Connecticut Department of
ENERGY &
ENVIRONMENTAL
PROTECTION

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DRAFT Clean Water Fund Memorandum (2013-002)

TO: All Connecticut Municipalities and Consultants

RE: Utility Relocation Reimbursement for Clean Water Fund Projects

I. PURPOSE

To reaffirm the reimbursement formula used in determining the equitable reimbursement to municipalities for necessary relocation of utilities found to be in conflict with potential infrastructure to be installed under a Connecticut Clean Water Fund project. This memorandum supersedes a Construction Grants Memorandum dated July 3, 1980 entitled "Utility Relocation Cost".

II. GOVERNING REGULATION/STATUTE

The Regulations of the Connecticut State Agencies (RCSA) Section 22a-482-4 (c) (2) (B) includes the following as an allowable grant project cost, subject to approval of the Commissioner:

"The cost of removal, relocation or replacement of utilities, for which the municipality is legally obligated to pay under C.G.S. Section 22a-470…"

In January 1988, the Supreme Court of Connecticut determined in the case of The Town of Trumbull et al. v. The State of Connecticut et al. (Case No. 13138) that the following Department of Environmental Protection utility reimbursement formula was the appropriate formula for establishing the equitable share for reimbursement to the utility company by a municipality. Per Connecticut General Statutes (CGS) Section 22a-470:

Equitable Share a municipality is legally obligated to reimburse for utility relocation

$$= \text{Relocated/Readjusted Utility}$$

$$\left(- \text{Cost of Original Installation} \times \frac{\text{Expired Useful Life}}{\text{Life Expectancy Original Facility}} \times \frac{\text{ENR Current}}{\text{ENR Original Installation}} \right)$$

$$\text{In-Kind Construction Cost}$$

$$- \text{Value of Material Salvaged}$$

III. ELIGIBILITY

A. Utility Relocation Reimbursement

The following formula shall be utilized to determine eligibility for reimbursement under the CWF:

CWF Eligible Utility Relocation Reimbursement =

$$\left(\text{Relocated/Readjusted Utility In-Kind Construction Cost} \times \frac{\text{Unexpired Useful Life}}{\text{Life Expectancy Original Facility}}\right) - \text{Value of Material Salvaged}$$

B. Notes / Exceptions

1. Maximum useful life for all utilities is 100 years.

2. Reimbursement will not be less than 20% of Relocated/Readjusted Utility In-Kind Construction Cost for utilities that have theoretically exceeded their useful life. At no point will the ratio [Unexpired Useful Life / Life Expectancy of Original Facility] be less than 0.20.

3. Relocated utility infrastructure, including perpendicular conflicts or vertical offsets, of less than 100 linear feet, will be reimbursed for 100% of costs to relocate the affected utility.

4. The reimbursement formula only applies to utility relocations within municipal easements.

5. The same formula will be applied to all utility relocations, regardless of the utility owner.

C. Examples

Example 1: Utility cost to relocate: $100,000
Age of Utility: 50 years old
Life Expectancy: 100 years
Value of Material Salvaged: $10,000

{$100,000 X [(100 – 50 years) / (100 years)]} - $10,000 = $40,000 to be reimbursed

Example 2: Utility cost to relocate: $100,000
Age of Utility: 90 years old
Life Expectancy: 100 years
Value of Material Salvaged: $10,000

Since this pipe's [Unexpired Useful Life/ Life Expectancy of Original Facility] ratio is only 0.10 (10%), it would be reimbursed at 20%.

[$100,000 X (20%)] - $10,000 = $10,000 to be reimbursed

D. Reimbursement Process

Utility relocation costs shall be included as an "allowance" or as a separate bid item. The allowance must have been part of the CWF application request and approval.

The municipality is responsible for obtaining quotes/estimates from utilities, coordinating utility relocation and reimbursing the utility. Once a quote/estimate is received by the municipality, it should be forwarded to the DEEP project engineer for consideration under the utility reimbursement allowance. The quote/estimate shall include at a minimum, the age of the existing infrastructure, the cost to relocate, the value of any salvageable material and the existing location(s), length(s), size(s), and material(s) of the utility to be relocated.

E. Davis Bacon Requirements

In order to receive CWF reimbursement, utility relocation work must be part of a CWF project and comply with Davis-Bacon requirements.

F. Formula Derivation

1. Equitable Share (a municipality is legally obligated to reimburse for utility relocation)

$$= \text{Relocated/Readjusted Utility}$$

$$\left(- \text{Cost of Original Installation} \times \frac{\text{Expired Useful Life}}{\text{Life Expectancy Original Facility}} \times \frac{\text{ENR Current}}{\text{ENR Original Installation}} \right.$$
$$\left. \text{In-Kind Construction Cost} \right)$$

$$- \text{Value of Material Salvaged}$$

2. Let

A = Relocated/Readjusted Utility In-Kind Construction Cost
B = Cost of Original Installation

C = Expired Useful Life
D = Life Expectancy Original Facility
E = ENR Current
F = ENR Original Installation
G = Value of Material Salvaged
H = Unexpired Useful Life

Therefore,

$$Equitable\ Share = A - \left[B \times \frac{C}{D} \times \frac{E}{F}\right] - G$$

3. **It has been estimated that**

$$A \sim B \times \frac{E}{F}$$

4. **Rearrange formula**

$$= A - \left[\left(B \times \frac{E}{F}\right) \times \frac{C}{D}\right] - G$$

5. **Substitution**:

$$= A - \left[A \times \frac{C}{D}\right] - G$$

$$= A\left(1 - \frac{C}{D}\right) - G$$

6. **We know that**

$$D = C + H$$

So that

$$1 - \frac{C}{D} = \frac{H}{D}$$

7. **Substitution:**

$$Equitable\ Share = \left[A \times \frac{H}{D}\right] - G$$

8. **Which equates to:**

CWF Eligible Utility Relocation Reimbursement =

$$\left(\textbf{Relocated/Readjusted Utility In-Kind Construction Cost} \times \frac{\textbf{Unexpired Useful Life}}{\textbf{Life Expectancy Original Facility}}\right) - \textbf{Value of Material Salvaged}$$

IV. DEFINITIONS

CGS: Connecticut General Statutes

CWF: Clean Water Fund

CWF Eligible Utility Relocation Reimbursement: The equitable share a municipality is legally obligated to reimburse for utility relocation, which is eligible for CWF grant and loan.

DEEP: Connecticut Department of Energy and Environmental Protection

ENR: *Engineering News Record* Construction Cost Index

RCSA: Regulations of the Connecticut State Agencies

Relocated/Readjusted Utility In-Kind Construction Cost: The term originally defined in Public Act 79-526 as the current utility relocation cost, based on the pipe size and pipe material used in the original installation.

Useful Life: Notwithstanding the definition in RCSA 22a-482-1 (a) (41), for the purposes of this memo, useful life means the period during which a facility is expected to be usable, with normal repairs and maintenance, for the purpose it was acquired/constructed. Useful life is expressed in years.

Utility: For the purposes of this memo, utility means "public service facility" as defined in CGS 22a-470.

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