


**PUBLIC WORKS AND UTILITIES
MEMORANDUM # 09-15**

DATE: March 26, 2009

TO: Honorable Mayor Kathleen M. Novak and City Council Members

FROM: William A. Simmons, City Manager
Raymond Reling, Acting Director of Utilities 

SUBJECT: LineSaver update

Please see the attached responses from AWR

BACKGROUND:

As you may recall, this proposed agreement is a result of a process that started with an RFP issued by the City that initially received no responses, followed by the issuance of a revised RFP that only received two complete responses – one of which was from AWR.

The contract itself has very few actual obligations that the City performs. Rather, the City essentially makes its customer list available for AWR, and then the City's customers have the option of whether to sign up for the voluntary service. Moreover, there is no financial risk to the City with regards to the program. Thus, the question is whether this is a good program, with the terms and conditions as outlined in the materials, that is a good program to offer to the City's residents. It should be noted, however, that through the negotiation process, the City has addressed many of the Line Saver Issues identified in the original document. Furthermore, AWR has indicated that it is averse to agreeing to extended contractual obligations regarding, for example, response times beyond those contained in the documents. Thus, the items identified as issues in the agreement are certainly appropriate items for discussion, but have already been the subject of negotiation in order to get them to the point they are today.

With regards to Exhibit A, it was through negotiating the contract provisions Exhibit A (the contract between AWR and the resident) was included as an exhibit. We thought it important for the agreement between the City and AWR to actually incorporate the contract between AWR and the residents. However, the city is not a party to that Agreement, and thus we have asked AWR to respond to the questions regarding the terms and conditions.

With regards to Exhibit B, this is a literal restatement of the pertinent portions of the June 2008 response to the RFP. Again, our intention was to bind AWR to the representations it made as part of the initial response.

STAFF REFERENCE:

Please contact Raymond Reling, Acting Director of Utilities at rreling@northglenn.org, or (303) 450-4049.

LINESAVER QUESTIONS AND RESPONSES

Following are AWR's responses to questions posed to clarify understanding of the LineSaver program.

Agreement

2.3.1 The city can terminate "solely" on a material breach. In 2.3.2. "solely" is absent for AWR.

ANSWER: While AWR anticipates a successful program, AWR has multiple risks associated with marketing and administering the program, and adjudicating claims. As a result, it has the option to terminate the contract for more than one reason.

3.6.1.2 Upon receiving a claim, AWR will have a contractor call the resident within four hours to schedule an agreeable time to make the repairs. In appendix A, section F that is modified to include a city obligation and a different time frame as will be discussed later. In the in-house part of this section, the contractor has between two and twenty-four hours to call the resident. Even at that, AWR holds itself to not be in breach of the agreement if the time schedule is not followed.

ANSWER: At the City's request, response time goals were included in the contract with the City. However, it was understood that the response times in the Terms & Conditions would remain unchanged.

3.8.1 The training of city personnel is required in this section and in exhibit B at the bottom of page eleven to be "Executive/Administrative and Service Delivery." What does this entail in staff time and number of personnel?

ANSWER: Training is part of the program launch and will be tailored to the City's needs. It will provide information and processes for customer service to refer inquiries to AWR and to coordinate information transfers with staff identified by the City.

4.2.2 AWR requires the emails of those that sign up.

ANSWER: AWR does not require email addresses upon enrollment. If the City has a customer's email address as part of its file, it would be included in the secure customer data transferred to AWR.

4.3 When city employees are investigating a line problem, as they do now, they are required to tell the resident that he/she may have a Line Saver claim. This forces employees to be a salesman for AWR if the resident had not previously signed up. Residents know if they have the program.

ANSWER: There is no sales component to this contractual provision. In our experience, having field service representatives remind homeowners that their problem may be covered by LineSaver benefit homeowners because over time some do not remember that they have enrolled in the program.

4.4.3 and 6.1 have identical language and it says AWR can increase the fee charged to residents at any time with 30 days notice given to the city and residents. Additionally, AWR is only required to discuss “material” increases with the city. (bait and switch?)

ANSWER: AWR does not engage in bait and switch sales tactics. AWR bears all of the risk associated with the program; therefore, when entering into a long-term contract, it must have the ability to change the program fees if necessary.

6.2 Due to possible problems with the “effectiveness” of the billing process, AWR reserves the right to reduce the compensation paid to the city from the first year’s scheduled amount of 50%.

ANSWER: Yes, the City’s compensation is contingent upon successful billing and collection of LineSaver fees via the utility billing system. AWR has the right to reduce the amount of the fixed fee payable to City in Year 1 if the billing processes are not effective and AWR is required to use alternative billing methods.

6.3 AWR sends a summary report of the compensation due the city each month. The paragraph does not provide for a city reconciliation of the amounts or a right to contest their decision.

ANSWER: The City has not requested a reconciliation of amounts.

Exhibit A

D. It is logical that AWR does not want to accept a preexisting break or condition at the time a resident joins the program. In (a) there is the assumption that a resident has knowledge of the line's condition. It can be alleged by AWR that, “upon excavating your line, the contractor found a break or leak that has existed for a long time and therefore coverage is denied.”

ANSWER: This is correct, but it happens rarely. The thirty day waiting period upon enrollment helps to minimize this situation.

On the next page, renters are prohibited from joining the program. If the tenant's lease requires maintenance of the property, he/she will get stuck with the costs since the owner is protected by the lease. An exception is needed.

ANSWER: In our experience, it is rare that a tenant would have responsibility for service lines. Because of this and other legal considerations, our program excludes tenants. A landlord may enroll his/her property in our programs if he/she wants to protect the lines.

F. Both subsections require the resident to obtain an investigation of a water/sewer problem prior to contacting AWR. Once the city employee has verified that it is the resident's problem, then and only then, can the resident contact AWR. Depending on the time and day, how long will this procedure prolong the resident's problem?

ANSWER: City investigation of a sewer line problem is no longer required under our Terms & Conditions, but it is required for water line problems. Questions relating to the timing of water line inspections should be directed to the City.

F.1 In case of a water line issue the contractor will “contact” the resident within 12 hours. This

conflicts with 3.6.1.2 as stated earlier.

ANSWER: Please see our response above. At the City's request, response time goals were included in the contract with the City. However, it was understood that the response times in the Terms & Conditions would remain unchanged.

F.2 In case of a sewer line issue the contractor will call "sometime" and begin repairs within 24 hours. This also conflicts with the 3.6.1.2.

ANSWER: Please see our response above. At the City's request, response time goals were included in the contract with the City. However, it was understood that the response times in the Terms & Conditions would remain unchanged.

G. Last paragraph. Any subsequent repair to the previous repair within 60 days will be considered as part of the first repair and subject to the original dollar limit. Section H is not compatible. It is restated in Appendix B, page 13, "Number of Claims per Term."

ANSWER: A customer may make an unlimited number of claims; however, if a claim is made within 60 days of a prior claim for the same portion of the customer's water or sewer line, it is treated as part of the previous claim.

H. There is a one year limited warranty that ends with a statement that AWR will pay for defective materials or work. However, in the mid portion, it states that the warranty is subject to the original dollar limit. Separation and clarification is needed.

ANSWER: If materials or repairs are found to be defective, AWR will replace materials or re-perform repairs up to \$4,000, the amount of the limit of protection.

I.1 Water exceptions: Keep in mind that the exceptions pertain to the water and sewer line coverage; not in home in this and subsection two. Nevertheless, repairs to walls, ceilings or surfaces inside the home are not covered. The removal of debris and materials from your yard is not covered. Dwellings used for commercial purposes and not covered by the program.

ANSWER: This accurately summarizes some of the items that are excluded from protection under the Terms & Conditions of the Water and Sewer Line Protection Programs.

Home occupations are?

ANSWER: The program does not cover dwellings used for commercial purposes; however, if a homeowner has a home office within his/her residential dwelling, the customer's office would not make the homeowner ineligible for protection.

Any damages the resident incurs including delays and failure to provide service are not covered.

ANSWER: AWR is not liable for any direct, indirect, special, incidental, consequential or punitive damages resulting from the provision of or failure to provide service under the program, or from any fault, failure, defect or deficiency in any service, labor, material, work or product furnished in connection with the program. AWR's liability for damages resulting from the

provision of, or failure to provide services under the program, or as the result of any fault, failure, defect or deficiency in any service, labor, material, work or product furnished in connection with the program is limited to \$4,000, the limit of protection.

I.2 Sewer exceptions: The items in (.1) also apply here. Additionally we find the exclusion of leaks or breaks in the sewer line that was mentioned at the last meeting. Clogs or blockages caused by the resident are not covered by the program. An errant diaper wipe can cancel coverage.

ANSWER: The program covers leaks or breaks of a sewer line that result from a clog or blockage. The program is intended to cover clogs or blockages caused by normal wear and tear. AWR would accept a claim for a clog or block caused by an “errant diaper wipe.”

That portion of a sewer line inside or under the home is not covered.

ANSWER: AWR’s Sewer Line Protection Program does not cover the portion of a sewer line inside or under the home; however, AWR’s In-Home Plumbing Emergency Program covers the permanent internal drains and pipes that collect and carry water and waste throughout the home to the external sewer line and wastewater collection system.

The clog may be within 5-30 feet of the drain or stool. That is under the house.

ANSWER: AWR not cover the portion of a sewer line inside or under the home; however, if it is possible to ream the sewer line to remove a clog or blockage, AWR would provide such service to its customers under the program.

In-Home

F. Service is not guaranteed to commence for 24 hours

ANSWER: Correct. Our standard practice is to arrange for service as rapidly as reasonably possible within 24 hours.

I. Exceptions: The issues posed earlier about the renters who are responsible for maintenance and the home occupations apply here as well. The following exceptions makes this coverage useless: Leaking lines, fixtures, faucets, etc. Dripping is a logical exception but a leak is caused by another problem. Leak or break in the water or sewer line. Blockages in either type of line. Lines under the home. Moving a piece of furniture to access the problem.

ANSWER: Based on the large number of in-home claims that AWR has honored and our high level of customer satisfaction, we believe this program is very useful to our customers. The program covers leak or breaks to a customer’s Water Supply System and clogs or blockages of his/her Wastewater Drainage System (defined in the program Terms & Conditions).

Exhibit B

Exhibit B contains a section of AWR’s June 2008 bid. It was attached to the contract for reference only; it is not incorporated into the contract.

Pages 2&3. A \$50 contractor dispatch is shown I believe for the first time for In-Home and Sewer but not for Water.

ANSWER: As part of our negotiation with the City, AWR waived the \$50 trip fee. All references to it have been removed from the Terms & Conditions.

Page 5. In Table 3, the coverage limit should be broken out for the water/sewer to show how the \$13K is allocated.

ANSWER: AWR's relationship with its customers is governed by the Terms & Conditions, which are provided to each customer upon enrollment. The Terms & Conditions explain how the coverage is allocated. Exhibit B is a section of AWR's June 2008 bid that is attached for reference only. It is not incorporated in the contract.

Page 6. The term of the Life Saver program is 12 months. The customer's term is listed in the confirmation letter which is ??

ANSWER: The program term is annual (365 days). Protection begins on the customer's Effective Date, which is 30 days after the enrollment date.

Upon enrollment, customers receive a confirmation letter from AWR, which outlines the following information about the customer's enrollment: (i) customer's name, (ii) covered address, (iii) customer number, (iv) program effective date and (v) program term.

Page 7. The length of the water line covered by the program should be from the meter to the shut off valve in the house not property line to the water main. The length of the sewer line covered by the program is from the "property line to the main in the street." This must be an error.

ANSWER:

For purposes of the program, the Water Line is the section of the single lateral water service line owned by the customer that runs from the home to the connection owned by the Water Service Provider. If the meter is located inside the home, it is the section of the water service line from the customer's property line to the inlet side of the meter. If the meter is located outside the home, it is the section of the water service line from the outlet side of the meter to the main shut-off valve inside the home. If the customer is the homeowner of an upstairs dwelling in a multi-unit building and the Water Line passes through the walls of a neighboring or downstairs dwelling, the program covers only the portion of the Water Line located outside of the exterior wall of the building.

For purposes of the program, the Sewer Line is the section of the lateral sewer service line owned by the customer that collects and conveys household wastewater from the home to the Wastewater Collection System. The program covers the portion of the Sewer Line that is the most direct line between the exterior wall of the home and Wastewater Collection System. Sewer Line does not include any portion of the Sewer Line that runs into or under the home's foundation or foundation slab.

Page 8. The schedule is for last year's anticipated program.

ANSWER: Exhibit B is a section of AWR's June 2008 bid that was attached to the contract for reference only. It is not incorporated in the contract.

Page 10. The contractor response time is misleading. First, there is the time it takes the city employee to investigate. Second, earlier sections provide for several hours from the time the resident calls AWR until the contractor is required to have contacted the resident.

ANSWER: The response times are not misleading. The contract with the City contains response time goals, but the response times in the program Terms & Conditions remain unchanged. Exhibit B is a section of AWR's June 2008 bid that was attached to the contract for reference only; it is not incorporated in the contract.

Page 21. Flyers/Bill Inserts: The frequency of inserts should have a maximum per year to settle expectations.

ANSWER: Exhibit B is a section of AWR's June 2008 bid that was attached to the contract for reference only. It is not incorporated in the contract. If the City desires a maximum number of bill inserts it may propose one.

Page 25. High Coverage Limits: The \$8,000 for a sewer line repair is misleading as shown previously in Table Three. (4K for line and possible 4K for street repair)

ANSWER: The \$8,000 limit of protection under the Sewer Line Protection Program is not misleading. The program Terms & Conditions explain the limits of protection. Exhibit B is a section of AWR's June 2008 bid that was attached to the contract for reference only. It is not incorporated in the contract.