




Hamilton County Administrator's Office
Interdepartmental Memorandum

MEMORANDUM

TO: Board of County Commissioners
Hamilton County

FROM: Patrick Thompson, County Administrator 

COPY: Clerk of the Board

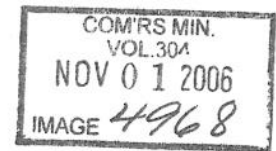
DATE: October 20, 2006

SUBJECT: Amended MSDGC Rules and Regulations; Section 514 Policy for the Acquisition by Hamilton County of Sanitary Facilities Constructed or Made Available by Private Sewer Development

Attached please find the final adoption package for the amended MSDGC rule referenced above.

1. A Resolution dated October 23, 2006 adopting the amended MSDGC rule. The Final amended rule is attached to the Resolution as Exhibit A in the form generally used by the Board.
2. An Administrative Record which documents important dates and events, and briefly summarizes the oral comments received at the BOCC public hearing and consultation with MSDGC. The revisions made to the proposed amended rule in response to input from MSDGC and others are shown on the attached black lined version of the final rule.

On motion of Mr. Heimlich, seconded by Mr. DeWine the following resolution was adopted.



RESOLUTION

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 (hereinafter "1968 Agreement") between Hamilton County and the City of Cincinnati for the Metropolitan Sewer District vests the Board of County Commissioners of Hamilton County, Ohio, as the authority to adopt Rules and Regulations for the Metropolitan Sewer District of Greater Cincinnati; and

WHEREAS the Board of County Commissioners of Hamilton County, Ohio, did, after public hearing, adopt revised Rules and Regulations for the Metropolitan Sewer District 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 desires to amend 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," which is attached hereto and by this reference made a part hereof as Exhibit A; and

WHEREAS, the Board caused a public notice to be published on September 21, 2006 and September 28, 2006 in the Cincinnati Enquirer newspaper announcing a public hearing would be held on October 11, 2006 to hear and consider comments on the proposed amendment to the Rules and Regulations; and

WHEREAS, the Board placed the proposed amendment to the Rules and Regulations on the Hamilton County Web Site for public viewing along with the announcement for the public hearing scheduled for October 11, 2006; and

WHEREAS, the Board did conduct a public hearing on the 11th day of October 2006 to hear and consider public comments on the proposed amendment to the Rules and Regulations of the Metropolitan Sewer District and concluded said public hearing on the 11th day of October 2006.

NOW, THEREFORE, BE IT RESOLVED, that the Rules and Regulations of the Metropolitan Sewer District are hereby amended to modify Section 514, "Policy for the Acquisition by Hamilton County of Sanitary Facilities Constructed or Made Available by Private Sewer Development."

BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of the Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of the 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 scheduled meeting of the Board of County Commissioners of Hamilton County, Ohio, this 23rd day of October 2006.

Mr. DeWine AYE Mr. Heimlich AYE Mr. Portune AYE



CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the forgoing is a true and correct transcript of a resolution adopted by the Board of County Commissioners in the session on the 23rd day of October 2006.

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 23rd day of October 2006.



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

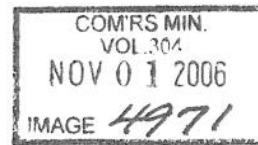


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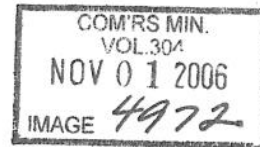
AMENDMENT: MSD RULES AND REGULATIONS

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) 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

- 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.
- 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



- C. 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.
- D. 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 Costs¹

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 Costs¹

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.

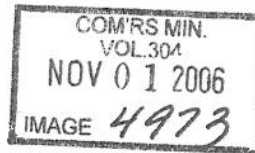


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<u>Size Necessary for Development</u>	<u>Size Required by MSD</u>					
	8"	12"	15" & 16"	18"	20" & 21"	24"
8" as Base	0.0%	24.8%	38.7%	50.0%	55.6%	62.0%
12" as Base		0.0%	18.7%	33.8%	41.2%	49.5%
15" & 16" as Base			0.0%	18.7%	27.5%	38.3%
18" as Base				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:

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

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

- E. 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 by up to, but not to exceed, 10% of the total project cost as it appears in the project agreement and the Capital Improvement Plan, subject to the limitations described in Sections E, F, and G.
- F. 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%.
- G. 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.



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- H. 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 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, 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 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 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



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- 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 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.

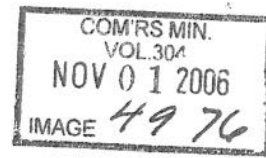


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- F. An application by a private person or entity requesting a tap fee reimbursement project agreement shall be submitted to MSDGC at the earliest possible stage of the development, along with information MSDGC may require to properly review the request. 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, land costs, 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.
 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.

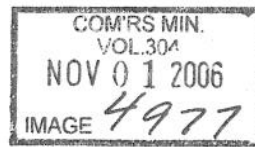


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5. Tap fees paid by new users to connect to the new or upgraded Limited Sanitary Facilities in the quarter preceding the expiration date of 12 years from date of acceptance may be reimbursed even if the submission of the proper form and evidence for 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.



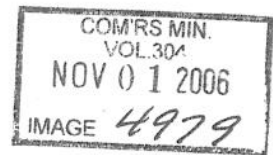
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- N. The project agreement shall not become effective unless and until accepted by the Board in a Resolution adopted at a regular public session and entered into the Minutes of the Board.

- 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 was October 23, 2006.



HAMILTON COUNTY
BOARD OF COUNTY COMMISSIONERS ("BOCCs")

ADMINISTRATIVE RECORD

AMENDMENT TO ARTICLE V, SECTION 514
OF THE RULES AND REGULATIONS OF THE
METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI ("MSDGC")
REGARDING
ACQUISITION OF SANITARY FACILITIES CONSTRUCTED OR MADE AVAILABLE BY
PRIVATE DEVELOPMENT

Dates of Public Notice in Newspaper
Announcing Public hearing: September 21, 2006 and September 28, 2006
(Cincinnati Enquire Newspaper)

Date Proposed Amended Rules and
Regulations posted on County Web Site: September 21, 2006

Date of BOCC Public Hearing: October 11, 2006 10:00 AM

Date of Final Adoption by:
BOCCs October 23, 2006

Oral Comments Received by the BOCC
from the Public During Public Hearing:

1. Dan Hendricks - Home Builders Association of Greater Cincinnati.

Mr. Hendricks appeared before the BOCCs and stated that the Home Builders Association is supportive of the amended MSD Policy 514. It was his impression that MSD is having difficulty constructing infrastructure in a timely manner needed for new development because MSD's focus is on construction related to compliance with the Federal Court consent decree. He said this amended policy will help to stimulate growth and obtain new users for the District. On behalf of the Home Builders Association, he urged the BOCC to adopt the amended policy.

There being no further persons requesting to make public comments, the Board closed the public hearing and public comment period on October 11, 2006.

Written Comments Received by the BOCC
From the Public during the Public Comment Period:
None



Consultation with MSDGC

Attorneys for the BOCCs consulted with MSDGC officials and MSDGC's attorney in developing the proposed and final amended rules and regulations. The proposed amended policy was revised in response to input received from MSDGC and others. A black lined version of the proposed amended rules and regulations showing changes which were made for the final version is attached and the major changes are briefly summarized below.

The policy was revised by updating the language to track the current law (Ohio Revised Code section 6117.38) which provides authority for the Board to acquire sanitary facilities by negotiation. The Policy has been revised to clarify that the tap fee reimbursement acquisition program is to be used only for projects in Hamilton County. Language was added to the "eligible construction costs" definition in section III.G.3 to clarify that the eligible project costs for potential reimbursement do not include the portion of a project's costs that the County has already paid for as purchased excess capacity due to requested over sizing. Language was added back from the original policy in sections I and II to make it clear that the excess capacity in a sewer main extension being purchased by the County is capacity that will serve territory outside of the development for which it was originally constructed. The language in III.B.1 and III.C stating that tap fees paid by new users who tap into excess capacity purchased by the County should be retained by the County to the extent of purchased excess capacity, was deleted. This language was deleted to make it clear that the potential tap fees that can be reimbursed are not limited to the new users solely within the development for which the limited sanitary facilities were originally constructed to serve, but may come from other new users who later tap into the constructed limited sanitary facilities (e.g., new users in later developments), subject to the "12 years from acceptance cut off" and "up to 100% of eligible construction costs" restrictions.

In addition, the Form Developer's Agreement, which was attached to the proposed amended rules and regulations as a guideline for form, was detached from the final rules and regulations. An agreement is still required under the policy when the Board negotiates to acquire sanitary facilities, but it is now referred to as a "project agreement" and no specific form of agreement is specified.



EXHIBIT A
TO
ADMINISTRATIVE RECORD

BLACKLINE VERSION SHOWING CHANGES TO PROPOSED AMENDMENT TO
ARTICLE V, SECTIONS 514 OF THE RULES AND REGULATIONS OF THE
METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI ("MSDGC")
REGARDING ACQUISITION OF SANITARY FACILITIES CONSTRUCTED OR MADE
AVAILABLE BY PRIVATE DEVELOPMENT
(OCTOBER 23, 2006)

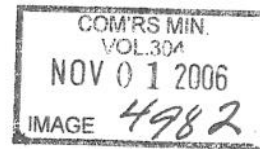


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AMENDMENT: MSD RULES AND REGULATIONS

Section 514 Policy for the ~~acquisition~~ 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 at its own cost for the purpose of providing sewer service for any allotment, development, subdivision, or similar enterprise, or for any institution, to territory within the Sewer District and the Board of County Commissioners ("Board") deems it expedient, necessary and 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 said sanitary facilities or any part thereof (including excess capacity of a sanitary facility) for the purpose of providing sewer service for territory outside the allotment, subdivision, development, or other such enterprise for which such sanitary facilities were constructed, such additional territory being within the District service area, the County Sanitary Engineer through the Director of the Metropolitan Sewer District of Greater Cincinnati ("MSDGC") (or his designee) shall examine said sanitary facilities Sanitary Facilities. Sanitary facilities 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 Sanitary Facilities (collectively herein, "Sanitary Facilities"). If the ~~Director (or his designee)~~ 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) by the Board, a project agreement consistent with this Policy shall be entered into between the Board and the person or entity consistent with this Policy requesting the Board to acquire the Sanitary Facilities. The project agreement shall at a ~~minimum~~ describe the Sanitary Facilities being 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

- 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

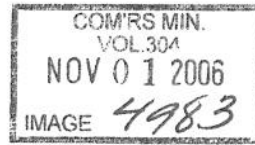


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Capital Improvement Plan is amended, with Board approval, to include the project in the Plan.

- 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 appraisal, or 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 a of excess sewer capacity in a gravity sewer line that has been constructed to serve territory outside of the allotment, subdivision, development, or similar enterprise 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 Costs¹

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%

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.



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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 Costs¹

Size Necessary for Development	Size Required by MSD					
	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:

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

where 1.98 is the relevant MSD 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 appraisal/purchase cost of the excess sewer capacity by up to, but not to exceed, 10% of the total project cost as it appears in the memorandum of understanding/project agreement and the Capital Improvement Plan, subject to the limitations described in Sections E, F, and G.
- E. ~~To avoid public subsidy of private development, the~~ The Board's share of the costs in no case shall exceed the proportion of capacity serving the territory outside the allotment, subdivision, development, or similar enterprise for which it was originally constructed/development compared with the capacity serving inside the development. For example, if 60% of the capacity will serve a territory inside the development, then the Board's share is limited to a maximum of 40% of costs or



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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 appraisal, or purchase price, and the sewer or segment of sewer has been examined by the County Sanitary Engineer through the Director of the MSDGC (or his designee) and is accepted as properly designed and constructed, in accordance with the project agreement. Payment may be made only upon the developer's submission of the proper City of Cincinnati Claim Voucher invoice 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 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 allotment, subdivision, development or other such enterprise for which it is 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 allotment, subdivision, development or other such enterprise for which it was constructed versus the developer's costs of construction to serve territory outside the allotment, subdivision, development or other such enterprise.



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III. Acquisition of Certain 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, ~~developer~~Sewer District, project agreements may be negotiated for review and approval by the Board with a person or entity ~~to have constructed and later acquired by 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 ~~developer~~project agreement and the resulting sanitary flows ~~from the new development~~ shall be consistent with the provisions of this Policy.

- A. The use of ~~developer~~project agreements 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 ~~developer~~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. ~~However, any tap fees paid by new users being served by excess capacity purchased by the Board under the excess capacity purchase provisions of this Policy shall be retained by the Board to the extent of purchased excess capacity;~~



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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 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. ~~Any tap fees paid by new users being served by excess capacity purchased by the Board shall be retained by the Board to the extent of purchased excess capacity.~~
- 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. ~~Individual developer agreements shall be entered into with MSDGC for each new development.~~ 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 ~~developer~~ 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 ~~developer~~ project agreement and shall include, at a minimum, the following provisions:

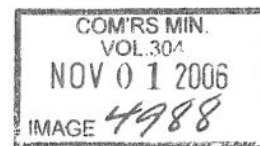
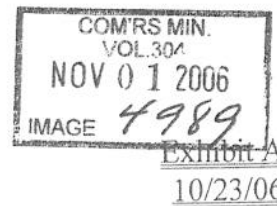


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1. The amount of the tap fee shall be the standard system wide tap fee charged by MSDGC to new users connecting to the MSDGC system in effect at the time the new user pays the tap fee to MSDGC. Nothing in this Policy prohibits the Board from increasing 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, land costs, 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.
 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 ~~developer~~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 ~~developer~~project agreement shall include charges to fully reimburse 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 ~~transferring ownership of~~requesting to transfer the Limited Sanitary Facilities to the Board, such as deeds, bills of sales, public dedication and ~~acceptance agreement~~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 ~~developer~~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 and conditions under which the Board may complete the construction of the Limited Sanitary Facilities in the event the Limited Sanitary Facilities are not completed shall be specified in the developer agreement.~~ Warranties, 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.
- N. ~~A developer~~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.

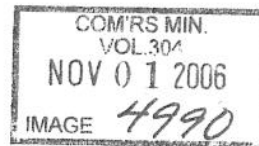


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- O. A form developer agreement utilizing tap fee reimbursement is attached to this policy that may be used as a guide. A developer project agreement utilizing front footage charges, tap fee credits, cost of available excess capacity to other nearby 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 was _____, October 23, 2006.