

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
ENSENADA AT TRES LAGOS SUBDIVISION**

This Declaration of Covenants, Conditions and Restrictions for Ensenada at Tres Lagos Subdivision (this "Declaration") is entered into this 2<sup>nd</sup> day of June, 2017 (the "Effective Date") by Rhodes Enterprises Inc., located at 200 S. 10<sup>th</sup> Street, Suite 1400, McAllen, Hidalgo County, Texas (hereinafter called "Declarant").

RECITALS

WHEREAS, Declarant is the owner of the real property described as all of Lots 1-78, Ensenada at Tres Lagos Subdivision, an Addition to the City of McAllen, Hidalgo County, Texas, according to the map or plat thereof recorded in Document No. 2821592 Official Records, Hidalgo County, Texas (the "Subdivision"), and desires to create thereon a residential subdivision with residential lots, open spaces, landscaping, sprinkler systems, streets, common lighting, fencing, drives, screening walls, and other common improvements for the benefit of the community; and

WHEREAS, the Subdivision is a portion of the Tres Lagos Residential Development (the "Tres Lagos Residential Development") which is subject to the covenants and conditions of the Master Declaration for the Tres Lagos Residential Development recorded in Document No. 2821589, Official Records, Hidalgo County, Texas (the "Master Declaration");

WHEREAS, the Tres Lagos Residential Development is a portion of the Tres Lagos Development ("Tres Lagos") created by Declarant which includes both residential and commercial developments;

WHEREAS, Declarant has petitioned for creation of, and the City of McAllen, Texas (the "City") has created the Tres Lagos Public Improvement District (the "PID") pursuant to Resolution 2015-22, to develop and maintain certain public improvements and provide special and supplemental services within Tres Lagos, which public improvements and services will include (but are not limited to) the following: utilities; roads, bridges, and associated drainage areas and trails; sidewalks and walking trails; parks; water, recycled water, and sewer facilities; lighting, wireless services and security cameras; lake improvements; entry-way features; signage; and any other public improvements allowed by chapter 372 of the Local Government Code.

WHEREAS, Declarant intends to convey any subdivided lot contained within the Subdivision on which there is or will be built a single-family dwelling (each a "Lot"), subject to (i) the protective covenants, conditions, restrictions, liens, and charges set forth in this Declaration and (ii) the protective covenants and conditions set forth in the Master Declaration; and

WHEREAS, in addition to the PID, Declarant, through the Master Declaration, has created a homeowners' association to maintain common areas, amenities, and potentially certain portions of the Public Improvements, that are within the Tres Lagos Residential Development which the PID cannot legally, or, in the opinion of Declarant, adequately maintain, and to perform other duties and functions set forth in the Master Declaration;

WHEREAS, as future Residential Subdivisions of the Tres Lagos Residential Development are taken through the subdivision process and a subdivision plat of such is recorded in the Official Records of Hidalgo County, Texas, the Master Declaration shall be

supplemented to include all Lots in such newly created Residential Subdivision.

NOW, THEREFORE, it is hereby declared that all of the Lots shall be held, sold and conveyed subject to the following restrictions and conditions, which are for the purpose and shall be binding on all parties having any right, title, or interest in or to the Lots or any part thereof, and their heirs, successors, and assigns.

## **ARTICLE ONE DEFINITIONS**

1.01 "ARC" shall mean the architectural review committee established by the Association to review plans and applications for the modification of improvements within the Tres Lagos Residential Development and to administer and enforce architectural controls.

1.02 "Association" shall mean the homeowners' association for the Tres Lagos Residential Development and incorporated as the Tres Lagos Residential Owner's Association, Inc., a Texas non-profit corporation, its successors and assigns. All rules, conditions, covenants and declarations of the Board shall be binding on all of the Lots.

1.03 "Board" shall mean the Board of Directors of the Association.

1.04 "Bylaws" shall mean the bylaws of the Association, as such bylaws may be amended from time to time.

1.05 "Certificate" shall mean the Certificate of Formation of the Association.

1.06 "Declarant" shall have the meaning ascribed to it in the Recitals hereto.

1.07 "Lot" shall have the meaning ascribed to it in the Recitals hereto. The term "Lot" shall not include any reserves or common areas shown on the map of any plat of the Subdivision.

1.08 "Declaration" shall have the meaning ascribed to it in the Recitals hereto.

1.09 "Development Period" shall mean the period during which Declarant owns any Lot in the Subdivision.

1.10 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot on which there is or will be built a detached single family dwelling, including contract sellers but excluding those having such interest merely as security for the performance of an obligation.

1.11 "Plat" shall mean the recorded subdivision plat of the Subdivision.

1.12 "Plot Plan" shall mean the engineered drawing that governs setbacks and placement of house or sidewalks for each individual Lot.

1.13 "Subdivision" shall have the meaning ascribed to such term in the Recitals hereto.

## ARTICLE TWO USE OF LOTS; PROTECTIVE COVENANTS

Each Lot shall be constructed, developed, reconstructed, repaired, occupied and used as follows:

2.01 Lots. No Lot shall be resubdivided; provided, however, that Declarant shall have and reserves the right, at any time, or from time to time, upon the joinder and consent of the appropriate county and/or municipal authorities, and with the joinder and consent of the directly affected Owners, to file a replat of the Plat to effect a resubdivision or reconfiguration of any Lots then owned by Declarant, so long as such replat results in each resubdivided Lot containing not less than the minimum lot size prescribed by the zoning ordinances of the City of McAllen, Texas, as may be modified by the PID. Owners shall not unreasonably withhold or delay their joinder in or consent to the replat or amendments to the Plat. The privilege to replat Lots owned by Declarant reserved in this Section 2.01 shall be exercisable only by Declarant solely, without the requirement of joinder of Owners or others.

2.02 Minimum Floor Space. All floor areas referenced below are for air-conditioned living areas, exclusive of screened porches, garages, or breezeways attached to the main dwelling. Each dwelling constructed on any Lot in the Subdivision shall contain a minimum of Two Thousand Two Hundred (2,200) square feet for any single-story residence and any two-story residence constructed on the Lots must not have less than One Thousand (1,000) square feet of ground floor living area, exclusive of screened porches, garages, or breezeways attached to the main dwelling.

2.03 No Combining Lots. No person owning two or more adjoining Lots may consolidate such Lots into a single building location.

2.04 Setback Requirements and Building Location. All front, side and rear setbacks must be approved by the ARC, and must meet the requirements of the City of McAllen and the setback or permissible building area requirements set forth on the Plat. The location of the main residence on each Lot and the facing of the main elevation with respect to the street shall be subject to the written approval of the ARC. No building or structure of any type shall be erected on any Lot nearer to the property lines indicated by the minimum building setback line on the Plat or outside of the permissible building area as indicated on the Plat.

2.05 Height. No building or structure on any Lot shall contain more than two (2) stories or exceed, in height, the maximum height allowed by the City of McAllen, such height to be measured and determined in accordance with the method approved by the City of McAllen.

2.06 Driveways. Each Lot must be accessible to the adjoining street by a driveway or alley suitable for such purposes and approved in writing as to design, materials and location by the ARC before the residential structure located on such Lot may be occupied or used. Driveways, entryways and sidewalks must be constructed of only concrete. Stamped, coated or stained covering or painting of a driveway, entryway or sidewalk is not allowed. No Owner shall allow any vehicle or other object to block the sidewalks located on such Owner's Lot in any manner that impedes at any time, temporarily or permanently, the free flow of pedestrian or bicycle traffic along such sidewalk.

2.07 Access. No driveways or roadways may be constructed on any Lot to provide access to any adjoining Lot except as expressly provided on the Plat, or otherwise approved in writing by the ARC.

2.08 Drainage. Neither Declarant nor its successors or assigns shall be liable for any loss of, use of, or damage done to, any shrubbery, trees, flowers, improvements, fences, walks, sidewalks, driveways, or buildings of any type or the contents thereof on any Lot caused by any water levels, rising waters, or drainage waters. After the residence to be constructed on a Lot has been substantially completed, the Lot will be graded so that surface water will generally flow to streets, alleys, drainage easements, or Common Properties, and in conformity with the general drainage plans for the Subdivision. The Owner or Owners of each Lot shall be responsible for maintaining the drainage on such Owner's Lot in accordance with this Section and any rules or regulations established by the Association.

2.09 No Private Water/Sewer Systems. No individual water or sewer system shall be permitted on any Lot.

2.10 Natural Gas. Each residence constructed on a Lot shall be connected to the natural gas system unless prior written approval is obtained from the ARC.

2.11 Construction Requirements.

(a) All improvements to be located on a Lot shall be approved by the ARC in accordance with Article III of the Master Declaration prior to the commencement of any construction on a Lot.

(b) The Plot Plan showing the exact location and orientation of all improvements to be constructed on a Lot must be approved in writing by the ARC prior to the commencement of any construction on a Lot.

(c) Only new construction materials shall be utilized in constructing any structures situated on a Lot, unless the ARC shall expressly approve in writing the use of used construction materials.

(d) The front entry area of each residence constructed on a Lot shall have a sense of arrival as determined by the ARC and shall be designed so as to be clear to persons arriving that it is the entrance of the residence. The entry shall keep scale with pedestrian traffic and be in balance with the entire elevation. Brick details and other masonry details shall be done in a manner that creates depth. Brick or masonry shadow lines and projections shall balance with the design of the residence. The front plane of the house shall have movement front to back and multiple plate heights across the front. The use of accent materials and features must not conflict with the architectural style of the dwelling or the Subdivision harmony. The ARC reserves the right to reject elevations which, at the sole judgment of the ARC, do not conform to Subdivision harmony and conform to the design criteria of this section.

(e) All exterior field colors shall be approved by the ARC prior to construction. The colors of the trim, doors and windows shall be complementary to the selected field colors. Wood sashes, doors and trim shall be painted or stained. ARC approval is to be based on harmony and compatibility with surrounding dwellings in the Subdivision.

(f) Roof material must be 30-year Owens Corning "True Definition - Oak Ridge Driftwood" shingles with an architectural dimensional effect. Lightweight shingles or "three-tab" shingles are not allowed. All additions will use the same color, style and weight shingle as the main structure. All dwellings and additions in the Neighborhood shall have a shingle color matching ARC approved samples. Total height of dwelling, including chimney,

shall not exceed a maximum of thirty-five feet (35') above the finish floor slab. Only low profile roof ventilators may be used. Vents and other penetrations must be as unobtrusive as possible and located away from the main roof in which the dwelling is to be constructed. Chimneys shall be clad in masonry with colors complementary to the color of the main unit. Pitched roofs shall have a minimum slope of 4:12. Flat roofs are discouraged, but may be used in conjunction with an adequate parapet wall and allowed only on such architectural styling as deemed appropriate by the ARC.

(g) The side walls of any residence shall consist of 100% stone, stucco or other approved masonry veneer material. All block construction must have a stucco finish. No previously used materials shall be permitted on the exterior of the residential structures located within the Lots, without the prior written approval of the ARC.

(h) Construction of sidewalks are governed by the Plat, and each individual Lot's Plot Plan and design and construction of the sidewalk on each lot must be approved by the ARC. Sidewalks are to be constructed of concrete material only and must be of the width approved by the ARC on such Lot's Plot Plan.

(i) Each residence constructed on a Lot must contain cabling sufficient to allow such residence to be served by internet, phone, cable, and security services with a capacity determined adequate by the ARC, in the ARC's sole and absolute discretion. Initially, such cabling shall consist of Category 6 Ethernet cabling or better, subject to change by the ARC. All plans for construction submitted to the ARC for review shall also include the specifications of any such cabling for the ARC's approval.

(j) No projections of any type shall be placed or permitted to remain above the roof of any residential building with the exception of one or more chimneys and one or more vent stacks without the written permission of the ARC.

(k) All exterior construction of the primary residential structure, garage, porches and any other appurtenances or appendages of every kind and character and all interior construction shall conform to all municipal codes and issuance of a certificate of occupancy by the City of McAllen shall be completed not later than one (1) year following the earlier of (a) the date of issuance of a building permit by City of McAllen or (b) thirty (30) days following the date the ARC gives final approval to the construction plans. In the event the construction is not completed within such twelve (12) month period, and provided the Association has provided no less than thirty (30) days' written notice of such failure to the Owner of such Lot, then the Owner of such Lot shall be subject to a fine of up to five hundred dollars (\$500.00) per day by the Association until the violation is corrected, as well as any and all other remedies that the Association may impose in accordance herein. **The amount of such charge, together with interest thereon at fifteen percent (15%) per annum and reasonable cost of collection shall constitute a Special Individual Assessment as defined in the Master Declaration and shall be a continuing lien upon such Lot, as well as a personal obligation of the Owner of such Lot.**

2.12 Garages. Each residence erected on any Lot shall provide garage space for a minimum of two (2) conventional automobiles. All garage doors shall be overhung metal and equipped with an automatic and remote controlled door opener, and shall be closed at all times when not in use. Detached garages and storage rooms must be approved in writing by the ARC. No carport shall be built, placed, constructed or reconstructed on any Lot. As used herein, the term "carport" shall not be deemed to include a porte cochere. Porte cocheres must be approved in writing by the ARC and may not be attached to the entry of the garage. No

garage shall ever be changed, altered, reconstructed or otherwise converted for any purpose inconsistent with the garaging of automobiles, unless a new garage is constructed to meet the requirements of this Section.

2.13 Sheds, Storage Buildings, and Detached Structures. No shed, storage building or similar improvement shall be erected, placed or altered on any Lot without the prior written approval of the ARC. In addition, the ARC shall approve the color and materials of any such structure. Any other detached structure, pavilion, gazebo, playhouse, cabana, or storage room shall require the prior written approval of the ARC. Such approval shall be subject to, among other things, merit of structure, compatibility with primary dwelling and adjoining Lots, and conformity and harmony with existing structures and landscaping within the subdivision.

2.14 Landscaping. Each Lot shall maintain a minimum of (i) two (2) non-palm trees in the front yard having a 2.5" caliper width with one of the trees having been designated as a "native tree" by the City and (ii) eleven (11) shrubs. In addition, the entire front and back yard of each Lot shall be landscaped and the flower beds covered with mulch and the front and rear yards must be turfed and irrigated with an automatic underground irrigation system connected to the City's recycled water system. Landscaping of each Lot shall be completed within sixty (60) days, subject to extension for delays caused by inclement weather, after the home construction is completed and shall include grassed front yards. Any and all plans for the landscaping of front yards and of side yards not enclosed by solid fencing, including alterations, changes or additions thereto, shall be subject to the written approval of the ARC. Each Lot Owner shall be responsible for maintaining his own lawn and landscaping in a healthy and attractive condition. In no event shall any portion of a Lot be used as a vegetable garden except within fenced-in portions of the rear yard.

2.15 Recycled Non-Potable Water. Irrigation of any landscaping shall be provided solely by use of recycled water. Any irrigation lines installed on a Lot shall be installed using only purple colored piping as approved by the City and each home shall have a testable back-flow preventer installed in conjunction with each water meter of the potable water system installed. State regulations prohibit the direct connection between drinking water and recycled water. As a result, annually, homeowners may be required to provide a copy to the City of certified testing indicating that back-flow preventers installed on the home are operating and in working order. In addition, all work to be performed to any type of irrigation or other plumbing utilizing recycled water must be done only with the prior notification and approval of the ARC of both (i) the intended construction plans and (ii) the contractor being utilized to construct the recycled water line/system. Each Owner is required to comply with the rules and regulations of the City regarding recycled water use and such rules and regulations can be obtained by contacting said utilities.

2.16 Fences. The ARC shall approve the front setback of each fence as per the individual Lot Plot Plat. All dwellings are to have (i) a 6-foot stucco masonry fence extending perpendicular from the side of the dwelling to the adjoining Lot's property line in order to screen the side and rear yards from front street view (the "Front Fences") and (ii) a 6-foot Pre-Finished Cedar-Tone Gold Douglas Fir Dog-Ear Fence Picket attached to galvanized metal posts along the side property lines of the Lot in order to screen the side and rear yards from the view of the neighboring Lots (the "Side Fences" and, collectively with the Front Fences, the "Fences"). The Fences must be installed at time of substantial completion of the dwelling. Each Front Fence shall have a gate approved by the ARC no greater than four feet (4') in width. If the adjoining Lot is vacant, the Front Fence will terminate at the property line and the Side Fences shall be constructed on the side property lines. If the adjoining Lot already has Fences, then such Owner shall construct only a Side Fence to match up with and tie into the existing Fence

of the adjoining Lot. Each Owner shall maintain (i) the Front Fences located on such Owner's Lot, and (ii) the side of the Side Fences facing such Owner's Lot, whether constructed by such Owner or not. Stucco colors are limited to a natural or earth tone color matching the field colors.

The maintenance, repair, and replacement of PID owned fences situated on the Lots shall be the responsibilities of the Owner and/or Owners who own the Lot or Lots on which such fences are located, and in no event shall the Association be responsible for the maintenance, repair, and replacement of such fences. Repairs or alterations to any PID owned fence must be approved by the ARC and PID in advance and shall use PID approved materials and labor. Where PID owned fences fall on the property line, the Owner shall be responsible for maintaining its side of such fence only.

2.17 Trash Receptacles and Collection. Each and every Owner shall observe and comply with any and all regulations or requirements promulgated by the City of McAllen, Texas, and/or the Association, in connection with the storage and removal of garbage and/or recyclable trash. No cans, bags, containers, or receptacles for the storing or disposal of trash, garbage, waste, rubbish, or debris shall be stored, kept, placed, or maintained on any Lot where visible from any street or from any of the Common Properties, except solely on a day designated for removal of garbage and rubbish by the party responsible for such removal. No Lot shall be used or maintained as a dumping ground for garbage, rubbish, debris, trash, junk or other waste matter. All trash, garbage, or waste matter shall be kept in adequate containers which shall be constructed of metal, plastic or masonry materials, with tightly-fitting lids, or other containers approved by the City of McAllen, Texas, and which shall be maintained in a clean and sanitary condition. No garbage, trash, debris, or other waste matter of any kind shall be burned on any Lot. Trash and recycle containers must be picked up and stored so as not to be visible from the street the same day of collection.

2.18 Exterior Lighting. No exterior light, including landscape lighting, shall be installed or maintained on any Lot without the prior written approval of the ARC. Further, and notwithstanding such prior written approval, upon being given notice by the ARC that any exterior light is objectionable, the Owner of the Lot on which same is located will immediately remove said light or shield the same in such a way that it is no longer objectionable.

2.19 Window Coolers. No window air-conditioners or water coolers shall be permitted to be used, erected, placed or maintained on or in any residence on any part of the Lots.

2.20 Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any Lot. No trailer, mobile, modular or prefabricated home, tent, shack, or barn shall be placed on any Lot, either temporarily or permanently, and no residence, house, garage, shed or other structure appurtenant thereto shall be moved upon any Lot from another location, except for a sale, pre-sale or construction trailer. Declarant and builders shall have the temporary right to use a residence situated on a Lot as a temporary office or model home during the period of and in connection with the construction and sales operations on the Lots, but in no event shall a builder have such right for a period in excess of one (1) year after the date of substantial completion of his last residence on the Lots. No truck, bus, boat, boat trailer, trailer, recreational vehicle, camper or any vehicle other than conventional automobile or motorcycle shall be stored or parked on a Lot, other than on a short-term basis, meaning no more than 12 hours in any 24 hour period.

2.21 Parking. On-street parking is restricted to approved deliveries, pick-up or short-time guests and invitees and shall be subject to such reasonable rules and regulations as shall be adopted by the Board. Overnight on-street parking is not allowed. Parking in driveways is permitted; provided, however, no inoperable vehicles, no stored vehicles, or vehicles not utilized on a daily basis shall be permitted to be parked or stored in driveways or streets. No Owner shall allow any vehicle or other object to block the sidewalks located on such Owner's Lot in any manner that impedes at any time, temporarily or permanently, the free flow of pedestrian or bicycle traffic along such sidewalk.

2.22 Signs. No signs shall be displayed to the public view on any Lot without the prior written approval of the ARC, with the following exceptions: (i) Declarant and home builders may erect and maintain one or more signs for the construction, development, operation, promotion and sale of the Lots; (ii) the patriotic display of flags not exceeding 4' x 6' in size shall be permitted on customary holidays; and (iii) signs of customary dimensions (3' x 4' maximum) advertising said property or portions thereof for sale. Political signs, not to exceed six (6) square feet in size, may be erected upon a Lot by the Owner of the Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue, or proposal, provided that such signs shall not be erected more than ninety (90) days in advance of the election to which they pertain and are removed within fifteen (15) days after the election. No sign of any kind or character, including (a) any signs in the nature of a "protest" or complaint against Declarant or any home builder, (b) or that describe, malign, or refer to the reputation, character, or building practices of Declarant or any home builder, or (c) discourage or otherwise impact or attempt to impact anyone's decision to acquire a lot or residence in the Subdivision shall be displayed to the public view on any Lot or from any home on any Lot. Declarant, any home builder, or their agents shall have the right, without notice, to remove any sign, billboard, or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal. The failure to comply with this restriction will also subject any Owner to a fine of \$50.00 per day that such Owner fails to comply with this restriction. The Association will issue one ten (10) day notice of non-compliance of this Section to the Owner of a Lot. After such notice, if the Owner does not take corrective action the Association may impose the fine. **The amount of such charge, together with interest thereon at fifteen percent (15%) per annum and reasonable cost of collection shall constitute a Special Individual Assessment as defined in the Master Declaration and shall be a continuing lien upon such Lot, as well as a personal obligation of the Owner of such Lot.** Notwithstanding anything herein contained to the contrary, any and all signs, if allowed, shall comply with all sign standards of the City of McAllen, Texas, as such standards may be applicable to the Lots.

2.23 Removal of Dirt. The digging of dirt or the removal of any dirt from any Lot is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon. Minimum finished floor elevations, if any, established on the Plat shall be maintained.

2.24 Drilling and Mining Operations. Except as hereinafter provided, no oil or gas drilling, water drilling, or oil or gas development operations, oil or gas refining, quarrying or mining operations of any kind shall be permitted upon the surface of in any Lot, nor shall oil or gas wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon the surface of any Lot. No derrick or other structure designed for use in quarrying or boring for, or the extraction of, oil, natural gas or other minerals or water shall be erected, maintained or permitted upon the surface of any Lot. Nothing in this Section shall be construed to prohibit any Owner of a Lot from executing a lease with any third party for the exploration and/or

production of oil or gas within the mineral estate of the Owner's Lot, provided that the lease requires horizontal drilling or exploration of the mineral estate exclusive of any other means or methods of exploration/production, and includes indemnification and hold harmless clauses to protect the Owner from liability and to provide the Owner a legal defense for any liability and damages that may result from sub-surface horizontal drilling, exploration and production within the Lot. Any equipment utilized in the process of sub-surface horizontal drilling, exploration and production of oil or gas pursuant to any such lease shall not be located, either in whole or in part, upon the Lots.

#### 2.25 Prohibited Activities.

(a) No noxious or offensive activity shall be conducted on any Lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the other Owners.

(b) No professional, business, or commercial activity to which the general public is invited or allowed shall be conducted on any Lot. Automobile maintenance is not permitted on the street in front of any Lot or on the driveway or any portion of the Lot in such manner as to be visible from the street or neighboring Lots.

(c) Garage sales, moving sales, rummage sales or similar activities on any Lot may be permitted no more often than once per year and subject to such restrictions as may be imposed by the Association from time to time.

(d) Capturing, trapping, or killing of wildlife within the Subdivision is prohibited, except in circumstances posing a threat to safety.

(e) Any activity which results in unreasonable levels of sound or light pollution is prohibited, provided, this restriction shall not restrict or prevent the Association from operating recreational facilities or other amenities in a manner consistent with their intended use.

2.26 Utility Lines and Antenna. All electrical service and telephone lines shall be placed underground and no outside electrical lines shall be placed overhead unless such lines are a part of the initial development infrastructure as designed by the electric provider. No exposed or exterior radio or television transmission or receiving antennas shall be erected, placed or maintained on any part of such premises that is visible from street. Any waiver of these restrictions in a particular case shall not constitute a waiver of such restrictions with respect to any other Lots, lines or antennas. Exterior television/radio antenna, weather station apparatuses and receivers of any sort shall not be placed, allowed or maintained upon any portion of the roof structure where visible from the street and must receive ARC approval before installation. Satellite dishes are permitted with the following constraints: (a) dish diameter shall not exceed eighteen inches (18"), and (b) dishes shall be confined within the rear or side yards. No dish shall extend above the ridge line of the roof nor shall any dish be attached to the front roof or cave of the front facing portion of the structure.

2.27 Animals. No animals, livestock or poultry of any kind shall be raised, bred or retained on any Lot except that no combination of more than four (4) household pets (including dogs, cats or other household pets) shall be kept on any Lot, provided they are not kept, bred or maintained for any commercial purpose. All animals must be leashed or carried in arms if outside the dwelling or outside a secure fenced rear yard. Owners of animals must clean up feces in front yards, sidewalks and common areas. The Association may declare pets

prohibited in selected areas of the Subdivision. Animals which create an offensive activity, either odors, noise or other activity to the surrounding Lots or occupants of the Subdivision, or present a health and safety concern for the Subdivision may be construed to be a prohibited activity at the sole judgment of the Board. Any violation of this Section will subject the Owner of the Lot to a fine of up to one hundred dollars (\$100.00) per day until the violation is corrected, as well as any and all other remedies that the Association may impose in accordance herein. Restrictions on locations of animals shall not apply to service animals.

2.28 Occupancy. No private dwelling house erected upon any Lot shall be occupied in any manner while in the course of construction, nor at any time prior to its being fully completed, as herein required, nor shall any residence, when completed, be in any way occupied until made to comply with approved plans, the requirements herein, and all other covenants, conditions, reservations, and restrictions herein set forth. No temporary structure shall be placed or erected upon any Lot either permanently or temporarily. Should any structure be destroyed or partially destroyed, Owner shall immediately remove or rebuild said structure.

2.29 Evaporative Coolers. No evaporative coolers shall be installed on the residence constructed on any Lot.

2.30 Burglar Bars. No burglar bars shall be installed on the residence constructed on any Lot.

2.31 Solar Panels. No solar panels shall be permitted on the roof of any structure constructed on any Lot unless approved in writing by the ARC, and in no event shall such be visible from the front street abutting such Lot. Solar panel installations shall conform to the roof slope and be installed parallel to the ridgeline of the roof. If placed in a rear yard, no portion of a solar panel installation may extend vertically above the elevation of any portion of the rear yard fence.

2.32 Restriction Against Citrus Trees. **No citrus trees of any type shall be allowed to be planted, grown, or maintained on any Lot within the Subdivision. This restriction shall apply to all citrus plants or trees including but not limited to the following types: grapefruit, Sweet Orange, lemon, lime, Finger Lime, tangerine, Sour Orange, Pomelo and any other citrus varieties or related species including but not limited to Orange Jasmine (*Murraya exotica* and *Murraya Paniculata*) and Curry leaf (*Berbera koenigii* or *Murraya keonigii*) which are known hosts for the Asian Citrus Psyllid (*Diaphorina citri*).**

### ARTICLE III CONSTRUCTION / MAINTENANCE

3.01 Construction Requirements. All construction shall be undertaken in a good and workmanlike manner and in accordance with all applicable laws. The Owner shall obtain all required building permits. In connection with any such construction, no damage shall be done to any adjacent Lots, streets, common areas or public or private utilities. Construction material, trash and construction worker trash must be contained during construction in a dumpster or other acceptable enclosed container on the Lot and/or confined to the building itself. The Owner is, and shall require Owner's agents to be, responsible for any cleanup cost associated with retrieval of debris or trash scattered or blown off lot and deposited on other property, whether Lots or common areas. The Association will issue one ten (10) day notice of non-compliance of this Section to the Owner of a Lot, whether under construction or if the condition exists after occupancy. After such notice, if the Owner does not take corrective action to clean

the debris or trash or if the condition continues, the Association may have the debris or trashed cleaned and assess the Owner the cost of such corrective action.

### 3.02 Duty of Maintenance.

(a) Owners and occupants (including lessees) of any Lot shall, jointly and severally, have the duty and responsibility, at their sole cost and expense, to keep the Lot so owned or occupied, including buildings, improvements, grounds or drainage easements or other rights-of-way incident thereto, and vacant land, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (i) Prompt removal of all litter, trash, refuse and waste;
- (ii) Lawn mowing and edging of all curbs and edgeways on a regular basis;
- (iii) Tree and shrub pruning;
- (iv) Watering landscaped areas in a regular manner so as to maintain harmony with the overall standards of the Subdivision;
- (v) Keeping exterior lighting and maintenance facilities in working order;
- (vi) Keeping lawn and garden areas alive, free of weeds, and attractive;
- (vii) Keeping parking areas, driveways and curbs in good repair;
- (viii) Complying with all government health and police requirements;
- (ix) Repair of exterior damages to improvements;
- (x) Cleaning of landscaped areas lying between street curbs and Lot lines, unless such streets or landscaped areas are expressly designated to be Common Properties maintained by applicable governmental authorities or the Association;
- (xi) Repainting of improvements; and
- (xii) Removing all holiday decorations and lighting no later than fourteen (14) days after such holiday.

(b) If, in the opinion of the Association, any such Owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the repairs and maintenance or make arrangements with the Association for making the repairs and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association, through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such repair and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any

person.

(c) Notwithstanding the provisions of Section 3.02(b) above, if, at any time, an Owner shall fail to control weeds, grass and/or other unsightly growth, the Association shall, after ten (10) days' written notice, have the authority and right to go onto the Lot of such Owner for the purpose of mowing and cleaning said Lot and shall have the authority and right to assess and collect from the Owner of said Lot a sum up to two (2) times the cost incurred by the Association for mowing or cleaning said Lot on each respective occasion of such mowing or cleaning. If, at any time, weeds or other unsightly growth on the Lot exceed six inches (6") in height, the Association shall have the right and authority to mow and clean the Lot, as aforesaid.

(d) The Owners and occupants (including lessees) of any Lot on which work is performed pursuant to Sections 3.02(b) and (c) above shall, jointly and severally, be liable for the cost of such work, such costs constituting a Special Individual Assessment as specified in the Master Declaration, and shall promptly reimburse the Association for such cost. If such Owner or occupant shall fail to reimburse the Association within thirty (30) days after receipt of a statement for such work from the Association, then said indebtedness shall be a debt of all said persons, jointly and severally, and shall constitute a lien against the Lot on which said work was performed. Such debt constitutes a Special Individual Assessment as set forth in the Master Declaration, which grants the Association a lien against such Lot and the right of foreclosure.

3.03 Duty of Disclosure. The Subdivision lies within the City of McAllen's Tax Increment Reinvestment Zone No. 1 pursuant to Chapter 311 of the Texas Tax Code (the "TIRZ"). In order to ensure that the TIRZ achieves its intended purpose, it is necessary for the Hidalgo County Appraisal District to obtain accurate information on the fair market value of each Lot over the course of time. **Consequently, by its acceptance of a deed to a Lot, each Owner agrees that within thirty (30) days after its acquisition of a Lot within the Subdivision, such Owner shall have the duty to send a written notice to both the Hidalgo County Appraisal District and the Association which notice shall include (i) a copy of the executed and recorded deed into such Owner, and (ii) verification of the price paid for such Lot.**

3.04 Violations. Any violation of the provisions of this Declaration, or beginning construction without approval of the ARC, failing to obtain a building permit, failing to comply with applicable law, failing to comply with approved plans, failing to maintain such Lot as required herein, or otherwise failing to comply with the terms of this Declaration can result in the Association imposing a substantial fine, and if applicable, remedying the noncompliance and placing a lien upon the Lot and improvements until it is reimbursed for its expenses. In applicable instances, the Association shall have the right, but not the obligation, after ten (10) days written notice to the Owner to enter the Lot and remedy such noncompliance to its satisfaction and may charge the Owner for the cost of such work. The Owner agrees by the purchase of such Lot to pay such amount immediately upon receipt of an invoice therefore. **The amount of such charge, together with interest thereon at fifteen percent (15%) per annum and reasonable cost of collection shall constitute a Special Individual Assessment as defined in the Master Declaration and shall be a continuing lien upon such Lot, as well as a personal obligation of the Owner of such Lot.**

## **ARTICLE IV EASEMENTS**

4.01 Ingress and Egress by the Association. The Association shall, at all times, have full rights of ingress and egress over and upon each Lot for the maintenance and repair of each Lot in accordance with the provisions hereof, and for the carrying out by the Association of its functions, duties and obligations hereunder; provided, that any such entry by the Association upon any Lot shall be made with as little inconvenience to the Owner as practical, and any damage caused by the Association's entry, other than damages caused by the Owner, shall be repaired by the Association at the expense of the Association.

4.02 General. The rights and duties of the Owners with respect to sanitary sewer, water, electricity, natural gas, telephone and cable television lines and drainage facilities shall be governed by the following:

(a) Wherever (i) sanitary sewer or water service connections, (ii) natural gas, electricity, telephone or cable television lines, or (iii) drainage facilities are installed within the Subdivision, which connections, lines or facilities or any portion thereof lie in or upon Lots owned by any party other than the Owner of a Lot served by said connections, lines or facilities, such Owners of Lots served shall have the right and are hereby granted an easement to the full extent necessary therefore, to enter upon the Lots within or upon which said connections, lines or facilities or any portion thereof lie to repair, replace and generally maintain said connections, lines or facilities as and when the same may be necessary.

(b) Wherever (i) sanitary sewer or water service connections, (ii) natural gas, electricity, telephone or cable television lines, or (iii) drainage facilities are installed within the Subdivision, which connections, lines or facilities serve more than one Lot, the Owner of each Lot served by said connections, lines or facilities shall be entitled to the full use and enjoyment of such portions of said connections, lines or facilities which service such Owner's Lot.

## **ARTICLE V GENERAL PROVISIONS**

5.01 Enforcement. Declarant, the Association, the ARC, or any Owner shall have the right but not the obligation to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations now or hereafter imposed by the provisions of this Declaration, in accordance with the Declaration and applicable law. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In addition, should Declarant, the Association, or the ARC prevail in any such litigation, the prevailing party shall be entitled to recover its reasonable attorneys' fees.

5.02 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and Declarant or the Owner of any Lot subject to this Declaration, and their respective legal representatives. This Declaration shall be effective for a term of fifty (50) years from the date this Declaration is recorded, after which automatically extended for successive periods of ten (10) years unless specifically agreed to the contrary by a written agreement executed by the Association and Owners owning not less than seventy-five percent (75%) of the Lots and recorded in the Official Records of Hidalgo County, Texas.

5.03 Amendment. This Declaration may be amended, modified and/or changed as follows:

(a) during the Development Period, Declarant may amend or change this Declaration in any manner determined appropriate in Declarant's sole and absolute discretion.

(b) after the expiration of the Development Period, this Declaration may be amended or changed either upon the express written consent of Owners owning no less than seventy-five percent (75%) of the Lots.

Any and all amendments to this Declaration shall be recorded in the Office of the County Clerk of Hidalgo County, Texas.

5.04 Waiver. A waiver or modification of any of the provisions, requirements, conditions or restrictions herein contained by Declarant, the Association, or the ARC, shall not be construed as a waiver of future enforcement of such provisions, requirements, conditions or restrictions.

5.05 Severability. Invalidation of any one of the provisions of this Declaration by judgment or court order shall in no way affect any other provision of this Declaration which shall remain in full force and effect.

5.06 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

5.07 Notices to Member/Owner. Any notice required to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as an Owner on the records of the Association at the time of such mailing.

5.08 Notices to Mortgagees. If a holder of a mortgage on a Lot shall notify the Association of its address and the identity of the Lot and Owner covered by and granting such mortgage, then such holder(s) shall be entitled to receive, written notification from the Association of any default by the respective Owner in the performance of such Owner's obligations as established by this Declaration.

5.09 Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions of this Declaration or the Bylaws of the Association shall be determined by the Board, whose determination shall be final and binding upon all Owners. In the event a dispute arises between the Association and one or more Owners, such parties shall submit the dispute to arbitration in accordance with the rules of the American Arbitration Association, and the result thereof shall be binding and conclusive to the parties. Upon the written request of either party to the dispute, each party to the dispute shall appoint one person as an arbitrator to hear and determine the dispute and if the two arbitrators so chosen shall be unable to agree, then they shall select a third arbitrator whose decision shall be final and conclusive upon the parties. Notwithstanding the forgoing, either party shall have the right to appeal the decision of the Arbitrator which appeal shall be within the jurisdiction of the Texas 13<sup>th</sup> Court of Appeals. The expenses of such arbitration shall be borne by the losing party, or in such proportions as the arbitrators shall decide. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association.

5.10 Termination of and Responsibility of Declarant. If Declarant shall convey all of its right, title and interest in and to the Lots and assign all its rights, benefits and obligations as Declarant hereunder to any partnership, individual or individuals, corporation or corporations,

then and in such event Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of Declarant.

**(signature page follows)**

EXECUTED by the said Declarant this the 6 day of June 2017.

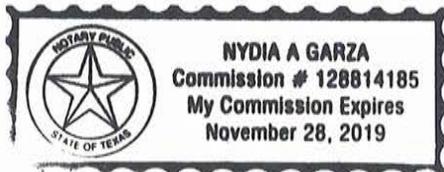
DECLARANT:

**RHODES ENTERPRISES, INC., a Texas corporation**

By:   
**MICHAEL RHODES, President**

STATE OF TEXAS           §  
  §  
COUNTY OF HIDALGO   §

I, the undersigned authority, on this day personally appeared Michael Rhodes, acting in his capacity as President of Rhodes Enterprises, Inc., a Texas corporation, and on behalf of said corporation.



  
Notary Public for the State of Texas  
My Commission expires: 11/28/2019