



**Tremonton City Corporation  
Redevelopment Agency Meeting  
August 4, 2015  
Meeting to be held immediately following Tremonton City Council Meeting  
which is scheduled at 7:00 p.m.  
102 South Tremont Street  
Tremonton, Utah**

**AGENDA**

Meeting called to order at:

1. Approval of agenda
2. Approval of minutes – July 7, 2015
3. New Business:
  - a. Discussion and consideration of approving Resolution No. RDA 15-07 adopting a Wall Mural Artist Professional Services Agreement between Jason Nessen and Tremonton City RDA to paint a wall mural on a building located at 125 East Main Street
4. Adjournment

*Persons with disabilities needing special assistance to participate in this meeting should contact Darlene Hess no later than 48 hours prior to the meeting.*

*Anchor location for Electronic Meeting by Telephone Device. With the adoption of Ordinance No. 13-04, the Board may participate per Electronic Meeting Rules. Those eligible to request participation by electronic means should contact Darlene Hess, City Recorder no later than 48 hours prior to the meeting to make arrangements.*

**Notice was posted July 30, 2015, a date not less than 24 hours prior to the date and time of the meeting and remained so posted until after said meeting. A copy of the agenda was delivered to the Leader (Newspaper) on July 30, 2015.**

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Darlene S. Hess, Executive Secretary

## **Draft Minutes**

### **TREMONTON CITY CORPORATION REDEVELOPMENT AGENCY July 7, 2015**

#### Board Members Present:

Roger Fridal, Chairman

Diana Doutre, Board Member

Lyle Holmgren, Board Member

Jeff Reese, Board Member

Bret Rohde, Board Member

Byron Wood, Board Member

Shawn Warnke, Executive Director

Darlene Hess, Executive Secretary

Chairman Fridal called the Tremonton Redevelopment Agency Meeting to order at 7:58 p.m. The meeting was held in the City Council Meeting Room at 102 South Tremont Street, Tremonton, Utah. Those in attendance were Chairman Fridal, Board Members Doutre, Holmgren, Reese, Rohde, and Wood, Executive Director Warnke, and Executive Secretary Hess.

#### 1. Approval of agenda:

**Motion by Board Member Doutre to approve the July 7, 2015 agenda.** Motion seconded by Board Member Reese. Vote: Board Member Doutre - aye, Board Member Holmgren - aye, Board Member Reese - aye, Board Member Rohde - aye, and Board Member Wood - aye. Motion approved.

#### 2. Approval of minutes – June 16, 2015

**Motion by Board Member Wood to approve the minutes of June 16, 2015.** Motion seconded by Board Member Holmgren. Vote: Board Member Doutre - aye, Board Member Holmgren - aye, Board Member Reese - aye, Board Member Rohde - aye, and Board Member Wood - aye. Motion approved.

#### 3. New Business:

- a. Discussion and consideration of approving Resolution No. RDA 15-06 adopting a Wall Mural Artist Professional Services Agreement between Rachel Wadsworth and Tremonton City RDA to fabricate a wall mural of the space shuttle on a building located at 13 North 200 East, wall facing Main Street

Board Member Reese stated the design looks good. The mural will be on the south side of Dr. Johnson's building on Main Street. Board Member Rohde commented that the south side of the apartments next to 13 North 200 East would

## **Draft Minutes**

be a good spot for a mural as it is big. Executive Director Warnke spoke to the owner of the apartments in the past and will follow up with him again about putting a mural on the south wall of the apartments. It was also noted that Executive Director Warnke will be getting a bid for bricking in the windows at 13 North 200 East. The windows are covered with sheetrock on the inside.

**Motion by Board Member Reese to approve Resolution No. RDA 15-06.** Motion seconded by Board Member Holmgren. Roll Call Vote: Board Member Rohde - aye, Board Member Wood - aye, Board Member Reese - aye, Board Member Doutre - aye, and Board Member Holmgren - aye. Motion approved.

#### 4. Adjournment

**Motion by Board Member Holmgren to adjourn the meeting.** Motion seconded by Board Member Doutre. Vote: Board Member Doutre - aye, Board Member Holmgren - aye, Board Member Reese - aye, Board Member Rohde - aye, and Board Member Wood - aye. Motion approved.

The meeting adjourned at 8:00 p.m.

The undersigned duly acting and appointed Executive Secretary for Tremonton City Corporation Redevelopment Agency hereby certifies that the foregoing is a true and correct copy of the minutes for the RDA Meeting held on the above referenced date. Minutes were prepared by Cynthia Nelson.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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Darlene Hess, Executive Secretary

**TREMONTON CITY**  
**RDA BOARD MEETING**  
**AUGUST 4, 2015**

<b>TITLE:</b>	Discussion and consideration of approving Resolution No. RDA 15-07 adopting a Wall Mural Artist Professional Services Agreement between Jason Nessen and Tremonton City RDA to paint a wall mural on a building located at 125 East Main Street
<b>FISCAL IMPACT:</b>	The RDA received a grant from Union Pacific in the amount of \$5,000 towards this project.
<b>PRESENTER:</b>	Shawn Warnke, Executive Director

**PREFACE:**

Jason Nessen is working on sketch of the mural and the bid amount to paint the mural. The sketch and bid amount will be present to the RDA Board at the meeting.

**RECOMMENDATION:**

I move that the RDA Board adopt Resolution No. RDA 15-07 adopting a Wall Mural Artist Professional Services Agreement between Jason Nessen and Tremonton City RDA to paint a wall mural on a building located at 125 East Main Street.

**BACKGROUND:**

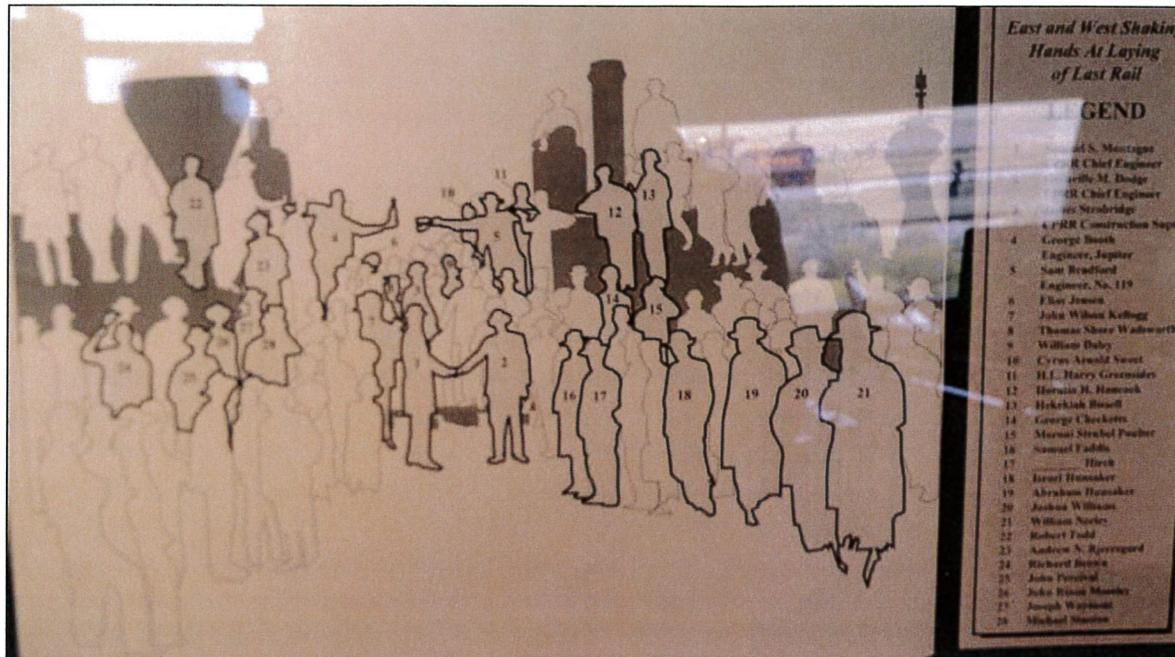
**PROPOSED FOR APPROVAL- Champagne Photo From The Driving of the Golden Spike Ceremony**

Subject Image & Location: Andrew J. Russell's "East and West Shaking Hands at Laying of Last Rail." Commonly known as "The Champagne Photo." As you know the National Park Service maintains the Golden Spike National Historic Site, approximately 27 miles west of Tremonton. Within an 8 mile radius, visitors can experience one hundred years of transportation history by visiting the Golden Spike National Historic site, where the transcontinental railroad was completed in 1869, and visiting the rocket display at ATK, where scientists helped put a man on the moon exactly 100 years later in 1969.



The wall mural would be painted by Jason Nessen and done in sepia tones. The City would perform all of the prep work for the artist such as washing the wall, painting the base coat, and performing any wall patching that might be required. The artist would use a manlift or scaffolding to paint the mural. As you can see the image is complex and for purposes of paining the mural, the image may be simplified so that it is visually more appealing.

Jason Nessen will also be asked to be sure to include key dignitaries that are contained in the iconic image such as these:



The wall mural would be painted by Jason Nessen and done in sepia tones. The City would perform all of the prep work for the artist such as washing the wall, painting the base coat, and performing any wall patching that might be required. The artist would use a manlift or scaffolding to paint the mural.

As you may recall from the last RDA meeting board members discussed the possible location of a mural being painted on a building (125 E. Main Street) located at just west of the proposed space shuttle mural on Main Street. Mr. Keith Kendrick owns the building and City staff approached Mr. Kendrick for permission to paint the Champagne Photo from the Driving of the Golden Spike Ceremony. You may recall from the discussion at the RDA meeting that this the second time that City staff inquired of Mr. Kendrick regarding the availability of his building hosting a mural.

Mr. Kendrick is willing to grant the RDA verbal permission to paint mural on his building but will not provide written permission in the form of an easement. As you know the RDA has received signed easements from the property owner which is thereafter recorded in the Box Elder County Recorder's Office that grants the City the right to have the mural on a wall for a period of time (typically a ten year period which automatically renews for another ten year period unless the easement is canceled in writing).

Mr. Kendrick says that he has no plans to paint over the mural but also does not want to have a restrictions against is property. All things considered the location of Mr. Kendrick's property is ideal because: 1) it adjoins would adjoin the space shuttle mural which references ATK and as you know ATK and the Golden Spike National Historic Monument are geographically in close proximity; 2) the image's size and projection fitting the size and orientation of the wall. I reviewed the grant documents submitted to Union Pacific and I did not reference in this grant application that the mural would be protected by an easement. I also believe that Union Pacific would appreciate the high visibility of this location; although I think that they would be understandably disappointed if the mural was not available for a number of years.

As an alternate location the City could ask Mr. Johnny Krey, if the backside of his garage (which faces Ridley's parking lot) would be available for the mural. In the past conversations he said that he would allow a mural and it is my recollection that he would sign an easement.

Timing: It is my understanding that Mr. Nessen would start the project immediately after the wall was prepped.

Easement: As noted above Mr. Kendrick is willing to grant the RDA verbal permission to paint mural

on his building but will not provide written permission in the form of an easement.

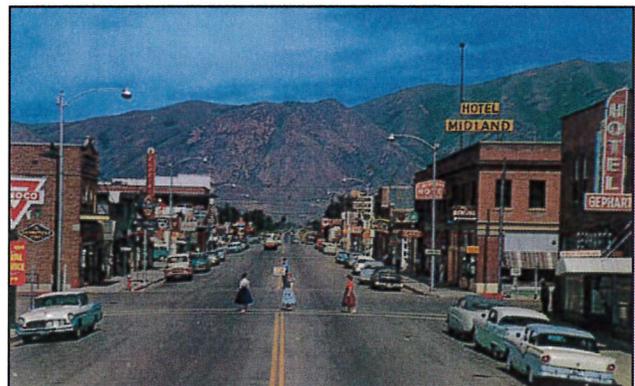
Cost & Funding: The RDA applied for and received a Union Pacific Foundation Grant for \$5,000 to be used for artist fees to paint the iconic image of the driving of the Golden Spike Ceremony. The balance of the mural costs would come from RDA funds.

### **PROPOSED AS A CONCEPT West Main Street Gateway Mural**

Subject Image & Location: It is proposed that an image of Tremonton Main Street circa 1950's-1960's be painted on the west wall of a building located at 145 West Main Street. Prominent elements of the historic image include:

- Historic buildings that still exist today on Tremonton City Main Street with the proposed location of the mural being approximately the same vantage point from the 1950's/1960's photo;
- A glimpse of what Tremonton Main Street was like during the 1950's/1960's; and

City staff believes that this historical image would serve as a gateway mural from the west to compliment the welcome mural that exists to the east side. The mural image is a scene from Tremonton Main Street 1950's/1960's and it is proposed that a "Welcome to Tremonton" be painted in 1960's font. This mural is proposed to be in color and would be 50-feet long by 21-feet tall.



Timing: There has been no time schedule programmed with this mural.

Easement: City staff is working with Micah Capener to get an easement. Micah has expressed a willingness to sign an easement. The City would also likely need to get an access easement from Allred Auto Body.

Cost & Funding: I have received a price for this mural with the concept image in the amount of \$8,000, which would be in color. The location of where the mural will be created is within the Tremont Center CDA and the creation of the mural is an eligible expense.

### **Wall Mural Artist Professional Services Agreement.**

In order to reduce costs and use City assets to the greatest good, the draft agreement proposes the following:

- That Mr. Nessen be allowed use of the City's man-lift equipment as necessary to complete wall mural (the agreement includes an indemnification clause regarding Mr. Nessen's use of the manlift).
- That the City obtains the necessary easement agreements for the wall mural to be painted on a building.
- That the City prepares the surface of the wall for the wall mural by power washing, repairing bad brick mortar, and spraying a base coat of paint if needed.

Due to the specialized talents and demonstrated abilities associated with creating a wall mural City staff is recommending that the City classify Mr. Jason Nessen as "Single Source Provider" for purposes of complying with the City's purchasing policy. A "Single Source Provider" is one that provides a particular product, part, or service for the City which no other company provides or can reasonable provide. Moreover, the City Council is entering into a professional services agreement with Mr. Nessen and both a "Single Source Provider" and "Professional Services Agreement approved by the City Council" satisfy the City's procurement policies for engaging the work to be done without having multiple bids.

### General Background on Wall Murals.

As you know Tremonton City has recently undergone a downtown revitalization and visioning process for its Main Street facilitated by the American Institute of Architect's Sustainable Design Assistance Team. One of the objectives identified through this public planning process was to make downtown more vibrant through public art.

Providing arts is an important element in making a downtown vibrant. Utah Code 10-7-85 even recognizes the importance of supporting the arts by specifically allowing City's to provide financial assistance to the arts. Specifically, it states the following:

*The governing body of any municipality may provide for and appropriate funds for the support of the arts, including music, dance, theatre, crafts and visual, folk and literary art, for the purpose of enriching the lives of its residents and may establish guidelines for the support of the arts.*

As you know the City has a local artist, Jason Nessen that has painted wall murals in both Tremonton City and Garland. Wall murals are fairly inexpensive, are easily seen by the public, and are readily available due to the talents of a local artist.

For what is it worth below are some of my thoughts regarding the objectives and guidelines that might be used in picking the subject matter and location of the wall mural.

#### Objectives:

- Have art work on Main Street/Downtown Area that reflect Tremonton City and the Bear River Valley
- Add visual interest to other wise monotonous walls

#### Guidelines:

- Walls that make good candidates for wall murals are cinder block walls or brick walls that are already painted
- Find locations that are visible but not overwhelming (avoid locations such intersections of Main Street and Tremont Street). Wall murals or other art work be a feature but not a focal point on Main Street and the downtown area (that is colors and locations of the artwork should be subdued)
- Avoid wall murals on buildings that have prominent architectural features and are historic in nature

Attachments: Draft Resolution and Wall Mural Artist Professional Services Agreement

## RESOLUTION NO. RDA 15-07

### A RESOLUTION ADOPTING A WALL MURAL ARTIST PROFESSIONAL SERVICES AGREEMENT BETWEEN JASON NESSEN AND TREMONTON CITY RDA TO PAINT A WALL MURAL ON A BUILDING LOCATED AT 125 E. MAIN STREET

**WHEREAS**, to revitalize Tremonton City's Main Street, Tremonton City recently underwent a Main Street visioning and planning process facilitated by the American Institute of Architects' Sustainable Design Assistance Team ("SDAT"); and

**WHEREAS**, one of the objectives identified through the aforementioned visioning and planning process was to make downtown more vibrant through public art; and

**WHEREAS**, Tremonton City RDA applied for and received a grant award for five thousand dollars (\$5,000) from the Union Pacific Foundation; and

**WHEREAS**, UCA 10-7-85 allows for the governing body of a municipality to provide funds for the arts; and

**WHEREAS**, Contractor possesses highly specialized skills and talents associated with his ability to create works of art; and

**WHEREAS**, in accordance with Subsection 5 Procurement *Not* Requiring Bids, Section II: Purchasing Policy & Contracts of the Tremonton City Personnel Policy and Procedure Manual, the Tremonton City Council and RDA Board deems the Contractor as a single-source provider due to his highly specialized skills and talents and thus is not required to obtain multiple bids; and

**WHEREAS**, the RDA is desirous to enter into a professional services agreement with Contractor, wherein Contractor will provide to the RDA professional artist services, specific to wall murals; and

**WHEREAS**, in accordance with Subsection 5 Procurement *Not* Requiring Bids, Section II: Purchasing Policy & Contracts of the Tremonton City Personnel Policy and Procedure Manual, the Tremonton City RDA is approving a Professional Services Agreement and thus is not required to obtain multiple bids; and

**WHEREAS**, Contractor is desirous to provide the RDA with professional artist services, specific to wall murals.

**NOWHEREFORE BE IT RESOLVED**, by the Tremonton City Redevelopment Agency of Tremonton City, Utah that the Wall Mural Artist Professional Services Agreement is approved as contained in Exhibit A.

Adopted and approved this 4<sup>th</sup> day of August, 2015.

TREMONTON CITY  
REDEVELOPMENT AGENCY

ATTEST:

By \_\_\_\_\_  
Roger Fridal, Chairperson

By \_\_\_\_\_  
Darlene S. Hess, Executive Secretary

EXHIBIT "A"

**WALL MURAL ARTIST PROFESSIONAL SERVICES AGREEMENT FOR  
CHAMPAGNE PHOTO FROM THE DRIVING OF THE GOLDEN SPIKE CEREMONY**

**THIS AGREEMENT** (hereinafter referred to as the “Agreement”) for professional wall mural artist services is made by and between Tremonton City Redevelopment Agency, a body corporate and politic of the State of Utah (hereinafter referred to as “RDA”), and Jason Nessen (hereinafter referred to as “Contractor”), individually or jointly the RDA and Contractor shall be referred to as “Party” or “Parties”.

**RECITALS**

**WHEREAS**, to revitalize Tremonton City’s Main Street, Tremonton City recently underwent a Main Street visioning and planning process facilitated by the American Institute of Architects’ Sustainable Design Assistance Team (“SDAT”); and

**WHEREAS**, one of the objectives identified through the aforementioned visioning and planning process was to make downtown more vibrant through public art; and

**WHEREAS**, Tremonton City RDA applied for and received a grant award for five thousand dollars (\$5,000) from the Union Pacific Foundation; and

**WHEREAS**, UCA 10-7-85 allows for the governing body of a municipality to provide funds for the arts; and

**WHEREAS**, Contractor possesses highly specialized skills and talents associated with his ability to create works of art; and

**WHEREAS**, in accordance with Subsection 5 Procurement *Not* Requiring Bids, Section II: Purchasing Policy & Contracts of the Tremonton City Personnel Policy and Procedure Manual, the Tremonton City Council and RDA Board deems the Contractor as a single-source provider due to his highly specialized skills and talents and thus is not required to obtain multiple bids; and

**WHEREAS**, the RDA is desirous to enter into a professional services agreement with Contractor, wherein Contractor will provide to the RDA professional artist services, specific to wall murals; and

**WHEREAS**, in accordance with Subsection 5 Procurement *Not* Requiring Bids, Section II: Purchasing Policy & Contracts of the Tremonton City Personnel Policy and Procedure Manual, the Tremonton City RDA is approving a Professional Services Agreement and thus is not required to obtain multiple bids; and

**WHEREAS**, Contractor is desirous to provide the RDA with professional artist services, specific to wall murals.

**NOW, THEREFORE,** in consideration of the promises contained herein, the Parties agree as follows:

**1. Services Rendered.** Contractor agrees to provide artist services. Specifically, Contractor agrees to complete and paint, in a professional manner and in sepia tones, the image, in similar form and content, as contained in Exhibit "A" on the wall identified in Exhibit "B". The wall mural shall be approximately 21 feet high and 42 feet long, covering the entire surface of the wall.

The RDA has approached the owner in an attempt to obtain an easement agreement, as typically contained in Exhibit "C" in previous agreement with the Contract, specific to the wall identified in Exhibit "B". However, the owner of the property being Mr. Keith Kendricks has declined to sign an easement but has granted verbal permission for the painting of the mural. The RDA still desires to have the mural painted on the wall identified in Exhibit "B" without an easement that protects the mural from being painted over for a period of time.

The RDA shall cause the wall surface to be prepared of the previously identified wall for the wall mural by power washing, repairing bad brick mortar, and spraying a base coat of paint if needed. The RDA shall pay for the paint for the mural which is selected by the Contractor.

**2. Term of Agreement.** The Agreement shall commence on the latter of the date that this Agreement is signed by the Parties and shall terminate upon completion and acceptance of the mural. Additionally, the RDA may terminate at any time, with or without cause, by providing written notice to the Contractor of the termination of this Agreement. If this Agreement is terminated, the Contractor shall provide an invoice to the RDA itemizing and describing reasonable expenses incurred by the Contractor prior to the RDA's termination of the Agreement. The RDA shall pay only reasonable expenses, as determined solely by the RDA's Executive Director, documented in the Contractor's submitted invoice. The Contractor may appeal the RDA Executive Director's decision of amount paid to the RDA Board whose decision shall be final.

**3. Notices.** Any notice sent by either Party shall be sent, to the appropriate address contained herein, certified mail, return receipt requested:

Jason Nessen  
459 S 100 W  
Wellsville, Utah 84339

Attention RDA Executive Director  
Tremonton City RDA  
102 South Tremont Street  
Tremonton, Utah 84337

**3. Compensation/Independent Contractor.** Contractor shall be compensated \$XXXXXX for services rendered as described in Section 1 of this Agreement with half of the funds (\$XXXX) payable at the signing of this Agreement. Prior to paying the balance half (\$XXXXX)

of the funds due to the Contractor, the RDA must officially accept the mural as completed, in whole, to the RDA's satisfaction. Acceptance of the mural shall not be unreasonably withheld by the RDA.

Contractor shall not be eligible for employee benefits from the RDA such as, but not limited to, health insurance, dental insurance, life insurance, 401(k) participation, or retirement plans. Furthermore, Contractor shall be compensated as an independent contractor receiving Internal Revenue Service Form 1099 from the RDA at the completion of the Tax year in which work is performed. Excepting Section 4 herein, Contractor shall provide his own materials including but not limited to rollers, brushes, and tools.

**4. Use of RDA Equipment.** Subject to section 5 herein, Contractor shall be allowed use of the RDA's and or Tremonton City equipment as necessary and when available to complete wall mural. Contractor is acknowledging he is capable of operating any RDA and or Tremonton City equipment and shall be responsible to repair any damage caused to any RDA and or Tremonton City equipment by its use and operation.

**5. Indemnity.** Contractor agrees to indemnify and hold harmless the RDA and Tremonton City from all liability arising from any and all services provided by Contractor and/or its agents, criminal wrongdoing on the part of Contractor and/or its agents, negligent acts by Contractor and/or its agents, intentional acts by Contractor and/or its agents. Contractor further agrees to indemnify and hold harmless the RDA and Tremonton City for any injury or damage to Contractor or any third party based on Contractor's use of Tremonton City and or Tremonton RDA equipment or equipment provided by the RDA or Tremonton City.

**6. Entire Agreement.** This Agreement sets forth the entire understanding agreement of the Parties with respect to the subject matters stated herein and supersedes any prior or contemporaneous oral and/or written agreements or representations, if any, between the Parties; that the terms of this Agreement are contractual and not mere recitals; and the Parties acknowledge that no promise or agreement not included in this Agreement has been made, but that they are relying solely upon their own judgment after consultation with their respective attorney or attorneys.

**7. Counterparts, Duplicate Copies, and Facsimile Copies.** This Agreement may be executed in counterparts such that an Agreement with a complete set of signatures, whether or not on different copies of the page on which the signatures appear, shall constitute a fully-executed agreement; all executed copies of this Agreement shall constitute duplicate originals; and a copy or facsimile signature shall be treated for all purposes as an original signature.

**8. Applicable Law, Jurisdiction, and Venue.** The Agreement shall be interpreted in accordance with the laws of the state of Utah, and the First District Court of the State of Utah, in and for Box Elder County shall have jurisdiction and be the proper venue for any suit arising here from.

**9. Modification.** The Agreement may not be modified in any manner except in writing signed by each of the Parties.

**10. Authority.** The undersigned each represents that they have full authority to sign this Agreement and to enter into this Agreement on behalf of the Party to the Agreement so reflected by each signature.

**11. Incorporation of Recitals and Exhibits.** All recitals and exhibits contained herein and/or attached hereto are hereby incorporated into the Agreement.

**12. Severability.** In the event that any portion of this Agreement is nullified or voided by a Court of competent jurisdiction, that portion shall be severed from the remainder of the Agreement, and all other portions of the Agreement shall remain in full force.

**13. Attorney's Fees and Costs.** In the event of any litigation arising here from, the prevailing Party shall be entitled to collect from the non-prevailing Party, all costs of litigation and collection including, but not limited to, attorney's fees and costs of suit and collection.

**14. Copyright; Right of Use.** The RDA and Tremonton City shall retain the following rights, together with the copyright, to the mural created by the Contractor:

(i). To use the mural or reproductions of the mural or mural image for publicity and/or fund raising purposes, and to license souvenirs of said mural.

(ii). To allow members of the public to photograph or video the mural for non-commercial purposes.

(iii). To allow the various members of the media, including, but not limited to newspapers, magazines, newsletters, television stations, and movie makers to photograph, film or video tape the mural.

{REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK; SIGNATURES TO FOLLOW ON NEXT PAGE}

**IN WITNESS WHEREOF**, the undersigned have executed this Agreement on the dates herein shown below.

**TREMONTON CITY REDEVELOPMENT AGENCY,  
A Utah Municipal Corporation**

\_\_\_\_\_  
Roger Fridal, Chair (Date)

Attest:

\_\_\_\_\_  
Darlene Hess, Secretary (Date)

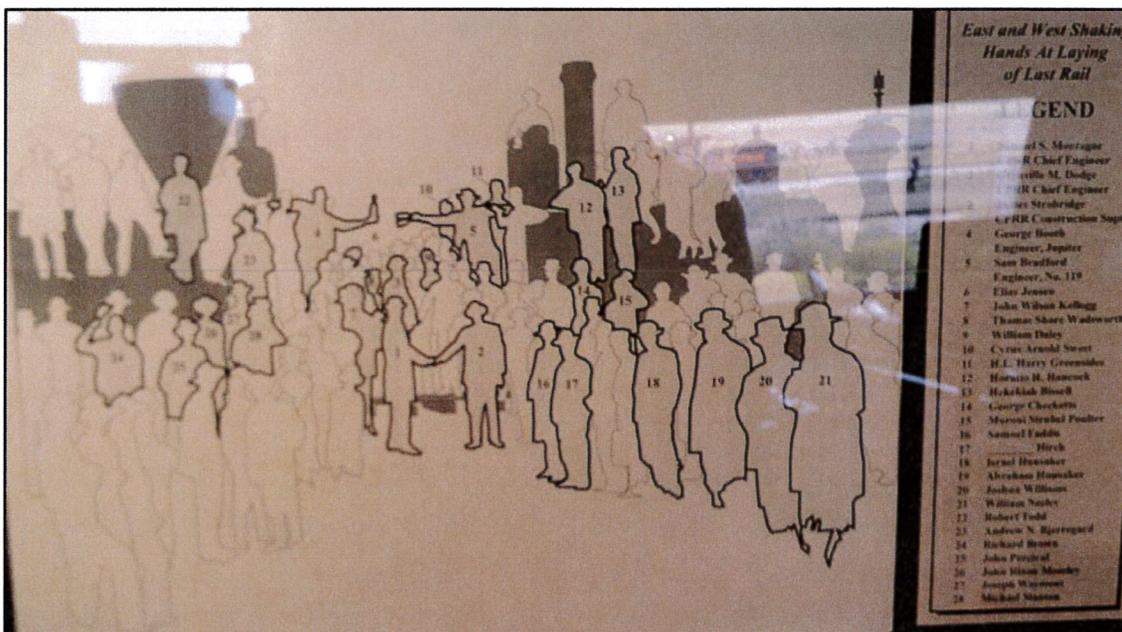
**CONTRACTOR**

\_\_\_\_\_  
Jason Nessen (Date)

EXHIBIT "A"- MURAL IMAGE



The above image is complex and for purposes of painting the mural, the image may be simplified by the Contractor so that it is visually more appealing. The Contractor is required to include key dignitaries that are contained in the iconic image such as these noted in the image below.



**EXHIBIT "B" – MURAL WALL**



### **EXHIBIT "C" – MURAL EASEMENT**

The RDA has approached the owner in an attempt to obtain an easement agreement, as typically contained in Exhibit "C" in previous agreement with the Contract, specific to the wall identified in Exhibit "B". However, the owner of the property being Mr. Keith Kendricks has declined to sign an easement but has granted verbal permission for the painting of the mural. The RDA still desires to have the mural painted on the wall identified in Exhibit "B" without an easement that protects the mural from being painted over for a period of time.