Construction Warranty Period

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TO: **Robert L. Garza, P.E., City Manager**

FROM: **Loretta M. Reyes, P.E., Public Works Director**

DATE: **11/2/2012** **FILE: PW-12-498**

SUBJECT: **November 13, 2012 City Council Work Session – Warranty Period**

Currently, the City of Las Cruces (City) General Conditions for Construction Contracts require a one-year warranty period for City construction projects and subdivisions. City staff has been asked to provide information related to extending the warranty period from one (1) year to three (3) years.

The presentation will include information regarding warranty issues that have occurred over the past eleven (11) years on both City Capital Improvement Projects and Private Development Subdivisions; solutions implemented to mitigate the issues; bonding company warranty issuance practices; potential costs, benefits and concerns; and, potential next steps.

If you have any questions, please feel free to contact me at 528-3125 or via email at lreyes@las-cruce.org.

lmr/kfs

cc: Brian Denmark, ACM/Chief Operations Officer

pc: City Council
David Maestas, P.E. – Contracts Administrator

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WARRANTY PERIOD REVIEW

City Council Work Session
November 13, 2012

Background

- **City of Las Cruces currently requires**
  - One (1) year guarantee on City Capital Improvement Projects and Subdivisions
- **By General Conditions**
  - the Contractor guarantees against any defect or failure in proper use or operation caused by the omission of material or defective material or workmanship

Background

- **Over the past 11 years – 2000 to 2011**
  - Staff is aware of eight (8) instances of post-warranty issues
    - One included various subdivisions where water service tie-ins to water mains leaked
    - Three included asphalt rutted, oxidized, or separated
    - Three were sink holes that developed around a wastewater service line
    - One subdivision had incorrect utility locations

Background

- **In the past 10 years Public Works has overseen**
  - 238 CIP Projects and 295 Subdivisions (approximately)
- **Post-warranty deficiencies identified are**
  - 1.5% of the total 533 projects ($3.56 million) - approximate
  - Cost of projects: $237 million
- **City staff worked to mitigate concerns when identified**
  - New design and construction process for water service
  - New design and testing requirements for asphalt to better match new asphalt materials
- **Cost of repair**
  - .5% of the total 533 projects ($1.19 million)

Bonding

- **Four Bonding companies representing local contractors**
  - Typically issue a bond for one (1) year
  - Two (2) year warranties a consideration for three companies
    - Review on a case-by-case basis
    - Contractor would need to be strong financially
    - Long-term partnership a key criteria

- **Warranty periods for other entities**
  - **2 Year**
    - Greely & Fort Collins, CO
    - Utilized because "a one year warranty comes around too quickly to track efficiently and inspect on time".
  - **1 Year**
    - Yuma & Flagstaff, AZ; Rio Rancho, NM; El Paso, TX
  - **6 months**
    - NMDOT

Outcomes

- **Benefits of an Extended Warranty**
  - Potential to identify deficiencies that may occur after one year and before new deadline.
  - Contractor and/or bonding company contractually obligated to repair

- **Drawbacks of an Extended Warranty**
  - Increase in contract costs
  - Changes to development and construction standards
    - New Standard could affect all City Departments and Private Development to provide full coverage for additional years
  - Additional administrative time

PW Costs

- **Potential bond cost increase for a two year warranty**
  - Typical Bond: 10% of construction
    - For a $1 million project - bond would cost $100k
  - Cost for additional year for warranty
    - Ranges from 25% to 100% of the original bond
    - For a $1 million project - additional $25k to $100k
  - Total potential increase for PW CIP for a fiscal year
    - Ex: A total of 10 projects could range from $250k to $1 milllion
- **Potential Contractor Cost increase**
  - Administrative fees estimated at 5% of additional bond costs
  - $12.5k to $50k
- **Potential Total contract cost increase** - $262.5k - $1.05 mill

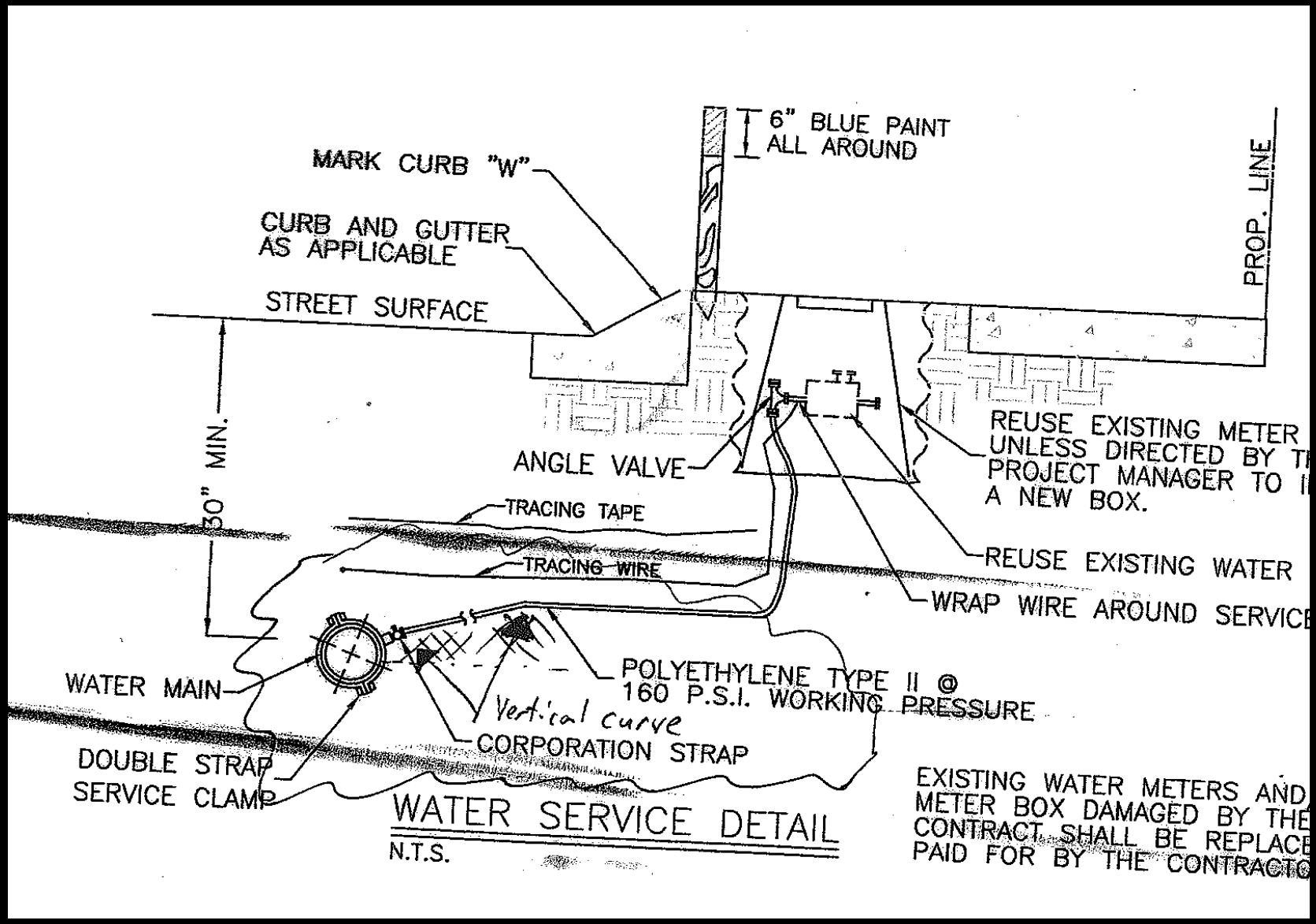
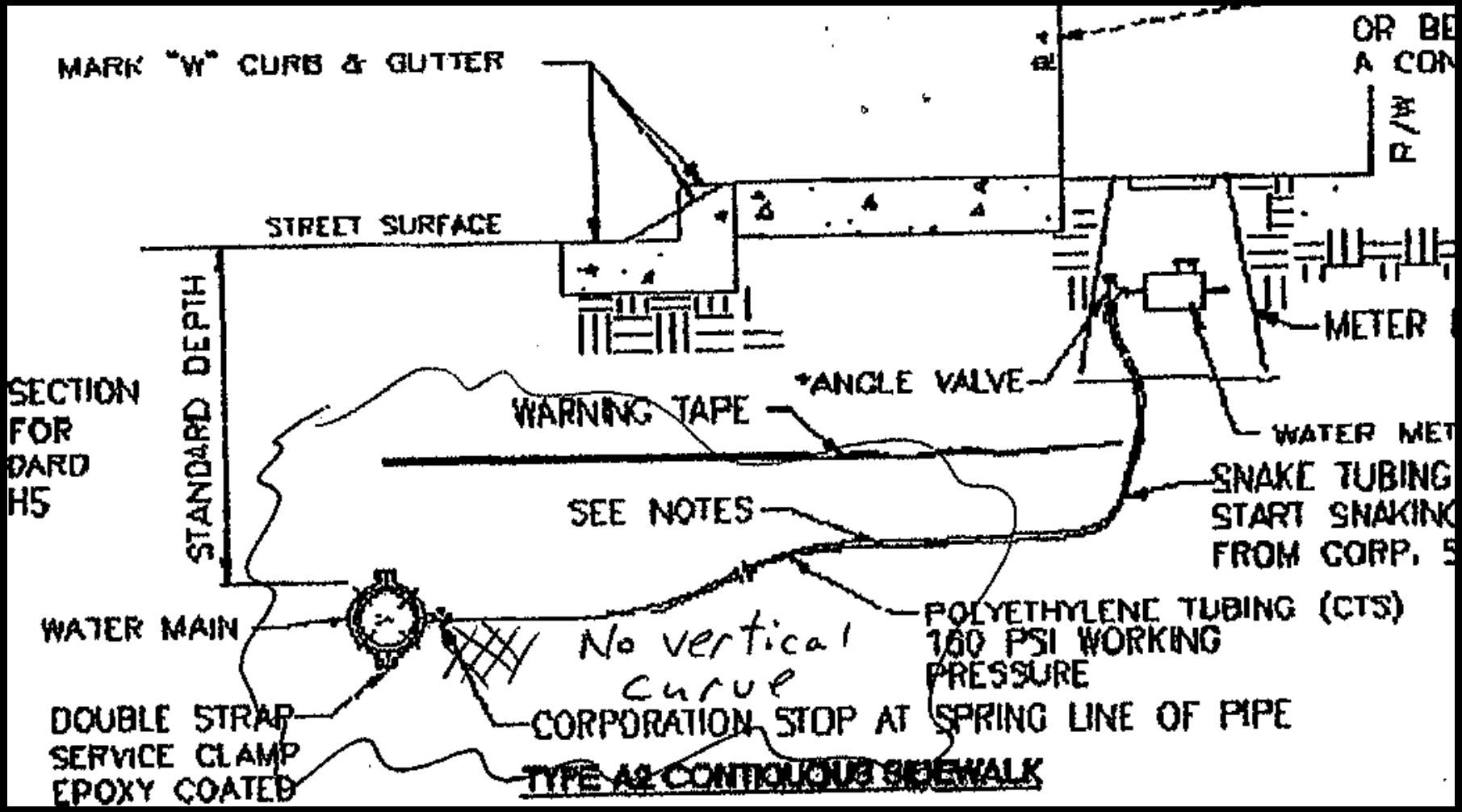
Associated Costs

- **Utility and other Departments**
  - Each could face similar percentage increases
- **Development Community**
  - Contractor working for the developer could face similar increases to obtain approval and compliance to new standard
  - Contractor could pass cost to developer
  - Developer could pass cost to purchaser of the lot
- **Potential Total contract cost increase**
  - $262.5k - $1.05 mill

Council Considerations

1. Continue with current practice
   - Review the issue that may have been catalyst. If water service issues are mitigated, cost-effectiveness of current system is viable.
2. Include 3 year requirement in new contract
   - Determine feasibility and cost effectiveness to obtain and administer additional warranty.
3. Include 2 year requirement in new contract
   - determine feasibility and cost effectiveness to obtain and administer additional warranty.
4. Additional research
   - continue to assess industry practices and standards.

Previous Water Service Detail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