

AGREEMENT BETWEEN CITY OF CORPUS CHRISTI AND UNITED CORPUS CHRISTI CHAMBER OF COMMERCE FOUNDATION ("UCCCF") FOR DONATION AND ACCEPTANCE OF COMMISSIONED MURAL TO BE PLACED AT COLE PARK AMPHITHEATER AS THE CLASS PROJECT OF LEADERSHIP CORPUS CHRISTI CLASS 49, A PROGRAM OF UCCCF

THIS AGREEMENT ("Agreement"), is between the City of Corpus Christi ("the City"), and United Corpus Christi Chamber of Commerce Foundation ("UCCCF") for the donation of a commissioned mural ("Mural") to be located on the wall of the Cole Park Amphitheater as the class project of Leadership Corpus Christi Class 49, ("LCC49") a program of UCCCF.

NOW, THEREFORE, the City and UCCCF acting through its LCC49 agree as follows:

1. **Donation of Mural.** UCCCF agrees to procure, install, and donate a mural to the City, and the City agrees to accept the mural, according to the terms of this Agreement.
2. **Specifications of Mural.** The Mural shall be created by Kylie Justus (the "Muralist") who shall be commissioned by the UCCCF. The approximate size of the Mural shall be 20 feet in width by 10 feet in height. The Mural will be placed on three (3) 4 feet by 8 feet panels of 3/8 inch thickness. The final Mural design shall be approved by City Council. The final Mural design shall be inserted on the attached Exhibit 1.
3. **UCCCF's Responsibilities.**
  - A. UCCCF shall procure, install and donate the Mural to the City no later than 24 months after final signature on this Agreement.
  - B. UCCCF shall provide City Director of Parks & Recreation with original signed letter from the Muralist which grants to the City an unlimited license to graphically reproduce the Mural for municipal noncommercial purposes in City brochures, catalogs, and use in any City media or other City publications, with muralist credit to be included on City published uses.
  - C. UCCCF shall be solely and exclusively responsible for contacting, communicating with, and coordinating delivery of the Mural from the Muralist to the City.
  - D. UCCCF shall be solely and exclusively responsible for all costs related to procurement, delivery, and installation of the Mural.
  - E. UCCCF shall ensure that all work performed on the City property complies with all applicable City, State, and Federal codes, statutes, ordinances and regulations.
  - F. UCCCF shall obtain any permits required by the City Development Services Department for installation of the Mural on City property.

G. UCCCF shall oversee the activities of LCC49 in this matter and be responsible to comply with all terms of this Agreement.

4. **City's Responsibilities.** The City Director of Parks & Recreation ("City Director") shall accept delivery, receipt and ownership for the Mural on behalf of the City at a mutually acceptable time and place.

5. **Project Site.** UCCCF shall arrange for the delivery and installation of the Mural on the south-facing side of the location of the Cole Park Amphitheater as depicted in the attached Exhibit 2.

6. **Risk of Loss or Damage.** UCCCF shall be solely responsible and assume all risk of loss or damage to the Mural until receipt and acceptance thereof by the City Director of Parks & Recreation. Acceptance by the City shall occur after delivery and successful installation at the project site.

7. **Installation of Mural.**

A. UCCCF must coordinate installation of the Mural with the City Director of Parks & Recreation. Before beginning any work on the City property, UCCCF must review the final installation plans with the City Director of Parks & Recreation, and the Engineering Services and Development Services departments. In addition, the structural attachments used to attach the Mural to City Cole Park Amphitheater must be rated and anchored for current wind speed requirements.

B. Before beginning any work on the City property, UCCCF must demonstrate to the City Director of Parks & Recreation that the persons donating the installation services have obtained all permits required by Development Services and signed the attached Exhibit 3 volunteer waiver. Before beginning any work on the City property, UCCCF shall be required to obtain an engineer's opinion attesting to the review of the installation plan and engineer's determination that the installation is windstorm-certified and safe for the City property and the general public.

8. **Removal of Mural in event of damage; relocation.** The City may choose to relocate the Mural to another City location for any reason. The City may remove the Mural from City property in the event the Mural becomes graffitied or otherwise damaged. The decision of the Director of Parks & Recreation regarding removal and/or relocation of the Mural shall be final.

9. **Relationship of Parties.** No agent, employee, representative or subcontractor of UCCCF or LCC49 shall be deemed to be the employee, agent, representative or subcontractor of the City. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance and unemployment insurance, are



available from the City to UCCCF, LCC49 or their volunteers, members, employees, agents, representatives or subcontractors. UCCCF will be solely and entirely responsible for its acts and for the acts of UCC, LCC49, and their agents, volunteers, employees, representatives and subcontractors during the performance of this Agreement. UCCCF shall ensure that any volunteer involved with delivery or installation of the Mural must execute the attached Exhibit 3 prior to initiating any work on the City property.

**10 Expiration; Termination.** This Agreement shall expire automatically upon the City's receipt and acceptance of the Mural.

**11. Indemnification/Hold Harmless.** UCCF, its agents, contractors, employees, officers, officials, and representatives hereby release the City from any liability or responsibility for claims, either by them or by claimants who are not parties to this Agreement, including injuries, damages, losses, suits, or attorney fees, arising out of or in connection with the performance of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement, but shall not impose or shift liability for occurrences after the mural is delivered, installation is completed, and the City accepts the mural.

**12. Entire Agreement.** The written provisions and terms of this Agreement, together with all documents attached hereto, shall supersede all prior verbal statements of any officer or representative of and such statements shall not be effective or construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement.

**13. Modification.** No waiver, alteration or modification of any of provisions of this Agreement shall be binding unless in writing and signed by the City Director of Parks and Recreation and UCCCF.

**14. Assignment.** Any assignment of this Agreement by UCCCF without the written consent of the City Director of Parks and Recreation shall be void.

**15. Written Notice.** All communications regarding this Agreement shall be sent to the parties at the addresses listed below. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereinafter specified in writing.

For the City: To City of Corpus Christi, Attn: Director of Parks and Recreation, P. O. Box 9277, Corpus Christi, Texas 78469.

For LCC49 and UCCCF: United Corpus Christi Chamber of Commerce Foundation, 602 N. Staples St. Suite 150, Corpus Christi, Texas 78401.

**16. Non-Waiver of Breach.** The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment

of said covenants, agreements or options and the same shall be and remain in full force and effect.

**17. Resolution of Disputes, Governing Law.** Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall be referred to the City Manager, whose decision shall be final. In the event of litigation arising out of this Agreement, the prevailing party shall be reimbursed for its reasonable attorney fees from the other party. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

**18. City Contract Administrator.** The City staff person responsible to administer all aspects of this Agreement is the City Director of Parks & Recreation or their designee.

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date of last signature.

CITY OF CORPUS CHRISTI

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to legal form:

By: \_\_\_\_\_

Lisa Aguilar, Assistant City Attorney  
for the City Attorney

United Corpus Christi Chamber of Commerce Foundation

BY:  \_\_\_\_\_

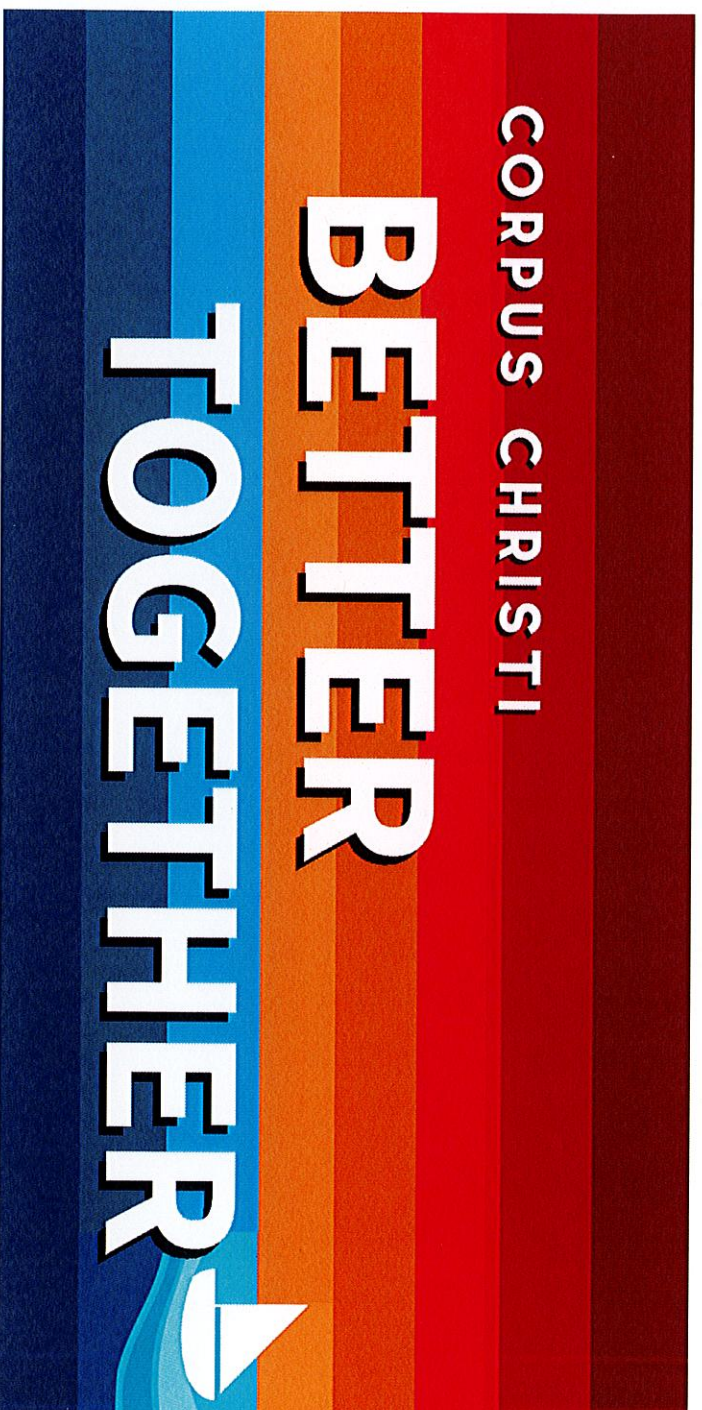
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TITLE:  \_\_\_\_\_

DATE: 4/28/21

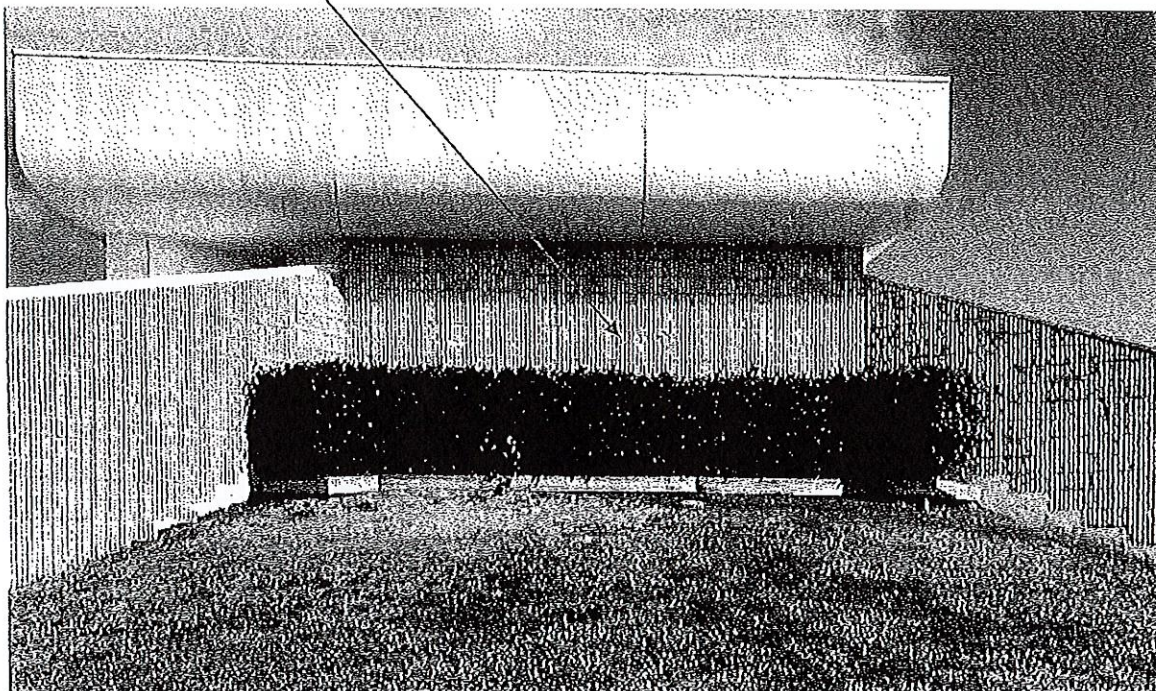


# Exhibit 1



## EXHIBIT 2

Location for the Mural





**Exhibit 3 CITY OF CORPUS CHRISTI  
VOLUNTEER WAIVER OF LIABILITY AND HOLD HARMLESS AGREEMENT**

1. In consideration of my volunteer participation in the delivery and/or installation of a mural at Cole Park, ("Activity") and other valuable consideration, I hereby **RELEASE, WAIVE, COVENANT NOT TO SUE AND DISCHARGE** the City of Corpus Christi, its officers, servants, agents, and employees (hereinafter referred to as **RELEASEES**) from any and all liability, claims, demands, actions and causes of action whatsoever arising out of or related to any loss, damage, or injury, including death, that may be sustained by me, or to any property belonging to me, **WHETHER CAUSED BY THE NEGLIGENCE OF THE RELEASEES**, or otherwise, while participating in such Activity, or while in, on or upon the premises where the activity is being conducted or in transportation to and from said premises.

2. To the best of my knowledge, I can fully participate in this Activity. I am fully aware of risks and hazards connected with the activity, including but not limited to the risks as noted herein, and I hereby elect to voluntarily participate in said activity, and to engage in such activity knowing that the activity may be hazardous to me and my property.

3. I **VOLUNTARILY ASSUME FULL RESPONSIBILITY FOR ANY RISKS OF LOSS, PROPERTY DAMAGE OR PERSONAL INJURY, INCLUDING DEATH**, that may be sustained by me, or any loss or damage to property owned by me, as a result of being engaged in such an Activity, **WHETHER CAUSED BY THE NEGLIGENCE OF RELEASEES** or otherwise.

4. I further hereby **AGREE TO INDEMNIFY AND HOLD HARMLESS THE RELEASEES** from any loss, liability, damage or costs, including court costs and attorney's fees, that may occur due to my participation in said Activity, **WHETHER CAUSED BY NEGLIGENCE OF RELEASEES** or otherwise.

5. It is my express intent that this Waiver and Hold Harmless Agreement shall bind the members of my family and spouse (if any), if I am alive, and my heirs, assigns and personal representative, if I am not alive, shall be deemed as a **RELEASE, WAIVER, DISCHARGE AND COVENANT NOT TO SUE** the above named **RELEASEES**. I hereby further agree that this Waiver of Liability and Hold Harmless Agreement shall be construed in accordance with the laws of the State of Texas.

6. I **UNDERSTAND THAT THE CITY OF CORPUS CHRISTI WILL NOT BE RESPONSIBLE FOR ANY MEDICAL COSTS ASSOCIATED WITH AN INJURY I MAY SUSTAIN AS A RESULT OF MY PARTICIPATION IN SAID ACTIVITY.**

7. I **ALSO UNDERSTAND THAT I AM RESPONSIBLE FOR ANY THIRD-PARTY INJURY OR PROPERTY DAMAGE I MAY CAUSE.**

IN SIGNING THIS WAIVER AND HOLD HARMLESS AGREEMENT, I **ACKNOWLEDGE AND REPRESENT THAT I have read the foregoing Waiver of Liability and Hold Harmless Agreement, understand it and sign it voluntarily as my own free act and deed; no oral representations, statements or**



inducements, apart from the foregoing written agreement, have been made; I am at least eighteen (18) years of age and fully competent; and I execute this document for full, adequate and complete consideration fully intending to be bound by same.

\_\_\_\_\_  
VOLUNTEER

\_\_\_\_\_  
Date