

**RESOLUTION SUSPENDING METROPOLITAN SEWER DISTRICT CAPITAL PROJECTS
BASED ON ILLEGAL UNAUTHORIZED PROCUREMENT POLICIES**

WHEREAS, the Metropolitan Sewer District of Greater Cincinnati (MSD) was created and exists as a County Sewer District under Chapter 6117 of the Ohio Revised Code; and

WHEREAS, under an agreement entered into in 1968, the City of Cincinnati serves as the sole agent of the Board of County Commissioners (Board) in operating the sewer district; and

WHEREAS, under ORC Section 307.15, the County may enter into agreements with a municipal corporation to perform any function or render any service on behalf of the County that the County may exercise, perform or render; and

WHEREAS, the County's powers are limited to those specifically granted by statute; and

WHEREAS, on April 18, 2012, the City of Cincinnati enacted Ordinance 124-2012 modifying the provisions of Chapter 321 of the Cincinnati Municipal Code pertaining to Procurement and Disposal of Supplies, Services and Construction which placed into effect a policy which hereafter shall be referred to as the "Local Business Preference" policy for implementation for City contracts including those awarded by MSD; and

WHEREAS, the City of Cincinnati on June 26, 2012, established Ordinance 282-2012 which enacted Chapter 320, Compliance Guidelines for Construction Contracts Issued by the Department of Sewers, and amended Section 318-5 of the Cincinnati Municipal Code, and enacted a new Section 318-1-A1 of that code to implement a "Responsible Bidder" Policy; and

WHEREAS, the Board formally re-established on January 16, 2013 the fact that procurement policies implemented within MSD must be limited to the authority specifically provided to counties under the Ohio Revised Code unless otherwise authorized by the terms of a grant; and

WHEREAS, on January 16, 2013 the Board also resolved to "establish a joint working group" with the City of Cincinnati for "the purpose of drafting and recommending a new model procurement policy, for MSD, consistent with Ohio law, limited to the authority and powers of the Board under the Ohio Revised Code."

WHEREAS, the "Local Business Preference" and "Responsible Bidder" policies were not immediately implemented to allow the Board and City of Cincinnati an opportunity to establish the aforementioned working group and develop mutually agreed upon enhancements to these policies.

WHEREAS, the City of Cincinnati unilaterally implemented the "Local Business Preference" on May 1, 2013.

WHEREAS, under the Ohio Revised Code, the County and, therefore, MSD cannot include geographic based preferences within its determination of lowest and best bid in the procurement of goods and services.

WHEREAS, the City of Cincinnati unilaterally adopted Ordinance 114-2013 modifying the "Responsible Bidder" policy without consultation with the County.

WHEREAS, the Board has serious concerns with elements of the modified "Responsible Bidder" policy that stifle competition, increase project costs and not have the desired effect in developing the local work force for the future needs of the MSD \$3 billion capital program.

NOW, THEREFORE BE IT RESOLVED, that the Board is suspending approval of capital project bidding and capital budget appropriations within MSD.

FURTHER BE IT RESOLVED, the Board hereby directs that MSD immediately cease implementation of the policies known as the "Local Business Preference" and "Responsible Bidder Policy."

FURTHER BE IT RESOLVED, that this suspension will remain in effect until the "Local Business Preference" policy is officially rescinded by the City of Cincinnati and the "Responsible Bidder" policy is revised pursuant to the aforementioned collaborative process.

FURTHER BE IT RESOLVED, that the Clerk of the Board be and hereby is authorized and directed to certify copies of this resolution to Christian Sigman, Hamilton County Administrator, Dusty Rhodes, Hamilton County Auditor, Jim Harper, Hamilton County Chief Assistant Prosecuting Attorney, JoAnn Cramer, County Purchasing Director, Tony Parrott, Director of the Metropolitan Sewer District, Milton Dohoney, City Manager of the City of Cincinnati, and Jeff Aluotto, Assistant County Administrator.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, in session this 22nd day of May, 2013.

Mr. Hartmann _____ Mr. Monzel _____ Mr. Portune _____

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 the _____ day of _____, 2013.

IN WITNESS WHEREOF, I have set my hand and affixed the Official Seal of the Office of the Board of County Commissioners of Hamilton County Ohio this _____ day of _____, 2013.

Jacqueline Panioto, County Clerk
Board of County Commissioners