



Meeting Date: June 25, 2026 **Agenda Type:** Consent Items for Action

From: Michael G. Short, P.E. **Reviewed by:** Michael G. Short, P.E.
Director of Engineering Director of Engineering

Submitted by: Mark Steelman **Approved by:** Ryan Kelso
Chief Operations Officer Chief Executive Officer

RECOMMENDED ACTION: Authorize the CEO or His Designee to Negotiate and Execute a Third Amended and Restated Utility Construction Cost Sharing Agreement Among New Braunfels Utilities, Southstar at Mayfair, LLC, MNB Real Estate Investments, LLC, Southstar at Mayfair Developer, LLC, and Beaverhead NB, LLC Related to the Mayfair Development

BACKGROUND

On January 27, 2022, the New Braunfels Utilities (“NBU”) Board of Trustees approved a Utility Construction Cost Sharing Agreement (the “Original Agreement”) with Southstar at Mayfair, MNB Real Estate Investments, LLC, Southstar at Mayfair Developer, LLC, and Beaverhead NB, LLC (collectively, the “Developer”) to define the responsibilities of NBU and the Developer regarding new development construction.

On May 23, 2023, NBU approved a First Amendment to the Utility Construction Cost Sharing Agreement (the “First Amendment”). The First Amendment allowed for a change in the phasing of a required Interim Wastewater Treatment Facility (“IWWTF”) to be constructed by the Developer, including: (i) combining the initial Phase 1 and Phase 2 construction efforts of the IWWTF; and (ii) retitling Phase 3 of the IWWTF to be Phase 2.

On December 14, 2023, NBU approved an Amended and Restated Utility Construction Cost Sharing Agreement (the “First Restated”). The First Restated contained several significant modifications, including, but not limited to: (i) changing Phase 1 and Phase 2 IWWTF as described in the First Amendment; (ii) establishing the payment of a fixed Sewerage Development Fee by the Developer for each Living Unit Equivalent (“LUE”) associated with each recorded platted lot based on the difference between the anticipated pro rata cost of both the McKenzie Waste Water Treatment Plant (“WWTP”) Expansion and the McKenzie Interceptor Upgrades and the anticipated collection of wastewater impact fees for the remaining 4,949.18 LUEs associated with the not yet platted lots or with any transferred unplatted land; (iii) removing impact fee rebates for any wastewater contributions; (iv) bifurcating the 16-Inch IH 35 Crossing improvements into the 16-Inch IH 35 Crossing Short Segment and the 16-Inch IH 35 Crossing Long Segment; (v) adjusting the milestone dates, resequencing projects, and adjusting the LUEs

associated with the individual projects to reflect the Developer’s needs; and (vi) revising Exhibits F, L, U, and V as needed.

On September 26, 2024, NBU approved a Second Amended and Restated Utility Construction Cost Sharing Agreement (the “Second Restated”). The Second Restated, with an effective date of October 15, 2024, contains several modifications, including, but not limited to: (i) better defining “developer new infrastructure” to exclude internal subdivision work; (ii) changing the milestones to allow for the required construction of Phase 2 IWWTF to be based on actual flows; (iii) changing the conservation requirements to allow for standalone covenants for commercial properties; (iv) extending the milestone date for the McKenzie Interceptor Main to July 14, 2027; and (v) extending the milestone date for the McKenzie Wastewater Treatment Plant to January 27, 2028, both a full year from the Original Agreement.

In May 2025, the Developer proposed several operational improvements for the Mayfair Development. Over the past year, the Developer and NBU worked together to consolidate those concepts into a defined set of requested modifications to the Second Restated. The requested modifications include: (i) modifying certain infrastructure completion deadlines; (ii) modifying the Developer’s ownership requirements for certain infrastructure; and (iii) modifying the Developer’s access to, and reallocation of, certain LUEs.

Staff recommends approval of the proposed modifications to the Second Restated in a Third Amended and Restated Utility Construction Cost Sharing Agreement (“Third Restated”), including modifications to certain infrastructure completion deadlines, the Developer’s ownership requirements for certain infrastructure, and the Developer’s access to, and reallocation of, certain LUEs. This item is being presented to the Board because it modifies the Agreement beyond the parameters the Board previously approved.

FINANCIAL IMPACT

The financial impact of the Third Restated, compared to the Second Restated, is minimal. The Third Restated agreement does not increase NBU’s costs associated with the capital improvements required to support the project.

LINK TO STRATEGIC PLAN

Customers and Community

Financial Excellence

Stewardship

EXHIBITS

1. Third Amended and Restated Utility Construction Cost Sharing Agreement