



**NEVADA COMMISSION FOR THE RECONSTRUCTION OF THE V&T RAILWAY  
("V&T Railway Commission")  
Agenda Report**

**Date Submitted:** 9/19/24

**Meeting Date Requested:** 9/26/24

**Time Requested:** 10 Minutes

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

**From:** David Peterson

**Subject Title:** Discussion and possible action regarding a proposed revenue sharing agreement with Storytime Photography, for photos with Santa Claus at the Eastgate Depot during the 2024 POLAR EXPRESS Train Ride event.- **David Peterson** (admin@vtrailway.com)

**Staff Summary:** *The parties entered into a similar agreement in 2023, when the Commission received 30 percent of the gross sales. According to the proposed revenue sharing agreement, the V&T Commission will receive 35 percent of the gross sales in 2024. The value of the revenue sharing agreement is estimated to be under \$12,250 based on the revenue the V&T Commission received for the same event in 2019 through 2023.*

**Type of Action Requested:**

Resolution

Ordinance

Formal Action/Motion

Other (Specify) Presentation Only

**Recommended Board Action:** I move to approve the revenue sharing agreement with Storytime Photography as presented.

**Applicable Statute, Code, Policy, Rule or Regulation:**

**Fiscal Impact:**

**Explanation of Impact:**

**Funding Source:**

**Supporting Material/Attachments:** 240926 VT Item 7 PEX Santa photo proposal 2024, 240926 VT Item 7 Revenue Agreement \_ Storytime\_2024\_Final

**Prepared By:** Cheryl Bailey, Executive Assistant



Dear V&T Railway Commission,

Storytime Photography at Polar Express is a team of 8 people, including 3 Santa's and 4 digital assistants. I am a local photographer and have been providing event photos, including Santa, Easter Bunny and Photo Booth services for 10 years. I understand the workflow and I have a trained team. I managed the JC Penny Portrait Studio and learned how to "woo" and upsell photos in a friendly and comfortable manner. One of the things that really sets us apart is I have trained my team to help little ones feel comfortable with Santa. We pay attention to each individual and work with the natural developmental milestones of children. Babies and 1 year olds like bubbles, 2 year olds like to hold things; like a snowball and 3 and up, we get them settled by a "snowball" fight with Santa. Children become more comfortable when they can be playful. We are thanked often for the special experience we provide. Furthermore, we take care with Santa and his hand placements. I have trained my Santa's that their hands are to be seen at all times and to make sure they have proper placement of them. Specifically, the Santa's are trained to be sensitive to the suspended reality experience of PEX and to not be seen outside of the hidden space we have been provided. We take pride and joy in what we do. We want our efforts to enhance the family's time at Polar Express.

We also take care to get excited about the photos. When the parents are viewing their photos we engage with parents and point out the adorable aspects, or "woo" the photos. The parents are proud of their children and love the photos, and we share in their excitement. Storytime Photography has a following for Santa Photos, people love what we do! We were given the go ahead last year to invite people outside of ticket holders to come see Santa. I encouraged families to come to the station for the evening and explore the gift shop and have a near private time with Santa. My intent for this season is to book reservation spots during those times. This will continue, as it did last year to increase revenue streams for more photos and more retail.

The start time for each day is 4:00 pm and finishing at about 10:00 pm. The intent is to provide clients with a printed photograph or digital media of an individual/group prior to them leaving the site. Pricing of the delivered packages will remain the same as 2021 and 2022, as follows:

- 2-4x6 Photographs with a keepsake folio \$25
- 2-6x8 Photographs with a keepsake folio \$40
- Additional 4x6- \$12
- Additional 6x8- \$14
- Digital Flash Drive with 8-10 images and 2 Folios-\$53
- Santa's Bundle-Flash Drive & (4) 4x6 or (2) 6x8- \$80

Fees: For these services V&T Railway will receive 35% of gross proceeds from the prints and digital media produced at the site by *Storytime Photography*.

*Storytime Photography* will provide to the V&T Railway, one photographer, digital assistants, and Santa. All cameras, flash gear, stands and tripods; printers, PCs and supplies for the printers, photo folders (keepsake folder), digital memory sticks, floor covering in picture taking area, decorations in picture taking area, and perform our own cashier operations. V&T Railway shall provide the site, tents/building with adequate space (20'x30'), heat and lighting, and power.. V&T Railway will provide a high quality 12'X20' approved backdrop.

As part of the service agreement.V&T Railway shall not willfully and knowingly allow other professional photographers to conduct on site business for sale services for passengers of Polar Express. Also, V&T Railway shall not willfully or knowingly provide, install or construct a competing photo opportunity area in or around the event. We would also request to add some indication on your website that "photographs with Santa" would be available at the depot (for extra charge). And we would like to provide a poster to place in the depot ticket office behind the ticket agent indicating there are "photographs with Santa"available.

*Storytime Photography* would be willing to participate in a reasonable amount of planning meetings, site visits to assist in coordination of photography functions and post lessons learned meetings. Should *Storytime Photography* experience equipment failure or be unable to perform the photographic functions for the event, any fees received for unused services would be refunded.

Payment acquisition: *Storytime Photography* will remit payment to V&T Railway on an agreed upon date, for the above declared 35% of gross sales.

The 2023 season was very successful with so much positive feedback. We had quite an increase in digital sales mostly due to the poses we provided. This created a desire for customers to want all of the photos.

In conclusion we have provided a great experience for the Polar Express guests, that aligns with the vision that tourism has for the Railway. My team and I are dedicated to continuing to offer an excellent time with Santa. I proudly BELIEVE we provide the best Santa experience around and work earnestly to maintain that. We are open to feedback and have developed our proven system to provide the best experience over the years.

Thank you for your consideration.

Sincerely,  
Laura Main  
Storytime Photography 775.720.2542

2023 Sales:

Cash: \$2112

Venmo \$615

Merchant Sales: \$26,302.10

Total: 29,029.10

X30% = \$8,708.73

435@25.00-4x6-\$10,875

94@10.00-additional 4x6-\$940

26@\$40.00-5x7-\$1,040

13@12.00-additional 5x7-\$156

33@\$40.00-6x8-\$1,320

18@12.00-additional 6x8-\$216

Misc. \$7.10

81-Santa Bundles-\$6,075

175-Flash Drives-\$8,400

Printed Photos-\$14,554.10

## **PHOTOGRAPHY REVENUE SHARING AGREEMENT**

This Photography Revenue Sharing Agreement ("Agreement") is made by and between the Nevada Commission for the Reconstruction of the V&T Railway ("Commission"), a body corporate and politic, and Storytime Event Photography ("Storytime"), individually referred to as "Party" and collectively referred to as the "Parties."

### **RECITALS:**

WHEREAS, the Commission organizes a yearly holiday-themed event, named "The Polar Express" ("Event"); and

WHEREAS, in 2024, the Event will take place between 4:00 p.m. and 10:00 p.m. the following days: November 14, 2024, December 23, 2024, and the Friday, Saturday and Sundays November 15, 2024 through December 22, 2024.

WHEREAS, Storytime is a private photography company based in Carson City, Nevada.

WHEREAS, Storytime is willing and able to perform the services described herein.

NOW THEREFORE, in consideration of the mutual promises and conditions contained in this Agreement and for other good and valuable consideration, the Parties do agree as follows:

### **TERMS:**

#### **1. DUTIES AND RESPONSIBILITIES OF THE PARTIES.**

1.1 Storytime will offer Event customers for purchase printed photographs and/or digital media of the customer and, if applicable, the customer's group, taken during the Event, at the end of the train ride.

1.2 The purchase price for the photographs and digital media is as follows:

- a. Two 4x6 prints and keepsake folio - \$25
- b. Two 5x7 prints and keepsake folio - \$40
- c. Additional 4x6 print - \$10/each
- d. Additional 6x8 print - \$12/each
- e. Digital flash drives with 8-10 images and two folios - \$48
- f. Santa's Bundle - flash drive and four 4x6 or two 6x8 - \$80

1.3 Storytime will pay the Commission 35% of the gross proceeds from the sale of the prints and digital media at the Event site, which will satisfy any and all fees that Storytime owes the Commission. Story will remit the payment no later than 30 days from December 23, 2024.

1.4 At its discretion and upon availability, Storytime will participate in planning meetings and site visits to assist in coordination of photography functions and post-Event meetings.

- 1.5 Storytime will refund any fees received for unused services, in the event that Storytime experiences equipment failure or is unable to perform photographic functions for the Event.
- 1.6 Storytime will provide for the Event a photographer, digital assistants, a Santa Claus actor, a cashier, and all the materials and equipment, including cameras, flash gear, stand and tripods, printers, PCs, supplies for the printers, keepsake folios, digital memory sticks, floor covering and decorations in the picture taking area.
- 1.7 The Commission will provide Storytime the site, tents/building with adequate space (20'x30'), heat, lighting, power, crowd assistants, and a high-quality approved backdrop.
- 1.8 The Commission shall not willfully and knowingly allow other professional photographers to provide printed photographs and digital media to Event customers and shall not provide, install or construct any other photo opportunity areas at or around the Event.
- 1.9 The Commission will allow a post on the Event's website and the display of a poster in the depo ticket office behind the ticket agent, with the message that photographs with Santa are available for sale during the Event.
2. **FORCE MAJEURE.** Neither Party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the Party asserting such an excuse, and the excused Party is obligated to promptly perform in accordance with the terms of this Agreement after the intervening cause ceases.
3. **INDEMNIFICATION.** To the fullest extent permitted by law, including but not limited to the provisions of NRS Chapter 41, each Party shall indemnify, hold harmless and defend, not excluding the others right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the Party, its officers, employees or agents. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any Party or person described herein. This indemnification obligation is conditioned upon receipt of written notice by the indemnifying Party within thirty (30) days of the indemnified Party's notice of an actual or pending claim or cause of action. The indemnifying Party shall not be liable to hold harmless any attorney's fees or costs incurred by the indemnified Party if the indemnified Party elects to participate in any litigation or arbitration with legal counsel of its own choice.
4. **INSURANCE.** All Parties must carry their own policies of insurance and pay all

applicable taxes and fees.

5. **BREACH.** Failure of either Party to perform any obligation of this Agreement shall be deemed a breach. Except as otherwise provided for by law or this Agreement, the rights and remedies of the Parties shall not be exclusive and are in addition to any other rights, remedies provided by law or equity, including but not limited to actual damages incurred, and reasonable attorney's fees and costs incurred by the prevailing Party. The Parties agree that, in the event a lawsuit is filed and a Party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour.
6. **WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of this Agreement or its material or nonmaterial terms by either Party shall not operate as a waiver by such Party of any of its rights or remedies as to any other breach. No waiver of any right or remedy shall be effective unless in writing.
7. **SEVERABILITY.** If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.
8. **ENTIRE AGREEMENT; MODIFICATION.** This Agreement constitutes the entire agreement of the Parties and is the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement is binding upon the Parties unless the same is in writing and signed by the Parties and approved by each Parties' respective counsel.
9. **GOVERNING LAW AND JURISDICTION.** The laws of the State of Nevada apply in interpreting and construing this Agreement. The Parties consent to the jurisdiction of, and agree that disputes will be resolved by, the courts of the First Judicial District Court of the State of Nevada in Carson City.
10. **NO THIRD-PARTY BENEFICIARY.** Nothing contained in this Agreement is intended to convey any rights or to create a contractual relationship with any third-party or to otherwise allow a third-party to assert a cause of action against either Storytime or the Commission arising from, or related to, this Agreement.
11. **OWNERSHIP OF PROPERTY.** This Agreement does not contemplate a transfer of any real or personal property or ownership interest between the Parties. Any and all real and personal property presently owned by either Party will remain owned by that Party upon completion or termination of this Agreement.
12. **RECORDS.** Each Party agrees to keep and maintain, under generally accepted accounting principles, full, true and complete records and documents pertaining to this Agreement and will present, at any reasonable time, such information for

inspection, examination, review, audit and copying at any office where such records and documentation is maintained.

13. **SUCCESSORS; ASSIGNMENT.** This Agreement shall bind the heirs, executors, administrators, successors, and assigns of the respective Parties. No Party may assign, transfer or delegate any rights, obligations, or duties under this Agreement without the prior written consent of the other Party.
14. **AUTHORITY TO SIGN.** The Parties represent and warrant that the person executing this Agreement on behalf of each respective Party has full power and authority to enter into this Agreement and that the Parties are authorized by law to perform the services set forth herein.
15. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which, taken together, shall constitute one and the same Agreement.

*(The remainder of this page is blank. The signature page follows.)*



IN WITNESS THEREOF, THE PARTIES HAVE ENTERED INTO THIS AGREEMENT ON THE DATE AND YEAR WRITTEN BELOW:

**NEVADA COMMISSION FOR THE RECONSTRUCTION OF THE V&T RAILWAY:**

**BY:** \_\_\_\_\_  
David Peterson, Chair Date

**STORYTIME PHOTOGRAPHY:**

**BY:** \_\_\_\_\_  
Laura Main Date