



**NEVADA COMMISSION for the RECONSTRUCTION of the V&T RAILWAY
("V&T Railway Commission")
Agenda Report**

Date Submitted: 06/21/21

Meeting Date Requested: 06/24/21

Time Requested: 5 Minutes

To: NEVADA COMMISSION for the RECONSTRUCTION of the V&T RAILWAY Commissioners

From: Allyson Bolton, V&T Railway Commission Operations Coordinator (admin@vtrailway.com)

Subject Title: Discussion and possible action regarding the ratification of a Confidentiality Agreement signed/dated September 9, 2020, by the former V&T Railway Commission Chair, with Rail Events.

Staff Summary: This item ratifies a Confidentiality Agreement signed/dated September 9, 2020, by the former V&T Railway Commission Chair, with Rail Events.

Type of Action Requested:

Resolution

Ordinance

Formal Action/Motion

Other (Specify) Presentation Only

Recommended Board Action:

I move to approve the ratification of the Confidentiality Agreement with Rail Events .

Applicable Statute, Code, Policy, Rule or Regulation: n/a

Fiscal Impact: none

Explanation of Impact: n/a

Funding Source: n/a

Supporting Material/Attachments: Rail Events PEX Confidentiality Agreement Dated 9-9-20

Prepared By: Chris Kipp, Carson City Culture & Tourism Authority's Operations Manager

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement is made and entered into this 9th day of September, 202⁰ by and between Rail Events, Inc., a Florida corporation, having principal place of business at 479 Main Avenue, Durango, Colorado 81301 ("Rail Events") and V&T Railway Commission, ("Potential Host") having a principal place of business at 4650 Eastgate Siding Road, Carson City, Nevada 89706, with reference to the following:

1. RECITALS

A. Rail Events has entered into a Master License Agreement with Warner Bros. Consumer Products, Inc. ("Warner Bros.") for use of creative elements based on the literary and motion picture property known as THE POLAR EXPRESS (the "Licensed Property").

B. Rail Events wishes to enter into discussions with POTENTIAL HOST regarding the potential hosting of "The Polar Express" themed train event. However, any such discussions would necessarily involve Rail Events' disclosure to POTENTIAL HOST of "Confidential Information" (as that term is defined below). In addition, POTENTIAL HOST may divulge confidential information to Rail Events about its operations.

C. As a condition to Rail Events' provision to POTENTIAL HOST of Confidential Information and of entering into discussions concerning the potential hosting of "The Polar Express" themed train event, Rail Events requires that POTENTIAL HOST treat all Confidential Information in the strictest confidence in accordance with this Agreement. POTENTIAL HOST, in turn, requires Rail Events to treat any and all POTENTIAL HOST information with the strictest confidence.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledge, the parties agree as follows:

1. AGREEMENT

1. **Confidential Information – Definition.** As used herein, the term "Confidential Information" shall refer to and include all information, of every kind and every nature and in any medium (including without limitation, writings, electronic files, views, images, photographs, sounds, discussions and otherwise) provided by either party or any of its representatives, officers, directors, agents, or others acting on its behalf (collectively "Representatives") to the other party or any of the other party's Representatives and pertaining in any way to the Licensed Property or any other information provided by POTENTIAL HOST to Rail Events. However, Confidential Information shall not include information that (a) is or becomes generally available to the public or (b) was readily available to on a non-confidential basis prior to its disclosure. "Confidential Information" shall also include the term of any agreements between Warner Bros. and Rail Events.

2. **Confidential Information – Duties.** Both parties and its Representatives shall hold all Confidential Information in the strictest confidence and shall not divulge any Confidential Information to anyone without the other party's prior written permission. With

regard to the use of Confidential Information, both parties shall be legally responsible for all acts and omissions of its Representatives and of any person or entity to whom they divulge Confidential Information. Both parties will undertake measures to safeguard Confidential Information that are at least as restrictive and effective as those measures that each party uses to protect its own confidential information. Confidential Information provided to the other party and its Representatives shall be used by that party solely and exclusively for the purpose of discussing and/or planning their Polar Express themed train event.

3. **Indemnifications.** Each party agrees to defend, indemnify and hold harmless, the other party and their Representatives from any and all liabilities, damages and costs, including legal fees and court costs, that either party may suffer due to the other party's handling of the Confidential Information.

4. **No License.** Nothing in this Agreement shall be construed as granting either party expressly, by implication, estoppel, waiver or otherwise, any license under or any right to utilize any Confidential Information, except the limited right to use such information only for the purposes set forth herein. To be licensed to host "The Polar Express" themed train event requires a fully executed exhibition agreement.

5. **Injunctive Relief.** Both parties shall be entitled to injunctive relief and other equitable remedies in any court of competent jurisdiction in order to prevent actual or threatened misuse of Confidential Information, without having to show actual damages sustained and shall not thereby be deemed to have elected remedies. Both parties hereby waive any requirement that the other party secure or post any bond in connection with or as a condition of obtaining injunctive or other equitable relief.

6. **Return of Confidential Information.** Within ten (10) days of demand therefore by Rail Events, POTENTIAL HOST shall return to Rail Events, and Rail Events shall return to POTENTIAL HOST or at their respective option, shall destroy and certify in writing to Rail Events/POTENTIAL HOST that it has destroyed, all Confidential Information stored in any tangible medium over which Rail Events or POTENTIAL HOST or its Representatives have control, including without limitation, all copies, tapes, photographs, notes, summaries, electronic files and other means used to preserve or record Confidential Information.

7. **Attorney's Fees.** In the event of any legal action or proceeding to enforce or interpret any aspect of this Agreement, the prevailing party shall recover from the losing party all of the prevailing party's costs of such action or proceeding, including, without limitation, the fees and expenses of attorney's accountants and expert witness. As used herein, the term "prevailing party" shall refer to the party in whose favor the greater award is rendered.

8. **Binding on Successors.** This Agreement shall be binding upon and shall inure to the benefit of the successors, heirs, administrators and assigns of the parties.

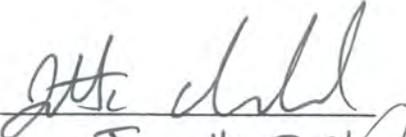
9. **Jurisdiction Venue.** This Agreement and the relationship between the parties shall be governed by the laws of the State of Colorado Venue for enforcement of this Agreement shall be proper in the County of La Plata, State of Colorado and the parties waive any objection to such venue on the basis of inconvenience and otherwise.

10. **Entirety.** This Agreement contains the entire understanding between the parties related to the subject matter hereof and may not be modified in any manner, except by written amendment duly executed by each of the parties hereto.

WHEREFORE, intending to be bound hereby, the Parties affix their signatures below.

"RAIL EVENTS"

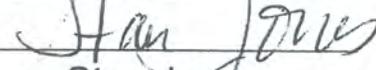
Rail Events, Inc., a Florida Corporation

BY: 
Print Name: Jucette Ireland
Title: VP / GM

"POTENTIAL HOST"

V&T Railway Commission

a(n) Non-Profit Corporation

BY: 
Print Name: Stan Jones
Title: Chairman