

INTERLOCAL COOPERATION AGREEMENT

This **Interlocal Cooperation Agreement** ("Agreement") is made and entered into effective as of the date of execution by authorized representatives of the parties, by and between the **City of Austin, Texas** ("Austin"), a Texas home rule municipal corporation, and the **Village of Volente, Texas** ("Volente "), a Texas Type B General Law municipal corporation, acting by and through their authorized representatives.

Recitals.

Whereas, Austin and Volente (sometimes hereinafter collectively referred to as the "cities" or "parties") recognize that both the public interest and good government are best served by long-term, mutually cooperative relationships between neighboring cities; and

Whereas, agreements that establish boundaries within which specific duties are performed and standards applied in a convenient and cost effective manner to assure quality urban planning and development serve the best interests of all citizens; and

Whereas, agreement regarding areas adjacent to the cities' respective corporate limits or extraterritorial jurisdiction ("ETJ") will assist and enhance the planning and development of capital improvement programs and services, and result in meaningful protection for the environment and valuable natural resources; and

Whereas, Volente does not have an ETJ, but does desire to adjust its corporate boundary with Austin's ETJ on the terms and conditions stated in this Agreement; and

Whereas, this Agreement will accomplish legitimate public purposes of both cities and will permit dependable urban planning that will benefit the environment and the public health, safety and welfare of our respective present and future citizens; and

Whereas, the Grason Volente Investments Ltd and the Volente Group of Texas Ltd ("Owners") and Volente have requested that Austin release that portion of Austin's ETJ which is approximately 27.73 acres identified as Tracts A1, A2, A3, A4, A5, and A6 in Exhibit "A" (the "Austin Release Area"), so that the balance of the 297 acre tract of land subject to the October 2006 Volente Planned Development District ("PDD") Ordinance will be within Volente's corporate boundary and Austin has agreed to release this ETJ as set out in this Agreement; and

Whereas, after the release of the Austin ETJ contemplated by this Agreement has been completed, Volente will be responsible for approval of subdivisions and public and private construction improvements within that area; and

Whereas, Volente has agreed to disannex approximately 27.73 acres identified as Tracts V1, V2, V3, V4, V5, and V6 in Exhibit "A" (the "Volente Release Area"), to release the Volente Release Area from the corporate limits of Volente into the ETJ of Austin; and

Whereas, Owners have agreed to convey the fee simple title to approximately 800 acres of property described in Exhibit "C" (the "Travis County BCP Area") to Travis County.

NOW, THEREFORE, pursuant to *Chapter 791, Texas Government Code*, and *Section 212.007, Texas Local Government Code*, and as otherwise authorized and permitted by the City Charter of Austin and the laws of the State of Texas, for and in consideration of the covenants, conditions and undertakings hereinafter described, and the benefits to accrue to the citizens of the cities, and subject to each and every term and condition of this Agreement, the parties contract, covenant and agree as follows:

Article One Findings and Declarations.

Section 1.1. Fact Findings. The recitals above are adopted as findings by the governing bodies of Austin and Volente, and are incorporated herein for all purposes. The governing bodies of Austin and Volente have authorized and approved this Agreement.

Section 1.2. Water Protection Requirements. The application and enforcement of the October 2006 Volente PDD Ordinance, Volente's Development Ordinances, and Volente's Water Quality (NPS Pollution Control) Ordinances within the Austin Release Area, are reasonable and necessary for the preservation and protection of water quality, the watersheds of both Volente and Austin, and valuable natural resources.

Article Two Term and Nature of Agreement.

Section 2.1. Term of Agreement. The term of this Agreement shall commence on the date of signature by authorized representatives of both cities and the conveyance of the Travis County BCP area to Travis County and the acceptance of that conveyance by Travis County ("Effective Date").

Section 2.2. Intent and Purpose. The intent and purpose of this Agreement is to provide for effective and efficient urban planning, by the change of the corporate boundary line of Volente with the ETJ of Austin as set out in this Agreement, and that Volente shall be responsible for application and enforcement of the October 2006 Volente PDD Ordinance, Volente's Development Ordinances, and Volente's Water Quality (NPS Pollution Control) Ordinances, within the Austin Release Area, as more particularly described in Section 4.1, as requirements for the approval of subdivisions and land development in the Austin Release Area. In the event that the above-referenced ordinances are not applied to any particular subdivision and/or land development in the Austin Release Area for any reason, municipal regulation of such subdivision or development shall in no event provide less environmental protection than is required under the LCRA's NPS Ordinance.

Section 2.3. Map. References in this Agreement to any geographic areas refer to the area named and shown on the Map attached hereto as Exhibit "A" incorporated herein for all

purposes.

Article Three Exchange of ETJ

Section 3.1 ETJ Exchange. Austin will release to Volente the portion of Austin ETJ identified as Tracts A1, A2, A3, A4, A5, and A6 shown on Exhibit "A" to this Agreement, and as more particularly described in Exhibit "B". Volente will disannex and release to Austin the portion of land within the corporate limits of Volente identified as Tracts V1, V2, V3, V4, V5, and V6 shown on Exhibit "A" to this Agreement, and as more particularly described in Exhibit "B". The exchange of parcels of land will occur upon execution of this Agreement by both parties and the conveyance to Travis County of the Travis County BCP area and the acceptance of that conveyance by Travis County. This Agreed exchange is subject to condition that the Austin Release Area become a part of Volente's city limits and the application and enforcement of the October 2006 Volente PDD Ordinance, Volente's Development Ordinances, and Volente's Water Quality (NPS Pollution Control) Ordinances, for the approval of subdivisions and land development, as set forth herein, within the Austin Release Area and the conveyance of the Travis County BCP Area to Travis County. In the event that the above-referenced ordinances are not applied to any particular subdivision and/or land development in the Austin Release Area for any reason, municipal regulation of such subdivision or development shall in no event provide less environmental protection than is required under the LCRA's NPS Ordinance. The Volente Release Area is presently a part of the Balcones Canyonland Preserve, and is subject to a federal 10a permit. The Volente Release Area will be owned and maintained by Travis County as a part of the Balcones Canyonland Preserve.

Section 3.2 Property Conveyance/Acceptance. Volente agrees to request conveyance of the Travis County BCP Area described in Exhibit "C" to Travis County, and Travis County will accept from Owners, title to the Travis County BCP Area. The Travis County BCP Area is presently owned by Owners and managed as a part of the Balcones Canyonland Preserve, and is subject to a federal 10a permit. The Travis County BCP Area will be maintained by Travis County as a part of the Balcones Canyonland Preserve. In the event that the Travis County BCP Area is not conveyed to Travis County, then this agreement shall be terminated and further all ETJ and incorporated area shall revert to the municipal jurisdiction in effect before this agreement.

Article Four Review and Approval of Subdivision Applications and Construction

Section 4.1. Subdivision and Construction Review and Approval. Upon exchange of ETJ in accordance with Section 3.1, Volente will provide urban planning and will enforce the following requirements within the Austin Release Area, will review, provide oversight and inspect subdivisions and land development within the Austin Release Area, and will only approve subdivisions and land developments in the Austin Release Area that are in compliance

with the October 2006 Volente PDD Ordinance, Volente's Development Ordinances, and Volente's Water Quality (NPS Pollution Control) Ordinances. In the event that the above-referenced ordinances are not applied to any particular subdivision and/or land development in the Austin Release Area for any reason, municipal regulation of such subdivision or development shall in no event provide less environmental protection than is required under the LCRA's NPS Ordinance.

Section 4.2. Enforcement and Compliance. The standards, regulations and conditions set forth in this Agreement for the review and approval of development within the Austin Release Area shall be applied and enforced by Volente, its officers, employees, agents and representatives, in a manner consistent with the wording and intent of this Agreement. They shall remain development regulations and requirements of Volente within the Austin Release Area. If Volente contracts with Travis County, pursuant to *Chapter 242, Texas Local Government Code*, or otherwise, for Travis County to review and approve land development within Volente's ETJ, it shall be an event of default under this Agreement unless the standards and regulations set forth in this Agreement are applied and enforced in a manner consistent with the intent of this Agreement. The Village of Volente may grant an administrative variance to a requirement in accordance with its normal procedures for consideration of requests for variances under the Village's Ordinances.

Article Five

General and Miscellaneous.

Section 5.1. Development Approval and Policy Making Authority. Volente shall have exclusive responsibility for urban planning within the Austin Release Area that is consistent with this Agreement, and the approval of land development and subdivisions within the Austin Release Area in compliance with this Agreement. Volente shall further have control, supervision and policy making authority for and with respect to city services and future services within the Austin Release Area, to the fullest extent authorized by State law and not inconsistent with this Agreement. When applying this Agreement, Volente shall consider the Austin Release Area as a whole for purposes of meeting the terms of this Agreement.

Section 5.2. Jurisdiction. This Agreement shall not be deemed to extend or increase the jurisdiction or authority of either of the cities except as necessary to implement and give effect to this Agreement. All governmental and proprietary functions and services to be performed and provided by Volente within the Austin Release Area shall, except as provided otherwise by State law and in this Agreement, be and remain in the sole discretion of Volente. Nothing in this Agreement shall be deemed to be applicable to, or an attempt to limit or restrict, the legal rights, authority or jurisdiction of any other governmental entity.

Section 5.3. Other Services. Nothing in this Agreement shall be deemed to create, by implication or otherwise, any duty or responsibility of either of the cities to undertake any other action or to provide any service within the Entire Property, except as specifically set forth in this Agreement.

Section 5.4. Governmental Immunity. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to either of the cities nor to create any legal rights or claims on behalf of any third party. Neither Austin nor Volente waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

Section 5.5. Amendments and Modifications. This Agreement may not be amended or modified except in writing executed by both Austin and Volente and authorized by their respective governing bodies. The Village of Volente may grant an administrative variance to a requirement in accordance with its normal procedures for consideration of requests for variances under the Village's Ordinances and no such variances shall be deemed a modification, amendment or termination requiring any approvals or consents under this paragraph.

Section 5.6. Exhibits. The following exhibits are incorporated into this Agreement by reference as if fully set out herein:

Exhibit "A": Tracts A1, A2, A3, A4, A5, A6, V1, V2, V3, V4, V5, and V6

Exhibit "B": Description of Volente ETJ boundaries as revised pursuant to Agreement

Exhibit "C": Description of Travis County BCP Area (to be deeded to Travis County by Owners)

Section 5.7. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties hereto shall be construed and enforced in accordance therewith. The parties hereto acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, be deemed to be validated and enforceable.

Section 5.8. Gender, Number and Headings. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

Section 5.9. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed when all parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.

IN WITNESS WHEREOF, the authorized representatives of the Cities have executed this Agreement.

City of Austin, Texas

Village of Volente, Texas

Date: _____
Toby Hammett Futrell, City Manager

Date: _____
Jan Yenawine, Mayor