

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is made by and between the Brushy Creek Regional Utility Authority, (the "BCRUA") a local government corporation composed of the cities of Cedar Park, Leander, and Round Rock (the "Cities") and the Village of Volente ("Volente"), a Texas general law city.

RECITALS

WHEREAS, the BCRUA was created by the Cities to design, construct and operate a regional water transmission and treatment system to provide the Cities with drinking water; and

WHEREAS, each of the Cities has contracted with the Lower Colorado River Authority for water stored in Lake Travis; and

WHEREAS, the BCRUA has recently completed construction of a 17 MGD water treatment plant (the "Treatment Plant") located in the City of Cedar Park; and

WHEREAS, in order for the Cities to have a dependable method of accessing their contracted water in times of severe drought, it is necessary for the BCRUA to design, construct, and operate a deep water intake facility (the "Intake Facility") and a pumping facility (the "Pumping Facility") to transmit the water from Lake Travis to the Treatment Plant; and

WHEREAS, the BCRUA has spent the last four years studying the feasibility of various sites on which to locate the Intake Facility and the Pumping Facility; and

WHEREAS, after receiving the results of the aforesaid study, the BCRUA determined that Site 4 was the preferred site for the Intake Facility and the Pumping Facility; and

WHEREAS, Site 4 is located entirely within the city limits of Volente and is zoned for residential use; and

WHEREAS, Volente objects to locating any part of the facility on Site 4 due to existing residential zoning restrictions and because Volente believes that the BCRUA's facility will have negative impacts to its citizens; and

WHEREAS, Volente and BCRUA recognize the benefits of finding a compromise that serves the best interests of both parties and avoids expensive, lengthy litigation; and

WHEREAS, Volente has requested that BCRUA consider placing the Pumping Station on Site 8, which is outside of Volente's city limits and on property owned by LCRA; and

WHEREAS, Volente will not object to the BCRUA's locating the Intake Facility and maintenance structure on Site 4 if the BCRUA is successful in locating the Pumping Station on Site 8; and

WHEREAS, changing the site of the Pumping Station from Site 4 to Site 8 will increase the cost to the BCRUA by approximately \$6,000,000 ; and

WHEREAS, LCRA's proposed use for Site 8 is a public park; and

WHEREAS, in spite of the increased cost, the BCRUA is willing to designate Site 8 as its preferred site for the location of the Pumping Station if Volente agrees to support BCRUA's efforts to move the Pumping Station to Site 8; and

WHEREAS, if the BCRUA is successful in obtaining permission to relocate the Pumping Station to Site 8, Volente agrees to withdraw its objections to using Site 4 for the Intake Facility and maintenance building; and

WHEREAS, Volente wishes to express its willingness to officially support and assist BCRUA in its efforts to obtain the approval of LCRA, and if necessary, Travis County to designate Site 8 as the preferred site for the Pumping Station; and

WHEREAS, BCRUA and Volente understand that the Intake Facility and maintenance building will be located on Site 4 provided that BCRUA is successful in moving the Pumping Station to Site 8;

NOW THEREFORE, the BCRUA and Volente agree to work cooperatively and in good faith to obtain the necessary approvals to locate the Pumping Station on Site 8 as set forth below:

**ARTICLE I
GENERAL DESCRIPTION OF BCRUA SYSTEM**

- 1.1 BCRUA's system consists of the water Treatment Plant currently located in the city of Cedar Park, and a future Intake Facility and maintenance building to be located on Site 4, and a Pumping Station to be located either on Site 4 or Site 8.

**ARTICLE II
BCRUA'S INTENTIONS**

- 2.1 BCRUA intends to locate its Intake Facility and a maintenance building on Site 4. Subject to Volente's agreement to provide support, BCRUA intends to pursue the necessary permissions and arrangements to locate the Pumping Station on Site 8. If BCRUA, with Volente's assistance, is able to locate the Pumping Station on Site 8, then BCRUA intends to locate the Pumping Station on Site 8. If BCRUA, with Volente's assistance, is not able to locate the Pumping Station of Site 8, then BCRUA intends to locate the Pumping Station on Site 4. BCRUA understands that Volente will oppose any effort to construct on Site 4 unless BCRUA has obtained all approvals required by Volente ordinances to locate and construct the Intake Facility, maintenance building and Pumping Station on Site 4.
- 2.2 BCRUA intends to use its best efforts to obtain all necessary approvals to locate the Pumping Station on Site 8.

2.3 With respect to the design, construction, and operation of the Intake Facility and maintenance building on Site 4, BCRUA intends to deal with Volente in good faith with respect to complying with the applicable and reasonable development regulations of Volente.

**ARTICLE III
VOLENTE'S INTENTIONS**

3.1 Volente intends to use its best efforts to support and assist BCRUA's efforts to obtain all necessary approvals to locate the Pumping Station on Site 8.

3.2 Provided that the BCRUA is successful in locating the Pumping Station on Site 8, Volente intends to withdraw objections to BCRUA's decision to design, construct and operate its Intake Facility and maintenance building on Site 4 .

3.3 With respect to the design, construction and operation of the Intake Facility and maintenance building on Site 4, Volente intends to deal with the BCRUA in good faith with respect to imposing the applicable and reasonable development regulations of Volente.

**ARTICLE IV
LEGAL EFFECT OF MOU**

4.1 This MOU is intended to provide an outline of the current understanding of the parties hereto, and is not intended to legally bind the parties to the terms and conditions stated herein. The parties, however, agree that the terms and conditions stated herein are reasonable and provide an outline for future good-faith actions and agreement by the parties. However, should either party fail to pursue meaningfully and in good-faith the conditions stated herein, each party reserves the right to pursue other avenues as it deems prudent.

This MOU is effective on the date last entered below:

**BRUSHY CREEK REGIONAL UTILITY
AUTHORITY**

By: _____
Chris Fielder, President

Date: _____

VILLAGE OF VOLENTE

By: Justine Blackmore Hlista
Justine Blackmore Hlista, Mayor

Date: 10-16-2012