

**North Carolina
Clean Water State Revolving Fund**

**Additional Supplemental Appropriations for Disaster
Relief Act, 2019**

**Supplemental Intended Use Plan
Fiscal Year 2019-2020**

(Draft for Public Comment)

Division of Water Infrastructure

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1. Introduction

On June 6, 2019, the President signed P.L. 116-20, the "Additional Supplemental Appropriations for Disaster Relief Act, 2019" (ASADRA), into law. For North Carolina, the funds are intended for wastewater treatment works and drinking water facilities impacted by Hurricanes Florence and Michael. The Environmental Protection Agency (EPA) has allotted supplemental funding for the North Carolina State Revolving Fund (SRF) programs, and North Carolina Session Law 2019-250 has appropriated to DEQ the required match for the federal funds.

For an activity to be eligible for ASADRA funds, it must be otherwise SRF eligible, have been impacted by Hurricane(s) Florence and/or Michael, and serve one or more of the following purposes:

- Facilitates preparation for, adaptation to, or recovery from rapid hydrologic change or any other type of natural disaster for a wastewater treatment works or drinking water system or related facility;
- Reduces the likelihood of physical damage to a treatment works or drinking water systems;
- Reduces a treatment works' or water system's susceptibility to physical damage or ancillary impacts caused by floods, earthquakes, and fires; or
- Facilitates preparation for, adaptation to, or recovery from a sudden, unplanned change in the amount of and movement of water in proximity to a treatment works or water system.

ASADRA is a one-time injection of funding to promote resilience. To maximize efficiency, states will carry out ASADRA through their existing SRF programs. This Supplemental Intended Use Plan (IUP) serves to explain how the ASADRA capitalization grant will be used within the CWSRF program.

The Division of Water Infrastructure (Division) is part of the North Carolina Department of Environmental Quality (NCDEQ). The Division administers financial assistance programs to assist local government units (LGUs) in constructing projects that both benefit water quality and improve the human environment.

In 2013 the North Carolina General Assembly created the State Water Infrastructure Authority (Authority) to determine the eligibility of projects for certain water infrastructure funding programs, including the Clean Water State Revolving Fund (CWSRF), consistent with federal law. The priorities rating systems used for the ASADRA fund allocation are approved by the Authority.

Specific to this document, the Division administers the federal-state CWSRF program as established by Title VI of the Federal Water Pollution Control Act (a.k.a. Clean Water Act) as amended in 1987. The CWSRF program offers loans to LGUs at interest rates lower than market rates for clean water infrastructure. As a LGU repays the loan, the monies are again loaned out, hence the revolving nature of the program. All loan repayments must go back into the SRF program.

The IUP is incorporated into the capitalization grant agreement and becomes the grant work plan. Combined, the operating agreement, grant agreement, IUP, Clean Water Act, Code of Federal Regulations, and state statutes set the program requirements for the CWSRF. The IUP identifies anticipated projects scheduled for loan commitments from the CWSRF. It also explains how the CWSRF will utilize a priority rating system to identify those projects that will address the greatest need and/or provide the greatest positive environmental impact on the water resources in North Carolina.

2. Financial History

The EPA has allotted \$87,807,000 million in supplemental funding for the North Carolina SRF programs for wastewater treatment works and drinking water facilities impacted by Hurricanes Florence and Michael. North Carolina Session Law 2019-250 appropriated \$17,600,000 to the Department of Environmental Quality to provide the required match for federal funds. The following table shows the distribution of federal and state match funding available for ASADRA eligible projects.

ASADRA 2019 Federal Allotment and State Match

SRF Program	2019 ASADR Funds	State Match (S.L. 2019-250)	Total
CWSRF	\$19,193,000	\$3,838,600	\$23,031,600
DWSRF	\$68,611,000	\$13,722,200	\$82,333,200
Total	\$87,804,000	\$17,560,800	\$105,364,800

As discussed in section 6.3 below, the State reserves the right to transfer funds between the CWSRF and DWSRF to ensure all funds are spent.

3. Programmatic Goals

Pursuant to the Clean Water Act, the State must identify the goals and objectives of its water pollution control revolving fund (i.e., the CWSRF). The State has the following goals for its CWSRF program:

3.1. Overall CWSRF Program Goal

Provide funding for clean water infrastructure while advancing the NCDEQ’s mission to protect and enhance North Carolina’s surface waters and groundwater resources for the citizens of North Carolina and future generations.

3.2. Short-Term Goal

- Goal #1: Continue efforts to inform local government units of the availability of funds, benefits of the CWSRF program, and funding process improvements.
- Goal #2: Award ASADRA funds to maximize use of available allotment to support North Carolina water infrastructure resiliency.

3.3. Long -Term Goals

- Goal #1: Continue efforts to streamline the funding process to ensure the funds are used in an expeditious and timely manner in accordance with Sec. 602(b)(4) of the Clean Water Act.
- Goal #2: Aid compliance with state and federal water quality standards by all funded publicly-owned wastewater treatment works.
- Goal #3: Ensure the technical integrity of CWSRF projects through diligent and effective planning, design, and construction management.
- Goal #4: Ensure the long-term viability of the CWSRF program through effective financial practices.
- Goal #5: Ensure the priority system reflects the NCDEQ's and the Authority's goals.

4. Information on Activities to be Supported

North Carolina's program will continue to be one of low-interest loans, supplemented with principal forgiveness as allowed by Section 603(i)(3) of the Clean Water Act. The State intends to access 4% of the capitalization grant for the administrative costs associated with running the program. These costs include application review, engineering report and environmental document review, design review, loan processing, construction inspection, and repayment processing and accounting for funded projects.

5. Criteria and Methods for Distributing Funds

5.1. Project List and Prioritization

The State's priority rating criteria for categorizing and ranking projects for construction loans will be based on the Priority Rating System.

The prioritization system considers four elements of a project: (1) project purpose, (2) project benefit, (3) system management, and (4) affordability.

For project purpose, the Division places higher priority on projects that will consolidate nonviable systems, resolve issues associated with failed infrastructure, or rehabilitate or replace infrastructure. Projects that reduce nonpoint source pollution (e.g., stormwater best management practices) are also prioritized.

In terms of project benefits, the Division seeks to prioritize projects where replacement, repair, or merger will provide an environmental benefit. For example, the Division more highly prioritizes projects that benefit impaired water and/or replaces failing septic tanks. Additionally, projects that have a benefit of a system merger are highly prioritized by the Division.

ASADRA-eligible projects that move infrastructure out of the floodplain, to provide the highest level of resiliency for future flooding events will receive higher priority than other resiliency type projects. Also ASADRA eligible projects that take a proactive approach to provide protection of infrastructure within the floodplain or steps to better assure continued operation during flood events are given higher priority than project that repair damaged infrastructure without additional fortification or protection.

A project will be considered eligible for ASADRA funding provided that the majority of the construction costs support resiliency activities serving the ASADRA purpose for facilities impacted by Hurricane(s) Florence and/or Michael.

In addition to correcting water quality issues, the Division desires to support those LGU systems that seek to be proactive in their system management, including prioritization points for having implemented asset management plans and appropriate operating ratios.

The Division also takes into account the ability of the applicant to afford projects. For example, those applicants who have a high poverty rate, high utility bills, lower population growth, lower median household incomes, and higher unemployment receive higher priority.

The Authority may adjust the rank of any application based on the Authority's analysis of a proposed project's value that is consistent with, but not evident in, the priority criteria system, provided it is consistent with federal law.

5.2. Application and Project Deadlines

The CWSRF program operates on a priority basis and accepts funding applications semi-annually. Projects are allocated funding in priority order (as noted above) until available funds are exhausted and within special reserve requirements (e.g. Principal Forgiveness Reserve, etc. as described herein). Funding availability is determined based on the ASADRA capitalization grant and associated state match. Results will be posted on the program's website. Project funding is contingent on adherence to the schedule below in accordance with § 159G-41 (**times listed are measured from Letter of Intent to Fund except as noted otherwise**):

- 5.2.1. Funding application and supporting information must be received by the application deadline to be considered for any given funding cycle.
- 5.2.2. After the Authority provides final project rank eligibilities, the CWSRF program will issue Letters of Intent to Fund (LOIF) based on the projects' prioritization and the amount of funds being made available in the cycle.
- 5.2.3. Within four months of the issuance of the LOIF, a complete Engineering Report / Environmental Information Document must be submitted to the CWSRF program.
- 5.2.4. Within nine months, the Engineering Report / Environmental Information Document must be approved.

- 5.2.5. Within 15 months, complete plans and specifications must be submitted with copies of all required permits, encroachments, etc., or evidence that applications for remaining required permits have been submitted to the respective permitting agency.
- 5.2.6. Within 19 months, the plans/specifications and all required permits must be approved/issued.
- 5.2.7. Within 23 months, the following events/items must be completed/received:
 - 5.2.7.1. Advertisement of the project for bids
 - 5.2.7.2. Receipt of bids
 - 5.2.7.3. Submission of bid information to CWSRF staff
 - 5.2.7.4. Obtainment of the CWSRF program’s Authority to Award construction contracts.
- 5.2.8. Within 24 months, construction contracts must be executed.

Notes:

- 1) **The milestones in the timeline above are absolute for all projects in a particular cycle and will not be extended except based upon a demonstrated need for extension by the LGU. Projects may be able to meet these milestones ahead of schedule. However, in the event that any milestone noted above is not met, work by the CWSRF staff may be suspended and all documents returned to the Applicant until the proposed project is resubmitted for consideration during a future cycle.**
- 2) **If an Applicant desires CWSRF funding and the Applicant’s project requires an Environmental Impact Statement (EIS), Division staff will manage the environmental review process. However, a funding application for the project will not be accepted in any funding cycle until a draft EIS has been sent to the State Clearinghouse (SCH). In the event that a fundable project is in process and the environmental review completed within the timeline results in the conclusion that an EIS is required, then the milestone deadlines for the project will be suspended until a draft EIS has been sent to the SCH. After the draft EIS is sent to the SCH, the project must adhere to the same time frames specified above.**

5.3. Detailed Loan and Project Funding Criteria

5.3.1. General:

- 5.3.1.1. To be eligible for CWSRF funding, a project must be on the Intended Use Plan Project List.
- 5.3.1.2. Funding can be provided for any eligible projects as provided for in the Clean Water Act, Additional Supplemental Appropriations for Disaster Relief Act, 2019 and NCGS 159G, including wastewater treatment facilities, collection systems, stream restorations, stormwater BMPs, etc. that improve water quality.
- 5.3.1.3. Funding will be provided in priority order based on project score, Authority determination, and the amount of funds made available with consideration of principal forgiveness reserve detailed below. Projects cannot be substantively changed once funding is allocated.
- 5.3.1.4. The maximum CWSRF loan amount for loans under ASADRA will be established at \$30 million per applicant. The State may limit project funding for large projects to assure ASADRA principal forgiveness requirements are met
- 5.3.1.5. The maximum CWSRF loan availability per applicant is not more than \$100,000,000 in outstanding debt to the CWSRF program.
- 5.3.1.6. Notwithstanding the limits in Items 5.3.1.4., 5.3.1.5., and 5.3.2.2.2, if availability of funds exceeds project demand, these limits may be exceeded to ensure all available funds are utilized. Exceeding the maximum provided in Item 5.3.1.4. will be considered prior to Item 5.3.1.5.
- 5.3.1.7. A project may be funded with a targeted interest rate if the project is eligible for principal forgiveness as described in 5.3.2.2 below. For projects that are eligible for 75% or more principal forgiveness, the targeted interest rate will be 0%. For projects that are eligible for 50% or 25% grant funding, the targeted interest rate will be 1% lower than the Division's base interest rate.
- 5.3.1.8. Repayments for ASADRA Loans will be deposited into the CWSRF and DWSRF funds based on original allotment percentages from EPA.

5.3.2. Principal Forgiveness:

- 5.3.2.1. To meet ASADRA requirements, 20% to 30% of the federal capitalization grant will be used to provide additional subsidization in the form of principal forgiveness to disadvantaged communities.
- 5.3.2.2. The Division will provide additional subsidization to the following:
 - 5.3.2.2.1. An applicant that has capacity for a project that eliminates a non-viable system to benefit a disadvantaged community with a financial need consistent with the criteria in 5.3.2.2.2 and served by a public wastewater system. The disadvantaged community either meets the affordability criteria listed in 5.3.1.7 or is representative of the criteria. Projects will receive principal forgiveness for the full amount of the loan up to a maximum of \$3 million.
 - 5.3.2.2.2. Projects that receive project purpose points when the applicant has less than 20,000 residential wastewater connections, at least three (3) of five (5) LGU indicators worse than the state benchmark, an operating ratio (future) of less than 1.3, utility rates greater than the state median, and/or project cost per connection greater than \$1,150 per connection. Principal forgiveness amounts are limited to \$500,000 maximum per applicant per round. Principal forgiveness percentages will follow the affordability criteria grant percentage matrix found in Appendix E and will range from 25% to 100% in increments of 25% with the targeted interest rate as described under 5.3.1.7 applied to the remaining portion of the loan.
- 5.3.2.3. Notwithstanding the above limits in Items 5.3.1.4, 5.3.1.5, and 5.3.2.2., if availability of funds exceeds project demand, these limits may be exceeded to ensure all available funds are utilized.

5.3.3. Miscellaneous Criteria/Provisions:

- 5.3.3.1. Davis-Bacon prevailing wage rates apply to all loans as required by grant agreements/conditions.
- 5.3.3.2. American Iron and Steel provisions will apply to all loans as required by Federal mandates.
- 5.3.3.3. Brooks Act requirements will be applied to projects in a dollar amount equal to or exceeding the capitalization grant.

- 5.3.3.4. The CWSRF loan interest rate is based on ½ of The Bond Buyer’s 20-Bond Index except as specifically allowed herein. The maximum interest rate for each loan will be set at the time of application with a lower interest rate, if available, set at the time of the award offer.
- 5.3.3.5. Approval of a CWSRF loan is contingent on approval by the Local Government Commission (LGC).
- 5.3.3.6. CWSRF loan terms are set by the LGC.
- 5.3.3.7. The maximum CWSRF loan term is determined by State statute and federal requirements.
- 5.3.3.8. A 2% loan fee is required. The loan fee cannot be financed by the CWSRF fund.
- 5.3.3.9. Loan repayments are due in May (principal and interest) and November (interest only) of each year.
- 5.3.3.10. Interest begins accruing on date of completion in the Notice to Proceed.
- 5.3.3.11. The first loan repayment is due no sooner than six months after the completion date as established in the Notice to Proceed.

6. Programmatic Conditions

6.1. Assurances and Specific Proposals

Pursuant to Section 606(c)(4) of the Clean Water Act, the State of North Carolina certifies that:

- 6.1.1. The State will enter into binding commitments for 120% of the amount of each payment received under the capitalization grant within one year after receipt of each payment.
- 6.1.2. The State will expend all funds in the CWSRF in an expeditious and timely manner.
- 6.1.3. The State will conduct environmental reviews of treatment works projects according to procedures set forth in its Operating Agreement between the State and US Environmental Protection Agency.

6.2. Federal Requirements

- 6.2.1. The State will ensure that all federal requirements are met as noted in the CWSRF Operating Agreement between the State and US Environmental Protection Agency and the Grant Agreement, including Single Audit, Disadvantaged Business Enterprise compliance, federal environmental crosscutters, and Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

6.2.2. The State will enter all required reporting information into respective federal databases including FFATA, CWSRF National Information Management System (NIMS), and the CWSRF Benefits Reporting (CBR) system.

6.2.3. The State will ensure that all applicants to the CWSRF program certify that they meet the fiscal sustainability planning requirements. Such certifications will be received by the time of loan offer.

6.3. Transfer between CWSRF and Drinking Water State Revolving Fund

Transfer of funds between the CWSRF and the Drinking Water State Revolving Fund are authorized by federal statutes. The ASADRA funding levels are more unbalanced than routine SRF funding levels, while the demand for ASADRA eligible funds is uncertain. Therefore, the state will retain the right to transfer funds between the SRFs to ensure the ASADRA funds go to the highest priority projects and that each project list exceeds capitalization grant levels. Program specific principal forgiveness requirements will be met based on total ASADRA funds after any fund transfer. Repayments for ASADRA loans will be deposited into the CWSRF and DWSRF funds based on original allotment percentages from EPA.

7. Public Review and Comment

Note: *This section will be updated after completion of the public comment period on January 17, 2020.*

8. Budget and Project Periods

8.1. The budget and project periods being requested for the capitalization grants is shown in Appendix B and on EPA Form SF 424.

8.2. ASADRA funds will be allotted to ASADRA eligible projects prior to allotting non ASADRA SRF funds.

8.3. The anticipated cash draw ratio will be 100% State and, after all state matching funds are withdrawn, 100% federal for disbursements made from the capitalization grant. Alternatively, the State may elect a cash draw ratio of 83.3% federal and 16.7% State for all withdrawals.

8.4. The source of State match funds is from appropriations. State match funds will be deposited into the CWSRF before drawing any federal funds.

8.5. Loan fees (2% of loan) on loans from the grant and fees from loans from repayment funds will be deposited into separate account centers. Fees will be used to administer the program. In addition, fees considered non-program income will also be used for other water quality purposes within the Divisions of Water Resources and Water Infrastructure, including funding for positions.

Appendix A
Intended Use Plan Project List
North Carolina Clean Water State Revolving Fund State Project List*

Note: Project List will be established after funding review of applications and fund allocation by the Authority

Appendix B
2019 ASADRA CWSRF Proposed Payment Schedule
(Dependent on timing of state match and award of federal grant)

<u>Payment Quarter</u>	<u>2019 CW Payment Amount</u>
April 1, 2020 – June 30, 2020	
July 1, 2020 - September 30, 2020	
October 1, 2020 - December 31, 2020	
January 1, 2021 - March 31, 2021	\$5,000,000
April 1, 2021 - June 30, 2021	\$5,000,000
July 1, 2021 - September 30, 2021	\$5,000,000
October 1, 2021 - December 31, 2021	\$4,193,000
January 1, 2022 - March 31, 2022	
April 1, 2022 - June 30, 2022	
Total	\$19,193,000

Appendix C

PRIORITY RATING SYSTEM for Wastewater Projects			
<p>Instructions: For each line item, <u>mark "X" to claim the points for that line item</u>. Be sure that your narrative includes justification for every line item claimed. At the end of each Category, provide the total points claimed for each program in the subtotal row for that category. Then add the subtotals from each category and enter the Project Total in the last line. Note that some categories have a maximum allowed points that may be less than the total of individual line items.</p>			
Line Item #	Category 1 – Project Purpose	Claimed Yes/No	Points
1.A	Project will consolidate a nonviable drinking water or wastewater utility		25
1.B	Project will resolve failed infrastructure issues		15
1.C	Project will rehabilitate or replace infrastructure		15
1.C.1	Treatment units, pumps and/or pump stations to be rehabilitated or replaced are greater than 20 years old, OR water/sewer lines, storage tanks, drinking water wells or intake structures to be rehabilitated or replaced are greater than 40 years old		10
1.D	Project will expand infrastructure		2
1.D.1	Treatment units, pumps and/or pump stations to be rehabilitated or replaced are greater than 20 years old, OR lines, storage tanks, drinking water wells or intake structures to be rehabilitated or replaced are greater than 40 years old		10
1.E – 1.E.2	Reserved for Other Programs		
1.F	Project will provide stream/wetland/buffer restoration		15

PRIORITY RATING SYSTEM for Wastewater Projects			
1.F.1	Restoration project that includes restoration of a first order stream and includes stormwater infiltration BMPs		5
Line Item #	Category 1 – Project Purpose (Continued)	Claimed Yes/No	Points
1.F.2	Restoration project that includes restoration and / or protection of riparian buffers to at least 30 feet on both sides of the stream		5
1.G	Project will provide stormwater BMPs to treat existing sources of pollution		20
1.G.1	Project that includes BMPs or BMPs in series that achieve at least 35% nutrient reduction (both TN and TP) and 85% TSS reduction		10
1.H	Project will provide reclaimed water/usage or rainwater harvesting/usage		15
	Maximum Points for Category 1 – Project Purpose		25
	Subtotal claimed for Category 1 – Project Purpose		
Line Item #	Category 2 – Project Benefits	Claimed Yes/No	Points
2.A – 2.B	Reserved for Other Programs		
2.C	Project provides a specific environmental benefit by replacement, repair, or merger; includes replacing failing septic tanks		15
2.D	Project addresses promulgated but not yet effective regulations		10
2.E	Project directly addresses enforcement documents		

PRIORITY RATING SYSTEM for Wastewater Projects			
2.E.1	Project directly addresses an EPA Administrative Order for a local government Applicant located in a Tier 1 county, or addresses an existing or pending SOC, or a DEQ Administrative Order, OR		5
Line Item #	Category 2 – Project Benefits (Continued)	Claimed Yes/No	Points
2.E.2	Project directly resolves a Notice of Violation or Notice of Deficiency		3
2.F	Project includes system merger		10
2.G – 2.H	Reserved for Other Programs		
2.I	Project improves treated water quality by adding or upgrading a unit process		3
2.J – 2.M	Reserved for Other Programs		
Items 2.N. Additional Priority Points are only applicable to ASADRA funds and will not be applied to other funding prioritization.			
2.N	Project provides redundancy/resiliency for critical treatment and/or transmission/distribution system functions including backup electrical power source.		3
2.N.1	Project relocates infrastructure out of a floodplain OR		15
2.N.2	Project fortifies or elevates infrastructure within floodplain, OR Project improves ability to assure continued operation during flood events OR		4
2.N.3	Project repairs infrastructure damaged during covered event		2
2.O	Project <u>directly benefits</u> subwatersheds that are impaired as noted on the most recent version of the Integrated Report		20

PRIORITY RATING SYSTEM for Wastewater Projects			
2.P	Project <u>directly benefits</u> waters classified as HQW, ORW, Tr, SA, WS-I, WS-II, WS-III* or WS-IV* (* these classifications must be covered by an approved Source Water Protection Plan to qualify)		10
2.Q	Project will result in elimination of an NPDES discharge		3
2.R	Primary purpose of the project is to achieve at least 20% reduction in energy use		5
	Maximum Points for Category 2 – Project Benefits		35
	Subtotal claimed for Category 2 – Project Benefits		
Line Item #	Category 3 – System Management	Claimed Yes/No	Points
3.A	Capital Planning Activities		
3.A.1	Applicant has implemented an Asset Management Plan as of the date of application OR		10
3.A.2	Applicant has a current Capital Improvement Plan (CIP) that spans at least 10-years and proposed project is included in the plan		2
3.B	System Operating Ratio is greater than or equal to 1.00 based on a current audit, or is less than 1.00 and unit cost is greater than 2.5%		5
3.C – 3.E	Reserved for Other Programs		
	Maximum Points for Category 3 – System Management		15
	Subtotal claimed for Category 3 – System Management		
Line Item #	Category 4 – Affordability	Claimed Yes/No	Points
4.A	Residential Connections		

PRIORITY RATING SYSTEM for Wastewater Projects			
4.A.1	Less than 10,000 residential connections OR		2
4.A.2	Less than 5,000 residential connections OR		4
4.A.3	Less than 1,000 residential connections		8
4.B	Current Monthly Single Utility Rates at 5,000 Usage		
4.B.1	Greater than \$33 OR		4
4.B.2	Greater than \$40 OR		6
4.B.3	Greater than \$47		8
4.B.4	Greater than \$58		10
Line Item #	Category 4 – Affordability (Continued)	Claimed Yes/No	Points
4.C	Local Government Unit (LGU) Indicators		
4.C.1	3 out of 5 LGU indicators worse than state benchmark OR		3
4.C.2	4 out of 5 LGU indicators worse than state benchmark OR		5
4.C.3	5 out of 5 LGU indicators worse than state benchmark		7
4.D – 4.E	Reserved for Other Programs		
	Maximum Points for Category 4 – Affordability		25
	Subtotal claimed for Category 4 – Affordability		
	Total of Points for All Categories		

Appendix D Grant Percentage Matrix

WATER OR SEWER MONTHLY BILL FOR 5,000 GALLONS	NC MEDIAN		HIGHER-THAN-MEDIAN BILL FOR 5,000 GALLONS
	LOWER-THAN-MEDIAN PROJECT COST PER CONNECTION	HIGHER-THAN-MEDIAN PROJECT COST PER CONNECTION	
>\$58	100%	100%	100%
>\$47 TO ≤ \$58	75%	75%	100%
>\$40 TO ≤ \$47	50%	50%	75%
>\$33 TO ≤ \$40	25%	25%	50%
NC MEDIAN			
≤ \$33	0%	25%	25%
	≤ \$1,150	> \$1,150 TO ≤ \$4,750	> \$4,750
	PROJECT COST PER CONNECTION		