

MSD Fact Sheet



COM'RS MIN
VOL 305
MAR 28 2007
IMAGE 6128
James A. Parrott
Interim Executive Director
March 19, 2007

PROJECT NAME:

MSD RULES AND REGULATIONS
AMENDING ARTICLE V, SECTION 514

LEGISLATIVE REQUEST:

DESIGN¹ ADD'L DESIGN² CONSTRUCTION³ EASEMENT APPROPRIATION⁴

OTHER:⁵ Resolutions (1) concluding the public hearing and (2) amending the MSD Rules and Regulations, Article V, Section 514, "Policy for the Acquisition by Hamilton County of Sanitary Facilities Constructed or Made Available by Private Sewer Development."

PROJECT TYPE: WWIP Asset Mgmt. Assessment Other

WWIP Activity ID: _____ WWIP Completion Date: _____

PROJECT DESCRIPTION:

This proposed legislation amends Article V, Section 514 of the Rules and Regulations of the Metropolitan Sewer District of Greater Cincinnati (MSD), "Policy for the Acquisition by Hamilton County of Sanitary Facilities Constructed or Made Available by Private Sewer Development," in order to clarify and correct the original policy amendments as adopted October 23, 2006. A black-line version of the proposed changes is attached for reference.

Per Article V, Paragraph 2(b) of the 1968 Hamilton County – City of Cincinnati Agreement for the management of MSD, the Board of County Commissioners of Hamilton County, Ohio may amend the existing rules and regulations after holding a public hearing.

The changes clarify certain items in the policy as adopted October 23, 2006, permit MSD to request and pay for additional work beyond that proposed by the developer, and correct typographical errors.

Also included is a resolution concluding the public hearing.

FUNDING: Not Applicable

PRIOR LEGISLATIVE ACTIONS:

Previously, the County Commissioners adopted amendments for Article V, Section 514 on October 23, 2006.

Hamilton Co. Compliance Coordinator
Project Review Date:

REMAINING FUTURE LEGISLATION:

- Approving detailed plans, specifications and estimate of cost
- Declaring necessity to construct and determining to proceed
- Appropriating funds
- Advertise and bid
- Other: NONE

1. **Design** = 1 resolution authorizing preparation of detailed plans, specifications, and estimate of cost and appropriating funds for the same.
 2. **Add'l Design** = 1 resolution appropriating additional funds for design.
 3. **Construction** = 4 resolutions approving detailed plans, specifications and estimate of cost; declaring project necessity and intent to proceed with construction; appropriating funds for construction; authorizing project advertisement & bid.
 4. **Easement Appropriation** = 3 resolutions approving detailed plans, specifications and estimate of cost; declaring project necessity and intent to proceed with construction; appropriating easements.
 5. **Other** = Resolutions not covered above. Purpose is listed.

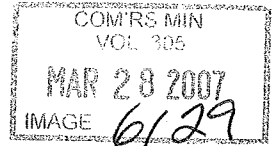


Exhibit A

10/23/06

[date of adoption]

AMENDMENT: MSD RULES AND REGULATIONS

**Section 514 Policy for the Acquisition by Hamilton County of Sanitary Facilities
Constructed or Made Available by Private Sewer Development**

Whenever Sanitary Facilities have been acquired or constructed by and at the expense of a person or entity for the purpose of providing sewer service to territory within the Sewer District and the Board of County Commissioners ("Board") deems it appropriate to acquire by negotiation (including by purchase, gift, public dedication and acceptance, or other means of transfer) and under such terms the Board finds to be reasonable, the County Sanitary Engineer through the Director of the Metropolitan Sewer District of Greater Cincinnati ("MSDGC") shall examine said Sanitary Facilities. Sanitary Facilities, unless otherwise defined in this Policy, means sanitary sewers, force mains, lift or pumping stations, and facilities for the treatment, disposal, impoundment, or storage of wastes, and excess capacity in each of the listed Sanitary Facilities (collectively herein, "Sanitary Facilities"). If the County Sanitary Engineer finds such Sanitary Facilities properly designed and constructed, he shall certify such findings to the Board through the Director of the MSDGC and the Board may accept and acquire the Sanitary Facilities under terms it finds are reasonable. In all cases of the acquisition of Sanitary Facilities (including the purchase of excess capacity or extra work) by the Board, a project agreement consistent with this Policy shall be entered into between the Board and the person or entity requesting the Board to acquire the Sanitary Facilities. The project agreement shall describe the Sanitary Facilities requested to be acquired, the basis for the acquisition, purchase price (if any), applicable construction standards, inspection requirements, time table for construction and transfer of ownership, easement or other property rights, warranty assignments, conditions for payment or reimbursement (if any) and other terms and conditions the Board deems reasonable. The project agreement shall not become effective unless and until accepted by the Board in a Resolution adopted at a regular public session and entered into the Minutes of the Board.

**I. Purchase of Excess Capacity due to Requested
Over-sized Gravity Sewer Mains or Extra Work**

- A. If a person or entity contemplates the purchase of excess sewer capacity by Hamilton County, a project agreement between the Board and person or entity must be executed and the District's Capital Improvement Plan must be amended to include the project. This project agreement must include the timetable for construction, basis for determining the purchase price, easement rights, and conditions of payment. This will then be the basis upon which the District's Capital Improvement Plan is amended, with Board approval, to include the project in the Plan. MSDGC may also request and pay for extra work related to a sewer main (e.g., MSDGC requests the sewer main be deeper or other modification to the design of the project beyond MSDGC's standard engineering requirements), in which case a project agreement shall specify the details and payment for the extra work.

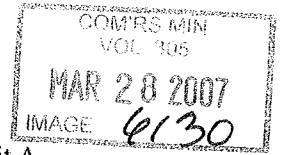


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- B. The minimum size of gravity sanitary sewers shall be eight inches (8") in diameter. ~~The method of appraisal shall be based on the increment of increase in sizing required by the MSDGC.~~ Costs for manholes shall not be included in the purchase price as manholes are not affected by upsizing of the main sewer line, unless additional manholes are required by the MSDGC, in which case such costs shall be included.

- C. The determination of the purchase price of excess sewer capacity in a gravity sewer line that has been constructed to serve territory outside of the development for which it was originally constructed shall be in accordance with the tables below and shall be determined by using the actual documented cost of installing the upsized sewer, less engineering, easement acquisition and financing costs.

Relative Sewer Costs[†]

(This table is not intended to include extraordinary circumstances, such as an alignment change or extreme soil conditions. Refer to Sections D and F for such circumstances.)

Size Necessary for Development	Size Required by MSDGC					
	8"	12"	15" & 16"	18"	20" & 21"	24"
8" as Base	0.0%	13.0%	21.9%	29.1%	37.1%	43.2%
12" as Base		0.0%	9.9%	18.0%	27.0%	34.6%
15" & 16" as Base			0.0%	9.1%	19.4%	27.5%
18" as Base				0.0%	11.5%	20.0%
20" & 21" as Base					0.0%	9.9%

As an example, the cost of upsizing a sewer or section of sewer from 8" to 18" would be equal to:

$$1 - (1.00/1.41) \times \text{Cost of 18" sewer}$$

where 1.41 is the relevant MSDGC Required Size Factor; or 29.1% of the cost of the 18" sewer.

Relative Jack & Boring Costs[†]

(This table is not intended to include extraordinary circumstances, such as an alignment change or extreme soil conditions. Refer to Sections D and F for such circumstances.)

Size Necessary for Development	Size Required by MSDMSDGC					
	8"	12"	15" & 16"	18"	20" & 21"	24"
8" as Base	0.0%	24.8%	38.7%	50.0%	55.6%	62.0%
12" as Base		0.0%	18.7%	33.8%	41.2%	49.5%
15" & 16" as Base			0.0%	18.7%	27.5%	38.3%
18" as Base				0.0%	11.5%	23.7%
20" & 21" as Base					0.0%	14.5%

[†]The tables are not intended to include extraordinary circumstances, such as an alignment change or extreme soil conditions. Refer to Sections D and H for such circumstances. See Appendix for methodology used to arrive at relative costs.

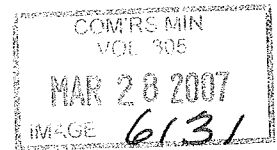


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As an example, the cost of upsizing a sewer or section of sewer from 12" to 24" requiring the jack and boring procedure would be equal to:

$$1 - (1.00/1.98) \times \text{Cost of 24" sewer}$$

where 1.98 is the relevant ~~MSD~~MSDGC Required Size Factor; or 49.5% of the cost of the 24" sewer.

- D. In extenuating circumstances, such as (but not limited to) the discovery of an extraordinary benefit to the MSDGC, the Director of MSDGC (or his designee) shall have the authority to increase the purchase cost of the excess sewer capacity or extra work by up to, but not to exceed, 10% of the total project cost as it appears in the project agreement ~~and~~or the Capital Improvement Plan, subject to the limitations described in Sections E, F, and G.
- E. The Board's share of the costs in no case shall exceed the proportion of capacity serving the territory outside the development compared with the capacity serving inside the development. For example, if 60% of the capacity will serve territory inside the development, then the Board's share is limited to a maximum of 40% of costs or if 40% of the capacity will serve territory inside the development, then the Board's share is limited to 60%.
- F. Change orders may be approved by the Director of the MSDGC (or his designee) up to a cumulative amount of 10% of the total project cost as set forth in the project agreement and Capital Improvement Plan. Change orders greater than this total must be formalized as an amendment to the project agreement and Capital Improvement Plan.
- G. Payment may only be made after the sewer or segment of sewer has been installed, contractor's invoices and other such proof of installation and cost have been submitted to the Director of the MSDGC (or his designee) to substantiate the purchase price, and the sewer or segment of sewer has been examined by the County Sanitary Engineer through the Director of MSDGC and is accepted as properly designed and constructed, in accordance with the project agreement. Payment may be made only upon the submission of the proper forms and documentation.

**II. Purchase of Excess Capacity due to Requested
Over sized Pump Station, Wastewater Treatment Plant,
Force Main, Private ~~Building~~ Sewer or Application
Of ~~Trench-less~~Trenchless Technology**

In the event that a pump station, waste water treatment plant, force main, trenchless technology application, or private ~~building~~ sewer is required by MSDGC to be upsized or constructed to provide capacity for territory outside of the development for which it was originally constructed,

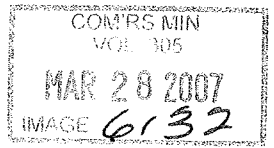


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the purchase price of the excess capacity shall be determined on a case-by-case basis as agreed to in a project agreement due to the large variance in scope and costs between such projects, subject to the limitations described in Sections F and G, above. The method for determining the purchase price shall consist of a comparison of the developer's costs of construction required to serve the development for which it was constructed versus the developer's costs of construction to serve territory outside the development.

**III. Acquisition of Certain Limited Sanitary Facilities by Public
Dedication and Acceptance through Tap Fee Reimbursement Program**

In order to promote economic development and attract new customers within Hamilton County and the Sewer District, project agreements may be negotiated for review and approval by the Board with a person or entity that requests the Board acquire by public dedication and acceptance, certain new or upgraded Limited Sanitary Facilities (as defined below) which may be constructed by the person or entity that the Board determines are necessary and appropriate for the collection, transportation and treatment of sewage from new development. Any project agreement shall be consistent with the provisions of this Policy.

- A. The use of project agreements to implement Part III of this Policy shall be limited to construction of the following types of Sanitary Facilities in Hamilton County (herein referred to as the "Limited Sanitary Facilities"):
1. Off-site sewer main extensions from the down stream boundary of the participating new development to the point of connection with the existing County sewer main that MSDGC has determined is the appropriate connection point;
 2. Sewer main installation along the participating new development's boundary and across the frontage of non-participating properties;
 3. Pump stations; or
 4. Wastewater treatment plants.
- B. The project agreements may include various financing mechanisms to support the construction and acquisition by the Board of the new or upgraded Limited Sanitary Facilities. The financing mechanisms may be based on:
1. Tap fees from the new users who connect to and will be served by the new or upgraded Limited Sanitary Facilities to reimburse the private person or entity who constructed the new or upgraded Limited Sanitary Facilities necessary to serve the new development;
 2. Front footage charges on property owned by non-participants in the original cost of the Limited Sanitary Facilities;

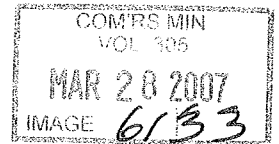


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3. Costs of excess capacity available to other nearby development; or
 4. Any other method or manner the Board finds is reasonable.
- C. The Limited Sanitary Facilities shall be constructed at the person's or entity's own cost and risk and at no cost to the Board with the exception of that part of the Limited Sanitary Facilities which is excess sewer capacity due to over sizing required and purchased by the Board in accordance with the excess capacity purchase provisions of this Policy.
- D. The sanitary flows from the new development shall be consistent with the MSDGC Wet Weather Improvement Plan, including the CSO Long-term Control Plan.
- E. The sanitary flows from the new development shall not interfere or delay compliance with the Federal Court Global Consent Decree (Civil Action No. 1 C-1-02-107) on Combined Sewer Overflows, Wastewater Treatment Plants and Implementation of Capacity Assurance Program Plan for Sanitary Sewer Overflows approved by the Court on June 9, 2004.
- F. An application by a private person or entity requesting a tap fee reimbursement project agreement shall be submitted to MSDGC at the earliest possible stage of the development, along with information MSDGC may require to properly review the request. The terms and conditions in the individual project agreement may vary from development to development. MSDGC shall review the application and prepare the project agreement for approval by the Board.
- G. If tap fees will be used to reimburse the person or entity for construction of the Limited Sanitary Facilities, the tap fee method shall be set forth in the project agreement and shall include, at a minimum, the following provisions:
- ~~1.~~ The amount of the tap fee shall be the standard system wide tap fee charged by MSDGC to new users connecting to the MSDGC system in effect at the time the new user pays the tap fee to MSDGC. Nothing in this Policy prohibits the Board from increasing the standard system wide tap fee at any time.
 2. Any tap fee reimbursement shall terminate after twelve (12) years from the date of acceptance of the Limited Sanitary Facilities by the County or when the person or entity has been reimbursed for 100% of the Eligible Construction costs for the Limited Sanitary Facilities whichever occurs first.
 3. Eligible Construction costs shall include contractor construction material and labor costs, engineering costs, fair market land costs, and easement acquisition costs, legal costs, permit fees, inspection fees, plan review fees, site preparation, site restoration, and other incidental construction

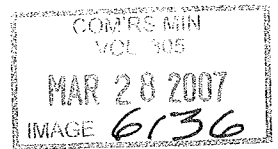


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costs if properly documented, less any costs paid by the County for the purchase of excess capacity or extra work requested.

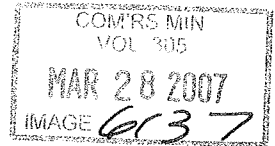
4. Tap fees shall be reimbursed on a quarterly basis. The amount reimbursed shall be based on the number of Permits to Connect to the sewer system that have been issued by the MSDGC for the previous quarter and the actual tap fee amount paid by the new user. The tap fees shall be reimbursed to the person or entity upon submission of the proper form and evidence as determined by MSDGC that the tap fee has been paid by the new user, a Permit to Connect has been issued, and confirmation that 100% of the Eligible Construction costs have not been exceeded or that 12 years has not elapsed from the date the Limited Sanitary Facilities were accepted. An accounting shall be maintained by MSDGC.
5. Tap fees paid by new users to connect to the new or upgraded Limited Sanitary Facilities in the quarter preceding the expiration date of 12 years from date of acceptance may be reimbursed even if the submission of the proper form and evidence for reimbursement is submitted past the 12 year cut off.
- H. Neither the Board nor MSDGC shall be responsible for acquiring land, easements, permits, license agreements, utility crossings, or any other approvals or rights or interests in real or personal property or otherwise for construction of the Limited Sanitary Facilities.
- I. The project agreement shall not be assigned or transferred to any other person or entity without the prior written approval of the Board.
- J. All Limited Sanitary Facilities shall be constructed in compliance with all applicable governmental standards, including the requirements of the MSDGC and Board. The project agreement shall include charges for the inspection and certification of the Limited Sanitary Facilities by the County Sanitary Engineer and MSDGC to the Board that the Limited Sanitary Facilities have been designed and constructed properly.
- K. All documents requesting to transfer the Limited Sanitary Facilities to the Board, such as deeds, bills of sales, public dedication and acceptance agreement, etc. shall be prepared by the person or entity and submitted to the Board and MSDGC for approval.
- L. The timing and conditions for the requested transfer of the Limited Sanitary Facilities to the Board shall be specified in the project agreement. The Board shall not accept any Limited Sanitary Facilities unless and until the County Sanitary Engineer through the Director of MSDGC has examined the Limited Sanitary Facilities and certified to the Board that the Limited Sanitary Facilities have been



Summary of deletions:

Document comparison done by DeltaView on Thursday, January 25, 2007
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1 10/23/06
6 The method of appraisal shall be based on the increment of increase in
 sizing required by the MSDGC.
7 ¹
8 ¹ The tables are not intended to include extraordinary circumstances, such as an
 alignment change or extreme soil conditions. Refer to Sections D and H for such
 circumstances. See Appendix for methodology used to arrive at relative costs.
11 ¹
14 MSD
17 MSD
20 and
22 **Building**
23 **Trench-less**
25 building
28 ¹
31 costs,
34 ,
35 was October 23, 2006.

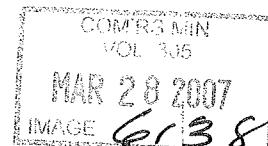


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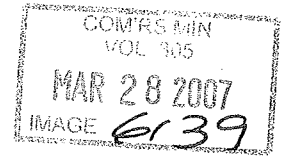
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Redline Summary:		
No.	Change	Text
1	Deletion	10/23/06
2	Insertion	[date of adoption]
3	Change	"excess capacity) by the Board," changed to "excess capacity or extra work) by the Board,"
4	Insertion	Sewer Mains or Extra Work
5	Insertion	in the Plan. MSDGC may...for the extra work.
6	Change	"diameter. The method of... Costs for manholes" changed to "diameter. Costs for manholes"
7	Deletion	Sewer Costs ¹
8	Deletion	¹ The tables are not...at relative costs.
9	Insertion	(This table is not...as an alignment change
10	Insertion	or extreme soil...for such circumstances.)
11	Deletion	Boring Costs ¹
12	Insertion	(This table is not...as an alignment change
13	Insertion	or extreme soil...for such circumstances.)



14-15	Change	"Required by MSD" changed to "Required by MSDGC"
16	Change	"As an example," changed to "As an example,"
17-18	Change	"the relevant MSD Required Size" changed to "the relevant MSDGC Required Size"
19	Change	"sewer capacity by up to, but" changed to "sewer capacity or extra work by up to, but"
20-21	Change	"project agreement and the Capital" changed to "project agreement or the Capital"
22	Change	"Main, Private Building Sewer or Application" changed to "Main, Private Sewer or Application"
23-24	Change	"Of Trench-less Technology" changed to "Of Trenchless Technology"
25	Change	"application, or private...sewer is required" changed to "application, or private sewer is required"
26	Change	"III. Acquisition of Certain Sanitary Facilities" changed to "III. Acquisition of...Sanitary Facilities"
27	Change	"agreements shall be limited" changed to "agreements to implement...Policy shall be limited"
28-29	Change	"1 The amount" changed to "1. The amount"
30	Change	"engineering costs, land" changed to "engineering costs, fair market land"
31-32	Change	"land costs, easement acquisition" changed to "land and easement acquisition"
33	Change	"excess capacity." changed to "excess capacity or extra work requested."
34	Change	"Commissioners, which" changed to "Commissioners which"
35-36	Change	"which was October 23, 2006." changed to "which is _____, 2007."

City of Cincinnati



Office of the City Manager

Room 152, City Hall
801 Plum Street
Cincinnati, Ohio 45202-5706
Phone (513) 352-3241
Fax (513) 352-6284

March 19, 2007

Milton Dohoney, Jr.
City Manager

Honorable Board of County Commissioners
Hamilton County, Ohio
% Mr. Patrick Thompson
Hamilton County Administrator
County Administration Building
138 E. Court Street, Room 603
Cincinnati, Ohio 45202

Honorable Commissioners:

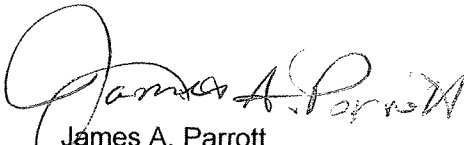
Attached for your consideration are two resolutions pertaining to amending Article V, Section 514 of the Rules and Regulations of the Metropolitan Sewer District of Greater Cincinnati: (1) concluding the public hearing on the amendments, and (2) amending the Rules and Regulations, Section 514, "Policy for the Acquisition by Hamilton County of Sanitary Facilities Constructed or Made Available by Private Sewer Development."

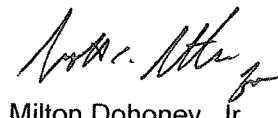
The changes clarify certain items in the policy as adopted October 23, 2006, permit MSD to request and pay for additional work beyond that proposed by the developer, and correct typographical errors. A black-line version of the proposed changes is attached for reference.

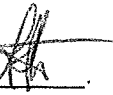
Per Article V, Paragraph 2(b) of the 1968 Hamilton County – City of Cincinnati Agreement for the management of MSD, the Board of County Commissioners of Hamilton County, Ohio may amend the existing rules and regulations after holding a public hearing. Also included is a resolution concluding the public hearing.

RECOMMENDED:

Approved:

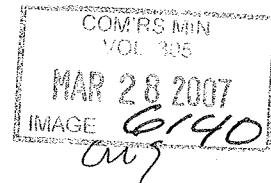

James A. Parrott
Interim Executive Director, MSD


Milton Dohoney, Jr.
City Manager

Provided to the Hamilton County Construction Compliance Coordinator on 3/29/07 

Reviewed by _____, and recommended by County Administration.

On motion of Mr. Portune, seconded by Mr. Pepper, the following resolutions were adopted....



RESOLUTION No. MSD 2007-0090

CONCLUDING THE PUBLIC HEARING

PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS OF
THE METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI
HAMILTON COUNTY, OHIO

WHEREAS, this Board of County Commissioners of Hamilton County, Ohio did conduct, on March 28, 2007, a public hearing as provided for in Article V, Paragraph 2(b), of the agreement entered into on May 1, 1968, by the Board of County Commissioners of Hamilton County and the City of Cincinnati, to receive and consider remonstrances and objections to proposed amendments to the Rules and Regulations, Article V, Section 514, "Policy for the Acquisition by Hamilton County of Sanitary Facilities Constructed or Made Available by Private Sewer Development," of the Metropolitan Sewer District of Greater Cincinnati, Hamilton County, Ohio; and

NOW, THEREFORE, BE IT RESOLVED, that the aforesaid hearing be and the same hereby is concluded.

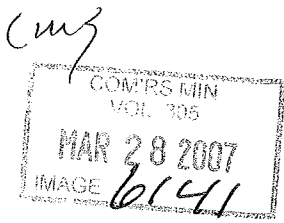
BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of this Board of County Commissioners and of its committees, if any, which resulted in formal action were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, this 28th day of March 2007.

Mr. DeWine YES

Mr. Pepper YES

Mr. Portune YES



RESOLUTION No. MSD 2007-0091

AMENDING THE RULES AND REGULATIONS OF
THE METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI
ARTICLE V, SECTION 514

WHEREAS, Section 6117.01 of the Revised Code of Ohio and Section IV of the 1968 Management Agreement between Hamilton County and the City of Cincinnati for the Metropolitan Sewer District ("1968 Agreement") vests the Board of County Commissioners of Hamilton County, Ohio ("Board"), with the authority to adopt Rules and Regulations for the Metropolitan Sewer District of Greater Cincinnati ("MSDGC"); and

WHEREAS the Board did after public hearing adopt revised Rules and Regulations for the MSDGC on January 24, 2001, and as subsequently amended; and

WHEREAS, pursuant to and consistent with Article V, Paragraph 2(b) of the 1968 Agreement the Board did after public notice, comment and hearing adopt on October 23, 2006 amended Article V of the Rules and Regulations, by modifying Section 514, "Policy for the Acquisition by Hamilton County of Sanitary Facilities Constructed or Made Available by Private Sewer Development;" and

WHEREAS, the Board desires to clarify and correct the October 23, 2006 amendment to Article V, Section 514 of the Rules and Regulations by adopting the clarifying and correcting amendments that are attached hereto and by this reference made a part hereof as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, that Article V of the Rules and Regulations of the MSDGC is hereby amended by the clarifications and corrections to Section 514, "Policy for the Acquisition by Hamilton County of Sanitary Facilities Constructed or Made Available by Private Sewer Development" in Exhibit A.

BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of this Board of County Commissioners and of its committees, if any, which resulted in formal action were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, this 28th day of March 2007.

Mr. DeWine YES Mr. Pepper YES Mr. Portune YES

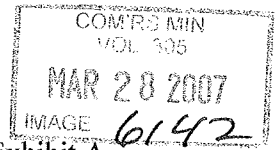


Exhibit A

March 28, 2007

AMENDMENT: MSD RULES AND REGULATIONS

Section 514 Policy for the Acquisition by Hamilton County of Sanitary Facilities Constructed or Made Available by Private Sewer Development

Whenever Sanitary Facilities have been acquired or constructed by and at the expense of a person or entity for the purpose of providing sewer service to territory within the Sewer District and the Board of County Commissioners (“Board”) deems it appropriate to acquire by negotiation (including by purchase, gift, public dedication and acceptance, or other means of transfer) and under such terms the Board finds to be reasonable, the County Sanitary Engineer through the Director of the Metropolitan Sewer District of Greater Cincinnati (“MSDGC”) shall examine said Sanitary Facilities. Sanitary Facilities, unless otherwise defined in this Policy, means sanitary sewers, force mains, lift or pumping stations, and facilities for the treatment, disposal, impoundment, or storage of wastes, and excess capacity in each of the listed Sanitary Facilities (collectively herein, “Sanitary Facilities”). If the County Sanitary Engineer finds such Sanitary Facilities properly designed and constructed, he shall certify such findings to the Board through the Director of the MSDGC and the Board may accept and acquire the Sanitary Facilities under terms it finds are reasonable. In all cases of the acquisition of Sanitary Facilities (including the purchase of excess capacity or extra work) by the Board, a project agreement consistent with this Policy shall be entered into between the Board and the person or entity requesting the Board to acquire the Sanitary Facilities. The project agreement shall describe the Sanitary Facilities requested to be acquired, the basis for the acquisition, purchase price (if any), applicable construction standards, inspection requirements, time table for construction and transfer of ownership, easement or other property rights, warranty assignments, conditions for payment or reimbursement (if any) and other terms and conditions the Board deems reasonable. The project agreement shall not become effective unless and until accepted by the Board in a Resolution adopted at a regular public session and entered into the Minutes of the Board.

I. Purchase of Excess Capacity due to Requested Over-sized Gravity Sewer Mains or Extra Work

- A. If a person or entity contemplates the purchase of excess sewer capacity by Hamilton County, a project agreement between the Board and person or entity must be executed and the District’s Capital Improvement Plan must be amended to include the project. This project agreement must include the timetable for construction, basis for determining the purchase price, easement rights, and conditions of payment. This will then be the basis upon which the District’s Capital Improvement Plan is amended, with Board approval, to include the project in the Plan. MSDGC may also request and pay for extra work related to a sewer main (e.g., MSDGC requests the sewer main be deeper or other modification to the design of the project beyond MSDGC’s standard engineering requirements), in which case a project agreement shall specify the details and payment for the extra work.

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- B. The minimum size of gravity sanitary sewers shall be eight inches (8") in diameter. Costs for manholes shall not be included in the purchase price as manholes are not affected by upsizing of the main sewer line, unless additional manholes are required by the MSDGC, in which case such costs shall be included.
- C. The determination of the purchase price of excess sewer capacity in a gravity sewer line that has been constructed to serve territory outside of the development for which it was originally constructed shall be in accordance with the tables below and shall be determined by using the actual documented cost of installing the upsized sewer, less engineering, easement acquisition and financing costs.

Relative Sewer Costs

(This table is not intended to include extraordinary circumstances, such as an alignment change or extreme soil conditions. Refer to Sections D and F for such circumstances.)

Size Necessary for Development	Size Required by MSDGC					
	8"	12"	15" & 16"	18"	20" & 21"	24"
8" as Base	0.0%	13.0%	21.9%	29.1%	37.1%	43.2%
12" as Base		0.0%	9.9%	18.0%	27.0%	34.6%
15" & 16" as Base			0.0%	9.1%	19.4%	27.5%
18" as Base				0.0%	11.5%	20.0%
20" & 21" as Base					0.0%	9.9%

As an example, the cost of upsizing a sewer or section of sewer from 8" to 18" would be equal to:

$$1 - (1.00/1.41) \times \text{Cost of 18" sewer}$$

where 1.41 is the relevant MSDGC Required Size Factor; or 29.1% of the cost of the 18" sewer.

Relative Jack & Boring Costs

(This table is not intended to include extraordinary circumstances, such as an alignment change or extreme soil conditions. Refer to Sections D and F for such circumstances.)

Size Necessary for Development	Size Required by MSDGC					
	8"	12"	15" & 16"	18"	20" & 21"	24"
8" as Base	0.0%	24.8%	38.7%	50.0%	55.6%	62.0%
12" as Base		0.0%	18.7%	33.8%	41.2%	49.5%
15" & 16" as Base			0.0%	18.7%	27.5%	38.3%
18" as Base				0.0%	11.5%	23.7%
20" & 21" as Base					0.0%	14.5%

As an example, the cost of upsizing a sewer or section of sewer from 12" to 24" requiring the jack and boring procedure would be equal to:

$$1 - (1.00/1.98) \times \text{Cost of 24" sewer}$$

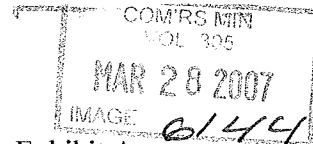


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where 1.98 is the relevant MSDGC Required Size Factor; or 49.5% of the cost of the 24" sewer.

- D. In extenuating circumstances, such as (but not limited to) the discovery of an extraordinary benefit to the MSDGC, the Director of MSDGC (or his designee) shall have the authority to increase the purchase cost of the excess sewer capacity or extra work by up to, but not to exceed, 10% of the total project cost as it appears in the project agreement or the Capital Improvement Plan, subject to the limitations described in Sections E, F, and G.
- E. The Board's share of the costs in no case shall exceed the proportion of capacity serving the territory outside the development compared with the capacity serving inside the development. For example, if 60% of the capacity will serve territory inside the development, then the Board's share is limited to a maximum of 40% of costs or if 40% of the capacity will serve territory inside the development, then the Board's share is limited to 60%.
- F. Change orders may be approved by the Director of the MSDGC (or his designee) up to a cumulative amount of 10% of the total project cost as set forth in the project agreement and Capital Improvement Plan. Change orders greater than this total must be formalized as an amendment to the project agreement and Capital Improvement Plan.
- G. Payment may only be made after the sewer or segment of sewer has been installed, contractor's invoices and other such proof of installation and cost have been submitted to the Director of the MSDGC (or his designee) to substantiate the purchase price, and the sewer or segment of sewer has been examined by the County Sanitary Engineer through the Director of MSDGC and is accepted as properly designed and constructed, in accordance with the project agreement. Payment may be made only upon the submission of the proper forms and documentation.

**II. Purchase of Excess Capacity due to Requested
Over sized Pump Station, Wastewater Treatment Plant,
Force Main, Private Sewer or Application
Of Trenchless Technology**

In the event that a pump station, waste water treatment plant, force main, trenchless technology application, or private sewer is required by MSDGC to be upsized or constructed to provide capacity for territory outside of the development for which it was originally constructed, the purchase price of the excess capacity shall be determined on a case-by-case basis as agreed to in a project agreement due to the large variance in scope and costs between such projects, subject to the limitations described in Sections F and G, above. The method for determining the purchase price shall consist of a comparison of the developer's costs of construction required to serve the development for which it was constructed versus the developer's costs of construction to serve territory outside the development.

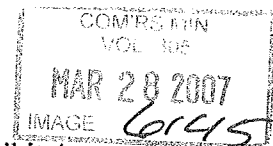


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III. Acquisition of Certain Limited Sanitary Facilities by Public Dedication and Acceptance through Tap Fee Reimbursement Program

In order to promote economic development and attract new customers within Hamilton County and the Sewer District, project agreements may be negotiated for review and approval by the Board with a person or entity that requests the Board acquire by public dedication and acceptance, certain new or upgraded Limited Sanitary Facilities (as defined below) which may be constructed by the person or entity that the Board determines are necessary and appropriate for the collection, transportation and treatment of sewage from new development. Any project agreement shall be consistent with the provisions of this Policy.

- A. The use of project agreements to implement Part III of this Policy shall be limited to construction of the following types of Sanitary Facilities in Hamilton County (herein referred to as the "Limited Sanitary Facilities"):
 - 1. Off-site sewer main extensions from the down stream boundary of the participating new development to the point of connection with the existing County sewer main that MSDGC has determined is the appropriate connection point;
 - 2. Sewer main installation along the participating new development's boundary and across the frontage of non-participating properties;
 - 3. Pump stations; or
 - 4. Wastewater treatment plants.

- B. The project agreements may include various financing mechanisms to support the construction and acquisition by the Board of the new or upgraded Limited Sanitary Facilities. The financing mechanisms may be based on:
 - 1. Tap fees from the new users who connect to and will be served by the new or upgraded Limited Sanitary Facilities to reimburse the private person or entity who constructed the new or upgraded Limited Sanitary Facilities necessary to serve the new development;
 - 2. Front footage charges on property owned by non-participants in the original cost of the Limited Sanitary Facilities;
 - 3. Costs of excess capacity available to other nearby development; or
 - 4. Any other method or manner the Board finds is reasonable.

- C. The Limited Sanitary Facilities shall be constructed at the person's or entity's own cost and risk and at no cost to the Board with the exception of that part of the

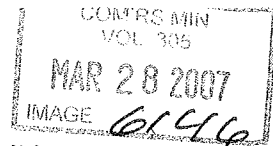


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Limited Sanitary Facilities which is excess sewer capacity due to over sizing required and purchased by the Board in accordance with the excess capacity purchase provisions of this Policy.

- D. The sanitary flows from the new development shall be consistent with the MSDGC Wet Weather Improvement Plan, including the CSO Long-term Control Plan.
- E. The sanitary flows from the new development shall not interfere or delay compliance with the Federal Court Global Consent Decree (Civil Action No. 1 C-1-02-107) on Combined Sewer Overflows, Wastewater Treatment Plants and Implementation of Capacity Assurance Program Plan for Sanitary Sewer Overflows approved by the Court on June 9, 2004.
- F. An application by a private person or entity requesting a tap fee reimbursement project agreement shall be submitted to MSDGC at the earliest possible stage of the development, along with information MSDGC may require to properly review the request. The terms and conditions in the individual project agreement may vary from development to development. MSDGC shall review the application and prepare the project agreement for approval by the Board.
- G. If tap fees will be used to reimburse the person or entity for construction of the Limited Sanitary Facilities, the tap fee method shall be set forth in the project agreement and shall include, at a minimum, the following provisions:
 - 1. The amount of the tap fee shall be the standard system wide tap fee charged by MSDGC to new users connecting to the MSDGC system in effect at the time the new user pays the tap fee to MSDGC. Nothing in this Policy prohibits the Board from increasing the standard system wide tap fee at any time.
 - 2. Any tap fee reimbursement shall terminate after twelve (12) years from the date of acceptance of the Limited Sanitary Facilities by the County or when the person or entity has been reimbursed for 100% of the Eligible Construction costs for the Limited Sanitary Facilities whichever occurs first.
 - 3. Eligible Construction costs shall include contractor construction material and labor costs, engineering costs, fair market land and easement acquisition costs, legal costs, permit fees, inspection fees, plan review fees, site preparation, site restoration, and other incidental construction costs if properly documented, less any costs paid by the County for the purchase of excess capacity or extra work requested.
 - 4. Tap fees shall be reimbursed on a quarterly basis. The amount reimbursed shall be based on the number of Permits to Connect to the sewer system that have been issued by the MSDGC for the previous quarter and the

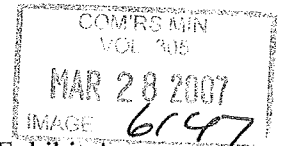


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actual tap fee amount paid by the new user. The tap fees shall be reimbursed to the person or entity upon submission of the proper form and evidence as determined by MSDGC that the tap fee has been paid by the new user, a Permit to Connect has been issued, and confirmation that 100% of the Eligible Construction costs have not been exceeded or that 12 years has not elapsed from the date the Limited Sanitary Facilities were accepted. An accounting shall be maintained by MSDGC.

5. Tap fees paid by new users to connect to the new or upgraded Limited Sanitary Facilities in the quarter preceding the expiration date of 12 years from date of acceptance may be reimbursed even if the submission of the proper form and evidence for reimbursement is submitted past the 12 year cut off.
- H. Neither the Board nor MSDGC shall be responsible for acquiring land, easements, permits, license agreements, utility crossings, or any other approvals or rights or interests in real or personal property or otherwise for construction of the Limited Sanitary Facilities.
- I. The project agreement shall not be assigned or transferred to any other person or entity without the prior written approval of the Board.
- J. All Limited Sanitary Facilities shall be constructed in compliance with all applicable governmental standards, including the requirements of the MSDGC and Board. The project agreement shall include charges for the inspection and certification of the Limited Sanitary Facilities by the County Sanitary Engineer and MSDGC to the Board that the Limited Sanitary Facilities have been designed and constructed properly.
- K. All documents requesting to transfer the Limited Sanitary Facilities to the Board, such as deeds, bills of sales, public dedication and acceptance agreement, etc. shall be prepared by the person or entity and submitted to the Board and MSDGC for approval.
- L. The timing and conditions for the requested transfer of the Limited Sanitary Facilities to the Board shall be specified in the project agreement. The Board shall not accept any Limited Sanitary Facilities unless and until the County Sanitary Engineer through the Director of MSDGC has examined the Limited Sanitary Facilities and certified to the Board that the Limited Sanitary Facilities have been properly designed and constructed and the Board is reasonably satisfied with such construction and certification.
- M. Bonding requirements, warranties, financial assurance mechanisms, and other terms and conditions to establish that latent defects and construction flaws shall remain the sole responsibility of the person or entity for a reasonable time shall be included in the project agreement.

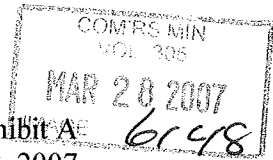
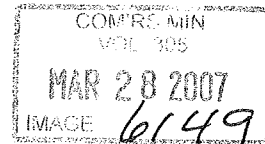


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- N. The project agreement shall not become effective unless and until accepted by the Board in a Resolution adopted at a regular public session and entered into the Minutes of the Board.
- O. A project agreement utilizing front footage charges, tap fee credits, cost of available excess capacity to other nearby development, or other financing methods may be used on a case by case basis and approved by the Board.

IV. Effective Date

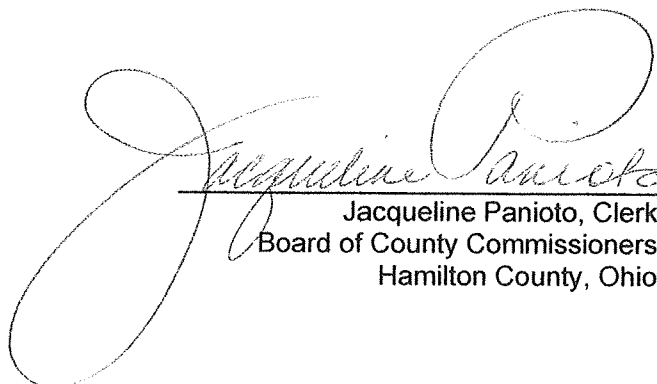
This policy is effective as of the date adopted by the Hamilton County Board of County Commissioners which is March 28th, 2007.



CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of resolutions adopted by the Board of County Commissioners in session this 28th day of March 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the Office of the Board of County Commissioners of Hamilton County, Ohio this 28th day of March 2007.



Jacqueline Panioto, Clerk
Board of County Commissioners
Hamilton County, Ohio