

DEED OF MURAL EASEMENT (EASEMENT AGREEMENT)

This Deed of Mural Easement (hereinafter called the "Easement") made this 1st day of June, 2022, by and between City of Angleton, Texas, a Texas municipal corporation (hereinafter called the "Grantee"), and Dees Properties, LLC, owner of the property located at 113B N. Velasco Street, Highway 288B B, Angleton, Texas 77515 ("Grantor"). The foregoing parties are herein collectively referred to as the "Parties" and individually referred to as a "Party."

WITNESSETH

WHEREAS, Grantor has legal and equitable fee simple title to the parcel of land known as 113B N. Velasco Street, Highway 288B B, Angleton, Texas 77515, more particularly described in Exhibit A which has been attached hereto and made a part hereof, including all improvements thereon erected (hereinafter called the "Property"); and

WHEREAS, Grantor and Grantee desire to enhance the present historical, aesthetic, and artistic character of the City of Angleton, Brazoria County, Texas (the "City of Angleton"); and

WHEREAS, the City of Angleton believes that murals foster a sense of community and connection and enrich the experience of both residents and visitors to the City of Angleton; and

WHEREAS, Grantor and Grantee understand and agree this Easement and its terms and conditions shall be limited to the area on the exterior surface of the wall, more particularly marked in the depiction in Exhibit B attached hereto and made a part hereof (hereinafter called the "Premises").

Now, therefore, in consideration of the mutual promises contained herein, and in further consideration of the sum of One Dollar (\$1.00) in hand paid by Grantee to Grantor, receipt of which is hereby acknowledged, the Grantor hereby grants and conveys to Grantee an estate, interest, and easement in the Property for the placing of a Mural (the "Mural") on the wall of the Premises, of the nature and character and to the extent set forth in this Easement.

The terms of the Easement are as follows:

(A) Definitions:

- 1) *Artist*: Calina Johnson (a/k/a Calina Mishay of Calina Mishay Art, LLC).
- 2) *City, City of Angleton*: The City of Angleton, Texas, a Texas Home-Rule Municipality established and incorporated under the laws of the State of Texas in Brazoria County, Texas.
- 3) *Final Design*: The Artist's final concept for the Mural based on the Artist's proposed concept or concepts for the Mural instrumental in the City's selection of the Artist.

- 4) *Grantee*: The City of Angleton.
- 5) *Grantor*: Dee's Properties, LLC, a limited liability company, owning the Property located at 113B N. Velasco Street, Highway 288B B, Angleton, Texas 77515.
- 6) *Mural*: A singular work of visual art, which may contain graphics or text, painted or otherwise applied or attached on a building, structure, fence or other object within public view. A Mural does not contain text, graphics or symbols which specifically advertise or promote a business, product, or service; nor does it promote a specific political message.
- 7) *Premises*: The area on the exterior surface of the wall of the Property, more particularly marked in the depiction in *Exhibit B*, attached hereto and made a part hereof.
- 8) *Property*: 113B N. Velasco Street, Highway 288B B, Angleton, Texas 77515, more particularly described in *Exhibit A*, which has been attached hereto and made a part hereof, including all improvements thereon erected.

(B) Recitals. The matters hereinabove recited are incorporated herein by reference and made a part hereof.

(C) Approval of Final Design. Upon his or her receipt of the Final Design, the Grantor shall have five (5) business days to review and provide final approval and acceptance of the Final Design of the Mural. The Grantor shall use his or her best efforts to partner with the City and the Artist to provide final approval and acceptance of the Final Design. If agreed upon by the City, the Artist and the Grantor, any revisions suggested or proffered by the owner of the property on which the Mural will be located will become a part of the Final Design.

(D) Duration and Nature of Easement. The Easement shall be for a term beginning on the date hereof and terminating five (5) years after the date hereof with the option to renew in one (1) year increments. The Parties agree that it is and shall be an easement in gross and as such is inheritable and assignable and runs with the land as an incorporeal property interest in the Property enforceable by Grantee and its successors and assigns with respect to the Property and against Grantor and Grantor's heirs, successors, and assigns all of whom are collectively referred to herein as Grantee and Grantor respectively. The Easement is subject to any and all presently existing valid encumbrances, easements, and rights of way upon the Property. Upon the expiration of the easement granted hereby, the Mural shall at the option of the Grantee become the property of the building owner or removed from the Property by the Grantee by being painted over by appropriate technique in a color approved by Grantor.

(E) Maintenance. Grantor shall keep and maintain the Property in good, clean, and safe condition, but shall have no obligations of maintenance or repair to the Mural which shall instead be the sole obligation of Grantee except as set forth in Paragraph (F) hereof.

- (F) Construction. Grantee, or its assigns, shall prepare the Premises and place the Mural on the wall, as shown in Exhibit B, using quality materials and in a workmanlike manner.
- (G) Ownership. Grantor transfers to Grantee all right and title and interest in the Mural or any reproduction or image of the Mural and the copyright therein.
- (H) Changes and Alterations. Without the prior written consent of Grantee, Grantor shall not cause, permit, or suffer any construction which would alter or change the Mural as described and depicted in the Final Design, attached hereto and made a part hereof as Exhibit C. The maintenance, reconstruction, repair, repainting, or refinishing by Grantee of said improvements, damage to which has resulted from casualty loss, deterioration, or wear and tear, shall be permitted without such written permission of Grantor providing that such maintenance, reconstruction, repair, repainting, or refinishing is performed in a manner that will not materially alter the appearance of the Mural as shown in Exhibit C.
- (I) Inspection. Grantee shall have the right to enter the Property on reasonable notice to Grantor for the purpose of inspecting the Property to determine whether there is compliance by Grantor with the terms of this Easement.
- (J) Breach/Remedies. Upon any breach of the terms of this Easement by a Party, the other Party shall have the following rights which shall be in addition to any other rights and remedies available at law or in equity:
- 1) To require restoration of the Property to the condition required by this Easement; or
 - 2) To enjoin any breach or enforce any covenant hereof by appropriate legal proceedings; or
 - 3) To recover actual damages of such Party, not to exceed the total cost of the mural, for any breach.
- (K) Waiver. No waiver of any term or condition of this easement shall have any force or effect unless it be in writing and approved by the Parties hereto. No failure on the part of Grantee to enforce any covenant or provision herein nor the waiver of any right thereunder by Grantee shall discharge or invalidate such covenant or provision or any other covenant, condition, or provision hereof, or affect the right of Grantee to enforce the same in event of a subsequent breach or default.
- (L) Consent and Disapproval and Appeal. For any event where the terms of this Easement require the consent or approval of the Grantee, such consent shall be requested by written notice to the Grantee, and consent shall be deemed to have been given within forty-five (45) days after receipt of written notice by the Grantee unless the Grantee, within such period, gives written notice to Grantor of disapproval. Approval shall not be unreasonably withheld. If approval is withheld by the Grantee, the Grantor, his

successors or assigns may, by written notice to the Grantee, require that the matter be submitted for appeal to the City of Angleton within thirty (30) days after receipt of notice that approval was denied.

- (M) Notice. Any notice required to be given by this Easement shall be in writing and may be given by certified or registered mail with postage prepaid and return postage prepaid and return receipt requested.

If to the Grantor, addressed to the Grantor as follows;

Dees Properties, L.L.C.
113B N. Velasco Street
Suite B
Angleton, Texas 77515

Or to the Grantor at such other address as Grantor may from time to time designate by notice to the Grantee, and

if to the Grantee, addressed to the Grantee as follows:

City of Angleton
Attn: City Manager
121 S. Velasco Street
Angleton, Texas 77515

Or to the Grantee at such other address as the Grantee may from time to time designate by notice to the Grantor.

Any notice given in the foregoing manner shall be deemed to have been given when deposited with the United States Post Office, first-class mail, postage prepaid.

- (N) Purpose. This Easement is for the purpose of promoting and shall be construed to promote the preservation of the historic, cultural, scenic, and aesthetic character of the Property, the areas surrounding the Property, and the community of the City.
- (O) Conservation. Grantee agrees that it will hold this Easement exclusively for conservation purposes (i.e. that it will not transfer the Easement in exchange for money, other property, or services).
- (P) Approvals. Grantee shall obtain all governmental approvals as may be necessary for the placement, painting, construction, maintenance, and repair of the Mural and hereby agrees to indemnify and hold Grantor harmless from and against any and all liability for failure to do so.
- (Q) Modification. No change in the terms of this Deed shall be binding unless it is in

writing and signed by authorized representatives.

- (R) Assignment. Neither Party hereto may assign its rights or delegate its obligations hereunder without the written consent of the other Party.
- (S) Construction. In the event that any provision of this Deed is held by a court of competent jurisdiction to be invalid or unenforceable for any reason, such provision shall be modified to the minimum extent necessary to make such provision valid and enforceable, and the remaining provisions shall be affected thereby to the least extent possible.
- (T) No Waiver. The failure of any Party to enforce any provision of this Deed shall not be construed as a waiver or limitation of that Party's right to subsequently enforce that or any other provision of this Deed.
- (U) Entire Agreement. This Deed constitutes the sole and only agreement of the Parties hereto and supersedes any prior understandings or written or oral agreements between the Parties respecting the subject matter of this Deed.
- (V) Applicable Law and Jurisdiction. This Deed shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Brazoria County, Texas. By execution of this Deed, the Parties agree to subject themselves to the jurisdiction of the Courts of the State of Texas.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE(S) TO FOLLOW.]**

WITNESS the following seals and signatures:

GRANTOR:

By: [Signature]
Name: DERRICK DEES
Title: PRESIDENT DEES PROPERTIES LLC

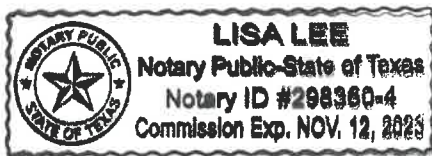
STATE OF TEXAS

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BRAZORIA COUNTY

This instrument was acknowledged before me on the 16th day of September 2022, by Derrick Dees, owner of the property located at 113B N. Velasco Street, Highway 288B B, Angleton, Texas 77515.

[PLACE SEAL BELOW]



[Signature]
NOTARY PUBLIC, State of Texas

GRANTEE:

By: _____
Name: _____
Title: _____

STATE OF TEXAS

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BRAZORIA COUNTY

This instrument was acknowledged before me on the _____ day of _____ 2022, by Chris Whittaker, City Manager, City of Angleton, Texas, acting on behalf of the City of Angleton, a Texas municipal corporation.

[PLACE SEAL BELOW]

NOTARY PUBLIC, State of Texas

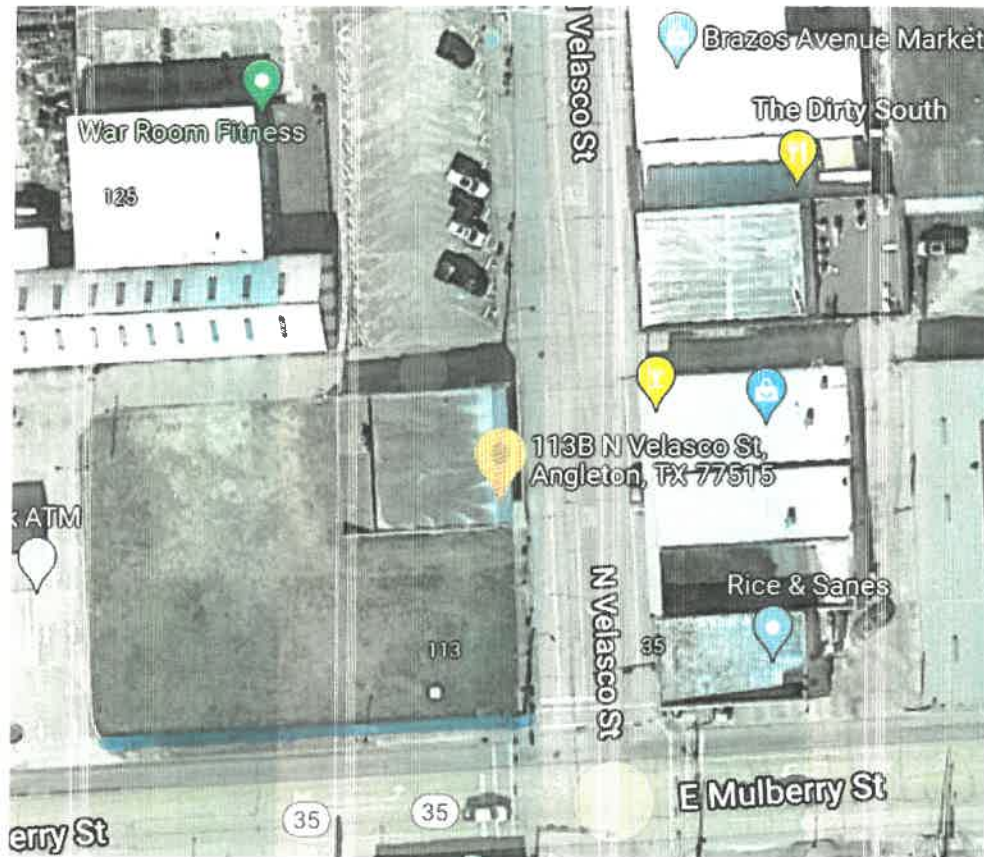
EXHIBIT A

Physical Description: 113B N. Velasco Street, Highway 288B B, Angleton, Brazoria County, Texas 77515

Legal Description: Lot One (1), or the R.T.R. Downtown Subdivision, in the City of Angleton, Brazoria County, Texas, according to the map or plat thereof recorded under Clerk's file No. 2006072361 in the Office of the County Clerk of Brazoria County, Texas

EXHIBIT B

Aerial Reference of Premises



 wall for mural

EXHIBIT C

Final Design

DOWN TOWN
AUGUST 10
TX • USA

