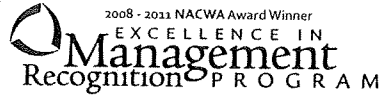
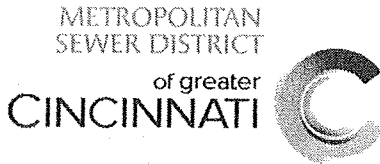


MSD Fact Sheet



VOL. 320
DEC 15 2010
IMAGE 4549

James A. Parrott
Executive Director
December 1, 2010

PROJECT NAME: METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI
AMENDING RULES AND REGULATIONS
ARTICLE V, SECTION 514

LEGISLATIVE REQUEST:

DESIGN¹ ADD'L DESIGN² CONSTRUCTION³ EASEMENT APPROPRIATION⁴

OTHER:⁵ Resolution to amend the Rules and Regulations of the Metropolitan Sewer District of Greater Cincinnati, modifying Article V, "APPROVAL OF PLANS FOR WASTEWATER TREATMENT WORKS," Section 514, "Development Provisions".

PROJECT TYPE:	<input type="checkbox"/> Project Groundwork /WWIP	<input type="checkbox"/> Asset Mgmt.	<input checked="" type="checkbox"/> Other
	<input type="checkbox"/> Green Infrastructure Project	<input type="checkbox"/> Assessment	

WWIP Activity ID: _____ WWIP Completion Date: _____

PROJECT DESCRIPTION:

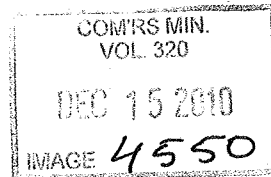
The public hearing is required to amend the MSD Rules and Regulations at Article V, Section 514. The proposed modifications of Section 514 are necessary to promote economic development and enhance redevelopment in areas that are restricted due to a lack of wet weather capacity (lack of sewer connection credits) in the sewer system. Not only will these changes allow for removal of stormwater from the system, but it will provide a cost effective means for addressing compliance with combined sewer overflows and implementation of capacity assurance for sanitary sewer overflows. The modifications include the following:

1. Renaming the section to more accurately reflect the purpose of this Section;
2. Moving former sections 515 and 516, which deal with creation of sewer credits, under Section 514;
3. Expanding the tap-in fee reimbursement program to include projects that have created sewer credits;
4. Modifying the sewer purchase provisions to include certain stormwater improvements

The Board will hold a public hearing on the proposed amendments on December 8, 2010 as required under the 1968 City – County Management Agreement for MSD, thereby affording all interested parties the opportunity to comment. The hearing was advertised in the *Cincinnati Enquirer* and MSD notified interested parties via regular and electronic mail. Additionally, the MSD website, <http://www.msdc.org>, contains the public hearing notice and the amendments for public review.

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.

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

December 1, 2010

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

Milton Dohoney, Jr.
City Manager

Honorable Commissioners:

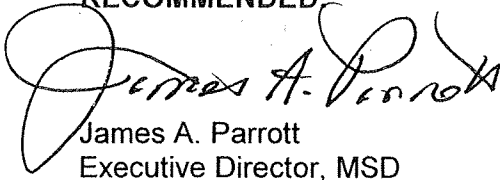
Enclosed for your consideration and approval is a resolution pertaining to proposed changes to the Article V, Section 514 of the *Rules and Regulations* for the Metropolitan Sewer District of Greater Cincinnati.

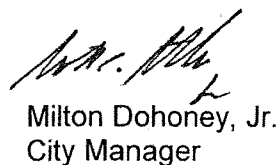
The Board will conduct a public hearing, as required under Section 5.2 (b) of the 1968 Hamilton County-City of Cincinnati Management Agreement for the Metropolitan Sewer District, on December 8, 2010. MSD advertised the public hearing in a newspaper of general circulation, as well as notified interested parties by mail of the public hearing.

The resolution concludes the public hearing and amends the existing Rules and Regulations providing for the modification to Section 514.

RECOMMENDED:

Approved:

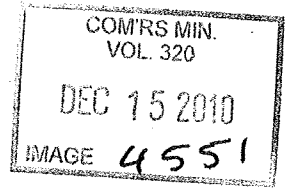

James A. Parrott
Executive Director, MSD


Milton Dohoney, Jr.
City Manager

Provided to the Hamilton County Compliance Coordinator on _____.

Reviewed by _____, and recommended by County Administration.

On motion of Mr. Portune, seconded by Mr. Pepper, the following resolution was adopted....



MSD RESOLUTION

CONCLUDING THE PUBLIC HEARING
TO CONSIDER CHANGES TO ARTICLE V, SECTION 514 OF
THE RULES AND REGULATIONS OF THE METROPOLITAN SEWER DISTRICT
OF GREATER CINCINNATI

WHEREAS, the Board of County Commissioners of Hamilton County, Ohio, on the 8th day of December, 2010, conducted a public hearing to receive and consider comments, remonstrances and objections to proposed modifications to ARTICLE V, SECTION 514, of the Rules and Regulations of the Metropolitan Sewer District of Greater Cincinnati, Hamilton County, Ohio, and the names of persons appearing at said hearing have been entered in the minutes.

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

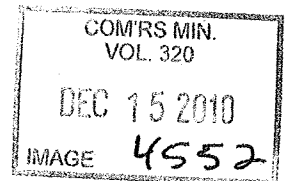
BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of this Board of County Commissioners and of its 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 15th day of December, 2010.

Mr. Hartmann YES

Mr. Pepper YES

Mr. Portune YES



MSD 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 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 ("MSD"); and

WHEREAS the Board did, after public hearing, adopt "A Policy for the Purchase by Hamilton County of Excess Sewer Capacity Made Available by Private Development," on July 15, 1998; and

WHEREAS the Board did, pursuant to and consistent with Article V, Paragraph 2(b) of the 1968 Agreement, after public hearing, adopt revised Rules and Regulations for MSD, and as subsequently amended, which journalized "A Policy for the Purchase by Hamilton County of Excess Sewer Capacity Made Available by Private Development," as Article V, Section 514 on January 24, 2001; and

WHEREAS, the Board did, pursuant to and consistent with Article V, Paragraph 2(b) of the 1968 Agreement, the Board did, after public hearing, adopt Article V of the Rules and Regulations, for MSD, adding Section 515, "Sewer System Connection Credits" on August 28, 2002, and

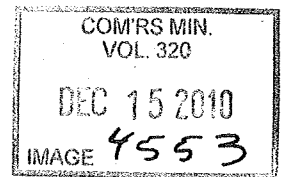
WHEREAS, the Board did, pursuant to and consistent with Article V, Paragraph 2(b) of the 1968 Agreement, the Board did, after public hearing, adopt Article V of the Rules and Regulations, for MSD, adding Section 516, "Combined Sewer System Connection Credits" on October 13, 2004, and

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

WHEREAS, the Board did, pursuant to and consistent with Article V, Paragraph 2(b) of the 1968 Agreement, the Board did, after public hearing, adopt Article V of the Rules and Regulations, for MSD, amending Section 514, "Policy for the Acquisition by Hamilton County of Sanitary Facilities Constructed or Made Available by Private Sewer Development" on March 28, 2007, and

WHEREAS, the Executive Director of MSD recommends to this Board that Sections 514, 515, and 516 of Article V of the Rules and Regulations for MSD should be amended to clarify the intents and purposes of these sections and has presented a revised Section 514 to this Board for their consideration, attached hereto and by this reference made a part hereof as Exhibit A; and

WHEREAS, the Board did pursuant to and consistent with Article V, Paragraph 2(b) of the 1968 Agreement, the Board did, hold and conclude a public hearing on amendment to Article V, Section 514 of the Rules and Regulations for MSD, affording public comment on the same.



NOW, THEREFORE, BE IT RESOLVED, that Article V of the Rules and Regulations for MSD is hereby amended by the clarifications and modifications to Section 514, "Development Provisions" as contained in Exhibit A.

BE IT FURTHER RESOLVED, that Sections 514, 515, and 516 in Article V of the Rules and Regulations for MSD, as adopted August 28, 2002, October 13, 2004, and March 28, 2007 are hereby repealed.

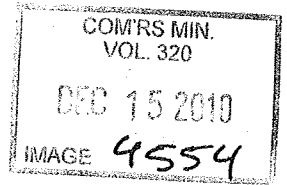
BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of this Board of County Commissioners and of its 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 15th day of December, 2010.

Mr. Hartmann YES

Mr. Pepper YES

Mr. Portune YES



CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution adopted by the Board of County Commissioners in session this 15th day of December 20 10.

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 15th day of December 20 10.

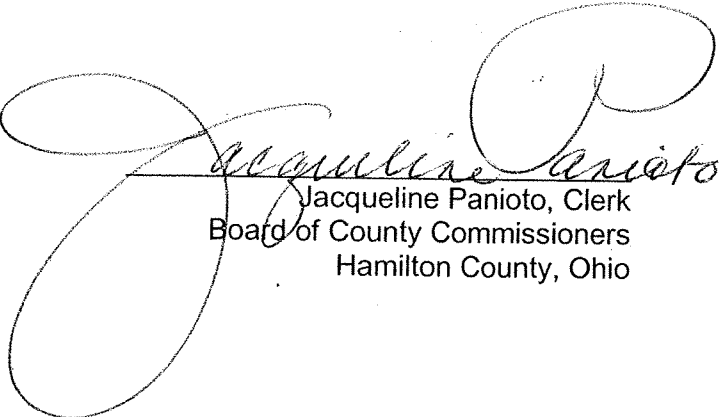
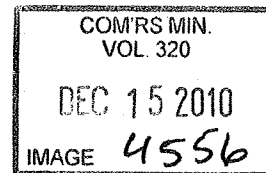

Jacqueline Panioto, Clerk
Board of County Commissioners
Hamilton County, Ohio

EXHIBIT A

COM'RS MIN.
VOL. 320
DEC 15 2010
IMAGE 4555



Section 514 Development Provisions

I. Acquisition by Hamilton County of Sanitary Facilities or Connection Credit Storm Water Facilities Constructed or Made Available by Private Sewer Development

A. General Provisions – Definitions.

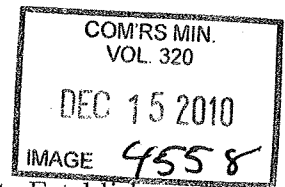
For the purposes of this Section 514:

1. Connection Credit Stormwater Facilities means permanent storm water infrastructure constructed for the development of commercial or residential property in order to establish connection credits under Subsection VI of this Section 514, such as sewers, manholes, pervious pavement, or other appurtenances that promote the removal of storm water from the combined sewer system and are determined by the Board to be cost effective measures to comply with binding orders issued by the Federal Court in Civil Action No. I C1-02-107, including orders concerning Combined Sewer Overflows, Wastewater Treatment Plants and Implementation of Capacity Assurance Program Plan for Sanitary Sewer Overflows approved by the Court, as the same may be amended.
2. Sanitary Facilities means sanitary sewers; force mains; lift or pumping stations; facilities for the treatment, disposal, impoundment, or storage of wastes; and excess capacity in any of the above Sanitary Facilities.
3. Limited Sanitary Facilities means:
 - a. Sanitary sewer main extensions from the down-stream boundary of a participating new development to the point of connection with the existing public sewer main that the District has determined is the appropriate connection point;
 - b. If needed for the development, sanitary sewer main installation along a new development's boundary and across the frontage of other properties not included in the new development;
 - c. Sanitary Facility Improvements (such as manhole or pipe rehabilitation) constructed in order to create connections credits under Subsection V of this Section 514; or
 - d. Wastewater treatment plants.
4. "Tap-in Fee Reimbursement Agreement" means an agreement to reimburse a person or entity for eligible costs for the construction of certain Limited Sanitary Facilities and/or the construction of certain

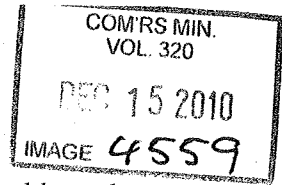
Connection Credit Stormwater Facilities with available tap-in fees.

B. Acquisition of Sanitary Facilities.

1. 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 District, and the 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 shall examine said Sanitary Facilities.
2. If the County Sanitary Engineer finds such Sanitary Facilities properly designed and constructed, he shall certify such findings to the Board through the Director and the Board may accept and acquire the Sanitary Facilities under terms it finds are reasonable.
3. In all cases of the acquisition of Sanitary Facilities (including the purchase of excess capacity or extra work) by the Board, an agreement shall be entered into between the Board and the person or entity requesting the Board to acquire the Sanitary Facilities.
4. An agreement under this Subsection B shall include:
 - a. a description of the Sanitary Facilities requested to be acquired;
 - b. the basis for the acquisition;
 - c. the purchase price (if any);
 - d. applicable construction standards;
 - e. inspection requirements;
 - f. time table for construction and transfer of ownership, easement or other property rights, warranty assignments;
 - g. conditions for payment or reimbursement (if any)
 - h. other terms and conditions the Board deems reasonable.
5. The 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.



- C. Acquisition of Connection Credit Stormwater Facilities Constructed to Establish Connection Credits.
1. Whenever Connection Credit Stormwater Facilities have been constructed by and at the expense of a person or entity in order to establish connection credits under Subsections VI of this Section, and the Board deems it appropriate to acquire the Connection Credit Stormwater Facilities by negotiation (including by purchase, gift, public dedication and acceptance, or other means of transfer) under such terms the Board finds to be reasonable, the County Sanitary Engineer through the Director of the Metropolitan Sewer District shall examine said Connection Credit Stormwater Facilities.
 2. If the County Sanitary Engineer finds such Connection Credit Stormwater Facilities have been properly designed and constructed, he shall certify such findings to the Board and the Board may accept and acquire the Connection Credit Stormwater Facilities under terms it finds are reasonable.
 3. In all cases involving the acquisition of Connection Credit Stormwater Facilities by the Board under this subsection C, (including the purchase of excess capacity or extra work), an agreement shall be entered into between the Board and the person or entity requesting the Board to acquire the Connection Credit Stormwater Facilities.
 4. An agreement under this Subsection C shall be subject to the requirements of these Rules, and shall, at a minimum, include:
 - a. a description of the Connection Credit Stormwater Facilities requested to be acquired;
 - b. the basis for the acquisition cost of the Connection Credit Stormwater Facilities;
 - c. applicable construction standards;
 - d. inspection requirements;
 - e. time-table for construction and transfer of ownership and dedication ;
 - f. easement or other property rights;
 - g. warranty assignments;
 - h. conditions for payment;



i. such other terms and conditions the Board deems reasonable and appropriate.

7. The agreement shall not become effective unless and until accepted by the Board in a Resolution adopted at a regular public session finding that the terms of the Agreement are in the best interest of the ratepayers and the public served by the District, and entered into the Minutes of the Board.

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

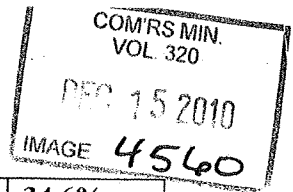
A. If a person or entity contemplates the purchase of excess sewer capacity by Hamilton County, an agreement between the Board and person or entity must be executed and the District's Capital Improvement Plan must be amended to include the project. This agreement must include the timetable for construction, 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. The District may also request and pay for extra work related to a sewer main (e.g., the District requests the sewer main be deeper, the sewer main be extended along the frontage of a development, or other modification to the design of the project beyond the District's standard engineering requirements), in which case a project agreement shall specify the details and payment for the extra work.

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 District, 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 Costs¹

<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%	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 MSD Required Size Factor; or 29.1% of the cost of the 18" sewer.

Relative Jack & Boring Costs¹

<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%

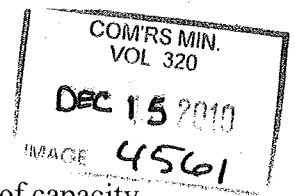
¹(These tables are not intended to include extraordinary circumstances, such as an alignment change or extreme soil conditions. Refer to Sections D and F for such circumstances.)

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 District 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 District, the Director (or his designee) shall have the authority to increase the purchase cost of the excess sewer capacity, sewer main extension, 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.



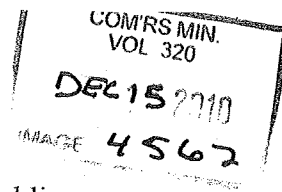
- E. The Board's share of the costs in no case shall exceed the proportion of capacity serving the territory outside the development compared with the capacity serving inside the development. For example, if 60% of the capacity will serve territory inside the development, then the Board's share is limited 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 (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, cost and payment have been submitted to the Director (or his designee) to substantiate the purchase price, and the sewer or segment of sewer has been examined by the County Sanitary Engineer 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.

III. Purchase of Excess Capacity due to Requested Over-sized Pump Station, Wastewater Treatment Plan, Force Main or Application of Pipe Bursting.

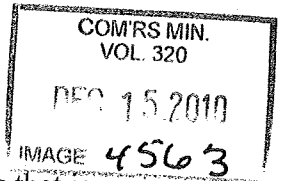
In the event that a pump station, waste water treatment plant, force main or pipe bursting application is required by the District to be upsized or constructed to provide capacity for territory outside of the development for which it was originally constructed, the purchase price of the excess capacity shall be determined on a case-by-case basis as agreed to in an 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.

IV. Tap-in Fee Reimbursement Program for the Acquisition of Limited Sanitary Facilities by Public Dedication and Acceptance, and for the Reimbursement of Connection Credit Stormwater Facilities or Sanitary Facility Improvements

- A. Purpose. In order to promote economic development and enhance through cost effective means compliance with Federal Court Global Consent Decree (Civil Action No. I C1-02-107) 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, as may be amended, and in order to attract new customers within Hamilton County and the District, Tap-in Fee Reimbursement Agreements may, where deemed appropriate by the Board, be negotiated for approval by the Board with a party that:

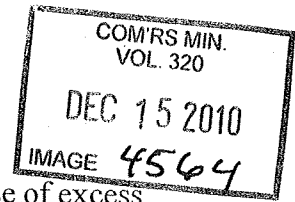


1. Requests reimbursement from tap-in fees for construction and public dedication of certain new or upgraded Limited Sanitary Facilities constructed by the party that the Board determines are necessary and appropriate for the collection, transportation and treatment of sewage from new development; and/or
 2. Requests reimbursement from tap-in fees for the eligible costs to construct Connection Credit Stormwater Facilities or Sanitary Facility Improvements.
- B. The use of Tap-in Fee Reimbursement Agreements to implement this Part IV of Section 514 shall be limited to the construction of Limited Sanitary Facilities, Connection Credit Stormwater Facilities and Sanitary Facility Improvements within Hamilton County.
- C. If connection credits are issued for Connection Credit Stormwater Facilities which are not to be acquired by the Board, the Board may contribute towards the costs of construction of such Connection Credit Stormwater Facilities a maximum amount per affected parcel not to exceed available tap-in fees generated by such Connection Credit Stormwater Facilities under terms and conditions which the Board finds are reasonable and are in accordance with the requirements and limitations of Section 6117.012 of the Ohio Revised Code.
- D. Payments under a Tap-in Fee Reimbursement Agreement will be based on:
1. Tap-in fees from the new users who connect to and will be served by the new or upgraded Limited Sanitary Facilities where only Limited Sanitary Facilities are constructed; OR
 2. Tap-in fees from the new users who connect to and will be served by the new or upgraded Limited Sanitary Facilities and from new users who are now able to and in fact connect to an existing sewer as a result of the construction of Connection Credit Stormwater Facilities and/or Sanitary Facility Improvements where both Limited Sanitary Facilities and Connection Credit Stormwater Facilities and/or Sanitary Facility Improvements are constructed; OR
 3. Tap-in fees from the new users who are now able to and in fact connect to an existing sewer as a result of the construction of Connection Credit Stormwater Facilities and/or Sanitary Facility Improvements where only Connection Credit Stormwater Facilities and/or Sanitary Facility Improvements are constructed.
- E. The Limited Sanitary Facilities, Connection Credit Stormwater Facilities and Sanitary Facility Improvements shall be constructed at the cost and risk of the party requesting the Tap-in Fee Reimbursement Agreement and at no cost to the



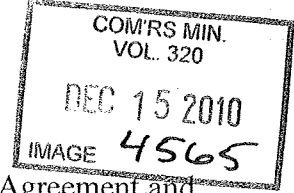
Board with the exception of that part of the Limited Sanitary Facilities that is excess sewer capacity due to over-sizing requested and purchased by the Board in accordance with the excess capacity purchase provisions of this Section 514.

- F. Sanitary flows from a new development shall be consistent with the District's Wet Weather Improvement Plan, including the CSO Long-term Control Plan.
- G. Sanitary flows from a new development shall not interfere or delay compliance with the Federal Court Global Consent Decree (Civil Action No. I C1-02-107) 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, as may be amended.
- H. An application by a party requesting a Tap-in Fee Reimbursement Agreement shall be submitted to the District at the earliest possible stage of the development, along with information the District may require to properly review the request. The terms and conditions in each Tap-in Fee Reimbursement Agreement may vary from development to development. The District shall review the application and prepare the Tap-in Fee Reimbursement Agreement for approval by the Board.
- I. Tap-in Fee Reimbursement Agreements shall include, at a minimum, the following provisions:
 - 1. The amount of tap-in fees eligible for reimbursement shall be limited to fees from additional sewer taps permitted and made as a result of available capacity created by the new Limited Sanitary Facilities, Connection Credit Stormwater Facilities or Sanitary Facility Improvements, and shall be the standard system-wide tap fee charged by the District to new users connecting to the District system in effect at the time the new user pays the tap-in fee to the District. Nothing in this Subsection III prohibits the Board from increasing the standard system-wide tap-in fee at any time.
 - 2. Reimbursement of tap-in fees shall terminate either 1) twelve (12) years from the date of: acceptance of the Limited Sanitary Facilities by the County and/or acceptance of the Connection Credit Stormwater Facilities by the appropriate governmental entity, and/or acceptance by MSD of the Sanitary Facility Improvements, whichever occurs first; or 2) when 100% of the eligible construction costs for the Limited Sanitary Facilities and/or Connection Credit Stormwater Facilities and/or Sanitary Facility Improvements have been reimbursed, 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, site preparation, site restoration, and other incidental construction costs if properly



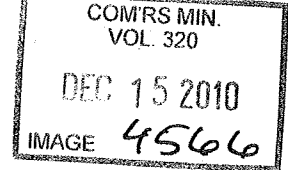
documented, less any costs paid by the County for the purchase of excess capacity, or extra work requested.

4. Tap-in fees shall be reimbursed on a quarterly basis. The amount reimbursed shall be based on the number of tap permits that have been issued by the District for the previous quarter and the actual tap-in fee amount paid by the new user. The tap-in fees shall be reimbursed to the party requesting the Tap Fee Reimbursement Agreement upon submission of the proper form and confirmation that 100% of the eligible construction costs have not been exceeded or that 12 year time limit set out in H.2. (above) has not elapsed.
 5. Tap-in fees paid by new users to connect to the new or upgraded Limited Sanitary Facilities or eligible to connect to an existing sewer as a result of the Connection Credit Stormwater Facilities and/or Sanitary Facility Improvements 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.
- J. Neither the Board nor the District 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 or Connection Credit Stormwater Facilities.
- K. Tap-in Fee Reimbursement Agreements shall not be assigned or transferred to any other party without the prior written approval of the Board. Conditional assignment of the right of reimbursement to the party financing the development may be included in the Tap-in Fee Reimbursement Agreement.
- L. All Limited Sanitary Facilities shall be constructed in compliance with the Rules and Regulations of the District. The Tap-in Fee Reimbursement Agreement shall include charges for the inspection and certification of the Limited Sanitary Facilities and/or the Sanitary Facility Improvements by the County Sanitary Engineer and the District to the Board that the Limited Sanitary Facilities and/or Sanitary Facility Improvements have been designed and constructed properly. The Connection Credit Stormwater Facilities shall be constructed in compliance with the rules of the appropriate jurisdiction. Proof that the Connection Credit Stormwater Facilities have been so constructed shall be provided to the District prior to the initial request for reimbursement.
- M. All documents to effect the transfer of the Limited Sanitary Facilities to the Board, such as deeds, bills of sales, public dedication and acceptance agreement, and proof that all contractors and subcontractors have been paid in full, shall be

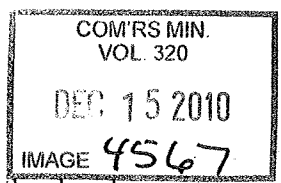


prepared by the party requesting a Tap-in Fee Reimbursement Agreement and submitted to the District for approval.

- N. The timing and conditions for the transfer of the Limited Sanitary Facilities to the Board shall be specified in the Tap-in Fee Reimbursement Agreement. The Board shall not accept any Limited Sanitary Facilities unless and until the County Sanitary Engineer 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.
 - O. 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 Tap-in Fee Reimbursement Agreement.
 - P. The Tap-in Fee Reimbursement 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.
- V. Sewer System Connection Credits
- A. Connection credits are required for new sewers, sewer extensions or an increase in flow associated with new development or from a change in use when:
 - 1. The proposed connection is upstream of an SSO; or
 - 2. The proposed connection is into a sanitary sewer which flows to a combined sewer system upstream of a CSO.
 - B. Connection credits are established by making water quality improvements that will remove inflow and/or infiltration to the sewer system upstream of the SSO or CSO. Typically, such water quality improvements are manhole and sewer rehabilitation. The approved ratio is five (5) gallons of storm water removed for every one (1) gallon of sewerage to be added to the system.
 - C. If MSD does not have available connection credits for a new development upstream of the SSO or the above-described CSO, the developer has the option to:
 - 1. Establish the connection credits for his development by making water quality improvements at its own expense; or
 - 2. Request placement on a waiting list for the connection credits when they are established at some future date by the District.



- D. If the developer chooses to make the water quality improvements and not wait for the District to establish the connection credits, the procedure to be followed is:
1. The developer will notify the District of its intention to make water quality improvements and request the assistance of the District in identifying the specific manholes and pipe where credits can be established that will permit their development.
 2. The District will evaluate the specific manholes or sewer pipes identified for water quality improvements, assign a connection credit value in accordance with the guide lines set forth in the Short Term Adequate Capacity Plan, and provide this information to the developer.
 3. The developer will notify the District as to which improvement it chooses to make.
- E. A developer choosing to perform the work to obtain the credits shall follow these guide lines:
1. Work shall be performed by a contractor currently approved by the District for the specified work. The District shall provide a list of such contractors to the developer
 2. Work shall be performed using the District's standards and specifications for sewer improvements and/or rehabilitation. The District will provide field inspection at no cost to the contractor.
 3. The developer will contract privately and, except as otherwise provided in Subsections I and IV of this Section 514, pay for all improvement work. The District will not be a party to any such contract. The developer must provide the District with proof that the contractor has been paid in full.
 4. The sewer improvements and/or sewer rehabilitation must meet the District's standards and specifications before acceptance by the District and the subsequent issuance of connection credits.
 5. Only sewer improvements/sewer rehabilitation for an entire unit or stretch of sewer will be considered as a means of obtaining construction credits, even if excess credits are generated. For example, pipe lining or rehabilitation from manhole to manhole will be required.
 6. In the event that the scope of work for a sewer improvement and/or sewer rehabilitation project will provide more connection credits than is needed for the proposed new development, the excess connection credits will be reserved for the developer for a period of three years from the time of the



acceptance of the sewer improvement/rehabilitation unless the developer can demonstrate that said developer is working from a master plan for areas under the developer's control and the master plan cannot be accomplished in the three-year term. Under these circumstances, the sewer credits will extend through the term of the master plan. After the three-year period the excess connection credits will be utilized by the District for other connections to the sewer system. There will be no reimbursement for excess credits. Excess credits can be used only in the basin upstream of the SSO.

7. CREDITS ARE NOT ASSIGNABLE OR TRANSFERABLE.

VI. Combined Sewer System Connection Credits

- A. Connection credits are required for new sewers, sewer extensions or an increase in flow associated with new development or from a change in use when:
 - 1. The proposed connection is upstream of a CSO; or
 - 2. The proposed connection is into a sanitary sewer that flows to a combined sewer system upstream of a CSO.

- B. This section will apply for all projects that will introduce a net increase in flow to the system upstream of a CSO and would be triggered if any project necessitated a permitting action with an associated increase in flow or requires an increase in the water meter size (or number) because of a need for increased flow through a given facility. If the connection is upstream of a CSO and an SSO, then the overflow that is the closest to the point of connection determines whether Subsection V of this Section 514 or this Subsection VI prevails.

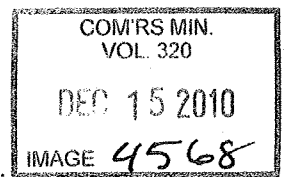
- C. Connection credits are established by making water quality improvements that will remove inflow and/or infiltration or, in some circumstances, a controlled release detention of flow (as approved by OEPA), to the sewer system upstream of the CSO and must be used in the same sewer system upstream of the CSO.

The developer must remove 1-gallon of average daily storm water flow for each gallon of proposed new sanitary flow to the combined sewer system. The number of sewer credits generated by storm water separation is based on the 10-year storm event and calculated using the Rational Method as follows:

- a. Calculate the instantaneous flow rate for stormwater removed from the combined sewer system:

$$Q_{10} = C_i A, \text{ where}$$

$$Q_{10} = \text{Instantaneous Flow Rate for the 10-year Storm (ft}^3\text{/second)}$$



C =Runoff Coefficient (dimensionless) – See Section 303(E) for
Runoff Coefficients

i = 10-year Storm Rainfall Intensity (2.03 inches/hour)

A = Drainage Area Being Separated from the Combined Sewer
System (Acres)

- b. Convert Q10 from cubic feet per second to gallons per day.
- c. Divide the Instantaneous Flow Rate by the Peak Flow Factor to obtain the average daily flow rate for stormwater removed from the combined sewer system:

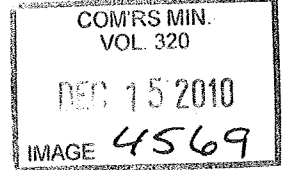
Peak Flow Factor = 4.0 (dimensionless)

Average Daily Stormwater Flow = $Q_{10}/4.0$ (gallons per day)

- d. Calculate the number of sewer credits generated by dividing the Average Daily Stormwater Flow by 400 gallons per day per credit:

CSO Credits = Average Daily Stormwater Flow / 400 gallons per day per credit

- D. If the District does not have available connection credits for a new development upstream of the CSO described above, the developer has the option to:
 1. Establish the connection credits for his development by making water quality improvements approved by the District at his own expense; or
 2. Request placement on a waiting list for the connection credits when they are established at some future date by the District.
- E. If the developer chooses to make the water quality improvements and not wait for the District to establish the connection credits, the procedure to be followed is:
 1. The developer will work with the District to identify the specific improvements for which he/she believes that connection credits can be established that will permit their development.
 2. The improvements may use an existing sewer or new sewer connection.
 3. The ratio of flow removed to new flow added to the system is 1-to-1 (gallons).
 4. The District will notify the developer of the number of connection credits available if the work is completed.



5. A developer choosing to perform the work to obtain the credits shall:
 - a. Perform the work by a contractor currently approved by the District for the specified work. The developer will contract privately and, except as otherwise provided in Subsections I and IV of this Section 514, pay for all improvement work. The District will not be a party to any such contract.
 - b. Use the District's standards and specifications for sewer improvements and/or rehabilitation. The sewer improvements and/or sewer rehabilitation must meet the District's standards and specifications before acceptance by the District and the subsequent issuance of connection credits.
 - c. Where appropriate and approved by the District, the developer together with the local storm sewer authority may redirect storm water out of the combined sewer into a public storm sewer, upstream of the CSO in which additional wastewater will be added, as a means to obtain these credits.
 - d. Obtain field inspection by the District of the completed improvement.

- F. In the event that the scope of work for a sewer improvement and/or sewer rehabilitation project will provide more connection credits than is needed for the proposed new development, the excess connection credits will be reserved for the developer for a three-year period unless the developer can demonstrate that he is working off of a master plan for areas under his control and that the master plan cannot be accomplished in the three-year term. Under the preceding circumstances, credits will extend through the term of the master plan. After the three-year period, the excess connection credits will be utilized by MSD for other connections to the sewer system. There will be no reimbursement for excess credits.

- G. CREDITS ARE NOT ASSIGNABLE OR TRANSFERABLE.