

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions (this "**Declaration**") is made effective as of the _____ day of _____, 2023 by **RONALD EARL PRUITT and CHRISTIAN NOBLE PRUITT** ("**Pruitt**"), a married couple, and **HEARD NATURAL SCIENCE MUSEUM AND WILDLIFE SANCTUARY, INC.**, ("**Heard**") a Texas nonprofit corporation (collectively referred to as the "**Declarants**") for the benefit of the City of McKinney, Texas, ("**City**") a Texas Home-Rule Charter City, as a "**Beneficiary**" hereunder and each other.

WITNESSETH:

WHEREAS, Pruitt is the owner of approximately 5.673 acres located at or about the north end of Sharon Lane, which roadway is situated in or about Fairview, Texas ("**Pruitt Property**") the Pruitt Property consists of approximately 5.673 acres acquired by Pruitt on April 20, 2017, from Kathleen Seal also known as Kathleen M. Seal, Individually and as Independent Administrator of the Estate of William G. Seal, Deceased, and David Judy and Darlene Judy (being more particularly described in **Exhibit A** attached hereto); and

WHEREAS, Heard is the owner of an approximately 88.777 acre tract of land ("**Heard Tract**"), acquired by Heard on March 10, 1970, from The Bessie Heard Foundation as part of a larger conveyance, which Heard Tract adjoins and abuts the Pruitt Property and from which Heard Tract Pruitt desires to obtain an approximately 1.423 acre tract of land (the "**Heard Property**" being more particularly described in **Exhibit B** attached hereto) in exchange for a 1.423 acre tract of land from the Pruitt Property as more particularly described and depicted on **Exhibit C**; and

WHEREAS, portions of the Pruitt Property and the Heard Property are situated within the extraterritorial jurisdiction or corporate limits of the City, and the Declarants desire to obtain the release of the Pruitt Property and the Heard Property from the extraterritorial jurisdiction or corporate limits of the City to facilitate the development of portions of the Pruitt Property and the Heard Property; and

WHEREAS, Declarants desire to subject the Pruitt Property and the Heard Property that Pruitt desires to obtain (collectively referred to as the "**Subject Property**" and which tracts of land are more particularly described in Article 1.3) to the restrictions hereinafter set forth in order to restrict the development of the Subject Property to only those uses allowed by certain defined and agreed upon zoning and development standards as expressed in and attached hereto as **Exhibit D** ("**Development**")

Standards”), and thereby obtain the City’s release of the Subject Property from the City’s extraterritorial jurisdiction or corporate limits and certificated areas to allow for service thereof by the Town of Fairview.

NOW, THEREFORE, Declarants herein declare that the Subject Property and all portions thereof is and shall be held, transferred, sold, conveyed and occupied subject to the restrictions hereinafter set forth.

ARTICLE I – GENERAL

1.1 Recitals Incorporated. All of the foregoing recitals are hereby found to be true and correct and they are hereby approved and incorporated into the body of this Agreement as if copied in their entirety.

1.2 Purpose of Declaration. The purpose of this Declaration is: to promote the proper development and use of the Subject Property for single-family life on land parcels of not less than one acre in area or open space uses and activities related to the primary mission of the Heard Natural Science Museum and Wildlife Sanctuary, Inc., more particularly described in the Development Standards, and to specifically prohibit all uses and development not expressly allowed by the Development Standards; to provide the City of McKinney, Texas certain rights as Beneficiary hereunder; and to provide for the enforcement of this Declaration.

1.3 Property Subject to the Declaration. The Subject Property covered by this Declaration is collectively described in the attached **Exhibit A** (approximately 5.673 acres acquired by Pruitt on April 20, 2017, from Kathleen Seal also known as Kathleen M. Seal, Individually and as Independent Administrator of the Estate of William G. Seal, Deceased, and David Judy and Darlene Judy) and **Exhibit B** (an approximately 1.423 acre tract of land out of an approximately 88.777 acre tract of land acquired by Heard on March 10, 1970, from The Bessie Heard Foundation as part of a larger conveyance). Any right, title and interest therein owned or held in all or a portion of the Subject Property shall be subject to this Declaration and the restrictions set forth herein, as the same may be amended or deleted only in accordance with the provisions of this Declaration.

ARTICLE II – PROHIBITED USES

2.1 Prohibited Uses. Any use not expressly permitted by the Development Standards is prohibited on the Subject Property. Prohibited uses include, but are not limited to, a commercial recreational vehicle park or resort; recreational vehicle storage;

mini-warehouse or other storage uses; single-family uses on lots less than one acre in area; duplex, triplex, quadraplex, and muti-family uses; radio towers or cellular towers and related uses; and, any commercial or industrial type uses. Any use that produces excessive smoke, noise, light, gas, fumes, dust, odor, vibration or danger of fire, explosion or radiation that constitutes a nuisance is also prohibited on the Subject Property.

ARTICLE III – PERMITTED USES

3.1 Permitted Uses. The Subject Property may only be used and developed as allowed by the Development Standards as applied to the Pruitt Tract and the Heard Tract following their planned land exchange and platting thereof by and through the Town of Fairview or Collin County (the “Resulting Pruitt Tract” and the “Resulting Heard Tract”). Any use or development of any or all of the Subject Property that is not expressly authorized by the Development Standards is prohibited.

ARTICLE IV – MISCELLANEOUS

4.1 Binding Effect and Duration. The restrictions of this Declaration shall run with and bind the Subject Property and shall inure to the benefit of Declarants (whether one or more) or the City, their respective legal representatives, heirs, successors and assigns for a term of 30 years from the date that this Declaration is recorded in the Real Property Records of Collin County, Texas.

4.2 Amendment. This Declaration may be amended only pursuant to a written amendment executed by the Declarants and the City, or their successors and assigns, that is recorded in the Real Property Records of Collin County, Texas.

4.3 Enforcement. Declarants and the City shall each have the right (but not the duty) to enforce the restrictions set forth in this Declaration. Enforcement shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any part of this Declaration, either to restrain violation or recover damages; and failure by Declarants or the City to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorneys’ fees and costs from the non-prevailing party.

4.4 Validity and Severability. Violation or failure to comply with these restrictions shall not affect the validity of any mortgage, bona fide lien or other similar security instrument that may then be existing as an encumbrance of any part of the Subject

Property. Invalidation of any one or more provision(s) of these restrictions, or any portion thereof, by a judgment or court order shall not affect any of the other restrictions or provisions contained herein, which shall remain in full force and effect.

4.5 Interpretation. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance that is less restrictive. This Declaration shall be construed under and in accordance with the laws of the State of Texas. The exhibits attached hereto are incorporated herein by reference for all purposes.

IN WITNESS WHEREOF, RONALD EARL PRUITT and CHRISTIAN NOBLE PRUITT and HEARD NATURAL SCIENCE MUSEUM AND WILDLIFE SANCTUARY, INC., being the DECLARANTS herein and the CITY OF MCKINNEY, TEXAS, being the BENEFICIARY herein have caused this instrument to be executed to be effective as of the date first written above.

DECLARANT:

RONALD EARL PRUITT and CHRISTIAN NOBLE PRUITT, a married couple

By: _____
Name: **RONALD EARL PRUITT**

Date: _____

By: _____
Name: **CHRISTIAN NOBLE PRUITT**

Date: _____

[Signatures continue on following pages.]

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on this the _____ day of _____, 2023, by **RONALD EARL PRUITT**, for and on behalf of said married couple.

[SEAL]

Notary Public, State of Texas

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on this the _____ day of _____, 2023, by **CHRISTIAN NOBLE PRUITT**, for and on behalf of said married couple.

[SEAL]

Notary Public, State of Texas

DECLARANT:

HEARD NATURAL SCIENCE MUSEUM AND WILDLIFE SANCTUARY, INC., a Texas nonprofit corporation

By: _____
Name: **JENNIFER DEXTER**, President

Date: _____

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on this the _____ day of _____, 2023, by **JENNIFER DEXTER**, President of **HEARD NATURAL SCIENCE MUSEUM AND WILDLIFE SANCTUARY, INC.**, a Texas nonprofit corporation, on behalf of said non-profit corporation.

[SEAL]

Notary Public, State of Texas

BENEFICIARY:

CITY OF MCKINNEY

By: _____
PAUL G. GRIMES
City Manager

Date Signed: _____

ATTEST:

EMPRESS DRANE
City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on this the _____ day of _____, 2023, by **PAUL G. GRIMES**, City Manager of **CITY OF MCKINNEY, TEXAS**, a Texas Home-Rule Charter City, on behalf of said City.

[SEAL]

Notary Public, State of Texas

Exhibit A

**Pruitt Property
(5.673 Acres)**

(Consisting of one following page.)

Exhibit B

**Heard Property to Pruitt
(1.423 Acres)**

(Consisting of one following page.)

Exhibit C

**Pruitt Property to Heard
(1.423 Acres)**

(Consisting of one following page.)

Exhibit D

Development Standards

The development and use of the Subject Property shall be strictly for single-family life on parcels of land not less than one acre in area or open space uses and activities related to the primary mission of the Heard Natural Science Museum and Wildlife Sanctuary, Inc., as more particularly described in these Development Standards, and to specifically prohibit all uses and development not expressly allowed by the Development Standards; to provide the City of McKinney, Texas ("**City**") certain rights as beneficiary hereunder; and to provide for the enforcement of this Declaration.

1.2 Property Subject to the Declaration. The Subject Property covered by this Declaration is collectively described in the attached **Exhibit A** (approximately 5.673 acres acquired by Pruitt on April 20, 2017, from Kathleen Seal also known as Kathleen M. Seal, Individually and as Independent Administrator of the Estate of William G. Seal, Deceased, and David Judy and Darlene Judy) and **Exhibit B** (an approximately 1.423 acre tract of land out of an approximately 88.777 acre tract of land acquired by Heard on March 10, 1970, from The Bessie Heard Foundation as part of a larger conveyance). Any right, title and interest therein owned or held in all or a portion of the Subject Property shall be subject to this Declaration and the restrictions set forth herein, as the same may be amended or deleted only in accordance with the provisions of this Declaration.

ARTICLE II – PROHIBITED USES

2.1 Prohibited Uses. Any use not expressly permitted by these Development Standards is prohibited on the Subject Property. Prohibited uses include, but are not limited to, a commercial recreational vehicle park or resort; recreational vehicle storage; mini-warehouse or other storage uses; single-family uses on lots less than one acre in area; duplex, triplex, quadraplex, and muti-family uses; radio towers or cellular towers and related uses; and, any commercial or industrial type uses. Any use that produces excessive smoke, noise, light, gas, fumes, dust, odor, vibration or danger of fire, explosion or radiation that constitutes a nuisance is also prohibited on the Subject Property.

ARTICLE III – PERMITTED USES

3.1 Permitted Uses. The Subject Property may only be used and developed as allowed by the Development Standards. Any use or development of any or all of the

Subject Property that is not expressly authorized by the Development Standards is prohibited.

1. **The “Resulting Pruitt Tract”** -- That tract of land resulting from the addition of the land area identified in Exhibit B to the land area identified in Exhibit A and the removal of the land area identified in Exhibit C from the land area identified in Exhibit A.

(a) Principal permitted use: One single-family detached dwelling unit shall be permitted on a minimum one-acre lot or tract of land.

(1) If the Resulting Pruitt Tract is divided into two or more lots or tracts of land one single-family detached dwelling unit may be constructed on each lot or tract of land that is not less than one acre in area. (Only one building for living purposes shall be permitted to be constructed on each one-acre lot or tract of land.)

(b) Minimum lot area: One acre excluding rights-of-way for roads and streets dedicated for public use.

(c) No mobile homes shall be permitted.

2. **The “Resulting Heard Tract”** -- That tract of land identified in Exhibit B.

(a) Principal permitted use: Open space uses and activities related to the primary mission of the Heard Natural Science Museum and Wildlife Sanctuary, Inc.