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A resolution by Supervisor Lipscomb, Sr., requesting the Wisconsin Department of Natural Resources to require an Environmental Impact Statement regarding the removal of the Estabrook Dam and requesting the Milwaukee Metropolitan Sewerage District to provide an Environmental Impact Statement, prior to dam removal, on the future needs and conditions of the area surrounding the Estabrook Dam, by recommending adoption of the following:

A RESOLUTION

WHEREAS, on October 3, 2016, the Milwaukee County Executive, the Mayor of the City of Milwaukee (the City), and the Milwaukee Metropolitan Sewerage District (MMSD) announced a plan to remove the Estabrook Dam (the Dam) in contravention of the policy adopted by the Milwaukee County Board of Superivisors (County Board) for repair; and

WHEREAS, the City rezoned the parcel of parkland on which the Dam is located, to be designated as “institutional land,” which enabled to the County Executive to convey the property to MMSD without requiring review or approval by the County Board; and

WHEREAS, MMSD signed an option agreement to temporarily purchase 45.7 acres of Estabrook Park for one dollar to demolish the Dam on the Milwaukee River; and

WHEREAS, under the option agreement, MMSD will immediately convey the majority of the property, designated as the “Park Parcel,” back to the County’s ownership for one dollar, to be rezoned as parkland again, while retaining approximately 3.9 acres of property designated as the “Dam Parcel” until the Dam removal is completed, at which point the remaining parcel will be conveyed back to the County as well; and

WHEREAS, the Wisconsin Environmental Policy Act (WEPA) and the National Environmental Policy Act (NEPA) require an Environmental Impact Statement (EIS) be provided for certain actions that would significantly affect the quality of the human environment; and

WHEREAS, in 2015, the Department of Parks, Recreation, and Culture (DPRC) submitted an EIS to the Wisconsin Department of Natural Resources (WDNR) regarding the proposed alternatives to repair the Dam; and

WHEREAS, although an EIS was not required by WEPA or NEPA for proposed repairs to the Dam in 2015, the DPRC elected to use the EIS process to facilitate public review and input; and

47 WHEREAS, residents of the City and the City of Glendale (Glendale) have
48 expressed concerns that removal of the Dam would significantly impact their
49 environment, especially regarding changes in the recreational use of the river and
50 potential shoreline, with other remediation measures that will be needed after its
51 removal; and

52
53 WHEREAS, through adopted File No. 97-10(a)(e), the County granted a
54 permanent easement to the City in 1997 to demolish the remaining portion of the North
55 Avenue Dam that was located on DPRC controlled property, and transferred the
56 responsibility of hazardous substance remediation on the property to the City; and

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58 WHEREAS, the City estimates they received \$2.5 million in grants to cover the
59 remediation repairs after the removal of the North Avenue Dam; and

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61 WHEREAS, in 1997, the WDNR provided an Environmental Assurance Letter
62 agreeing not to hold the County responsible for the remediation of any hazardous
63 substances found on the Parks' property where the remaining portion of the North
64 Avenue Dam was located; and

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66 WHEREAS, although the WDNR has determined that an EIS may not be
67 required for the Dam ownership transfer or removal under WEPA/NEPA compliance,
68 the agency intends to provide a document on the environmental impact of these actions
69 for the purpose of public review and engagement; and

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71 WHEREAS, Section 13 of MMSD's temporary purchase option agreement for the
72 Dam states that, "The parties to this Option Agreement specifically agree and concur
73 that this Option Agreement shall not operate to transfer liability from the County to
74 MMSD, for any environmental contamination that is the responsibility of the County,
75 regardless of whether the contamination is known or unknown on the Acceptance Date
76 of this Option Agreement"; and

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78 WHEREAS, this portion of the agreement leaves the County liable for
79 environmental contamination, and presumably, the remediation of said conditions; and

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81 WHEREAS, in December 2016, Glendale's Common Council adopted a
82 resolution requesting that the County and the Southeastern Wisconsin Regional
83 Planning Commission investigate potential upstream flood risks and conduct an
84 updated hydraulic analyses on the Dam; and

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86 WHEREAS, it remains unclear the extent and cost of remediation, dredging, and
87 shoreline restoration that will be necessary or desirable in conjunction with removal of
88 the Dam, and who bears the responsibility for these items affecting miles of public and
89 private riparian land from the Dam upstream to Bender Road; and

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93 WHEREAS, MMSD is the current owner of the property, and would be the most
94 appropriate responsible party to determine the environmental impact of the Dam
95 removal and potential remediation work, most appropriately through the EIS process
96 designated by the WDNR; and
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98 WHEREAS, since the County holds the responsibility of environmental
99 remediation and stabilization of the public land after the Dam is removed, an EIS prior to
100 its removal would be a necessary tool to help determine the scope and public costs of
101 the work that will be needed in the future; and
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103 WHEREAS, the Committee on Parks, Energy, and Environment, at its meeting of
104 March 14, 2017, recommended adoption of File No. 17-263 (vote 4-0); now, therefore,
105

106 BE IT RESOLVED, Milwaukee County (the County) urges and requests the
107 Wisconsin Department of Natural Resources to require the Milwaukee Metropolitan
108 Sewerage District (MMSD) to provide an Environmental Impact Statement (EIS) on the
109 environmental affect and subsequent remediation needs of removing the Estabrook
110 Dam (the Dam) prior to its demolition; and
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112 BE IT FURTHER RESOLVED, MMSD is requested to prepare and provide an
113 EIS to the WDNR, the City of Glendale Common Council, and the Milwaukee County
114 Board of Supervisors, notwithstanding any formal requirement of such document by the
115 WDNR, to address the concerns of the County, other property owners, and the public
116 about the expected future changes in conditions of the area surrounding and upstream
117 of the Dam.
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