\_\_\_  
Katherine Ross, Mayor  
Date: \_\_\_\_\_

## NORTHWEST TRUNK LINE MUSEUM

By: \_\_\_\_\_

Peter Hambling

Its: \_\_\_\_\_

Date: \_\_\_\_\_