



Legislation Text

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Consider recommendation from the Aquifer Management Planning Committee to approve an interlocal cooperation contract with New Braunfels Utilities for the development and use of an aquifer storage and recovery project.

RECOMMENDED MOTION:

Move the board approve Interlocal Cooperation Contract # 17-837-EX with New Braunfels Utilities for development of an aquifer storage and recovery project.

SUMMARY:

The purpose of this agenda item is for the board to consider an Aquifer Management Planning Committee recommendation to approve an interlocal cooperation contract (Contract) with New Braunfels Utilities (NBU) for development of an aquifer storage and recovery (ASR) project in the brackish/saline portion of the Edwards Aquifer. Because the project contemplates injection (i.e. recharge) of groundwater into the Edwards, albeit into the saline zone, and recovery (withdrawal) of the injected water for beneficial use, a contract between NBU and EAA is required according to Chapter 711, Subchapter J of the EAA Rules.

Through its long-term strategic planning process, NBU has identified ASR as a potential water management strategy that could enable NBU to optimize its existing supplies, maximize its reliability, and provide a means to accommodate peak demand and other benefits for its customers. For geologic, geographic, and cost reasons, NBU is contemplating developing ASR in the brackish or saline zone of the Edwards Aquifer. In concept, NBU proposes to inject fresh Edwards groundwater under its existing EAA withdrawal permits into the saline portion of the aquifer for storage and recovery. NBU began working with Arcadis-US on a feasibility study in 2011. Since then, NBU has developed a multi-phased approach to construct, evaluate, and potentially expand the capacity of the ASR and, if feasible, eventually inject both Edwards Aquifer groundwater and surface water for storage and recovery.

At the October 13, 2015 meeting, the EAA board adopted a memorandum of understanding (MOU) with NBU for the development of a demonstration ASR project consistent with the intent of the EAA's recharge rules. Under the MOU, the parties agreed "to establish the basis for a future cooperative agreement for artificial recharge between NBU and the EAA under Section 1.44 of the Edwards Aquifer Authority Act ("EAA Act") and to formalize each Party's responsibilities and obligations in regard to the authorization, construction, operation, maintenance, and monitoring of the Project, as required by the EAA Act, and other applicable law." The attached Contract, which has been reviewed by legal counsel, authorizes NBU to proceed with its plans to construct an ASR project to inject fresh Edwards groundwater into the saline zone of the Edwards Aquifer. Under current state law, NBU may inject only Edwards groundwater into the Edwards. Should NBU determine at some point in the

future to inject source water other than Edwards groundwater for storage and recovery, it would require amendments to state law.

The Contract formalizes the responsibilities of NBU and the EAA prior to the initial demonstration phase and continuing throughout potential expansion of the project. In addition to overseeing analytical modeling, groundwater accounting, and water quality monitoring, an NBU ASR Work Group, consisting of NBU and EAA technical staff, will develop and ensure measures are implemented to mitigate any negative water quality impacts on the Artesian Zone or Comal Springs due to the operation of the ASR project.

At the January 24 meeting, the Aquifer Management Planning Committee voted to recommend the board approve the Contract. However, due to concerns raised by directors following the AMP Committee meeting, EAA and NBU staff presented the Contract to the board at the February 14 meeting for discussion only. Since that time EAA and NBU staffs have amended the Contract in hopes of addressing the board's concerns.

In addition to the "clean" Contract, also attached to this summary is a version of the Contract that reflects the "red-lined" edits made in response to comments received at and since the January 24 AMP Committee meeting.

At the May 23 meeting, the Aquifer Management Planning Committee voted to recommend the board approve the Contract with amendments. In addition to a "clean" Contract, a redlined version of the Contract highlighting the recommended amendments is attached for the board's reference. In summary, the recommended amendments incorporate a "Critical Drought Springflow Mitigation Plan" into the Contract, creating a process to address any unforeseen, negative impacts to springflow at Comal Springs during critical times. The bulk of the amendment language is contained in Section 8 of the Contract, with corresponding adjustments to language appearing in Sections 3 and 5. In addition, in order to address some existing confusion regarding the intent of two sentences made in Sections 5.C and 5.L, both EAA and NBU staff agreed that the sentences be struck from the Contract. The deletion of the two sentences does not impact the terms and conditions of the Contract in a substantive way.

M/WBE PARTICIPATION:

This agenda item does not involve the procurement of goods or services by the EAA and, therefore, this section is not applicable.

STRATEGIC PLAN REFERENCE:

This agenda item supports the EAA's policy direction as set forth in the EAA 2016-20 Strategic Plan: Goal C. Identify and Address Recharge Initiatives for the Edwards Aquifer.

FISCAL IMPACT:

The EAA will be responsible for costs associated with the collection and analysis of data. These costs

will be absorbed within the EAA's regular data collection activities.