

**DECLARATION
OF
COVENANTS, CONDITIONS, EASEMENTS & RESTRICTIONS**

STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF ATASCOSA

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HMSC, LLC, a Texas limited liability company, (hereinafter the “Declarant”), being the owner of the legal and equitable title in and to the following described real property lying and being situated in the County of Atascosa and the State of Texas and being more particularly described as follows, to-wit:

244.86 acres, containing all of lots 1, 15, 24, 38, 38 ½, and 39 ½ and portions of 2, 5, 11, 16, 25, 31, 39, 45, 57, and 75, all of Block 9, of Subdivision No 1 of the Charles F Simmons Subdivision, and having 8.06 acres lying in the W.H. Smith Survey No. 70 1/2, Abstract No. 1633, 8.58 acres lying in the H. F. Smith Survey No. 272, Abstract No. 1673, 26.70 acres lying in the L.D. Murphy Survey No. 4, Abstract No. 1229, 14.09 acres lying in the J.W. Hunt Survey No. 136 1/2, Abstract No. 1657, 38.60 acres lying in the J.W. Preston Survey No. 4 1/2, Abstract No 1667, 85.83 acres lying in the I.&G.N.R.R. Co Survey No. 1765, Abstract No. 489, and 63.90 acres lying in the I.&G.N.R.R. Survey No. 136, Abstract No. 490, Atascosa County, Texas and further described in Exhibit A, attached hereto and made part hereof,

Declarant does hereby declare to impose upon the Property the following covenants, conditions, easements, and restrictions for the purpose of carrying out a uniform plan. The covenants, conditions, easements, and restrictions of this declaration (hereinafter the “Declaration”) shall apply to and become a part of all legal instruments whereby title or possession to any portion of the Property is hereafter conveyed or transferred, such covenants, conditions, easements, restrictions, and limitations to run with the land and to be binding upon and inure to the benefit of all parties, now or hereafter, owning or using the above-described Property or any portion thereof, their heirs, executors, administrators, successors, and assigns.

ARTICLE 1

RESTRICTIONS

1.01 Uses: Single family residential is an approved use of the property. Home based businesses may be permitted if the Declarant has given written consent of any such use in advance. No use can conflict with Paragraph 1.10 herein. Not more than two single-family residences may be constructed or placed on a tract. The term "single-family residence" shall include only site-built homes, barnominiums, mobile homes or modular homes which are not older than a 2015 model year based upon its date of manufacture. Move-on homes are allowed as long as they are site-built homes and any remodeling is complete within twelve (12) months of the closing date of the tract.

- 1.02 Size and Specifications: A residence may not be lived in or occupied until the residence is fully complete. Any residence constructed or moved on to any tract within the Property shall have not less than 850 square feet of heated and air-conditioned space, exclusive of basements, garages, and porches.
- 1.03 Setback Requirements and Front and Rear Building Lines: Residences, garages, or any other building of any kind constructed on any tract shall have a front building line setback of 25 feet from the front property line. The residences, garages, or any other building of any kind shall be set back 15 feet from any side property line and 15 feet from any rear property line.
- 1.04 Quality Workmanship, Building Materials and Maintenance: All improvements and structures including but not limited to homes, garages, fences, storage buildings, and other improvements shall be constructed of quality, new material and in a workmanlike manner.
- 1.05 Rubbish and Debris: No rubbish or debris or any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants.
- 1.06 Easements: Easements are hereby reserved and dedicated over and across a 15 foot strip along County Road 430, 15 feet along each side tract line, and 15 feet along the rear tract line, for the purpose of installing, maintaining and repairing, electric power, gas, telephone, water, cable, community mailbox station, drainage and/or any other similar utility lines, facilities, and services for the tracts in the Property. The easements reserved and dedicated hereby shall be for the general benefit of the Property. These easements shall inure to the benefit of, and may be used by, any public or private company entering into and upon the Property for such purposes, without the necessity of any further grant of such easement rights to such companies. Any property owner installing a fence or other improvement within the area encumbered by the easement does so at his own risk. If two or more tracts are owned by one owner and wish to be consolidated into a single building site, then these easement provisions and the setback provisions in paragraph 1.03 shall be applied to such resultant building site as if it were one original platted tract and no easements or setback lines will exist along the common tract line.
- 1.07 Restriction on Further Subdivision: There shall be no dividing, subdividing, or re-subdividing allowed of any of the tracts into smaller tracts for a period of at least five (5) years from the date of purchase of the tract.
- 1.08 Sewage: Wastewater and sewage shall be disposed of by means of private sanitary sewer systems or similar approved means of sanitary sewage disposal which meet the requirements of and are approved by all governmental authorities having jurisdiction thereof. No residence shall be used or occupied until sanitary sewage disposal facilities complying with this paragraph have been completely built and approved by the governmental authority.
- 1.09 Trash Disposal: No tract shall ever be used for or maintained as a dumping ground for rubbish, fill, road or construction materials, debris or junk.

- 1.10 Nuisances: No noxious, noisy, offensive, undesirable, unlawful or immoral activity shall be conducted on any tract, nor shall anything be done or permitted to be done thereon which may be or become a nuisance or annoyance to the owners of adjacent tracts. Any determination by the Declarant that an activity is noxious, noisy, offensive, undesirable or immoral shall be final and binding on all parties.
- 1.11 Unused Vehicles: The placement of junked, abandoned, wrecked, or non-operating items of any kind such as motor vehicles, boats, or other equipment or materials shall not be permitted on any portion of the Property. The repairing of motor vehicles, boats or any other items of a mechanic nature shall not be permitted on any tract, except within a garage or other comparable enclosed structure.
- 1.12 Boats and Trailers and Trucks: No commercial vehicles with more than 1 rear axle shall be allowed at any time other than during the construction of the primary residence, driveways or ancillary structures. No commercial vehicles will be stored on the tract for any reason. These vehicles include, but are not limited to, dump trucks of any kind, bobtails, belly dumps and trailers designed to be pulled by trucks with more than one (1) rear axle.
- 1.13 Temporary Structures: No structure or improvement of a temporary character, tent, storage container, camper, shack, garage, barn or other outbuilding shall at any time be used as a residence or dwelling. A recreational vehicle or travel trailer may be used as a temporary residence, during the construction period for a permanent home, for a maximum period of twenty-four (24) months from the initial closing date of the tract. Any building considered a “tiny” home may only be used as a residence with the written consent of the Declarant.
- 1.14 Animals: In no event shall pigs, hogs, swine or dangerous animals be allowed on a tract under any condition. No pets or farm animals may be kept if they become offensive or a nuisance by virtue of their numbers, sight, odor or noise.
- 1.15 Joint Use Driveways:

The joint use access driveways in this subdivision are private roads which will be maintained by the tract owners. Atascosa County will not be responsible for any maintenance of these private driveways.

The term “Beneficiary” shall mean and refer individually, and the term “Beneficiaries” shall mean and refer collectively, to Declarant, the future owners of tracts accessed by a joint use driveway, and their respective heirs, successors, and assigns.

Declarant hereby grants, assigns, and conveys, to and for the benefit of each Beneficiary, a nonexclusive, perpetual easement (collectively, the “Joint Use Driveway Easements”), as hereafter provided, over and across each Tract’s Joint Use Driveway, as allocated according to the Joint Use Driveway assignments shown on the following page.

<u>Tract No.</u>	<u>Joint Use Driveway No.</u>	<u>Dimensions of Driveway</u>
5 and 6	1	60' wide and 896.39' long, along western border of Tract 2 and eastern border of Tract 3.
9 and 10	2	60' wide and 2,961.45' long, along the eastern border of Tracts 1, 6 and 7.
11, 12 & 13	3	90' wide and 1,392.93' long, along the southern border of Tracts 12, 13, 14 and 15.

To have and to hold unto the Beneficiaries, and to their respective heirs, successors, and assigns forever, and Declarant does hereby bind Declarant and its successors and assigns to warrant and forever defend title to the Joint Use Driveway Easements in the Beneficiaries against every person whomsoever lawfully claiming or to claim the same or any part thereof, to the extent that such claims arise by, through or under Declarant but not otherwise.

Easement Purpose. Declarant is creating the Joint Use Driveway Easements solely for the benefit of the Beneficiaries, in order to provide free and uninterrupted pedestrian and vehicular ingress to and egress from each Tract. Tract owners are to access their respective tracts utilizing only their Joint Use Driveway as assigned above.

Duration of Easement. The duration of the Joint Use Driveway Easements is perpetual.

Future Use. Future use by any Beneficiary of the Joint Use Driveways, or any portion thereof, is hereby restricted to uses which do not interfere with the use and enjoyment of the Joint Use Driveways by the Beneficiaries for the Easement Purpose.

Character of Easements. The Joint Use Driveway Easements are appurtenant to and shall run with the applicable Tracts and portions thereof, whether or not the Joint Use Driveway Easements are referenced or described in any conveyance of the Properties, or any portion thereof.

Non-exclusiveness of Easement. The Joint Use Driveway Easements and the rights granted herein and created and reserved hereunder are nonexclusive, and Declarant reserves for itself, and for its successors and assigns, the right to use all or any part of the surface or subsurface of the Joint Use Driveways for any purpose which does not interfere with the use and enjoyment of the Joint Use Driveways by the Beneficiaries for the Easement Purpose.

No Public Dedication. The Joint Use Driveway Easements are created for the sole and exclusive benefit of the Beneficiaries. This Declaration is not in any way intended as a dedication or conveyance of an interest in real property to the public or to any governmental body or entity, including but not limited to Bastrop County, but is for the exclusive, private use, benefit, and enjoyment of the Beneficiaries.

Maintenance and Repairs Defined. The Joint Use Driveways have been installed and are currently in good repair and condition. Future repairs and maintenance with respect to the Joint Use Driveways to be undertaken and performed under this Declaration will include the following: filling of potholes, re-grading, repairing any drainage structure or culvert, re-graveling, resurfacing, and such other items as shall be necessary in order to maintain the Joint Use Driveways in a safe and useable condition. Any future modification or improvements to the Joint Use Driveways deemed necessary or advisable, but not including within the maintenance and repair obligations specified above, will not be undertaken, except with the express written consent of each of the parties then obligated to pay for such items, and an assumption by each, in writing, of their proportionate share of the financial liability for the cost of such improvements; provided, however, that any party may install improvements to the Joint Use Driveways at such party's sole cost and expense as long as that party improves the entire driveway.

Apportionment of Repair and Maintenance Obligation. The cost to maintain the Joint Use Driveways shall be further apportioned between the current and future owners of these tracts on the following basis:

Tract Number	Joint Use Driveway No.	% Cost of Driveway Maintenance
5 and 6	1	50.0% each tract
9 and 10	2	50.0% each tract
11, 12 and 13	3	33.33% each tract

Responsibility for Repair and Maintenance. The above-referenced tract owners in 1.05 above shall be responsible for performing (or contracting for the performance of) all required maintenance and repairs to the Joint Use Driveways, as authorized pursuant to this Declaration. If a specific driveway is determined to possibly need repair, then the tract owners for that specific driveway will vote on the need for repairs and the cost associated with the repairs. A majority vote in favor of any repairs will be required in order to proceed with making the repairs. The applicable tract owners shall pay on demand for each party's share of the cost of any required maintenance or repairs to the Joint Use Driveways based upon the above schedule. Any demand for payment shall be in writing and accompanied by invoices or other written evidence of the charges incurred in that regard. Should a party fail to reimburse the other parties for its share of the costs of such repairs within thirty (30) days of such party's receipt of a written demand for reimbursement hereunder, then any unpaid amount shall bear interest at the highest rate permitted by law (or if no maximum rate is prescribed by law, at the rate of 18 percent per annum) and the non-defaulting tract owners may pursue any other remedies available to it by law. The minimum level of road base material to be used and maintained in the Joint Use Driveways is four (4) inches of material. If the 20 acre out-parcel is owned by a church/school, the owners of that facility will pave with asphalt the length of driveways 1 and 2 the entire length of the out parcel.

Specific Damages to the Driveway. In the event any of the Joint Use Driveways are damaged by the specific, identifiable actions of a Beneficiary, or any contractor, subcontractor, agent, or invitee of any Beneficiary, as opposed to normal wear and tear, then such Beneficiary shall be solely responsible for paying for the repair of such damage and shall reimburse the other tract owners for the cost of repairing such damage on demand. Should such party fail to reimburse the other tract owners of the Joint Use Driveway within

thirty (30) days of such party's receipt of a written demand for reimbursement hereunder, then any unpaid amount shall bear interest at the highest rate permitted by law (or if no maximum rate is prescribed by law, at the rate of 18 percent per annum).

ARTICLE 2

GENERAL

- 2.01 Enforcement: Declarant, and any person owning any interest in any of the tracts in said Property, including mortgage interest, may enforce these restrictions through a proceeding at law or in equity against the person or persons violating or attempting to violate any covenant, condition, restriction, or limitation, either to prevent or to correct such violation, or to recover damages, or to obtain other relief for such violation. All expenses, including a reasonable attorney fee, shall be recovered from anyone violating these restrictions by the party bringing the suit.
- 2.02 Limitations of Liability: The Declarant shall not be liable in damages or otherwise to any owner of any tract within the Property by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with: (a) the approval or disapproval, or failure to approve or to disapprove any plans or specifications; (b) the enforcement of, or the failure to enforce, the covenants, conditions, easements and restrictions of this Declaration; or (c) any other action taken or not taken pursuant to the provisions of this Declaration.
- 2.03 Partial Invalidity: If any portion of this Declaration is declared illegal, invalid, or unenforceable by law or court order, such action shall not affect the validity of any other provision hereof. Failure to enforce any one or more provisions hereof shall not constitute a waiver thereof as to future enforcement and shall not serve to invalidate any other provision of this Declaration.
- 2.04. Duration: These covenants, conditions, easements and restrictions shall run with the land and shall be binding upon and against the Property for a period of twenty-five (25) years from the date of recordation, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of seventy-five percent (75%) or more of the Property (by tract) has been recorded agreeing to change said covenants in whole or in part. No such agreement to change shall be effective unless made and recorded within three (3) months immediately prior to the date the covenants otherwise would be automatically extended.
- 2.05 Amendment: This Declaration may be amended by Declarant at any time, and from time to time, in its sole discretion.
- 2.06 Assignment of Declarant: Notwithstanding anything in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder.

- 2.07 No Warranty of Enforceability: While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any owner acquiring a tract in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and by acquiring the tract, agrees to hold Declarant harmless therefrom.

- 2.08 Interpretation: The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the operation of the Property, and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

- 2.09 Exemption of Declarant; Utility Easements:
 - a. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property.

 - b. Declarant reserves the right to locate, construct, erect and maintain, or cause to be located, constructed, erected and maintained in and on any areas owned by Declarant, pipelines, conduits, wires and any improvements relating to a public utility function with the right of access to the same at any time for the purposes of repair and maintenance.

- 2.10 Laws and Regulations: All owners of any tracts within the Property shall at all times comply with all applicable laws, regulations and ordinances of municipal, county, state, federal or other governmental authorities.

IN WITNESS WHEREOF DECLARANT has caused this document to be executed by its duly authorized member this _____ day of _____, 2020.

HMSC, LLC
a Texas limited liability company

By: Stewart Pate
Its: Manager

STATE OF TEXAS

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COUNTY OF TRAVIS

This instrument was acknowledged before me this _____ day of _____, 2020 by Stewart Pate, Manager of HMSC, LLC, a Texas limited liability company, on behalf of said company.

[Seal]

NOTARY PUBLIC, STATE OF TEXAS

AFTER RECORDING, RETURN TO:

HMSC, LLC
10829 Jollyville Road
Austin, Texas 78759

EXHIBIT "A"

Field notes for a tract of land containing 244.86 acres, containing all of lots 1, 15, 24, 38, 38 ½, and 39 ½ and portions of 2, 5, 11, 16, 25, 31, 39, 45, 57, and 75, all of Block 9, of Subdivision No 1 of the Charles F Simmons Subdivision, and having 8.06 acres lying in the W.H. Smith Survey No. 70 1/2, Abstract No. 1633, 8.58 acres lying in the H. F. Smith Survey No. 272, Abstract No. 1673, 26.70 acres lying in the L.D. Murphy Survey No. 4, Abstract No. 1229, 14.09 acres lying in the J.W. Hunt Survey No. 136 1/2, Abstract No. 1657, 38.60 acres lying in the J.W. Preston Survey No. 4 1/2, Abstract No. 1667, 85.83 acres lying in the I.&G.N.R.R. Co Survey No. 1765, Abstract No. 489, and 63.90 acres lying in the I.&G.N.R.R. Survey No. 136, Abstract No. 490, Atascosa County, Texas, as shown on the accompanying Plat of Survey prepared for MPH Capital Management, Inc., dated September 23, 2019.

A tract of land containing 244.86 acres, containing all of lots 1, 15, 24, 38, 38 ½, and 39 ½ and portions of 2, 5, 11, 16, 25, 31, 39, 45, 57, and 75, all of Block 9, of Subdivision No 1 of the Charles F Simmons Subdivision, and having 8.06 acres lying in the W.H. Smith Survey No. 70 1/2, Abstract No. 1633, 8.58 acres lying in the H. F. Smith Survey No. 272, Abstract No. 1673, 52.46 acres lying in the L.D. Murphy Survey No. 4, Abstract No. 1229, 34.54 acres lying in the J.W. Hunt Survey No. 136 1/2, Abstract No. 1657, 38.79 acres lying in the J.W. Preston Survey No. 4 1/2, Abstract No. 1667, 85.83 acres lying in the I.&G.N.R.R. Co Survey No. 1765, Abstract No. 489, and 63.90 acres lying in the I.&G.N.R.R. Survey No. 136, Abstract No. 490, Atascosa County, Texas, being out of a 292.16 acre tract of land, described in instrument recorded as Clerk's File No. 180881, of the Official Public Records of Atascosa County, Texas, said tract of land being more particularly described by metes and bounds as follows:

Beginning at a 1/2 inch steel rod monument, found at the Southeast corner of said 292.16 acre tract of land, being the Southwest corner of a 52.00 acre tract of land, described in instrument recorded as Clerk's File No. 118758 of the Official Public Records of Atascosa County, Texas, and lying on the North line of County Road 430, said point being the Southeast corner of this tract of land;

Thence South 89° 13' 41" West, 2079.08 feet, along the South line of said 292.16 acre tract of land, being the North line of said County Road 430, to a point marked by a 5/8 inch steel rod monument with cap stamped Rakowitz Engineering & Surveying, set at the Southeast corner of City View Estates Unit-1, as shown on sheet 346-A of the New Plat Cabinet, Plat Records, Atascosa County, Texas;

Thence across the said 292.16 acre tract of land, and along said City View Estates, the following bearings and distances:

North 00° 46' 19" West, 1720.00 feet, to a point marked by a set 5/8 inch steel rod monument with cap stamped Rakowitz Engineering & Surveying, set for a reentrant corner of this tract of land;

Thence South 89° 13' 41" West, 900.00 feet, to a point marked by a set 5/8 inch steel rod monument with cap stamped Rakowitz Engineering & Surveying, set for a salient corner of this tract of land;

North 00° 46' 19" West, 116.19 feet, to a point marked by a set 5/8 inch steel rod monument with cap stamped Rakowitz Engineering & Surveying, set for a reentrant corner of this tract of land;

Thence South 89° 13' 41" West, 280.00 feet, to a point marked by a set 5/8 inch steel rod monument with cap stamped Rakowitz Engineering & Surveying, set for a reentrant corner of this tract of land;

South 00° 46' 19" East, 1760.13 feet, to a point marked by a set 5/8 inch steel rod monument with cap stamped Rakowitz Engineering & Surveying, set for a reentrant corner of this tract of land;

Thence South 32° 03' 56" East, 88.82 feet, to a point marked by a set 5/8 inch steel rod monument with cap stamped Rakowitz Engineering & Surveying, set on the South line of said 292.16 acre tract of land, being the North line of said County Road 430, and being the

EXHIBIT "A", cont'd.

Southwest corner of said City View Estates, said point being a salient corner of this tract of land;

Thence South 89° 15' 49" West, 106.13 feet, along the South line of said 292.16 acre tract of land, being the North line of said County Road 430, to a point marked by a 1/2 inch iron rod found at the Southern Southwest corner of said 292.16 acre tract of land, being the Southeast corner of a 21.301 acre tract of land conveyed to Charles L. Ulcak, said point being the Southern Southwest corner of this tract of land;

Thence along the West line of said 292.16 acre tract of land the following bearings and distances:

North 00° 47' 27" West, 1567.38 feet, along the East line of said 21.301 acre tract of land, to a corner post found at the Northeast corner of said 21.301 acre tract of land;

South 89° 44' 59" West, 590.90 feet, along the North line of said 21.301 acre tract of land, to a corner post found at the Northwest corner of said 21.301 acre tract of land, lying on the East line of a 115.55 acre tract of land, described in instrument recorded in Book 251, Page 543, of the Official Public Records of Atascosa County, Texas;

North 00° 48' 08" West, 1661.32 feet, along the East line of said 115.55 acre tract of land, to a fence corner post found at the Northwest corner of said 292.16 acre tract of land, lying on the South line Whitfield Hills Subdivision Unit 2, said point being the Northwest corner of this tract of land;

Thence along the North line of said 292.16 acre tract of land, being the South line of Whitfield Hills Subdivision, Units 1 and 2, the following bearings and distances:

North 89° 28' 20" East, 824.83 feet, to a point marked by a set 5/8 inch steel rod monument with cap stamped Rakowitz Engineering & Surveying;

North 89° 27' 08" East, 619.90 feet, to a point marked by a set 5/8 inch steel rod monument with cap stamped Rakowitz Engineering & Surveying;

North 89° 27' 44" East, 1191.53 feet, to a corner post;


North 00° 23' 16" West, 720.81 feet, to a corner post;

North 89° 50' 05" East, 911.91 feet, to point marked by a found 1/2 inch iron rod;

North 89° 45' 36" East, 422.56 feet, to a corner post at the Northeast corner of said 292.16 acre tract of land, being the Northwest corner of said 52.00 acre tract of land, and being the Northeast corner of this tract of land;

Thence South 00° 09' 47" West, 3931.15 feet, along the East line of said 292.16 acre tract of land, being the West line of said 52.00 acre tract of land, to the Point of Beginning;
Bearings recited in this description are determined from GNSS observation, Texas Coordinate System, NAD 83, taken at time of survey.

I, Walt F. Rakowitz, being a Registered Professional Land Surveyor, registered in the State of Texas, do hereby certify that the foregoing field notes for a tract of land containing 244.86 acres, shown on the accompanying Plat of Survey prepared for MPH Capital Management, Inc., dated September 23, 2019 were prepared from an actual survey done under my supervision and that to the best of my knowledge and belief they are a true and correct representation of said survey.


Walt F. Rakowitz R.P.L.S. 6435
Rakowitz Engineering and Surveying
PO Box 172
Pleasanton, Texas 78064
830-281-4060

