

COMMISSION FILE NO: 16-141-10 **DATE INTRODUCED:** October 10, 2016

INTRODUCED BY: Executive Director (Signature on File in the Office of the Commission)

REFERRED BY COMMISSION CHAIRPERSON TO: Policy, Finance, and Personnel Committee

RELATING TO: Approval of the Acquisition Plat for the Milwaukee River Flood Management Project, W10001, Including Acquisition of Land for Estabrook Dam Removal

SUMMARY:

The Commission is requested to approve the acquisition plat for the acquisition of the Estabrook Dam (Dam) to demolish the Dam as recommended in Milwaukee River Flood Management Project, W10001, and to authorize the Executive Director to approve future minor changes to the identified parcels and to approve the addition of new parcels where they have a minor impact on the overall project and land rights acquisition process. The acquisition of the Dam from Milwaukee County is contingent upon the land owned by Milwaukee County surrounding the Dam and within Estabrook Park being rezoned from parkland by the City of Milwaukee.

The approval of the acquisition plat also authorizes the Executive Director to execute easements, permits, licenses, purchase agreements, intergovernmental cooperation agreements, and any other related real estate documents with property owners and governmental agencies that have real estate that is affected by the Dam removal project or that have regulatory authority over the Dam removal project.

Upon approval and within 20 days of rezoning by the City of Milwaukee, the acquisition plat will be filed with the Milwaukee County Clerk's Office as required by law, thereby allowing acquisition matters to proceed.

The updated Milwaukee River Watercourse Management Plan, currently being considered by the Commission, includes a recommendation to remove the Dam located 1,500 feet downstream of the Port Washington Road bridge. Property being acquired as part of this action will facilitate removal of the Dam.

ATTACHMENTS: **BACKGROUND** ☐ **KEY ISSUES** ☐ **RESOLUTION** ☒
FISCAL NOTE ☐ **S/W/MBE** ☐ **OTHER** ☒ Acquisition Plat and Exhibit 1

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COMMITTEE ACTION: _____ **DATE:** _____

COMMISSION ACTION: _____ **DATE:** _____

SUMMARY (Cont'd)

Approval of the Acquisition Plat for the Milwaukee River Flood Management Project, W10001, Including Acquisition of Land for Estabrook Dam Removal

The Dam creates an impoundment of approximately 100 acres stretching two miles upstream. The Dam currently is in a deteriorated condition, and Milwaukee County (County) is under a court order to either repair or remove the Dam. As such, the Southeastern Wisconsin Regional Planning Commission and the County have performed alternatives analysis and hydraulics analysis regarding the long-term fate of the Dam. Based on the hydraulic analysis and other information included in the alternatives analysis, removal of the Dam provides a flood risk reduction for at least 53 structures located within the one percent annual probability floodplain. Dam removal will also improve water quality, habitat, fish passage, and river aesthetics and will reduce sediment accumulation. Dam removal is the lowest cost alternative of the five alternatives analyzed. The Commission adopted a resolution in May 2015 supporting dam removal as soon as practicable (Commission Resolution No. 15-035-5).

The real estate transaction with the County will contain the following requirements/steps:

- The County will provide all land rights to the District at no cost or for a nominal fee.
- Upon rezoning of Parcel #1 by the City of Milwaukee, the County will quit claim Parcel #1 to the District.
- The District will immediately quit claim the majority of Parcel #1 back to the County, maintaining ownership of a smaller parcel as required for the Dam removal as described by Exhibit 1.
- The District will quit claim all the remaining real estate smaller parcel within Parcel #1 to the County upon completion of the Dam removal project.
- The County will provide the District temporary property rights as needed for access and construction within Parcel #1 as necessary.
- The County will maintain operation and maintenance responsibility for the Dam until Dam removal is complete.
- ~~The District will quit claim all remaining real estate within Parcel #1 to the County upon completion of the Dam removal.~~
- The County, if necessary, will provide the District a permanent conservation or flood easement.
- The parties will obtain DNR permits as necessary during the process.

Temporary property rights from the State of Wisconsin on Parcel #2 will also be required to complete the work. The District anticipates that these rights will be acquired at no cost or for a nominal fee.

SUMMARY (Cont'd)

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Throughout the real estate transaction process identified above, the County will continue to administer and maintain the land for park uses.

The approximate schedule of activities is as follows:

1. The MMSD Commission approves the acquisition plat on October 24, 2016.
2. The City of Milwaukee approves the rezoning of land in December 2016.
3. The County sells the land to MMSD in January 2017; MMSD deeds back all but the required portion of Parcel #1 on the same day.
4. The MMSD Commission awards a construction contract to demolish the dam in fall 2017.
5. Dam demolition is completed in summer 2018.
6. MMSD quit claims the remaining smaller parcel to the County within 60 days of construction contract closure.

RESOLUTION

Approval of the Acquisition Plat for the Milwaukee River Flood Management Project,
W10001, Including Acquisition of Land for Estabrook Dam Removal

RESOLVED, by the Milwaukee Metropolitan Sewerage Commission, that

1. The attached acquisition plat is approved, contingent on the land owned by Milwaukee County being rezoned from parkland by the City of Milwaukee.
2. The Executive Director is authorized to approve future changes to the identified parcels and to approve the addition of new parcels where they have a minor impact on the overall project and the land rights acquisition process.
3. The Executive Director may accept and execute, on behalf of the Commission, all project-related easement documents, memorandums of understanding, intergovernmental cooperation agreements, jurisdictional offers, awards of compensation damages, leases, purchase agreements, deeds of conveyance, permits, licenses, or any other related real estate documents.