



# Hamilton County

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July 20, 2018

The Honorable Michael R. Barrett  
U.S. District Judge  
815 Potter Stewart U.S. Courthouse  
Room 239  
100 East 5th Street  
Cincinnati, OH 45202

Re: Extension of 1968 MSD Operating Agreement  
*United States, et al. v. Board of County Commissioners of Hamilton County, OH, et al.*,  
Case No. 1:02CV107, U.S. District Court, Southern District of Ohio

Dear Judge Barrett:

This letter proposes that you assist the City and County in agreeing to a simple extension of the MSD 1968 Agreement in order to continue working together toward the previously agreed upon transition of MSD. The simple extension would be until July 1, 2019.

As we all know, in April 1968, the County and City entered into an Agreement whereby the City would operate MSD on behalf of the County for 50 years. Although the 1968 MSD Agreement was scheduled to expire on April 30, 2018, as a result of the Court directed Mediation in this case, the County and City agreed to extend that date to September 30, 2018 in the MSD Operation Transition and Cooperation Agreement Commitment Letter, dated August 14, 2017 (Commitment Letter). This extension was ratified in the MSD Operation Transition and Cooperation Agreement between the City and County, dated June 13, 2018 (Transition Agreement). Both the Commitment Letter and Transition Agreement have been filed with the Court. Having conducted the Mediation which resulted in the Commitment Letter and Transition Agreement, you retained jurisdiction over the parties and the Commitment Letter until its two conditions precedent are satisfied. One condition precedent requires action of the General Assembly and the other requires action by the Federal Court. Both conditions precedent require further action, and it is now clear that both of those conditions precedent will not be satisfied by September 30.

In order to preserve the significant work invested in the Commitment Letter and Transition Agreement, to avoid unnecessary confusion to MSD employees, customers, bondholders, lenders, and other stakeholders, and to avoid delay in the implementation of the Consent Decree, we propose a simple extension of the MSD 1968 Agreement to July 1, 2019. We believe this simple extension is consistent with the terms and spirit of the Commitment Letter, Transition Agreement and Mediation. The nine month extension will hopefully be adequate time to resolve this matter and it happens to be the approximate amount of time between the date when the Transition Agreement was to have been signed (September 30, 2017) and the date of execution (June 13, 2018). Logistically, simple amendments to the Commitment Letter and Transition Agreement need only change the existing expiration date of "September 30, 2018" to "June 30, 2019".

The Board is prepared to pass a Resolution to that effect soon. By this letter the County asks the Court to assist in securing the agreement of both the County and City to a simple extension through July 1, 2019. We copy the City and other key stakeholders so they are aware of our position and request for your assistance. Thank you for your continued leadership in this important matter.

Sincerely,



Todd Portune  
President



Denise Driehaus  
Vice President



Jeff Aluotto  
County Administrator

cc: Hon. John Cranley, Mayor, City of Cincinnati  
Members of City of Cincinnati City Council  
Hon. Patrick Duhaney, Acting City Manager, City of Cincinnati  
Diana Christy - Interim MSD Director  
Mayors, Councils, and Trustees of Hamilton County communities served by MSD  
Marilyn Wall - Sierra Club

Ohio EPA Southwest District Office  
ATTN: DSW Enforcement Group Leader  
401 East Fifth Street  
Dayton, OH 45402-2911

The Honorable Michael R. Barrett

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Executive Director and Chief Engineer

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Chief, Environmental Enforcement Section

Environment and Natural Resources Division

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Reference DJ # 90-5-1-6-341A

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