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## ***ENGINEERING DIRECTIVE***

Tom Broderick (signature on original)

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CHIEF ENGINEER

### **MassDOT Utility Reimbursement Policy**

#### **General**

This Engineering Directive defines the MassDOT Utility Reimbursement Policy for all projects advertised after September 30, 2012.

MassDOT shall reimburse utility owners for necessary relocations of their facilities within MassDOT projects. Private utility owners shall be reimbursed through an incentive-based policy, and municipal utility owners shall be fully reimbursed.

The following criteria shall apply to all MassDOT Highway Division construction projects. This includes Federal-Aid (FA) projects and Non-Federal-Aid (NFA) projects.

#### **Reimbursement Policy**

##### *Privately-owned Utilities*

- MassDOT shall reimburse the owners of privately-owned utilities 50% of the actual costs incurred for necessary relocation of their facilities on an incentive/schedule basis, except as noted below.
- MassDOT may, on a case-by-case basis, vary the reimbursement percentage for incentive-based relocation of privately-owned utilities. In these cases, MassDOT shall provide written notification of the reimbursement percentage to the utility owner prior to execution of the Utility Relocation Force Account Agreement for the relevant work.
- For privately-owned utilities holding ownership fee to property or occupancy easement rights, including Railroads, MassDOT shall reimburse the owners of these utilities 100% of the actual costs incurred for necessary relocation of their facilities.

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### Municipally-owned Utilities

MassDOT shall reimburse the owners of municipally-owned utilities 100% of the actual costs incurred for necessary relocation of their facilities.

### Relocations/Adjustments of Private Underground Utility Service Connections

- Typically, underground utility service connections to private customers are owned by the customers. As a result, according to the utility owners, if a customer-owned underground utility service connection needs to be relocated or adjusted, the utility owner is not responsible for this work.
- Therefore, MassDOT will assume all costs for relocating or adjusting private underground utility service connections that are necessitated by the Department's construction and maintenance projects. These costs may be incorporated within the Utility Force Account Agreement, construction contract items, or a combination of both, as determined by MassDOT.

### Adjustments to Structures

- Adjustments to gate boxes, manholes, and any other structures necessitated by a proposed project are not considered utility relocations and are not eligible for reimbursement under this policy. For municipally-owned utilities, this work should normally be completed by MassDOT's construction contractor using construction contract bid items. For privately-owned utilities, this work should normally be completed by the utility owner with their own work forces.

### **Utility Relocation Force Account Agreements**

- Prior to the project's advertising date, the utility owner shall provide MassDOT with the following items for review and approval:
  - A utility relocation scope of work
  - Estimated cost for the utility relocation work
  - Time duration schedule for the utility relocation work
- All schedules shall be based on actual time durations for the proposed work regardless of available resources due to normal work load.
- Prior to the start of project construction, a Force Account Agreement shall be drafted and executed between MassDOT and the utility owner containing the above information and stipulations.
- For privately-owned utilities (except those eligible for full reimbursement under this Policy) the Force Account Agreement shall be incentive-based. If the utility owner completes their relocation work within the approved schedule, as determined by MassDOT, MassDOT will reimburse the owner for 50% (or other partial amount) of the actual costs incurred for the relocation, including costs for temporary (if necessary) and permanent relocations. If MassDOT determines that the utility owner failed to complete their relocation work within the approved schedule, MassDOT will not reimburse the owner for any costs incurred.

- Upon completion of the utility relocation, if the MassDOT Resident Engineer determines that the utility owner has completed the work within the approved schedule, the District shall submit a memo to the MassDOT Utility Engineer requesting payment be made to the utility owner in accordance with the Force Account Agreement.

### **Reimbursement Procedures**

- The MassDOT Resident Engineer is responsible for coordinating all utility relocations in conformance with the construction contract schedule. The Resident Engineer is also responsible for negotiating any amendments to the construction schedule and utility relocation schedule.

### **Full Reimbursement Agreements**

- For Force Account Agreements that entitle the utility owner to full reimbursement for relocation of their facilities, the District may authorize periodic payments to the utility owner as elements of the work are completed. For each periodic payment, the District shall prepare and forward a memo to the MassDOT Utilities Engineer with a recommendation for payment to the utility owner for the actual costs incurred during the payment period. The Utilities Engineer is responsible for executing any necessary agreement amendments between MassDOT and the utility owner for the actual reimbursement costs incurred.

### **Incentive-based Agreements**

- For incentive-based Force Account Agreements that entitle the utility owner to 50% (or other partial amount) reimbursement for relocation of their facilities, the District may authorize payment to the utility owner after all work is completed within the approved schedule. After the District determines that the utility owner has completed the work within the noted duration and in compliance with the Force Account Agreement, the District shall forward a memo to the MassDOT Utilities Engineer with a recommendation for payment of 50% (or other percentage as included in the Agreement) of the actual total costs incurred. The Utilities Engineer is responsible for executing an agreement amendment between MassDOT and the utility owner for the actual reimbursement costs.
- The District shall retain full determination authority on whether a utility owner has met their schedule and for the percentage to be reimbursed, if any.
- Special consideration for delays caused by events such as major storms will be taken into consideration on a case-by-case basis but may not be an excuse for not meeting the time duration submitted.
- The District reserves the right to reject any time duration estimate submitted that is deemed excessive and unsubstantiated.

### **Design-Build Projects**

- The MassDOT Utility Reimbursement Policy applies to Design-Build projects.

- Design-Build contracts shall be drafted to hold the Design-Build Contractor responsible for all of the project's time durations and schedules.

### **Municipal Water and Sewer**

- The design engineer is responsible for designing all water and sewer utility relocations, and for including necessary payment items for these relocations in the MassDOT construction contract.

### **Utility Betterments**

- MassDOT shall only reimburse utility owners for in-kind relocations. Utility facility betterments are not reimbursable. Examples of betterments are relocating aerial facilities to underground facilities and increasing facility capacity.
- If the utility owner wishes to relocate in the form of a betterment, MassDOT will only reimburse the owner for the equivalent cost of relocating equal facilities, per the terms of the Force Account Agreement.
- To help determine the amount of reimbursement, the utility owner must provide MassDOT with separate cost estimates of in-kind relocations and betterment relocations. Any costs over the in-kind/equal facility relocation shall be borne by the utility owner.
- Betterments of municipal water and sewer facilities may be paid for by the municipality via Non-Participating Agreements.

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