

COMMISSION FILE NO: 21-125-9 **DATE INTRODUCED:** September 13, 2021

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: Authorization of a Public Hearing Regarding the Proposed Repeal and Recreation of MMSD Rules, Chapter 14, Protection of District Facilities

SUMMARY:

The Commission is requested to authorize a public hearing, as required by Wis. Stat. sec. 200.45(1)(c), regarding the proposed repeal and recreation of MMSD Rules, Chapter 14, Protection of District Facilities. This action is proposed to clarify and formalize the procedures and substantive requirements for protecting District facilities when (1) non-District construction projects will be near District facilities or (2) technology being developed by others will be tested within District facilities. Also, the proposed rules prohibit camping on District property.

ATTACHMENTS: **BACKGROUND** ☒ **KEY ISSUES** ☐ **RESOLUTION** ☒
FISCAL NOTE ☐ **S/W/MBE** ☐ **OTHER** ☒ Proposed Amendments to Chapter 14

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COMMITTEE ACTION: _____ **DATE:** _____

COMMISSION ACTION: _____ **DATE:** _____

BACKGROUND

Authorization of a Public Hearing Regarding the Proposed Repeal and Recreation of MMSD Rules, Chapter 14, Protection of District Facilities

The District proposes to repeal and recreate MMSD Rules, Chapter 14, to clarify and formalize the procedures and substantive requirements for protecting District facilities when non-District construction projects will be near District facilities or when technology being developed by others will be tested within District facilities.

The District has an extensive inventory of facilities, including over 300 miles of sewers; over one hundred outfalls to surface water; hundreds of manholes and other access structures; storage facilities; watercourse structures and features, such as detention basins, levees, floodwalls and channels; structures for instrumentation, controls, and telemetry; and groundwater monitoring wells. These facilities may be under, over, or adjacent to property owned by others. Changes to these properties have a potential to damage or change access to District facilities.

Existing Chapter 14 is an original rule adopted by the District in 1982. Existing Chapter 14 has brief and general prohibitions regarding harm to District facilities and interference with flow in District facilities. These general requirements have not been useful and have not provided the basis for any District enforcement action.

The District needs both procedures to review construction projects and substantive requirements to reduce the risk of damage or reduced access. Proposed secs. 14.04 and 14.05 establish the substantive requirements to protect facilities and maintain access. Proposed sec. 14.06 requires District review of non-District projects near District facilities and describes the information the District needs to evaluate projects. Proposed sec. 14.07 requires coordination of local government project approval with District approval.

In some cases, non-District projects require the modification or relocation of District facilities. Generally, in response to the private or local benefits of the non-District project, the project owner is the appropriate entity to fund the modification or relocation of District facilities; however, the District recognizes two exceptions to this general rule. First, state law indicates the District must move its facilities at its own expense to accommodate state highway projects (Wis. Stat. sec. 84.063(2)(b)). Second, consistent with past practice, the District intends to adjust its manholes to accommodate street repaving projects because performing this work itself will be more efficient than coordinating, supervising, and correcting the work of others for these simple and frequent modifications. Proposed sec. 14.08 implements these concepts.

The District presented proposed Chapter 14 to the Technical Advisory Team on July 14, 2021. The District received no comments.

BACKGROUND (Cont'd)

Authorization of a Public Hearing Regarding the Proposed Repeal and Recreation of MMSD Rules, Chapter 14, Protection of District Facilities

Occasionally, the District receives requests to use District facilities to test new technology, which may be as small as a new type of real-time monitoring device or as large as a multi-stage treatment system filling a semi-truck trailer. Supporting technological development has the potential to bring benefits to both the District and the entire water reclamation industry; however, the District needs to protect facilities and operators and maintain the efficiency and effectiveness of operations. Also, the District needs to clarify the amount of support the District will provide, for issues such as electricity, water, and facility access. Proposed sec. 14.09 formalizes the procedures for approving, installing, operating, and removing the technology being tested.

Finally, District facilities are not intended for camping. Camping examples range from people sleeping in cars in the Headquarters parking lot, to people living in tents at District flood management facilities, to inappropriate uses of District Greenseams® properties. Potential health and safety problems include the absence of sanitary facilities, to property damage, to the risk of flooding. In response, proposed sec. 14.10 prohibits camping on District property.

RESOLUTION

Authorization of a Public Hearing Regarding the Proposed Repeal and Recreation of
MMSD Rules, Chapter 14, Protection of District Facilities

RESOLVED, by the Milwaukee Metropolitan Sewerage Commission, that the Executive Director is authorized to publish a public notice, obtain written comments, and hold a public hearing as required by Wis. Stat. sec. 200.45(1)(c), regarding the proposed repeal and recreation of MMSD Rules, Chapter 14, as shown in the attachment.