

AFTER RECORDING RETURN TO:



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**MUELLER
SUPPLEMENTAL COVENANT
MIXED-USE COMMUNITY**

Travis County, Texas

[Row House, Lots 5-7, Block 59A, Section V]

Master Declarant: CATELLUS AUSTIN, LLC, a Delaware limited liability company

Cross Reference to Mueller Master Community Covenant, recorded as Document No. 2004238007, Official Public Records of Travis County, Texas, as amended, Mueller Mixed-Use Community Covenant, recorded as Document No. 2004238009, Official Public Records of Travis County, Texas, as amended, and Mueller Design Book, recorded as Document No. 2005193821 in the Official Public Records of Travis County, Texas, as amended. The terms and provisions of the aforementioned documents will also apply to the property made subject to this supplemental covenant.

MUELLER MIXED-USE COMMUNITY – SUPPLEMENTAL COVENANT
[Row House, Lots 5-7, Block 59A, Section V]

This Mueller Mixed-Use Community Supplemental Covenant (the “**Supplemental Covenant**”) is made by **CATELLUS AUSTIN, LLC**, a Delaware limited liability company (the “**Master Declarant**”), and is as follows:

RECITALS

A. Pursuant to that certain MCC Annexation Notice, recorded in the Official Public Records of Travis County, Lots 5 through 7, Block 59A out of Resubdivision of Block 59A of Resubdivision of Block 59 Mueller Section V Subdivision, a subdivision (the “**Subdivision**”) located in Travis County, Texas, according to the map or plat (the “**Plat**”) recorded as Document No. 201100092 in the Official Public Records of Travis County, Texas, is subject to the terms and provisions of that certain Mueller Master Community Covenant, recorded as Document No. 2004238007 in the Official Public Records of Travis County, Texas, as amended (the “**Master Covenant**”), and that certain Mueller Mixed-Use Community Covenant, recorded as Document No. 2004238009, in the Official Public Records of Travis County, Texas, as amended (the “**Mixed-Use Covenant**”). The term “**Property**” as used in this Supplemental Covenant only pertains to Lots 5 through 7, Block 59A.

B. Pursuant to Section 7.02 of the Mixed-Use Covenant, Master Declarant may record one or more supplemental covenants applicable to all or a portion of the property which is made subject to the Mixed-Use Covenant and designate the use, classification and such additional covenants, conditions and restrictions as Master Declarant may deem appropriate for such property. Pursuant to Section 1.5 of the Master Covenant, the City of Austin must consent to any supplemental covenant which contains covenants, restrictions, conditions, limitations and/or easements affecting all or any portion of the Community. The City of Austin hereby consents to this Supplemental Covenant by its execution of this instrument in the space provided below. To the extent required by the Governing Documents, this Supplemental Covenant will be considered an amendment to the Master Covenant.

C. Master Declarant is the owner of the Property and desires to carry out a uniform plan for the improvement and development of the Property for the benefit of the present and all future owners thereof.

D. Master Declarant desires to provide a mechanism for the preservation of the community and for the maintenance of common areas and, to that end, desires to subject the Property to the covenants, conditions, and restrictions set forth in this Supplemental Covenant for the benefit of the Property, and each owner thereof, which shall be in addition to the covenants, conditions, and restrictions set forth in the Master Covenant and the Mixed-Use Covenant.

NOW, THEREFORE, it is hereby declared: (i) that all of the Property shall be held, sold, conveyed, and occupied subject to the following covenants, conditions, and restrictions which shall run with the Property and shall be binding upon all parties having right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to the Property, or any portion thereof, shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions, and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed; and (iii) that this Supplemental Covenant shall supplement and be in addition to the covenants, conditions, and restrictions of the Master Covenant and the Mixed-Use Covenant.

ARTICLE I DEFINITIONS

Unless the context specifies or requires otherwise, capitalized terms used but not defined in this Supplemental Covenant are used and defined as they are used and defined in the Master Covenant. References herein to the “**Reviewer**” shall refer to the “**New Construction Council**” or “**Modification Committee**”, both as defined in the Master Covenant, as applicable. Whether the New Construction Council or Modification Committee has jurisdiction over a particular approval will be determined as set forth in the Master Covenant.

ARTICLE II GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations:

2.01 Master Design Guidelines. Pursuant to *Chapter 5* of the Master Covenant, all terms and provisions of the Master Design Guidelines, commonly referred to as the “Mueller Design Book”, as amended, shall apply to construction on any portion of the Property until such time as the Master Design Guidelines are modified, amended, or restated in accordance with *Chapter 5* of the Master Covenant.

2.02 Permitted Uses. Portions of the Property containing Dwelling Units classified as “Row House” pursuant to the Mueller Design Book shall be used solely for private single family residential purposes and there shall not be constructed or maintained on any Unit more than one single family residence. No professional, business, or commercial activity to which the general public is invited shall be conducted on any Unit, except an Owner or occupant of a Dwelling Unit may conduct business activities within a Dwelling Unit so long as: (i) such activity complies with all the applicable zoning ordinances (if any); (ii) the business activity is conducted without the employment of persons other than the residents of the home constructed in the Unit; (iii) the existence or operation of the business activity is not apparent or detectable by sight, i.e., no sign may be erected advertising the business on any Unit, sound, or smell from

outside the Dwelling Unit; (iv) the business activity does not involve door-to-door solicitation of residents within the Community; (v) the business does not, in the judgment of the Board of Directors of the Master Association (the “**Master Board**”), generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Property which is noticeably greater than that which is typical of Dwelling Units in which no business activity is being conducted; (vi) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Community as may be determined in the sole discretion of the Master Board; and (vii) the business does not require the installation of any machinery other than that customary to normal household operations. The terms “business” and “trade”, as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) such activity is engaged in full or part-time; (y) such activity is intended to or does generate a profit; or (z) a license is required.

2.03 Utility Lines. Unless otherwise approved in accordance with *Chapter 5* of the Master Covenant, no sewer, drainage or utility lines or wires or other devices for the communication or transmission of electric current, power, or signals including telephone, television, microwave or radio signals, shall be constructed, placed or maintained anywhere in or upon any portion of the Property other than within buildings or structures unless the same shall be contained in conduits or cables constructed, placed or maintained underground or concealed in or under buildings or other structures.

2.04 Construction of Improvements. No Improvements of any kind shall hereafter be placed, maintained, erected or constructed upon any portion of the Property unless approved in accordance with *Chapter 5* of the Master Covenant.

2.05 Condominium Regime. No condominium regime will be impressed upon all or any portion of the Property unless the declaration establishing the regime has been approved in writing by the Master Declarant during the Development and Sale Period, and thereafter the Master Board. In the event that a condominium regime is impressed upon all or any portion of the Property, the Master Declarant during the Development and Sale Period, and thereafter the Master Board, may amend this Supplemental Covenant to the extent necessary to reflect that the provisions otherwise applicable to the Property apply to each condominium unit.

2.06 Garages. The Improvements on each Unit within the Property must contain a private, enclosed garage capable at all times of housing at least one (1) automobile. All garages, carports and other open automobile storage units shall be approved in advance of construction by the New Construction Council. No garage may be permanently enclosed or otherwise used for habitation. The orientation of the opening into a garage must be to the rear alley or side alley (if a side of the Unit is adjacent to an alley), and must be approved in advance by the New

Construction Council. The exterior side of each garage that faces the alley must contain two (2) outdoor lights facing the alley. The parking of vehicles in the yard of any Unit is prohibited.

2.07 Porches. Unless otherwise approved in advance by the Reviewer, each Dwelling Unit must comply with the porch specifications and requirements set forth in the Mueller Design Book.

2.08 Fences; Sidewalks. No fence shall be constructed on the Property without the prior written consent of the Reviewer. All fencing constructed on a Unit must be constructed of a material, design and height and in a location approved in advance of construction by the Reviewer. The Reviewer has the authority to require the construction of rear and side yard fencing on any subdivided lot, common element, or Unit and to require that such fencing be constructed in accordance with specifications promulgated by the Reviewer. The Owner of each Unit or subdivided lot shall construct, at such Owner's sole cost and expense and prior to occupying any Dwelling Unit, a sidewalk on such Owner's Unit or subdivided lot, located and designed in conformance with the Plat and/or specifications promulgated by the Reviewer.

2.09 Building Materials. All building materials must be approved in advance by the Reviewer. No highly reflective finishes (other than glass, which may not be mirrored) shall be used on exterior surfaces (other than surfaces of hardware fixtures), including, without limitation, the exterior surfaces of any Improvements.

2.10 Rentals. Nothing in this Supplemental Covenant shall prevent the rental of any Unit and the Improvements thereon by the Owner thereof for residential purposes. All leases shall be in writing. The Owner must provide to its lessee copies of the Community Covenants. Notice of any lease, together with such additional information as may be required by the Master Board, must be remitted to the Master Association by the Owner on or before the expiration of ten (10) days after the effective date of the lease.

2.11 Driveways. The design, construction materials, and location of: (i) all driveways, and (ii) culverts incorporated into driveways for ditch or drainage crossings, shall be approved by the Reviewer. The Reviewer may establish design and materials requirements for all driveways and driveway culverts to insure that they are consistent in appearance throughout the Property.

2.12 Compliance with Setbacks. Unless otherwise approved in advance by the Reviewer or set forth herein, setbacks on each Unit must comply with the setback requirements set forth in the Mueller Design Book.

2.13 Impervious Cover Limitation. Unless otherwise approved in advance by the Reviewer, the impervious cover of any Unit within the Property shall not exceed 95% of the total surface area of the Unit. "Impervious Cover" for the purpose of this section means the definition set forth in Land Development Code of the City of Austin. **Each Owner is advised that exceeding the impervious cover allocated to a particular Unit WITHOUT the advance written approval of the Reviewer may require the removal of the excess impervious cover at**

the Owner's sole cost and expense. In addition, exceeding the impervious cover allocated to a Unit WITHOUT the advance written approval of the Reviewer will constitute a violation of the terms and provisions of the Governing Documents which, in addition to any other remedy for violation of the Governing Documents, may result in a fine levied against the Owner of the Unit.

2.14 Address Markers. The location, design and materials used for address identification markers on each Unit must be approved in advance of installation by the Reviewer.

2.15 HVAC Location. No air-conditioning apparatus may be installed on the ground in front of a Dwelling Unit or on the roof of any Dwelling Unit. No window air-conditioning apparatus or evaporative cooler may be attached to any front wall or front window of a Dwelling Unit or at any other location where it would be visible from any street, any other Unit or any Master Community Facilities or Special Common Area. All HVAC units must be screened with either: (i) structural screening to match the exterior of the Dwelling Unit; or (ii) landscaping, as approved by the Reviewer.

2.16 Trash Containers. Trash containers and recycling bins must be stored in one of the following locations:

- (i) inside the garage of the Dwelling Unit; or
- (ii) Behind the Dwelling Unit in such a manner that the trash container and recycling bin is not visible from any street, alley, or adjacent Unit.

The Reviewer shall have the right to specify additional locations on each Owner's Unit in which trash containers or recycling bins must be stored.

2.17 Height. The maximum building height of any Dwelling Unit may be no more than forty feet (40') measured by the vertical distance between the lowest finished ground floor elevation at any point within the conditioned space of the structure and the highest ridge, peak, or gable of a roof, excluding chimneys. The second story of any two-story Dwelling Unit shall be set back from the rear property line by a minimum of twenty five feet (25').

2.18 Landscaping. Each Owner shall be required to install landscaping upon such Owner's Unit in accordance with landscaping plans approved in advance of installation by the New Construction Council. Notwithstanding any provision in this Supplemental Covenant to the contrary, such landscaping plans must be approved by the New Construction Council prior to occupancy of the single family residential structure located on the Unit or subdivided lot to which such landscaping plans relate. All landscaping shown on the landscaping plans and specifications approved by the New Construction Council shall be installed, and all such landscaping shall be completed, no later than the date the certificate of occupancy is issued for the Dwelling Unit on a particular Unit, unless approved in advance by the New Construction Council. The New Construction Council or its assigns shall be entitled to make

recommendations with respect to tree disease control, whereupon the Owner or Owners to whom such recommendations are directed shall be obligated to comply with such recommendations, which may include, but not be limited to tree removal and replacement.

Unless approved in advance by the New Construction Council, prior to the date the certificate of occupancy is issued for the Dwelling Unit on a particular Unit, each Owner will be responsible, at such Owner's sole cost and expense, for installing an automatic irrigation system on the Unit which serves the following areas of the Unit: (i) front yard; (ii) side yards visible from adjacent streets or alleys, including the landscaped side yards of Units, but excluding any landscaped area of a Unit enclosed by a private fence creating a private yard space for the Unit; and (iii) alley-landscaped areas (the "**Yard Landscape Area**"). Any dispute as to whether a side yard is visible from an adjacent street or alley or what constitutes a front yard, side yard or alley-landscaped area for purposes of this section shall be determined by the Reviewer, in its sole discretion. The automatic irrigation system must be approved in advance by the Reviewer or must comply with rules and regulations established by the Reviewer with respect to the location and installation of the irrigation system. The automatic irrigation system must also comply with all rules and regulations: (i) set forth in the Texas Water Code; (ii) adopted by the Texas Commission on Environmental Quality; and (iii) adopted by the City of Austin.

2.19 Exterior Material Requirements; Foundation Shielding. All materials used for the construction of the exterior of a Dwelling Unit must be approved in advance by the Reviewer. In the event portions of the foundation on each front elevation and side elevation are exposed eighteen inches (18") above the finished grade, the Owner must submit a proposed design to be approved in advance by the Reviewer to cover such exposure.

2.20 Roofing. The composition, color and style of all roof materials shall be expressly approved by the Reviewer. Any metal roof material that is approved for use shall be similar in finish to Galvalume™ (or approved equal) in a color and style to be expressly approved by the Reviewer. The pitch of the primary roofing surface, excluding accessory porches, must be a minimum of 6:12 and a maximum of 9:12 unless otherwise approved in advance by the Reviewer.

2.21 Swimming Pools. Swimming pools are prohibited.

2.22 Retaining Walls. Each Owner who acquires a Unit with the intent of constructing a Dwelling Unit thereon (i.e., a homebuilder) for sale to a third-party shall be obligated, at its sole cost and expense, to construct any retaining wall which may be required by the New Construction Council to be constructed on such Owner's Unit. Any retaining wall proposed to be constructed within the Property shall be constructed in accordance with specifications set forth by the New Construction Council, and shall in any case be approved in advance by the New Construction Council.

2.23 Square Footage. It is contemplated that each Dwelling Unit constructed on the Property will be a "Row House" as that term is defined in the Mueller Design Book.

Notwithstanding any provision in the Governing Documents to the contrary, the minimum square footage of any Dwelling Unit shall be 1,500 square feet and the maximum square footage, exclusive of open or screened porches, terraces, patios, decks, driveways, and garages, shall be 2,000 square feet. The Master Declarant shall have the right to grant variances or adjustments to the minimum and maximum square footage requirements of any Dwelling Unit set forth herein or in the Mueller Design Book.

2.24 Concrete Truck Clean-Out Site. Each Owner who is a homebuilder may designate a Unit owned by such Owner (the “**Clean-Out Site**”) for the cleaning of concrete trucks used by such Owner or its subcontractors during the construction of Improvements on any Unit. Each such Owner or its subcontractors shall restrict its cleaning of concrete trucks to the Clean-Out Site, and shall immediately remove all debris and trash deposited by any concrete truck from property and streets adjacent to the Clean-Out Site. Each Owner shall be obligated to restore any vegetation located within the Clean-Out Site which is removed or damaged as a result of the use of the Clean-Out Site by such Owner or its subcontractors. In the event such Owner fails to comply with the terms of this *Section 2.24*, the Master Declarant may, at its option, remove any trash or debris and restore any vegetation removed or damaged, and the Owner shall be responsible for reimbursing Master Declarant for any costs it incurs for such actions. If such Owner fails to pay such costs and expenses upon demand by the Master Declarant, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1-1/2%) per month) will be assessed against and chargeable to the Owner’s Unit(s). Any such amounts assessed and chargeable against a Unit hereunder will be secured by the liens reserved in the Master Covenant for Assessments and may be collected by any means provided in the Master Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner’s Unit(s).

2.25 Prohibited Structures. Accessory buildings and structures, including greenhouses, cabanas, sheds, storage buildings, guest houses, and tents of a permanent nature are prohibited unless approved in advance by the Reviewer.

2.26 Prohibited Animals. No Owner may keep a dangerous or exotic animal, pit bull terrier, trained attack dog, or any other animal determined by the Master Board in its sole discretion to be a potential threat to the well-being of people or other animals.

2.27 All-Terrain Vehicles. No all-terrain vehicles will be allowed to operate on any roads or trails within the Community, except for emergency purposes or in areas specifically designated for such purposes by the Master Association. Motorcycles may be used on roads within the Community only for transportation to and from a dwelling and shall be operated in a quiet manner.

2.28 Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes may be parked or placed on any Unit or used as a Dwelling Unit, either temporary or permanent, at any time, and no motor homes, travel trailers or recreational vehicles may be

parked on or near any Unit so as to be visible from adjoining property or from public or private thoroughfares at any time. Notwithstanding the foregoing, sales trailers or other temporary structures expressly approved by the Reviewer shall be permitted.

2.29 Basketball Goals; Permanent and Portable. Basketball goals are not permitted.

2.30 Antennae. Antennae and satellite dishes may only be installed pursuant to the provisions of Sections 2.08 and 2.09 of the Mixed-Use Covenant.

2.31 Sanitation. Each structure designed for occupancy will connect with sanitation facilities as are made available from time to time by the applicable utility service supplier. No septic tanks or drainfields shall be permitted on any Unit.

2.32 On Street Parking. No Owner or resident may park a vehicle on any road or street within the Property unless in the event of an emergency or as otherwise approved in writing by the Master Board. Guests and/or visitors may not park a vehicle on any road or street within the Property for more than seventy two (72) consecutive hours unless in the event of an emergency or as otherwise approved in writing by the Master Board. "Emergency" for purpose of this *Section* 2.32 means an event which jeopardizes life or property. "Parked" as used herein shall be defined as a vehicle left unattended for more than thirty (30) consecutive minutes.

2.33 Recreational Facilities. No tennis court, playscape, "sport court, or other recreational facility may be constructed on any Unit without the advance written approval of the Reviewer. The Reviewer shall have the right to approve in advance the location and materials to be used in the construction of any recreational facility, and may approve or deny the installation of such facility in its sole and absolute discretion. The Reviewer may condition its approval of any recreational facility based upon the erection or installation of screening. In no circumstance or event, unless otherwise approved by the Reviewer, shall any approved recreational facility be illuminated.

2.34 Outside Burning. There will be no exterior fires, except that barbecues, outside fireplaces, braziers and incinerator fires contained within facilities or receptacles and in areas designated and approved by the Reviewer shall be permitted. No Owner will permit any condition upon its portion of the Property which creates a fire hazard or is in violation of fire prevention regulations.

2.35 Lighting. All exterior lighting of any Unit and the Improvements constructed thereon will be subject to regulation by the Reviewer.

2.36 Obstructions. There will be no obstruction of any walkways or bike paths or interference with the free use of those walkways and paths except as may be reasonably required in connection with repairs. The Owners, their families, tenants, guests and invitees are granted nonexclusive easements to use the walkways and paths within the Property, subject to the rules adopted by the Master Board from time to time.

2.37 Camping and Picnicking. No camping will be allowed within the Community. No picnicking will be allowed within the Community except in those areas designated for that purpose. The Master Board, in its discretion, may ban or permit public assemblies and rallies within the Community.

2.38 Party Walls.

(a) General Rules of Law to Apply. Each wall built as a part of the original construction of the Units which shall serve and separate any two (2) adjoining Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. No alterations may be made to any party wall other than non-structural alterations to the interior surfaces of such walls (i.e., the surfaces of such walls facing the interior of a Dwelling Unit); provided, however, that under no circumstance or event will an Owner install or attach in or on a party wall any speaker, alarm, or any other device, item, component, or system designated for the creation or emission of sound. Without limitation on the foregoing, to the extent that the actions of an Owner result in damage to a party wall, the Owner responsible for such damage is obligated to restore and pay any and all costs associated with restoring the wall to its pre-damage condition.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who the wall serves in equal proportions.

(c) Damage and Destruction. If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who the wall serves may restore it, and the other Owner or Owners that the wall serves shall thereafter contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs with Land. The right of any Owner to contribution from any other owner under this Section shall be appurtenant to the land and shall pass to such owner's successors-in-title.

(e) Foundation, Fences. Common foundations which form a part of the Units and common fences between Units, if any, will be dealt with in the same fashion as party walls, as set forth in this section.

(f) Dispute Resolution. In the event of any dispute arising concerning a party wall, or under the provisions of this Section (the "**Dispute**"), the parties shall submit the Dispute to mediation. Should the parties be unable to agree on a mediator within ten (10) days after written request therefore by the Master Board, the Master Board shall appoint a mediator. If the Dispute is not resolved by mediation, the Dispute shall be resolved by binding arbitration.

Either party may initiate the arbitration. Should the parties be unable to agree on an arbitrator within ten (10) days after written request therefore by the Master Board, the Master Board shall appoint an arbitrator. The decision of the arbitrator shall be binding upon the parties and shall be in lieu of any right of legal action that either party may have against the other.

2.39 No Warranty of Enforceability. Master Declarant makes no warranty or representation as to the present or future validity or enforceability of any restrictive covenants, terms, or provisions contained in this Supplemental Covenant. Any Owner acquiring a portion of the Property 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 such portion of the Property, agrees to hold Master Declarant harmless therefrom.

ARTICLE III GENERAL PROVISIONS

3.01 Term and Termination. This Supplemental Covenant will be effective for a minimum of 21 years from the date it is recorded. Notwithstanding any provision in this Supplemental Covenant to the contrary, after 21 years, this Supplemental Covenant will be extended automatically for successive 10-year periods unless at least 67% of the then Owners subject to the Master Covenant sign a document stating that this Supplemental Covenant is terminated and that document is recorded within the year before any extension. In such case, this Supplemental Covenant will terminate on the date specified in the termination document. If any provision of this Supplemental Covenant would be unlawful, void, or voidable by reason of any rule restricting the period of time that covenants can affect title to property, that provision will expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

3.02 Notice of Service Area. This Section creates a "Service Area" (as such term is defined in the Master Covenant) and shall constitute the notice contemplated by Section 3.3 of the Master Covenant.

(a) **Designation of Service Area.** Master Declarant hereby designates the Property as "**Service Area Number 14**".

(b) **Services Provided by Master Association.** Service Area 14 has been designated to permit the Units therein to receive certain benefits and/or services from the Master Association which are not provided to all Units within the Community. Specifically, Exhibit "A" describes the services presently anticipated to be provided by the Master Association. An easement over and across the Property is hereby reserved on behalf of the Master Association for the purpose of providing such services. Each Owner acknowledges and agrees that such services will be provided exclusively by the Master Association, unless the Master Board relinquishes or assigns such rights in a written instrument recorded in the Official Public Records of Travis County, Texas. Service Area Assessments will be levied against each

Unit within Service Area 14 to fund Service Area Expenses, as more particularly described in the Master Covenant.

(c) Owner's Maintenance or Repair of Service Area. Any maintenance or repair performed on or within Service Area 14 by an Owner or occupant that is the responsibility of the Master Association hereunder shall be performed at the sole expense of such Owner or occupant and the Owner and occupant shall not be entitled to reimbursement from the Master Association even if the Master Association accepts the maintenance or repair. This paragraph may not be interpreted to evidence consent to any repair or maintenance by an Owner or occupant of components otherwise the responsibility of the Master Association, it being understood that no repair or maintenance may be done to components otherwise the responsibility of the Master Association without the advance written consent of the Master Association. This paragraph is only intended to foreclose any claim for reimbursement by an Owner or occupant in the event of any such unauthorized maintenance or repairs.

(d) Service Area Conditions Run with the Land. The obligations and easements set forth herein shall be covenants running with each Unit within the Property and it is hereby declared: (i) that each such Unit will be held, sold, conveyed, and occupied subject to the foregoing conditions, easements and restrictions which shall run with Unit and shall be binding upon all parties having any right, title, or interest thereto, their heirs, successors, and assigns and shall inure to the benefit of each Owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to a Unit within the Property, or any portion thereof, shall conclusively be held to have been executed, delivered, and accepted subject to the foregoing conditions, easements and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed; and (iii) that this notice shall supplement and be in addition to the covenants, conditions, and restrictions of the Master Covenant, Mixed-Use Covenant and any other applicable covenant.

(e) Owner's Responsibility. Except as provided in *Section 3.02(b)* above, all other maintenance of the Unit within the Property shall be the responsibility of the Owner thereof. In addition, in the event the Master Board relinquishes the right to provide services to all or any of Service Area 14 pursuant to *Section 3.02(b)*, any maintenance or services provided by the Master Association prior to such relinquishment shall automatically become the responsibility of the Owner of the Unit to which such maintenance or services were previously provided by the Master Association. For purposes of the foregoing sentence, maintenance of landscaping, irrigation and other Improvements shall be the responsibility of the applicable Unit Owner, unless otherwise approved in writing by the Master Board. Such maintenance shall be performed consistent with this Supplemental Covenant and the Master Covenant. In the event that the Master Board determines that: (A) any Owner has failed or refused to discharge properly his obligations with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or (B) that the need for maintenance, repair, or replacement, which is the responsibility of the Master Association hereunder, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, and is not covered or paid for by insurance, in whole or in part, then, in addition to the enforcement and

self help remedies set forth in Chapter 8 of the Master Covenant, the Master Association may turn this matter over to its attorney for further handling and/or the Master Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency situation, give the Owner written notice of the Master Association's intent to provide such necessary maintenance, repair, or replacement, at Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time.

3.03 Prohibition on Additional Associations. Unless otherwise agreed by the Master Declarant during the Development and Sale Period, and the Master Board thereafter, the Mueller Master Community, Inc. and the Mueller Mixed-Use Community, Inc. have jurisdiction over the Property, and no additional association or property owners association will be created or have jurisdiction over the Property.

3.04 Amendment.

(a) By the Master Declarant. The Master Declarant may unilaterally amend this Supplemental Covenant if such amendment is necessary: (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination with which it is in conflict; (ii) to enable any reputable title insurance company to issue title insurance coverage on any Unit; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state or federal governmental agency, including, for example, the Department of Housing and Urban Development. In addition, during the Development and Sale Period, the Master Declarant may unilaterally amend this Supplemental Covenant for any other purpose. However, any amendment under this paragraph will not adversely affect the title to any Unit unless the Owner of such Unit consents in writing.

(b) By Owners. Except as otherwise specifically provided above and elsewhere in this Supplemental Covenant, this Supplemental Covenant may be amended only by the affirmative vote or written consent, or any combination thereof, of: (i) the Owners representing 67% of the total votes in the Mixed-Use Association; (ii) a majority of the Master Board; and (iii) the Master Declarant during the Development and Sale Period.

3.05 Validity and Effective Date. No amendment may directly or indirectly remove, revoke, or modify the status of, or any right or privilege of the Master Declarant without the written consent of the Master Declarant (or the assignee of such right or privilege). If any Owner consents to any amendment to this Supplemental Covenant, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any

Mortgage or contract between the Owner and a third party will affect the validity of such amendment. Any amendment will become effective upon recordation unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment will be presumed to have been validly adopted. In no event will a change of conditions or circumstances operate to amend any provision of this Supplemental Covenant.

3.06 Interpretation. The provisions of this Supplemental Covenant will be liberally construed to effectuate the purpose of creating a uniform plan for the Community and operation of the Community, provided, however, that the provisions of this Supplemental Covenant will not be held to impose any restriction, condition or covenant whatsoever on any land owned by Master Declarant other than the Property. This Supplemental Covenant will be construed and governed under the laws of the State of Texas.

3.07 Enforcement and Nonwaiver.

(a) Except as otherwise provided herein, any Owner of a Unit, at such Owner's own expense, Master Declarant, the Master Association, and the Mixed-Use Association will have the right to enforce all of the provisions of this Supplemental Covenant. The Master Association and the Mixed-Use Association may initiate, defend or intervene in any action brought to enforce any provision of this Supplemental Covenant. Such right of enforcement will include both damages for and injunctive relief against the breach of any provision hereof.

(b) Every act or omission whereby any provision of this Supplemental Covenant is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Unit (at such Owner's own expense), Master Declarant, the Master Association, or the Mixed-Use Association.

(c) Any violation of any federal, state, or local law, ordinance, or regulation pertaining to the ownership, occupancy, or use of any portion of the Property is hereby declared to be a violation of this Supplemental Covenant and subject to all of the enforcement procedures set forth herein.

(d) The failure to enforce any provision of this Supplemental Covenant at any time will not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Supplemental Covenant.

3.08 Construction. The provisions of this Supplemental Covenant will be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof will not affect the validity or enforceability of any other provision. Unless the context requires a contrary construction, the singular includes the plural and the plural the singular. All captions and titles used in this Supplemental Covenant are intended solely for convenience of reference and will not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections, or articles hereof.

3.09 Assignment of Master Declarant's Rights. Notwithstanding any provision in this Supplemental Covenant to the contrary, Master Declarant may, by written instrument, assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Supplemental Covenant to any person or entity and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.

EXECUTED to be effective the ____ day of December, 2011.

MASTER DECLARANT:

CATELLUS AUSTIN, LLC, a Delaware limited liability company

By: _____
Gregory J. Weaver, Executive Vice President

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the ____ day of December, 2011, by Gregory J. Weaver, Executive Vice President of Catellus Austin, LLC, a Delaware limited liability company, on behalf of said limited liability company.

[SEAL]

Notary Public Signature

SIGNATURES AND ACKNOWLEDGEMENTS CONTINUE ON FOLLOWING PAGE

CONSENT PROVIDED PURSUANT TO SECTION 1.5 OF THE MASTER COVENANT AND ACKNOWLEDGMENT THAT THIS SUPPLEMENTAL COVENANT SATISFIES THE TERMS OF PARAGRAPH 3 OF THE SPECIAL WARRANTY DEED DATED DECEMBER ____, 2011 FROM THE CITY OF AUSTIN TO CATELLUS AUSTIN, LLC, RECORDED AS DOCUMENT NUMBER _____ OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS:

THE CITY OF AUSTIN, a Texas home rule city and municipal corporation

By: _____
Lauraine Rizer, Manager
Real Estate Services
Public Works Department

Date: December __, 2011

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the ____ day of December, 2011, by _____ of the City of Austin, Texas, a Texas home rule city and municipal corporation, on behalf of said city.

[SEAL]

Notary Public Signature

Approved as to content:

Approved as to form:

By: _____
Kevin Johns
City of Austin Economic Growth
and Development Services Office

By: _____
Clark Cornwell
Assistant City Attorney

EXHIBIT "A"

SERVICES PROVIDED TO SERVICE AREA 14

The following services will be provided to the Units within the Property and will commence as to a particular Unit on the date a residence has been constructed and is being occupied for single-family residential purposes.

1. The following services will be provided to the "**Maintained Area**" of each Unit. For purposes herein, "**Maintained Area**" will mean: (i) the portion of each Unit from the front façade of the residence on each Unit to the curb or property line of any adjacent public space, right-of-way, or street; (ii) side yards visible from adjacent streets or alleys, but excluding any portion of such Unit enclosed by a private fence creating a private yard space for the Unit Owner; and (iii) alley-landscaped areas. In the event of any disagreement of what constitutes the Maintained Area of a Service Area Lot, the determination of the Master Board or its designee will be final.

- a. Mow and edge all turf areas within the Maintained Area.
- b. Apply fertilizer to the turf areas within the Maintained Area as needed.
- c. Manually and mechanically control weeds within the Maintained Area as required to maintain a manicured appearance. In cases of extraordinary weed problems, spot treat weeds with appropriate herbicide.
- d. Treat fire ants in the turf areas within the Maintained Area with applications of "Logic" or an approved equal.
- e. Maintain, mow, replace, prune, and irrigate the landscaping, including trees, within the Maintained Area in good order and repair and in a safe, clean and attractive condition. Maintenance will include, without limitation, ensuring that the landscaping, including trees, does not cause visual or physical obstructions of adjacent streets or sidewalks. The Master Association or its designated landscape company, from time to time, will provide each Owner with a schedule of dates on which landscaping maintenance within the Maintained Area will be performed. No landscaping, including trees, or any portion of the irrigation system may be removed from or installed within the Maintained Area without the advance written consent of the Reviewer.
- f. Maintain, repair and replace all irrigation lines, controllers, and associated facilities within the Maintained Area (collectively, the "**Irrigation System**"), in good order and repair and in a safe, clean and attractive condition. Maintenance of the Irrigation System will include, without limitation, ensuring that the Irrigation System does not leak or cause excessive run-off onto adjacent streets or sidewalks. Each Owner acknowledges and agrees that Units on the same block may be served by a single

Irrigation System. The Master Association shall have exclusive access to the control system of the Irrigation System, and no Owner may interfere with the operation of the Irrigation System without the advance consent of the Master Association.

2. The Master Association shall maintain and keep in good repair all improvements located within the Maintained Area of a Unit, including but not limited to, any paved or concrete walkways, driveways, parking areas, and patios, if any, which are part of the Maintained Area.

3. The Master Association shall maintain, repair and replace the following Unit components: (i) roof (i.e. shingles and decking) gutters, downspouts, exterior portions of chimneys, trim; (ii) foundation; and (iii) exterior building surfaces, excluding, glass and appurtenant hardware. The garage and entry doors will be repainted on a periodic basis by the Master Association, the timing of such to be in the sole discretion of the Master Association. Except as provided in the preceding sentence, the Master Association shall not be responsible for the maintenance of the windows, doors, garage doors, lighting serving a particular Unit, and any Improvement not otherwise installed on the exterior of residence by the Master Declarant or the Master Association.

4. If a dispute arises regarding the allocation of maintenance responsibilities by this Supplemental Covenant, the determination of the Master Board will be final. Improvement maintenance responsibilities that are allocated to the Master Association are intended to be interpreted narrowly to limit and confine the scope of Master Association responsibility. It is the intent of this provision that all components and areas not expressly delegated to the Master Association are the responsibility of the individual Owners.