

**NOTICE OF PUBLIC MEETING:**

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



**MEETING LOCATION:**

**Carson City Community Center  
Robert "Bob" Crowell Board Room  
851 E. William St.  
Carson City, NV 89701**

**WEDNESDAY, MARCH 3<sup>rd</sup>, 2021 11:00 AM**

**Commission Members**

**Deny Dotson**

**Stephanie Hicks**

**Clay Mitchell**

**David Peterson**

**Agenda Management Notice** - Items on the agenda may be taken out of order; the public body may combine two or more agenda items for consideration; and the public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

**Notice to persons with disabilities:** Members of the public who are disabled and require special assistance or accommodations are requested to notify the V&T Railway Commission in writing at 4650 Eastgate Siding Depot, Carson City, NV, 89701, or by calling (775) 291-0208 at least 24 hours in advance.

**AGENDA**

**NOTICE TO PUBLIC:** The State of Nevada and Carson City are currently in a declared State of Emergency in response to the global pandemic caused by the coronavirus (COVID-19) infectious disease outbreak. In accordance with the Governor's Declaration of Emergency Directive 006, which has suspended the provisions of NRS 241.020 requiring the designation of a physical location for meetings of public bodies where members of the public are permitted to attend and participate, public meetings of the V&T Railway Commission will NOT have a physical location open to the public until such time this Directive is removed.

- Members of the public who wish only to view the meeting but do NOT plan to make public comment may watch the livestream of the V&T Railway Commission meeting at [www.carson.org/granicus](http://www.carson.org/granicus) and by clicking on "In progress" next to the meeting date, or by tuning in to cable channel 191.
- The public may provide public comment in advance of a meeting by written submission to the following email address: [info@vtrailway.com](mailto:info@vtrailway.com). For inclusion or reference in the minutes of the meeting, your public comment must include your full name and be submitted via email by not later than 3:00 p.m. the day before the meeting.
- Members of the public who wish to provide live public comment may do so during the designated public comment periods, indicated on the agenda, via telephonic appearance by dialing the numbers listed below. Please do NOT join by phone if you do not wish to make public comment.

Join by phone:

Phone Number: +1-408-418-9388

Access Code: Access code: 187 410 5637

1. **CALL TO ORDER**
2. **ROLL CALL AND DETERMINATION OF A QUORUM**
3. **PLEDGE OF ALLEGIANCE**
4. **PUBLIC COMMENT:\*\*** The public is invited at this time to comment on and discuss any topic that is relevant to or within the authority of this public body.
5. **FOR POSSIBLE ACTION:** Approval of Minutes - January 28, 2021, V&T Railway Commission meeting.
6. **FOR DISCUSSION ONLY:** Discussion and presentation concerning directives of the V&T Railway Commission for the purpose of strategic planning concerning the sustainability of railway-related operations, by Linda Ritter Consulting.
7. **FOR POSSIBLE ACTION:** Discussion and possible action regarding the scope of services to be included in a Request for Proposal for the hiring of a V&T Railway Operations Coordinator.
8. **FOR POSSIBLE ACTION:** Discussion and possible action regarding Fiscal Year 2021 financial reports of the V&T Railway Commission and tentative budget preparation for Fiscal Year 2022.
9. **FOR POSSIBLE ACTION:** Discussion and possible action regarding a request by Freedom Rail LLC to amend "Schedule A" to the "Independent Rail Bike Rides Services Agreement," made effective on August 1, 2020 and entered into between the V&T Railway Commission and Freedom Rail LLC, to revise an existing 40/60 percentage gross revenue share to a 25/75 percentage gross revenue share with the majority of the operational expenses to be assumed by Freedom Rail LLC.
10. **FOR DISCUSSION ONLY:**  
  
**MONTHLY NON-ACTION ITEMS:**
  - A. General Manager's Report
  - B. Attorney's Report
  - C. Upcoming Meetings – V&T Railway Commission: March 25, 2021, at 1 pm.
  - D. Commissioner comments, announcements, and requests for information from staff.
11. **PUBLIC COMMENT:** The public is invited at this time to comment on any matter that is not specifically included on the agenda as an action item. No action may be taken on a matter raised under this item of the agenda.
12. **FOR POSSIBLE ACTION:** To Adjourn.

**\*\*PUBLIC COMMENT LIMITATIONS –** The V&T Railway Commission will provide at least two public comment periods in compliance with the minimum requirements of the Open Meeting Law prior to adjournment.

**Although it has been the ordinary practice of this public body to provide an opportunity for additional public comment during each specific item designated for possible action on the agenda, public comment will be temporarily limited to the beginning of the agenda before any action is taken and again at the end before adjournment. This policy will remain effective during the period of time the State of Nevada is under a State of Emergency as declared by the Governor due to the COVID-19 pandemic and is intended to achieve the efficient conduct of meetings while facilitating public participation via telephonic means.** No action may be taken on a matter raised under public comment unless the item has been specifically included on the agenda as an item upon which action may be taken.

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NOTICE TO PUBLIC: In accordance with the Governor's Emergency Declaration Directive 006 suspending state law provisions requiring the posting of public meeting agendas at physical locations, this agenda was posted electronically at the following Internet websites:

[www.carson.org/agendas](http://www.carson.org/agendas)  
<http://notice.nv.gov>

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To request a copy of the supporting materials for this meeting, contact Elaine Barkdull-Spencer at [vandrailway@gmail.com](mailto:vandrailway@gmail.com) or call (775)291-0208. The agenda and supporting material are available on the V&T Railway Commission website: <https://vtrailway.com/about/vt-commission/> and at the office of the V&T Railway Commission - 4650 Eastgate Siding Depot, Carson City, Nevada.

**NEVADA COMMISSION for the RECONSTRUCTION of the V&T Railway  
THURSDAY, JANUARY 28, 2021 @ 1:00 p.m.  
CARSON CITY COMMUNITY CENTER, BOB CROWELL BOARD ROOM**

**MEETING MINUTES**

**CALL TO ORDER: 1:05 p.m.**

**1. ROLL CALL**

Elaine Spencer called roll.

Chairperson: Stan Jones – Present  
Treasurer: Deny Dotson - Present  
Board Members: Stephanie Hicks – Present  
Clay Mitchell – Present  
Dave Peterson - Present

Others: Elaine Barkdull-Spencer, Michael Smiley Rowe via ZOOM, Angie Hoeger, Gabe Willaman, Kent Hanford

**2. CHAIRMAN JONES BROUGHT THE NEXT ITEM TO THE COMMISSION’S ATTENTION: APPROVAL OF THE AGENDA**

*This is the tentative schedule for the meeting. The Commission reserves the right to take items in a different order to accomplish business in the most efficient manner. The Commission may combine two or more items for consideration and may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.*

E. Spencer requested Item #9 be removed from the agenda until a future meeting.

D. Dotson made a motion to approve the agenda with the change of moving Item #9 to a future meeting.

Second – D. Peterson

Approved - Unanimously

**3. CHAIRMAN JONES BROUGHT THE NEXT ITEM TO THE COMMISSION’S ATTENTION: PUBLIC COMMENT ON NON-AGENDIZED ITEMS**

*Discussion may be limited to three minutes per person at the discretion of the Chairman. No action may be taken on a matter raised under this portion of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.*

No public comment.

**4. CHAIRMAN JONES BROUGHT THE NEXT ITEM TO THE COMMISSION’S ATTENTION: APPROVAL OF MEETING MINUTES**

a. November 18, 2020

E. Spencer said S. Hicks had spotted two corrections which were made, and a corrected set of minutes was emailed to everyone earlier that day.

S. Hicks made a motion to approve the corrected minutes from the meeting held November 18, 2020.

Second – D. Dotson

Approved – Unanimously

**5. CHAIRMAN JONES BROUGHT THE NEXT ITEM TO THE COMMISSION’S ATTENTION: FOR POSSIBLE ACTION: DISCUSS AND ACCEPT THE RESIGNATION OF STAN JONES AS THE V&T RAILWAY COMMISSIONER REPRESENTING THE STATE OF NEVADA AND STEPS FOR REPLACEMENT**

Chairman Jones explained that he was appointed to the Board of Supervisors on January 3, 2021 and he felt it is a conflict to serve on both Carson City’s board and serve as the Governor’s representative on the V&T Railway Commission. He said that the new city appointment would take a lot of his time, so he is stepping down. He acknowledged several people for their support, advice, and friendship for the years he served on the Board.

Chairman Jones then passed the gavel to Treasurer D. Dotson, after which several commissioners and staff acknowledged S. Jones contributions to the V&T Railway Commission.

D. Peterson made a motion to accept the resignation of S. Jones.

Second - C. Mitchell

Approved – Unanimously

M. Rowe said there was another aspect to the agenda item. He said if any of the Commissioners had recommendations on replacement of S. Jones, it should probably be put on the record now.

D. Dotson said he would open it back up to discussion because it is an agenda item. He said he knew the position was appointed by the Governor’s office, but he saw no harm with opening it up for discussion and making a recommendation if there were thoughts and people in mind.

S. Hicks stated she did not have a particular recommendation but if there are people interested and there is a particular process to go through the Governor’s Office, they should do so.

C. Mitchell said he had no specific recommendations but would like to see a robust process and cast that net wide.

D. Dotson said he did not have anyone in mind, but it was always nice to have that little extra bit of help with marketing. One thought he had would be a state agency such as Travel Nevada whether it be one of their director positions or board members potentially. He said he did not know if they would even be interested or if it would be a conflict, but it was always nice to get someone from a state position that is neutral.

D. Dotson said there was already a motion and a second on the floor, he asked for all those in favor once again.

Approved – Unanimously

**6. TREASURER DOTSON BROUGHT UP THE NEXT ITEM TO THE COMMISSION’S ATTENTION: FOR POSSIBLE ACTION: NOMINATION AND ELECTION OF AN INTERIM CHAIRMAN AND VICE CHAIRMAN TO SERVE JANUARY 2021 THROUGH JUNE 2021.**

D. Dotson asked E. Spencer to elaborate as to why the short time frame was worded this way.

E. Spencer explained that included in the Board Packet was a copy of SB57 which gave the direction. She stated they can fill voids; however, they must have an election every odd year and the newly elected officers’ seats would begin July 1. In

speaking with M. Rowe, it was decided these should be interim positions. As Marshall McBride no longer serves on Storey County's Commission, this opened the vice chairman's position and as Stan Jones had resigned it opened the chairman's position.

D. Dotson asked for discussion from the Board or possible nomination for Chairman.

S. Hicks nominated D. Peterson for interim Chairman.

Second - C. Mitchell

Approved - Unanimously

D. Dotson then passed the gavel to D. Peterson.

D. Peterson thanked everyone and stated he had big shoes to fill.

**6. - Cont. CHAIRMAN PETERSON CONTINUED WITH AGENDA ITEM #6 OPENING UP NOMINATIONS FOR INTERIM VICE CHAIRPERSON**

D. Dotson nominated Clay Mitchell for interim Vice Chairman.

Second – S. Hicks

Approved – Unanimously

**7. CHAIRMAN PETERSON BROUGHT THE NEXT ITEM TO THE COMMISSION'S ATTENTION FOR POSSIBLE ACTION: DISCUSS DRAKO NOTE AND BALANCE DUE TO V&T RAILWAY COMMISSION BY ROY STREET. ROY STREET HAS REQUESTED TO MAKE A PAYMENT OF \$200,000 AND AN EXTENSION OF THE CURRENT NOTE.**

E. Spencer stated that she emailed a copy of two note options to the commissioners. She stated Roy Street was due to call in to the meeting, but he did not respond to her phone calls nor her emails reminding him of the meeting. She read aloud an email she received from Mr. Street. It read, "Elaine, on the balance I owe on 3581 Drako Way, I would like to pay two hundred thousand now and you finance the balance."

She said the previous note was at 5% interest rate, compounded monthly and had a balloon payment of \$429,699.00 that was due this month. However, as the building was transformed into a cannabis cultivation center, Mr. Street was unable to refinance the property and provide the full amount due for the balloon payment.

E. Spencer said she calculated two agreement options for the commission to review, a four-year and a five-year option.

E. Spencer reminded the commission that the V & T has been using the Drako monthly payment to offset the cost of operations and currently they are not receiving a payment. There was also a \$1,700.00 interest payment that would have been due in January along with the balloon payment. E. Spencer said she would ask that the \$1,700.00 interest payment be added to the \$200,000 that R. Street would pay as a down payment on the note. She relayed that Mr. Street notified her that he has his business and the property up for sale.

Chairman Peterson asked if Mr. Street expressed interest one way or another on four years or five years.

E. Spencer replied, no.

Chairman Peterson opened the item for discussion.

D. Dotson said it would be nice to have a little income and the \$200,000 put in the bank because we did not run trains last year and looking at a challenge to running them this year. He said, he would be in favor of extending the note as long as the terms were solid and default penalties are applied and it is run through our attorney.

D. Peterson said that sounded very reasonable.

C. Mitchell wanted confirmation the note would be secured by the property.

M. Rowe said, yes.

S. Hicks said she thinks it is a good opportunity to gain a little extra income from the property, but as for what we are doing here today for clarification and for the record, is the intent then to direct staff to bring back to us an agreement that we will be able to review that will specifically outline these terms, if that is the direction we decide to go. She asked for another look at the offer.

E. Spencer, said yes, that she and M. Rowe would work on the document and with the Commission's approval, the Chairman would sign.

Chairman Peterson asked if that would also include the \$200,000 plus \$1,700.

E. Spencer said it would be good to have the check for the \$201,700 prior to the next meeting.

Chairman Peterson said that would show good faith on Mr. Street's part while they work out the agreement. Chairman Peterson said he liked the idea of a four-year payment plan and put it out to a motion.

E. Spencer added it was not a promissory note, it was a collateral based agreement.

C. Mitchell made a motion to instruct staff to negotiate an agreement to extend the loan with Mr. Street and to include the conditions of paying at least \$200,000 down, in addition to \$1,700 in interest that is due this month, for a term of no longer than four years and for the balance to be secured by the property on Drako Way.

Second – S. Hicks

Approved – Unanimously

## **8. CHAIRMAN PETERSON BROUGHT UP THE NEXT ITEM FOR POSSIBLE ACTION: FY21 FINANCIAL REPORTS**

### **A. December 2020 YTD Budget Report**

E. Spencer stated that they had a budget versus actual report that put them through December 2020. She pointed out details relating the revenue and expenses and confirmed that the budget was approved at a time when they did not know how long the pandemic was going to last and there was an assumption that the Polar Express, or at least a downsized Polar Express, would still be possible. She said due to the extended pandemic and the State's COVID-19 guidelines the Polar Express event could not happen and it was cancelled in September by a vote of the Commission. Instead, they ran two alternative events. The two events did not lose money, but they were not the Polar Express either. She advised the Commission that an augmented budget would be necessary before the end of the fiscal year to meet the requirements of the State Department of Taxation. She reminded the Commission that odds were that they are not running trains in May or June due to the pandemic and state guidelines, and trains were not scheduled at this time.

D. Peterson asked when she wanted to work on the augmented budget.

E. Spencer said she could in March as it is not due until May or June.

D. Dotson made a motion to approve the financial report as presented by E. Spencer.

Second – S. Hicks

Approved - Unanimously

**9. REMOVED: REVIEW AND APPROVE \$10,000 YEAREND BONUS RELATING TO FY19 FOR ELAINE BARKDULL-SPENCER AS PER THE AGREEMENT BETWEEN V&T RAILWAY AND ZEPHYR COMMUNICATIONS OF NEVADA AS PER ADDITIONAL INCENTIVE COMPENSATION.**

**10. CHAIRMAN PETERSON BROUGHT THE NEXT ITEM TO THE COMMISSION'S ATTENTION FOR POSSIBLE ACTION: UPDATE ON THE CARSON CANYON RAILBIKES AGREEMENT**

E. Spencer said she had three meetings with Freedom Rail in the past month and they had discussed different issues. The operation will be receiving a stockpile of replacement parts so they will no longer be scrapping existing bikes to maintain the other bikes. They also discussed more robust brake system and going with new high-top seats. She said that Freedom Rail was ordering parts that would make the current fleet more robust and maintenance free. It was an investment in the current railbike fleet. She said we will start the season with nine bikes and have 15 by June.

E. Spencer said the operations management and business startup last year was mostly on V&T. However, this coming season Freedom Rail may not need that much direction and oversight. She said they may be able to handle it themselves. The 40-60 revenue split was based on V&T operations oversight, including management, ticket service and marketing. Freedom Rail's original proposal was a 30-70 split with them handling the management side etc.

C. Mitchell made a motion to instruct staff to work with Freedom Rail to come back with an agreement for this next season.

Second – D. Dotson

Approved – Unanimously

**11. CHAIRMAN PETERSON BROUGHT THE NEXT ITEM TO THE COMMISSION'S ATTENTION FOR POSSIBLE ACTION: PROGRESS REPORT ON THE ENGINE #18 OVERHAUL AND PURCHASE ORDERS FOR PROJECTS OVER \$5,000**

E. Spencer said she had an email from Tom Gray stating he had no report and no invoices. Moments later Tom Gray, who was having audio problems during the meeting, sent a message to the commission stating the Engine 18 is in service as of September 19<sup>th</sup>, 2020 and the FRA Form 5 has been filed.

**12. CHAIRMAN PETERSON BROUGHT THE NEXT ITEM TO THE COMMISSION'S ATTENTION FOR POSSIBLE ACTION: TRACK MAINTENANCE REPORT AND PURCHASE ORDERS FOR PROJECTS OVER \$5,000**

**A. Track Maintenance Report by Gabe Willaman**

G. Willaman reported that they had started on cleaning out the culverts and weed abatement.

**B. Track and Bridge Inspection Report and Recommendations by Kent Hanford of Hanford Consulting, LLC**

Kent Hanford stated he performed the annual inspections for all the track facilities, except for the track. He looks at everything outside of the rail and has been doing the inspections for seven years. Previously he worked with Ken Dorr on



the inspections. He said every year he and G. Willaman start at the southern end of the track and take it all the way to Gold Hill. He looks at every aspect, the drainage features, the structures including the bridge, the tunnels, and the retaining walls, earth embankments, cut slopes, and wire mesh. Every single feature that was constructed at one point to allow the train to operate. Following the inspections, he prepares his report and breaks it down into different categories and then provides a summary of the general assessment overall of the health of the facilities which is provided to the Board. He made recommendations of where he thinks the focus should be. Many of the areas are 'repeat offenders' areas due to the nature of the soils that dictate the performance in certain areas. Some of the items specifically related to track safety have been looked at for a while, however, the funds were not there to do it. He said it would be a benefit to the operations.

D. Peterson asked for confirmation on the page relating to the NDOT bridge inspection that there would be another one June 2021.

K. Hanford confirmed that there would be.

S. Hicks thanked K. Hanford for his very thorough reports stating being new on the Commission it was helpful to have the detailed information and the pictures. She wanted to make a point of clarification on both reports mentioning Carson City Public Works doing some of the touch up paint, stating Carson City certainly wants to help where they can. She added initially when they changed the lights, they used their signal trucks and decided it was not the best way to do it, so they have hired a contractor to do the light changes since then and are glad to continue to do so. She said Carson City staff, unfortunately, are not out there to do the painting at the same time and because they have an electrical contractor doing the lights, they would not also do the painting. She said if there is a need for the painting then that probably should be factored into the other maintenance expenses as Carson City would not be able to do that.

K. Hanford said the most expensive aspect of doing the bi-annual bridge inspection is the traffic control. This year, possibly, when they do the inspection would be the time to do the painting while they have all their traffic control in place. He said it might be something they could coordinate.

D. Dotson asked when they are working on the projects how much they worked with Tom Gray; if there was any communication when he mentioned issues, or any way to improve the process if he was not involved.

G. Willaman replied saying when trains are running, Tom Gray does tell him about issues. G. Willaman says if he needs to borrow a tool from Tom Gray for the Commissions track or if Tom's people need to borrow a tool from Gabe for their track, they do. G. Willaman added they rent equipment from Tom Gray all the time and he is willing to work with him any time.

E. Spencer introduced G. Willaman to the new commission members explaining he is the regular maintenance contractor whose contract was just renegotiated, and she would be bringing it back to the commission. She also wanted to get back to the commission on the recommended track maintenance listed in K. Hanford's report and said she would recommend splitting the costs between FY21 and FY22. She said there are some remaining funds in the FY21 budget, but not enough to do everything. She is still holding down costs.

K. Hanford explained that the guardrail is defined as taking track rail and putting it in between existing rails. It is to keep the train upright on the track should there ever be a derailment. He said the two areas mentioned in his report are east

of the tunnel by the Chinese Wall and in the Overman Pit- the north and south end. He said it would be a great benefit from a safety standpoint to put those in. He said Gabe Willaman could install them so it would be essentially in-house.

G. Willaman confirmed they have most of the materials already. Relatively speaking, Kent Hanford said it would be simple and economical to accomplish while being a big benefit. He said they currently have the guard rails above Highway 50, and it would be the exact same structure right down the middle of the tracks to catch a wheel should there be a derailment.

K. Hanford said they are starting to see movement again in the Overman Pit as they have been since it was constructed. He said it is naturally consolidating – there are other factors beyond the natural settlement, or a large earth fill due to the mining history. He said G. Willaman has been managing it by adding base to the track and ties to keep it at grade, but the earth continues to settle. He said at one point a surveyor was placing rebar and tracking it annually, but the monitoring ceased because it was believed the issue had been resolved. Kent Hanford says they are seeing more settling in a different area, so his recommendation is to bring someone in to begin monitoring. He said they are fortunate that Gary Luce, who is a geotechnical engineer and geologist, has been involved with the project for thirty years, he has either been responsible for the design work or he has overseen and guided the people during the work. He said Gary Luce provided all the observation during construction. He says Gary Luce is knowledgeable and has all the history.

G. Willaman and K. Hanford explained the required tasks for maintaining the ditches along the tracks and using mesh for rock catchment.

Chairman Peterson wanted to know what was being allocated for this fiscal year.

E. Spencer said they did not allocate for major projects this fiscal year since the trains were not running and they did not have ticket revenue. E. Spencer said G. Willaman is the rail inspector and goes out twice before every train or railbike ride. He does light maintenance before every train and railbike ride if necessary. She said what they have been talking about is a major expense and they also have a contract with G. Willaman for special track-related projects. They need to determine where the funds will come from for any major projects.

G. Willaman said they only charge for what they work on. He really cares about the Commission and he wants it to succeed.

C. Mitchell made a motion to continue this item until the next regularly scheduled Board Meeting.

Second – S. Hicks

Approved - Unanimously

**13. CHAIRMAN PETERSON BROUGHT THE NEXT ITEM TO THE COMMISSION’S ATTENTION FOR POSSIBLE ACTION:  
DISCUSSION FOR A STRATEGIC BUSINESS PLAN FOR THE V&T RAILWAY COMMISSION.**

***Discuss and approve an agreement with Linda Ritter Consulting to perform proposed services of compiling data, facilitating a workshop, and writing a proposed plan based upon input of the V&T Commission***

E. Spencer explained why she reached out to Linda Ritter for the workshop. Linda Ritter has been asked to look at the financial wellbeing of the V&T Railway and discuss the structure of the commission after it was revised in 2017. E. Spencer said she will work with her on the research and compiling the information and Linda will combine the information and perform a workshop with the commission at a cost of \$6,800. She said it is something the commission could use to determine its purpose and each of the counties to determine their return on investment.

She said the original concept that she and D. Dotson discussed was to bring all the parties together and determine what they expected from V&T for their investment. She sees no problem starting with a workshop and working parallel with the information gathered so the long-term plan will come from the original concept. The commission discussed the need for two workshops and asked E. Spencer to ask Linda Ritter if she could do two for the proposed price.

C. Mitchell made a motion to instruct staff to negotiate a contract with Linda Ritter Consulting not to exceed \$6,800 and to include at least the research and workshop preparation and facilitation elements that are included in the proposal in addition to a preliminary workshop in February.

Second – S. Hicks

Approved – Unanimously

**14. CHAIRMAN PETERSON BROUGHT THE NEXT ITEM TO THE COMMISSION'S ATTENTION: FOR DISCUSSION ONLY: GENERAL MANAGER'S REPORT**

E. Spencer said her contract is up for renewal March 2021 and she opted not to renew. She said it was a decision that she knows leaves a lot to do in two months, but she is confident that she can do it. She also believes the new strategic plan will help the Commission going forward. She would be open to a smaller contract or work when needed but added that the pandemic was making it hard for the V&T Railway to make money and she did not want to draw a full retainer when the trains were not running until the foreseeable future.

**15. CHAIRMAN PETERSON BROUGHT UP THE NEXT ITEM TO THE COMMISSION'S ATTENTION: FOR DISCUSSION ONLY: ATTORNEY'S REPORT**

M. Smiley Rowe said most of his work this past month has been to work with E. Spencer on the resignation of former Chairman Stan Jones, the Drako property, and looking at the interlocal agreement with Storey County. He said he believes it is important to have the workshops. He encouraged the Board to have it written up so there is a plan to follow when they are considering the future of the V&T and that they could all work from.

**16. CHAIRMAN PETERSON BROUGHT THE NEXT ITEM TO THE COMMISSION'S ATTENTION: FOR DISCUSSION ONLY: NEXT MEETING DATE(S) AND AGENDA ITEMS:**

- A. V&T Railway Commission next meeting to be held 1:00 p.m. on Thursday, February 25, 2021.

C. Mitchell made a motion to schedule the next regularly scheduled meeting for February 25, 2021.

Second – S. Hicks

Approved - Unanimously

**17. CHAIRMAN PETERSON BROUGHT THE NEXT ITEM TO THE COMMISSION'S ATTENTION: COMMISSIONER'S COMMENTS:** C. Mitchell and S. Hicks gave short statements relating to serving on the Commission as new commissioners and D. Peterson thanked Stan Jones again for his service.

**18. CHAIRMAN PETERSON BROUGHT THE NEXT ITEM TO THE COMMISSION'S ATTENTION: ADJORNMENT OF THE MEETING.**

Chairman Peterson adjourned the meeting at 3:18 p.m.



# Budget Report

## Account Summary

For Fiscal: V&T 2020-2021 Period Ending: 01/31/2021

		Original Total Budget	Current Total Budget	Period Activity	Fiscal Activity	Variance Favorable (Unfavorable)	Percent Remaining
<b>Revenue</b>							
<a href="#">221-33220-000</a>	LICENSE PLATE	19,200.00	19,200.00	1,586.63	16,264.09	-2,935.91	15.29 %
<a href="#">221-33512-000</a>	TOURISM TAX	250,000.00	250,000.00	0.00	250,000.00	0.00	0.00 %
<a href="#">221-34113-000</a>	SPECIAL EVENTS	0.00	0.00	0.00	38,261.52	38,261.52	0.00 %
<a href="#">221-34700-000</a>	CAP TICKET SALES	88,000.00	88,000.00	0.00	1,745.10	-86,254.90	98.02 %
<a href="#">221-34700-232</a>	CAP TICKET SALES-POLAR	366,860.00	366,860.00	1,069.37	12,443.65	-354,416.35	96.61 %
<a href="#">221-34700-235</a>	CAP TICKET SALES-RAILBIKES	0.00	0.00	0.00	204,281.94	204,281.94	0.00 %
<a href="#">221-36203-000</a>	RENTS	6,840.00	6,840.00	0.00	0.00	-6,840.00	100.00 %
<a href="#">221-36304-232</a>	PHOTOS	3,200.00	3,200.00	0.00	0.00	-3,200.00	100.00 %
<a href="#">221-36500-000</a>	MISC - OTHER	0.00	0.00	0.00	16,400.51	16,400.51	0.00 %
<a href="#">221-36540-000</a>	EQUIPMENT SALES	34,020.00	34,020.00	0.00	17,021.96	-16,998.04	49.96 %
<a href="#">221-36700-000</a>	SALE OF GOODS	0.00	0.00	0.00	899.66	899.66	0.00 %
<a href="#">221-36700-232</a>	SALE OF GOODS-POLAR	23,000.00	23,000.00	0.00	0.00	-23,000.00	100.00 %
<a href="#">221-36700-235</a>	SALE OF GOODS-RAILBIKES	0.00	0.00	118.00	2,453.74	2,453.74	0.00 %
	<b>Revenue Total:</b>	<b>791,120.00</b>	<b>791,120.00</b>	<b>2,774.00</b>	<b>559,772.17</b>	<b>-231,347.83</b>	<b>29.24 %</b>
<b>Expense</b>							
<a href="#">221-221-51021-000</a>	CASUAL LABOR	45,000.00	45,000.00	4,825.05	28,688.68	16,311.32	36.25 %
<a href="#">221-221-51021-232</a>	CASUAL LABOR-POLAR	14,400.00	14,400.00	0.00	0.00	14,400.00	100.00 %
<a href="#">221-221-51021-235</a>	CASUAL LABOR-RAILBIKES	0.00	0.00	0.00	3,724.30	-3,724.30	0.00 %
<a href="#">221-221-53010-000</a>	Postage	300.00	300.00	0.00	21.54	278.46	92.82 %
<a href="#">221-221-53010-232</a>	POSTAGE - POLAR	2,400.00	2,400.00	0.00	0.00	2,400.00	100.00 %
<a href="#">221-221-53011-000</a>	OFFICE SUPPLIES	800.00	800.00	304.07	1,736.44	-936.44	-117.06 %
<a href="#">221-221-53012-000</a>	TELEPHONE	1,800.00	1,800.00	415.03	1,443.33	356.67	19.82 %
<a href="#">221-221-53013-235</a>	TRAVEL-RAILBIKES	0.00	0.00	0.00	3,553.83	-3,553.83	0.00 %
<a href="#">221-221-53014-000</a>	DUES & SUBSCRIPTIONS	4,000.00	4,000.00	122.82	864.80	3,135.20	78.38 %
<a href="#">221-221-53022-000</a>	UTILITIES	9,000.00	9,000.00	568.27	9,839.75	-839.75	-9.33 %
<a href="#">221-221-53026-000</a>	REPAIRS	0.00	0.00	0.00	270.98	-270.98	0.00 %
<a href="#">221-221-53026-233</a>	REPAIRS-ENGINE #18	30,000.00	30,000.00	0.00	13,408.33	16,591.67	55.31 %
<a href="#">221-221-53031-000</a>	BANK CHARGES	400.00	400.00	23.55	266.68	133.32	33.33 %
<a href="#">221-221-53032-000</a>	BANK CREDIT CARD FEES	1,672.00	1,672.00	15.55	80.67	1,591.33	95.18 %
<a href="#">221-221-53032-232</a>	BANK CREDIT CARD FEES-PEX	3,809.00	3,809.00	0.00	0.00	3,809.00	100.00 %
<a href="#">221-221-53055-000</a>	TRACK MAINT	13,000.00	13,000.00	0.00	24,018.76	-11,018.76	-84.76 %
<a href="#">221-221-53057-000</a>	BLDG MAINT	2,000.00	2,000.00	0.00	922.82	1,077.18	53.86 %
<a href="#">221-221-53060-000</a>	SPECIAL EVENT EXPENSES	0.00	0.00	4,589.80	21,580.33	-21,580.33	0.00 %
<a href="#">221-221-53060-232</a>	SPECIAL EVENT EXPENSES - POLAR	25,000.00	25,000.00	0.00	170.54	24,829.46	99.32 %
<a href="#">221-221-53060-235</a>	SPECIAL EVENTS-RAILBIKES	0.00	0.00	0.00	13,813.76	-13,813.76	0.00 %
<a href="#">221-221-53061-000</a>	MERCHANDISE EXPENSE	0.00	0.00	0.00	145.65	-145.65	0.00 %
<a href="#">221-221-53061-232</a>	MECHANDISE EXPENSE- POLAR	12,100.00	12,100.00	0.00	0.00	12,100.00	100.00 %
<a href="#">221-221-53061-235</a>	MERCHANDISE - RAILBIKES	0.00	0.00	0.00	792.32	-792.32	0.00 %
<a href="#">221-221-53065-000</a>	EVENT ENTERTAINMENT	0.00	0.00	0.00	55.63	-55.63	0.00 %
<a href="#">221-221-53067-000</a>	STAFF MEALS	0.00	0.00	103.16	509.65	-509.65	0.00 %
<a href="#">221-221-53070-000</a>	PROFESSIONAL SERVICES	297,000.00	297,000.00	11,756.50	88,505.05	208,494.95	70.20 %
<a href="#">221-221-53070-232</a>	PROFESSIONAL SERVICES-POLAR	165,000.00	165,000.00	0.00	0.00	165,000.00	100.00 %
<a href="#">221-221-53070-235</a>	PROFESSIONAL SERVICES-RAILBIKES	0.00	0.00	0.00	111,024.81	-111,024.81	0.00 %
<a href="#">221-221-53072-000</a>	FURNITURE & FIXTURES	500.00	500.00	0.00	3,129.59	-2,629.59	-525.92 %
<a href="#">221-221-53076-000</a>	CHARGE FOR SERVICES	4,800.00	4,800.00	0.00	102.50	4,697.50	97.86 %
<a href="#">221-221-53090-000</a>	AUDIT/BUDGET	14,000.00	14,000.00	0.00	20,000.00	-6,000.00	-42.86 %
<a href="#">221-221-53305-232</a>	ROYALTIES	80,389.00	80,389.00	0.00	0.00	80,389.00	100.00 %
<a href="#">221-221-53600-232</a>	PROPS & COSTUMES-POLAR	0.00	0.00	591.36	7,654.09	-7,654.09	0.00 %
<a href="#">221-221-53601-000</a>	ADVERTISING/PROMOTION	8,500.00	8,500.00	0.00	0.00	8,500.00	100.00 %
<a href="#">221-221-53601-232</a>	ADVERTISING/PROMOTION-POLAR	20,500.00	20,500.00	0.00	0.00	20,500.00	100.00 %
<a href="#">221-221-53601-235</a>	ADVERTISING/PROMOTION-RAILBIKES	0.00	0.00	0.00	6,505.50	-6,505.50	0.00 %

Budget Report

For Fiscal: V&T 2020-2021 Period Ending: 01/31/2021

	Original Total Budget	Current Total Budget	Period Activity	Fiscal Activity	Variance Favorable (Unfavorable)	Percent Remaining
<a href="#">221-221-53602-000</a>	0.00	0.00	0.00	90.44	-90.44	0.00 %
<a href="#">221-221-53609-000</a>	10,000.00	10,000.00	3,250.00	3,250.00	6,750.00	67.50 %
<a href="#">221-221-53609-232</a>	10,000.00	10,000.00	0.00	0.00	10,000.00	100.00 %
<a href="#">221-221-53609-235</a>	0.00	0.00	0.00	3,074.99	-3,074.99	0.00 %
<a href="#">221-221-56500-000</a>	2,500.00	2,500.00	0.00	2,361.34	138.66	5.55 %
<a href="#">221-221-56500-232</a>	250.00	250.00	0.00	0.00	250.00	100.00 %
<a href="#">221-221-56504-000</a>	0.00	0.00	0.00	211.62	-211.62	0.00 %
<a href="#">221-221-56530-000</a>	0.00	0.00	312.64	19,939.35	-19,939.35	0.00 %
<a href="#">221-221-56600-000</a>	12,000.00	12,000.00	0.00	17,439.96	-5,439.96	-45.33 %
<a href="#">221-221-64010-235</a>	0.00	0.00	0.00	5,076.84	-5,076.84	0.00 %
<b>Expense Total:</b>	<b>791,120.00</b>	<b>791,120.00</b>	<b>26,877.80</b>	<b>414,274.87</b>	<b>376,845.13</b>	<b>47.63 %</b>
<b>Report Surplus (Deficit):</b>	<b>0.00</b>	<b>0.00</b>	<b>-24,103.80</b>	<b>145,497.30</b>	<b>145,497.30</b>	<b>0.00 %</b>

**Group Summary**

Account Typ...	Original Total Budget	Current Total Budget	Period Activity	Fiscal Activity	Variance Favorable (Unfavorable)	Percent Remaining
Revenue	791120.00	791,120.00	2,774.00	559,772.17	-231,347.83	29.24 %
Expense	791120.00	791,120.00	26,877.80	414,274.87	376,845.13	47.63 %
<b>Report Surplus (Deficit):</b>	<b>0.00</b>	<b>0.00</b>	<b>-24,103.80</b>	<b>145,497.30</b>	<b>145,497.30</b>	<b>0.00 %</b>

**Fund Summary**

<b>Fund</b>	<b>Original Total Budget</b>	<b>Current Total Budget</b>	<b>Period Activity</b>	<b>Fiscal Activity</b>	<b>Variance Favorable (Unfavorable)</b>
221 - V&T COMMISSION	0.00	0.00	-24,103.80	145,497.30	145,497.30
<b>Report Surplus (Deficit):</b>	<b>0.00</b>	<b>0.00</b>	<b>-24,103.80</b>	<b>145,497.30</b>	<b>145,497.30</b>

## INDEPENDENT RAIL BIKE RIDES SERVICE AGREEMENT

THIS INDEPENDENT RAIL BIKE RIDES SERVICES AGREEMENT ("AGREEMENT") is made and entered into effective August 1, 2020, notwithstanding an earlier or later date of execution hereof by and between the **Nevada Commission for the Reconstruction of the V&T Railway** ("Commission") and **Freedom Rail LLC** ("Freedom Rail"), a New York Limited Liability Company. Collectively the Parties to this Agreement may be referred to as "the Parties".

### WITNESSETH

**WHEREAS**, both the Commission and Freedom Rail recognize the importance of providing alternative entertainment options utilizing the Commission's track at the earliest possible opportunity to promote tourism in the region; and

**WHEREAS**, both the Commission and Freedom Rail recognize the significance and economic importance to the State of Nevada, Reno-Tahoe Region and Carson City, in particular; and

**WHEREAS**, the Commission will provide for required, regular track, structure, right-of-way and crossing signal inspections and maintenance operations in accordance with Federal Railway Administration Class II Safety Standards and applicable regulations of the Nevada State Public Utilities Commission for the track owned by the Commission. The Commission is required to ensure that all necessary inspections, maintenance, testing, documentation and reports for any equipment, accidents and such other matters as may be required by local, state or federal agencies are filed by the person or entity with whom the Commission contracts to operate rail bike rides on the Commission's Track; and

**WHEREAS**, because Freedom Rail will operate rail bikes rides for the Commission pursuant to this Agreement, Freedom Rail agrees that it will file all such reports required by local, state or federal agencies for all necessary inspections, maintenance, testing, documentations and reports for its own equipment and such other reports as may be required by local, state or federal agencies; and

**WHEREAS**, in support of the rail bike operations to be provided, the Commission will provide tracks and facilities for Freedom Rail and its customers, employees, and contractors use and an ADA compliant parking area; and

**WHEREAS**, the Commission, in an effort to actively and aggressively market tourist rail bike operations on the Commission owned track, desires to contract with Freedom Rail for the provision of tourist rail bikes originating from and returning for Freedom Rail equipment to Eastgate Depot,



and to coordinate the marketing of those operations with the Carson City Culture and Visitors Authority and other Northern Nevada tourism authorities; and

**WHEREAS**, this Agreement is entered into by the Commission pursuant to its powers set forth in Chapter 566, Statutes of Nevada 1993, as amended by Chapter 42, Statutes of Nevada 2001 (SB334, page 400 Statutes of Nevada 2001); specifically, the Commission enters into this Agreement pursuant to its general powers specified in Chapter 566, Statutes of Nevada, 1993; and

**WHEREAS**, the Commission enters into this Agreement pursuant to NRS 332.115 as a contract, which, by its nature, is not adapted to award by competitive bidding.

**NOW, THEREFORE** based upon the above-stated recitals, each and every one of which are an important term and condition of this Agreement and incorporated into this Agreement as though set forth verbatim below, and upon the following terms and provisions, the parties hereto agree as follows:

#### **TERMS AND CONDITIONS OF AGREEMENT**

1. Commission and Freedom Rail LLC agree that this Agreement is to establish an independent contract for rail bike services to be provided by the Freedom Rail to the Commission. This Agreement shall be in effect until 31 December 2021 unless earlier terminated pursuant to the terms and provisions of this Agreement. The 2020 schedule of rail bikes to be operated by Freedom Rail for the Commission shall be determined by the Rail Bike Agreement Schedule attached as Exhibit "A" to this Agreement and incorporated herein as if set forth in full. The Commission or an authorized agent of the Commission and Freedom Rail may agree, in writing, to change alter or reschedule rates, times and any other pertinent items at any time during the term of this Agreement.
2. For each year of the term of this Agreement, the Commission and Freedom Rail shall review and revise Exhibit "A" as the Parties may agree. For each year this Agreement is in effect, the Commission and Freedom Rail shall annually agree to adopt a Rail Bike Service Agreement Schedule before each operating season begins.
3. Commission and Freedom Rail agree that this Agreement may be renewed upon terms and provisions as are mutually agreed between the Commission and Freedom Rail and evidential by a written agreement executed by each of the Commission and Freedom Rail. The Parties agree that the Commission will advertise the rail bike operations for the 2020 and 2021 seasons, which advertising will have a direct benefit to the rail bikes. The Commission reserves the right to issue a limited number not to exceed of passes on unoccupied seats.

4. Commission and Freedom Rail agree that Freedom Rail is an independent, professional entity, and that the relationship created by this Agreement is that of employer-independent contractor.
5. Commission and Freedom Rail agree that the Commission's Track and related property and facilities shall be identified as the Commission's Track. The Commission's Track shall consist of a track which has been constructed by the Commission between, but not limited to, Linehan Crossing to the Eureka Siding in the Carson River Canyon-Canyon and the Eastgate- Freedom Rail has use of the Depot Train Station and grounds, enclosed loading area, restroom facilities, and parking lot during the months of March through October.
6. Due to the potentially dangerous nature of operating rail bikes on the Commission's Track, Freedom Rail shall ensure that Freedom Rail, and any entity or person with whom it contracts to operate rail bike rides, shall conduct its operations in a manner that is free from safety and health hazards, and ensure that any person employed to operate and guide the rail bikes is competent, adequately trained in all safety and health aspects of a rail bike operation and not under the influence of any alcoholic beverage, legal or illegal drug, excluding prescriptions, medications ordered by a licensed physician. or any substance legal or illegal including prescription if it impairs the safe performance of their work. The Commission shall have no responsibility for Freedom Rail's operations, passengers, or employees. No employee or agent of Freedom Rail or any person or entity operating the rail bikes shall be deemed to be employees of Commission. Freedom Rail shall ensure that any person or entity operating the rail bike business pursuant to this Agreement shall promptly notify the Commission of any United States Occupational Safety and Health Administration reportable injuries occurring to any person during Freedom Rail's use of the Commission's Track pursuant to this Agreement.
7. Commission shall ensure that it complies with all applicable local, state and federal laws, rules, regulations and orders relating to its operations over the Commission's Track including, but not limited to, those of the Federal Railroad Administration, Nevada State Public Utilities Commission, and as required by the Americans with Disabilities Act, as amended. Freedom Rail shall ensure that all necessary inspections, maintenance, testing, documentation and reports for equipment, accidents, and such other matters as may be required by local, state or federal agencies are filed by Freedom Rail, and Freedom Rail shall file all such reports as required by local, state or federal agencies, and shall provide copies of all such reports to the Commission. Freedom Rail further agrees to provide and document operating and safety certification for all personnel operating equipment over the track and provide copies of all reports and ~~certifications~~ certifications to the Commission. Freedom Rail further agrees to immediately notify the Commission in writing of any derailments or other accidents that occur on or adjacent to Commission's Track and prepare necessary accident reports.

8. Freedom Rail shall be responsible for the repair or replacement of any damaged or destroyed property which is a part of, or related to, the Commission's Track

when such damage or destruction arises out of Freedom Rail's acts of negligence when using the Commission's Track.

9. Commission shall agree to set up dispatch/radio, block/key, block/train warrant or other train traffic control system to ensure collision accidents do not occur on track between trains and between other equipment using track. Freedom Rail shall further agree to provide a copy of its Standard Operating and Safety Rules to Commission for use on the Commission's Track.
10. Expect as necessary for the provision of rail bike operations on the Commission's Track for the Commission, Freedom Rail shall not allow any person, other than employees of Freedom Rail performing duties in furtherance of the rail bike operations for the Commission, to use, occupy or travel upon the Commission's Track. Both the Commission and Freedom Rail recognize the exposure to property damage, injury, or death from any unauthorized use of the Commission's Track by persons other than Freedom Rail and its employees, and to that end, Freedom Rail shall not issue or dispatch by warrant or order to any third person to utilize the Commission's Track without the Commission's prior written consent to such use. Violation of this provision shall be grounds for immediate termination of this Agreement, upon immediate notice without opportunity to cure.
11. Freedom Rail shall prepare and implement through its employees an Emergency Response Plan detailing procedure to be used by Freedom Rail during all operations on the Commission's Track for preventing, and for responding to, emergencies or rail bikes or along the railroad right-of-way.
12. Freedom Rail shall ensure that any person operating rail bikes on the Commission's track shall not release, dispose of or place any materials or debris on the Commission's Track, and shall be responsible for removing and properly disposing of any such materials or debris.
- 13. FREEDOM RAIL AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE COMMISSION FOR, FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, CLAIMS, DEMANDS, ACTIONS, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) (COLLECTIVELY, "LOSSES") (a) CAUSED BY OR ARISING FROM, IN WHOLE OR IN PART, ANY ACT OR OMISSION OF USE, OR (b) ANY BREACH BY FREEDOM RAIL OF THIS AGREEMENT, OR (c) FOR PERSONAL INJURY TO OR DEATH OF FREEDOM RAIL'S EMPLOYEES, AGENTS, PASSENGERS OR**

**CONTRACTORS OCCURRING WHILE SUCH PERSON IS ON OR ABOUT THE COMMISSION'S TRACK.**

14. Freedom Rail shall procure liability insurance in the amount of \$2 million dollars per act or occurrence and shall at all times maintain such insurance in full force and effect. Freedom Rail shall provide the Commission with a Certificate issued by its insurance carrier evidencing the insurance coverage required. Freedom Rail shall maintain the required insurance coverage throughout the term of this Agreement and require the Freedom Rail's insurance carrier to notify the Commission at least 30 days prior to modification or cancellation of such insurance. Property insurance carried by the Commission, if any, shall be considered excess insurance and shall not contribute to any loss covered by Freedom Rail property insurance or Freedom Rail's obligations under this Agreement. All insurance correspondence to the Commission shall be directed to the Commission by sending such correspondence to Nevada Commission for the Reconstruction of the V&T Railway, PO Box 1711, Carson City, NV 89702.
15. The term of this Agreement for the rail bikes on the Commission's Track operated by or through Freedom Rail's agreement with the Commission is to, and ending on, 31 December 2021, unless otherwise earlier terminated pursuant to the terms of this Agreement. The Commission may cease operations of any or all rail bikes on the Commission's track upon ten days written notice to Freedom Rail if it is determined that operations cannot continue based on revenue generated by rail bike operations. The Commission's determination will be made based solely on operating costs in excess of revenues, or a lack of sufficient ridership (ticket sales) on scheduled or special rail bikes. Any determination made by the Commission shall be after consultation with the Commission's accountant or auditor. All Freedom Rail obligations would be cancelled upon termination of this contract. Any early termination fee of Freedom Rail spent setup monies.
16. The Commission and Freedom Rail agree that special event trains such as *Toast of the Canyon Wine Trains*, whereby trains may be operated on the Commission's Track, may be permitted so long as both parties agree on the special event trains' schedule. The operation of a special events train after approval by Freedom Rail shall be the sole responsibility of the Commission.
17. All references in this Agreement to "Commission" shall mean and include the Commission and its officers, contractors, agents, passengers, retained train excursion operator and employees, and others acting under its or their authority. All references to "Freedom Rail" shall mean and include Freedom Rail and its officers, contractors,

agents, passengers, and other acting under its or their authority.

18. Severability: All provisions in this Agreement are separate and severable. If any provision of this Agreement shall be found by a court of competent jurisdiction to be illegal, in conflict with any laws of the State of Nevada, contrary to policy or otherwise unenforceable, the validity and enforceability of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular provision found to be illegal, invalid, or otherwise unenforceable, and the legality of the remaining portions of the Agreement shall be unaffected.
19. Should Freedom Rail fail to perform or keep any of the covenants, conditions, provisions and agreements herein provided to be performed or kept by Freedom Rail, within ten (10) days following delivery of the Commission's written notice specifying in detail such failure on the part of Freedom Rail and demand the same to be cured within said ten (10) day period, then Freedom Rail shall be deemed to be in default hereunder and the Commission may immediately terminate this Agreement. Provided, however, that should Freedom Rail allow any third person to use the Commission's track, which person is not an employee of Freedom Rail providing services in furtherance of this Agreement, the Commission may immediately terminate this Agreement without notice.
20. If any such failure on the part of Freedom Rail as described herein can be cured, but not completed within said ten (10) day period set forth because of circumstances beyond Freedom Rail's control, no default may be entered or deemed to exist on the part of Freedom Rail so long as Freedom Rail, in good faith within the specified ten (10) day period undertakes to cure the failure and to faithfully and diligently proceed thereafter to complete the cure of Freedom Rail's failure; provided, however, that Freedom Rail must completely cure the failure within thirty (30) days after notice is provided by the Commission.
21. In no event shall this Agreement become an asset of Freedom Rail in any bankruptcy, receivership or insolvency proceeding, or in any judicial proceedings. If at any time during the term of this Agreement Freedom Rail shall file a petition in bankruptcy or insolvency, or if a receiver or trustee is appointed to take charge of all or a portion of Freedom Rail's property, or if Freedom Rail is adjudicated bankrupt or insolvent in any court, or if Freedom Rail makes an assignment for the benefit of creditors, or if the property or business of Freedom Rail be seized under execution and unreleased therefrom for ten (10) or more days, the Commission may, at its option and without notice, terminate this Agreement with or without process of law.
22. Time is of the essence for each, every and all of the provisions of this Agreement.

23. It is mutually understood and agreed by and between the Commission and Freedom Rail that the various rights and remedies herein contained and reserved both the Commission and Freedom Rail shall not be considered as exclusive of any other right or remedy, but the same shall be construed as cumulative and shall be in addition to any other remedy now or hereafter existing at law, in equity or by statute. No delay or omission of the Commission to exercise any right or power arising from any omission, neglect or default the other shall impair any such right or power or shall be construed as a waiver of any such default or acquiescence therein . No waiver of the breach of any of the covenants of this Agreement shall be construed or held to be a waiver of any other breach or waiver or acquiescence in or consent to any further or succeeding breach of the same covenant.
24. In the event that suit is brought to enforce the provisions of this Agreement or to collect damages for any breach of this Agreement, the prevailing party shall be entitled to recover its litigation costs, including reasonable attorney's fees. Such shall include appeal.
25. Members, managers, employees, officers of the limited liability company shall have no liability for any breach of this Agreement of any injury or damage to any person, party, or entity arising out of the performance of lack thereof of this Agreement by the limited liability company and the Commission shall have rights against the limited liability company only to the extent of the limited liability company property and assets and not against its members.
26. This Agreement shall be governed and construed in accordance with the laws of the State of Nevada, as they exist from time to time. Venue of any proceedings regarding this Agreement shall be in the First Judicial District Court in and for the Carson City, Nevada.
27. Any notice required to be provided by this Agreement to the patties shall be deemed given when mailed by U.S. Mail, certified mail return receipt requested, or personally delivered to:

Nevada Commission for the Reconstruction of the V&T Railway  
PO Box 1711  
Carson City, NV 89702

With Copy to:  
Michael Smiley Rowe, Esq.  
Rowe Law Offices  
1638 Esmeralda Avenue  
Minden, NV 89423

### SECTION 3 - COMPENSATION

Tickets will be a ~~40~~25% Commission and ~~75~~60% Freedom Rail split of ticket sales (after credit card fees) and will be processed on ~~Commission's Freedom Rail's~~ ticketing site. Activity and sales reports will be processed at the end of each day and forwarded to ~~Freedom Rail~~V&T Railway Commission via email.

~~Every other Monday a~~ A biweekly twice monthly Payouts Report showing all sales types will be sent to ~~Freedom Rail~~V&T Railway Commission and a check for 2560% of rail-bike rides revenue, minus credit card fees, ~~will be processed through Commission's account with Storey County Comptroller's office and a check mailed to Freedom Rail.~~

The Commission will be responsible for ~~all regular track, facilities and facilities maintenance costs and monthly utilities, septic pumping, pest control and trash service costs. The Commission will provide restroom supplies for the tenant shared restrooms, and standard operating costs, including marketing costs.~~

The cost of rail inspections is based on scheduled rides and will be split between the Commission and Freedom Rail.

Freedom Rail will be responsible for all costs associated with the rail bike operations including all railbike related employees, an onsite manager, ticketing personnel, and custodial employees. ~~Each party will have its separate employees.~~

Freedom Rail will develop its own marketing plan and will be responsible for its marketing costs.

#### OTHER COMPENSATION:

~~The Commission will provide space for Freedom Rail to sell its merchandise at the Eastgate Depot. Compensation for this space will be 10% of gross sales paid to the Commission monthly. A summary of Freedom Rail's merchandise receipts will accompany the payment.~~

~~The Commission will reimburse Freedom Rail 40% Liability Insurance Cost (not personal property) required by the Commission.~~

#### NON-COMPENSATION:

~~The Commission is allowed to sell sponsorship opportunities to offset its costs and to raise funds for future capital improvements projects for the Commission Track and rest areas. These funds are not subject to commission.~~



# Revised SCHEDULE A

## RAIL BIKE AGREEMENT SCHEDULE ~~For 2020~~ & 2021

### SECTION 1 - HOME BASE

CARSON RIVER CANYON RAIL BIKE RIDES is housed in Carson City, Nevada and is operated by FREEDOM RAIL, LLC of Utica, New York.

### SECTION 2 - REGULAR SCHEDULED RAIL BIKES FOR STANDARD SEASON TO BE DETERMINED ANNUALLY.

#### RAIL BIKE ADVENTURES

Season: ~~May-April~~ - October (~~April &~~ November weather permitting)

Proposed Schedule: Schedule may be modified the first season to determine demand.

Days: ~~Tuesday-Wednesday~~ - Sunday (with an option to run Mondays & Tuesdays for charter rides or holidays)

Times: ~~One hour~~ 1.5 hour rides. Times are approximate.

~~10:00~~ 10:30 AM Departure - ~~11AM~~

~~12 AM~~ Return

~~12:30~~ 12:00 PM Departure - ~~1PM-2~~

~~PM~~ Return ~~2:00~~ 2:30 PM Departure -

~~3PM-4~~ PM Return ~~4:00~~ 5:00 PM

Departure- ~~6:30~~ 5PM Return

Number of Rail Bikes: The operation will begin with ~~five~~ nine (95) four-seat rail bikes and ~~one~~ (1) two-seat guide rail bike. ~~Additional rail bikes will be added to the rail bike inventory in increments of five and a second guide rail bike will be added as well.~~ Total rail bikes for passengers' use will be ~~between 10 and 15 by the end of the 2020 Season~~ June 2021.

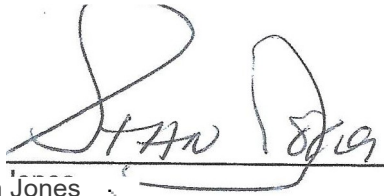
Rates: \$45 per seat

~~Any special offers, discounts, or comps must be agreed to by both Freedom Rail and V&T Railway's General Manager~~

Freedom Rail LLC  
Vincent Ficchi  
Todd Lozo Sr.  
100 Mathews Ave  
Utica, NY 13502

With Copy to: Freedom Rail's Attorney.

NEVADA COMMISSION FOR THE  
RECONSTRUCTION OF THE V&T RAILWAY




Stan Jones  
Chairman

Date: 1 AUG 20

FREEDOM RAIL LLC

  
\_\_\_\_\_  
Vincent Ficchi  
Owner

Date: 1/5 ce ZoZo

  
\_\_\_\_\_  
Todd Lozo Sr.  
Owner

Date: 14-SEPT-2020