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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:

**AN AMENDED 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

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

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

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

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

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

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

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

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

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

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WHEREAS, MMSD is the current owner of the property, and would be the most appropriate responsible party to determine the environmental impact of the Dam removal and potential remediation work, most appropriately through the EIS process designated by the WDNR; and

WHEREAS, since the County holds the responsibility of environmental remediation and stabilization of the public land after the Dam is removed, an EIS prior to its removal would be a necessary tool to help determine the scope and public costs of the work that will be needed in the future; and

WHEREAS, the Committee on Parks, Energy, and Environment, at its meeting of March 14, 2017, recommended adoption of File No. 17-263 (vote 4-0); now, therefore,

BE IT RESOLVED, Milwaukee County (the County) urges and requests the Wisconsin Department of Natural Resources to require the Milwaukee Metropolitan Sewerage District (MMSD) to provide an Environmental Impact Statement (EIS) on the environmental affect and subsequent remediation needs of removing the Estabrook Dam (the Dam) prior to its demolition; and

BE IT FURTHER RESOLVED, MMSD is requested to prepare and provide an EIS to the WDNR, the City of Glendale Common Council, and the Milwaukee County Board of Supervisors, notwithstanding any formal requirement of such document by the WDNR, to address the concerns of the County, other property owners, and the public about the expected future changes in conditions of the area surrounding and upstream of the Dam; and

BE IT FURTHER RESOLVED, the Director, Department of Parks, Recreation, and Culture is requested to notify MMSD of this request, and provide them with a copy of this resolution.

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