



Meeting Date:	<u>September 25, 2025</u>	Agenda Type:	<u>Consent Items for Action</u>
From:	<u>Michael Short, P.E.</u> Director of Engineering	Reviewed by:	<u>Michael Short, P.E.</u> Director of Engineering
Submitted by:	<u>Mark Steelman</u> Chief Operations Officer	Approved by:	<u>Ryan Kelso</u> Chief Executive Officer

RECOMMENDED ACTION: Discuss and Consider Authorizing the CEO or His Designee to Negotiate and Execute a Memorandum of Agreement Between the Guadalupe-Blanco River Authority and New Braunfels Utilities to Collaborate on the Development of a Guadalupe River Habitat Conservation Plan

BACKGROUND

In February 2025, the Guadalupe-Blanco River Authority ("GBRA") extended an offer to New Braunfels Utilities ("NBU") to collaborate in the development of GBRA's Guadalupe River Habitat Conservation Plan ("GRHCP"). The initial terms of the offer are outlined in a draft Memorandum of Agreement ("MOA"). The purpose of the MOA is to establish a framework for cooperation between GBRA and NBU to facilitate NBU's ultimate receipt of the benefits associated with GBRA's proposed incidental take permit of covered species in the Guadalupe River Basin by way of a certificate of inclusion, as authorized under federal law and United States Fish and Wildlife Services ("USFWS") rules.

Under the federal Endangered Species Act of 1973 ("ESA"), it is unlawful to "take" any fish or wildlife species listed as endangered or threatened. GBRA is actively engaged in the process of developing the GRHCP as allowed by the ESA, to minimize and mitigate the adverse impacts of its covered activities on certain threatened and endangered species within the Guadalupe River Basin to the maximum extent practicable. As part of its efforts, GBRA is developing a Certificate of Inclusion Program ("COI Program") that would extend the regulatory certainty, protection, and other benefits to key stakeholders that participate in the program, including NBU.

The MOA will require NBU to engage in the GRHCP planning efforts, including attending Second Party Participant Workgroup meetings and providing relevant information to assist GBRA in attaining USFWS approval of the COI Program as a component of the GRHCP. The MOA requires NBU to support coordinated efforts to promote the GRHCP. These efforts shall include GBRA-led outreach and public relations activities that emphasize shared conservation goals and recognize the valuable contributions and participation of all parties involved, including NBU. The MOA does not constitute an admission of any liability or responsibility for the taking of species.

Staff recommends participating in the GRHCP planning efforts by executing the MOA. Participating in the MOA will allow NBU to be considered as an enrollee into the COI Program at a future date. The COI program affords NBU the same expected protection GBRA hopes to obtain from its incidental take permit.

This item is being presented to the Board because it creates a MOA between NBU and GBRA.

FINANCIAL IMPACT

Other than the minor costs incurred in the development and sharing of NBU information and the Staff time associated with typical project coordination, there is no significant financial impact of the MOA to NBU. GBRA has been, and will continue to be, responsible for payment of consultant fees and expenses associated with developing the GRHCP, along with the support of USFWS Cooperative Endangered Species Conservation Fund planning assistance grant funding. Should NBU move forward by enrolling in the COI Program at a future date, the level of cost participation in the COI Program will also be considered at that same future date.

LINK TO STRATEGIC PLAN

Stewardship

EXHIBITS

1. Draft MOA