

wsdlsafetycommittee@gmail.com

From: sendmail@washington-ucc.org
Sent: Thursday, March 26, 2020 8:56 AM
To: wsdlsafetycommittee@gmail.com
Subject: Complaint Form

Complaint Form Request

Requester Information

Name: Aaron Jones
Company: POW Contracting
Company Phone: (509)542-8507
Company Email: aaron@powcontracting.com
Company Address: PO Box 4772, Pasco, 99302
Ticket Requested: yes
Ticket Number: 19254003
Ticket Date: 06/14/19

Violation Information

Violation RCW Code: 19.122.040
Violation Section: 19.122.040
Violation Description: The City of Moses Lake did not show the existence of underground utilities in areas of excavation required by the contract. The City then refused to issue a change of conditions to address and pay for the the conflicts encountered in the field with the unknown utilities. The utilities in question are predominately power and fiber optics, and were neither shown on the bid documents nor located in the field, but rather discovered as POW excavated.
Violation Address: 4204 Lakeshore Drive, Moses Lake WA
Violation Date: 07/23/19

Alleged Violator

Violator Name: City of Moses Lake
Violator Phone Number: (509)764-3782
Violator Email: rlaw@cityofml.com
Violator Address: 321 S Balsam St, Moses Lake, 98837
Violator Employess On Site: Jeff Holm, Robert DeLeon (City Employees)

Washington One Call

Ticket No: 19254003
2 FULL BUSINESS DAYS
Original Call Date: 06/14/19 12:43 pm
Work to Begin Date: 06/19/19 12:00 am
Expiration Date: 07/29/19 12:45 pm

CALLER INFORMATION

Company Name: POW CONTRACTING
Contact Name: AARON JONES
Phone: 509-366-6050
Alt. Contact: CHIP AINSWORTH
Phone: 509-366-7478

Fax Phone: 509-542-8508
Caller Address: PO BOX 4772 COLUMBIA ST PASCO,WA 99302
Email Address: AARON@POWCONTRACTING.COM

DIG SITE INFORMATION

Type of Work: INSTALL WATER MAINLINE
Work Being Done For: CITY OF MOSES LAKE

DIG SITE LOCATION

State: WA
County: GRANT
Place: MOSES LAKE
Address:
Street: W LAKESHORE DR
Intersecting Street: S POMMER ST
Location of Work: FROM THE DESCRIBED INTERSECTION, THE WORK GOES NORTH FOR APPROXIMATELY 1900 FEET TO GLENMORE DRIVE.
Remarks: AREA MARKED IN WHITE
Map Coord NW Lat: 47.0935172
Lon: -119.3211906
SE Lat: 47.0880387
Lon: -119.3195813

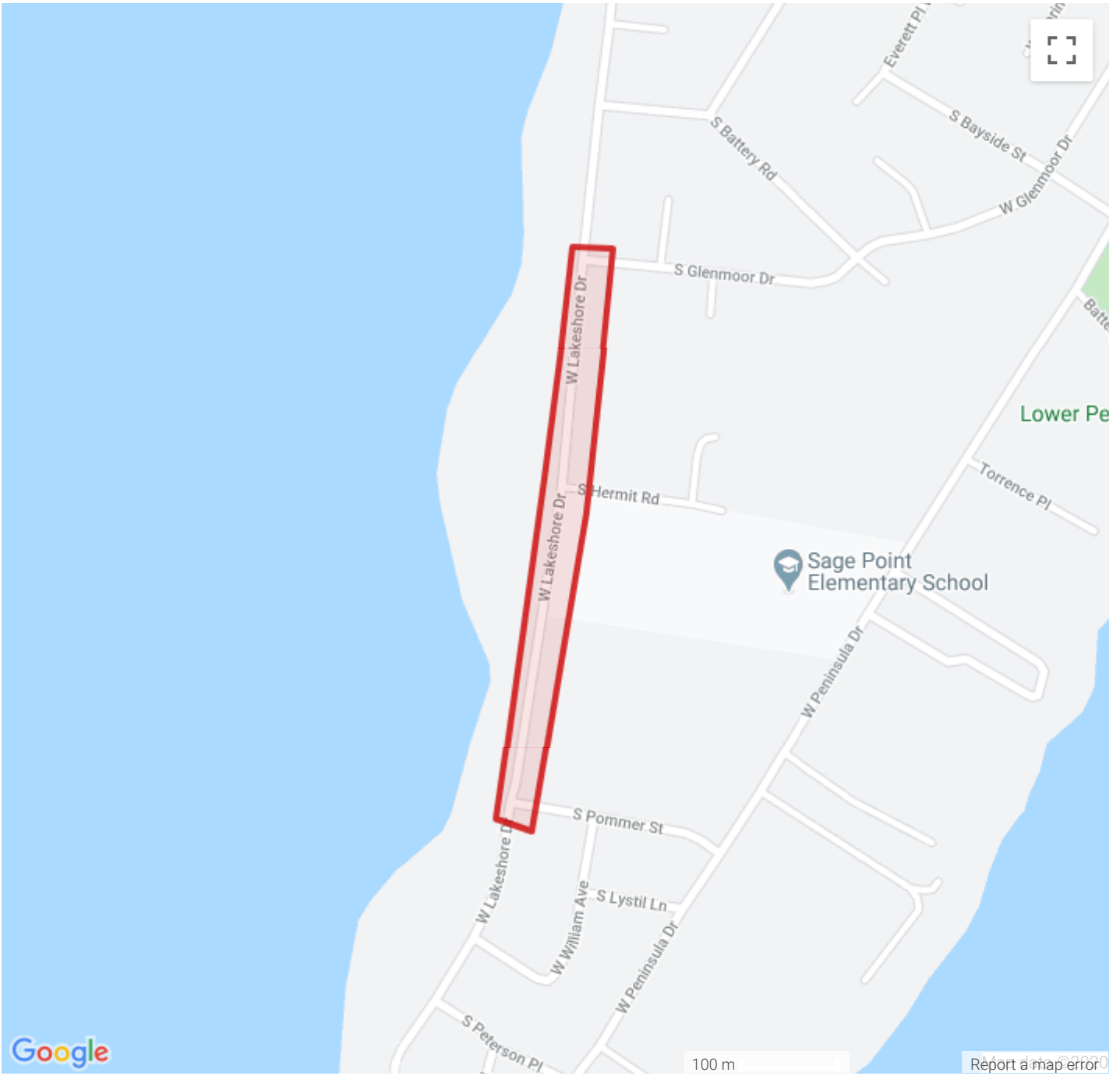
MEMBERS NOTIFIED

District	Company Name	Marking Concerns	Customer Service	Repair	Status
CNG12	CASCADE NATURAL GAS-WENATCHEE	509-662-0615	888-522-1130	888-522-1130	Does not report
GRAPUD01	GRANT CNTY PUD-MOSES LAKE	509-766-2515	800-422-3199	800-422-3199	Does not report

District	Company Name	Marking Concerns	Customer Service	Repair	Status
MOSES01	CITY OF MOSES LAKE	509-793-0118	509-764-3951	509-764-3951	Not yet responded
NLNDTV04	NORTH LAND CABLE TV	509-765-6151	509-765-6151	509-765-6151	Does not report
QLNWA13		800-778-9140	800-283-4237	800-573-1311	Not yet responded

Legend: Locate Polygon

Lat/Lon





January 21, 2020

Jeff Holm / Richard Law

RE: Lakeshore Drive – Unknown Utilities Change Order

Jeff:

I would like to express gratitude for another successful project with the City of Moses Lake. Moses Lake is one of our favorite clients to work for and like many other projects we have done together, we appreciate the City and enjoy doing business with you. POW certainly does not want to harm our relationship or leave a bad taste in the City's mouth. However, as businesspeople we sometimes run into difficult issues that become too costly to ignore, and this is one of those times we must pursue monetary remedy.

As documented in the field and through written notifications to the City on July 23rd, August 13th, and October 11th, POW has encountered 120 previously unknown and unforeseen utility conflicts/crossings. These negatively impacted POW's productivity, increased unforeseen costs, increased the amount of overtime for our crews and the City inspector, and caused additional working days that need to be added to the contract. The descriptions below and the attachments to this letter will identify and quantify these issues.

To read this correspondence correctly, it is important to differentiate between a utility and a crossing. For example, if a single power conduit crosses from one side of the road to the other, that is 1 utility. When installing a water main down the center of the road and you cross that power conduit, that is 1 crossing. However, it is possible to cross the same power conduit multiple times as you install other items like water services, storm pipe, sewer pipe and services etc. Therefore, there are more crossings than utilities.

- Utilities shown on the original bid documents: The bid plans showed a total of **11** franchise utilities (not including existing City storm, sewer, water) that impacted construction and were accounted for in POW's bid. 10 crossing the roadway and 1 telephone that runs along the shoulder. POW anticipated the costs to pothole and expose these utilities when crossed during construction, totaling **57** crossings for those 11 utilities.
- Additional Utilities Discovered: The final count of unknown franchise utilities (not shown on original plans) that were discovered on this project is **86**. This unreasonable amount of unknown utilities required POW to perform an additional **120** crossings that were unknown at bid time.

PO Box 4772 Pasco, WA 99302 Phone: (509) 542-8507 Fax: (509) 542-8508

The City has since granted additional days.

- Additional Contract Days: As previously requested on November 13th, POW requires an additional 16 working days added to the contract directly corresponding to the extra work for unknown utilities.
- Additional Direct Costs: These costs are twofold. First for a crew to provide the additional potholing and exposing of the utilities, and second for the mainline crew to protect and cross over/under said utilities with the new pipe installations. It should also be noted digging around the utilities was further impaired due to the large quantity of boulders under the roadway that surrounded the utilities. The direct costs have been determined to be **\$72,000.00** accumulated in over three weeks of extra work.
- Additional Overtime Costs: Spending 3 extra weeks of time dealing with unknown utilities forced POW into working an extra 1,272 labor hours on Fridays and Saturdays just to keep the project on schedule and completed before weather shutdown, which we did. In good faith we cannot attribute all of these hours to the unknown utility work, but conservatively 50% of these costs correspond directly to it. The total cost we paid our workers for that time is over \$75,000.00. In lieu of that, we are requesting only to be reimbursed for the overtime differential (not straight time) costs of **\$20,748.40**.
- Overtime costs for City Inspector: To further corroborate POW's overtime claim, the City has subtracted \$5,760.00 for Inspector overtime from the payments to POW. Again, in good faith POW cannot attribute all this cost to the unknown utility work, but conservatively half of this cost is directly attributed to it, resulting in paying POW back **\$2,880.00**.
- To summarize, the total amount of this change order is **\$95,628.40**. Please add it to the next payment due for this project.

This change order is based on Washington RCW 19.122.040, (paraphrasing) an owner is required to indicate in bid or contract documents the existence of underground facilities in areas of excavation. It shall be deemed a changed or differing site condition if an underground facility is not identified or not located. In addition, any clause written in your contract attempting to shift the responsibility and costs to POW is unenforceable by law. In RCW 19.122.030 paragraph (7), POW has the right to receive reasonable compensation for underground facilities not identified.

Your timely response is appreciated. Please respond ASAP so we can get this all behind us quickly and not escalate this matter.

Respectfully,

Aaron Jones
Project Manager
509-366-6050



Example of the multiple unknown utilities just short distances apart from each other, but far enough apart that POW had to expose a much bigger "pothole" to show all the utilities in that area.

Digging conditions on this project. Large rocks did not allow us to use Vacuum trucks or machinery to pothole and expose the unknown utilities. Hand digging was the only way to move the boulders without breaking the utilities.





Multiple unknown utilities in a short distance apart from each other. This slows production to a halt.



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Example of POW's potholing crew out in front of the mainline installation exposing the utilities. A Vacuum truck was used when possible, but due to large rocks hand digging was the only method that allowed us to cross.



An example of POW discovering unknown - unlocated utilities as we installed water main. This is power and fiber. Dangerous and costly.

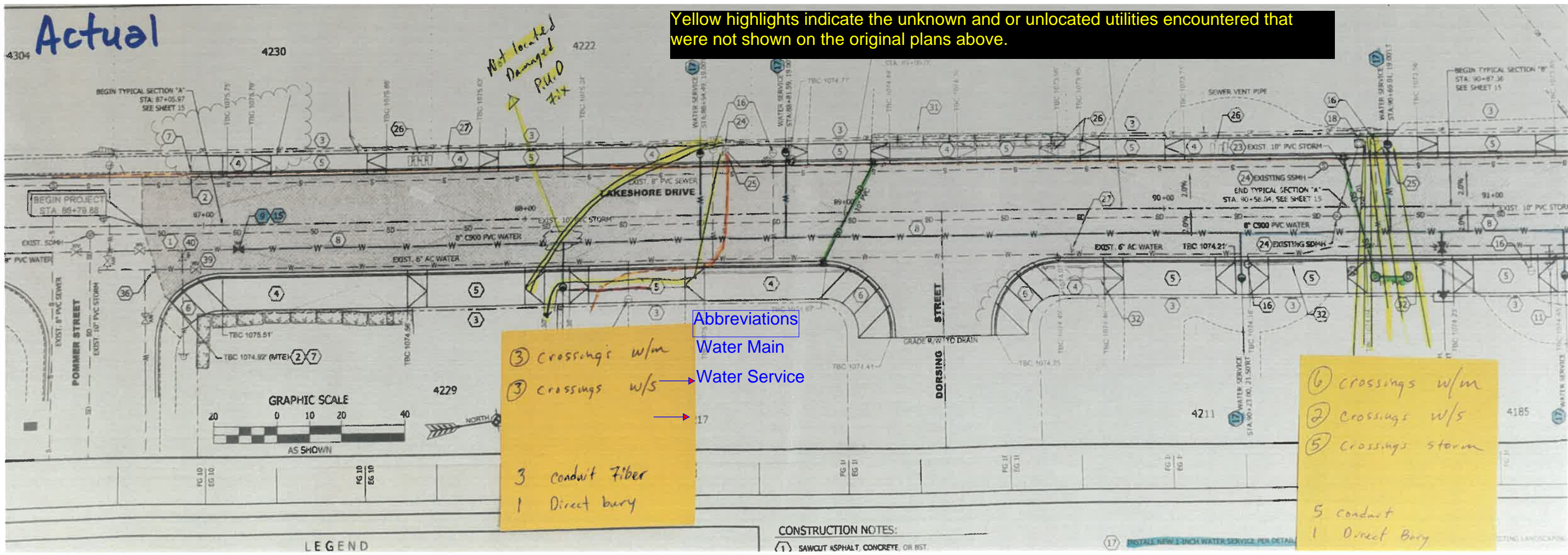
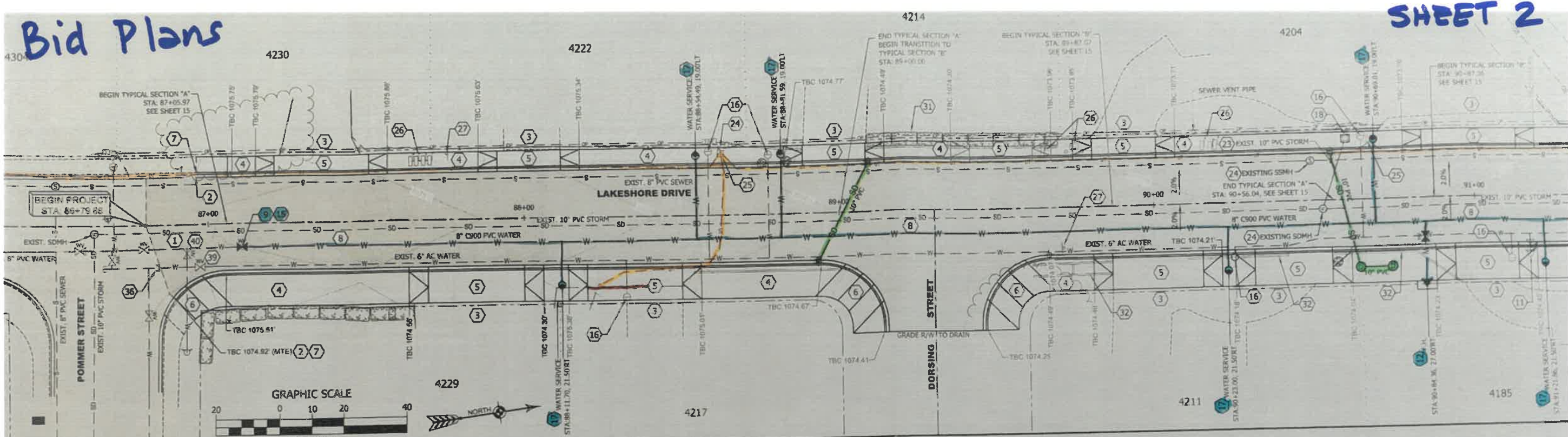


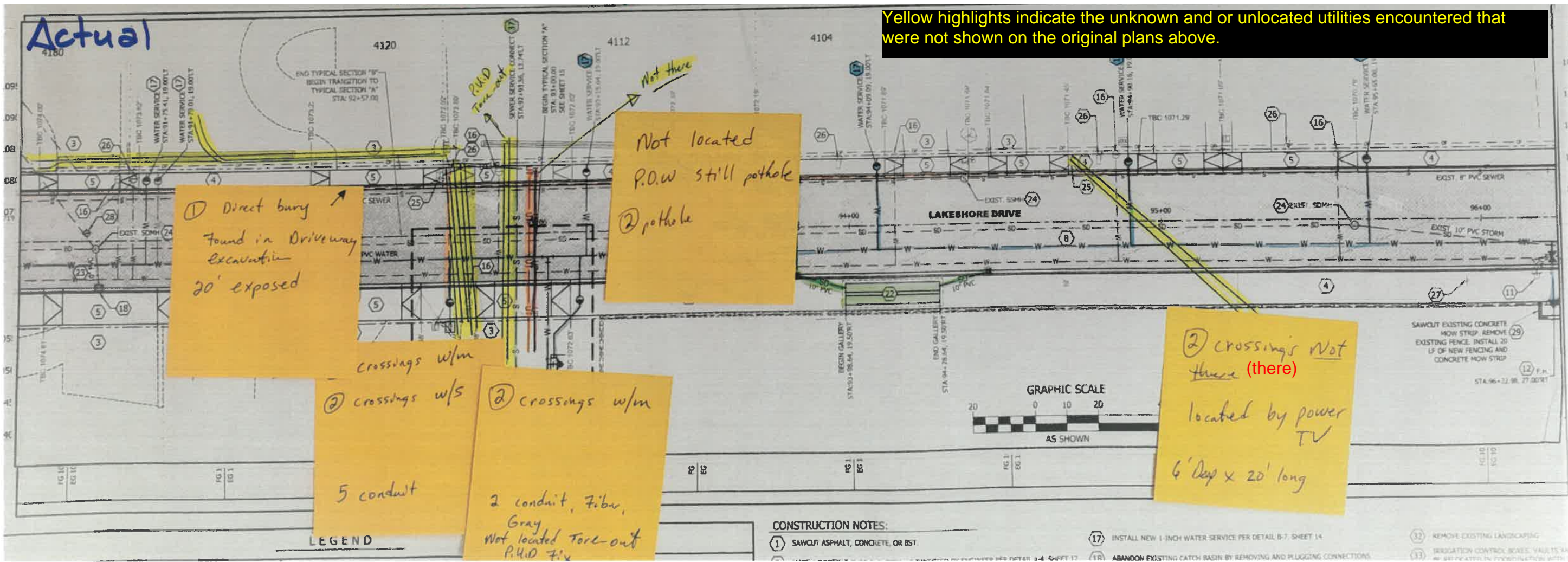
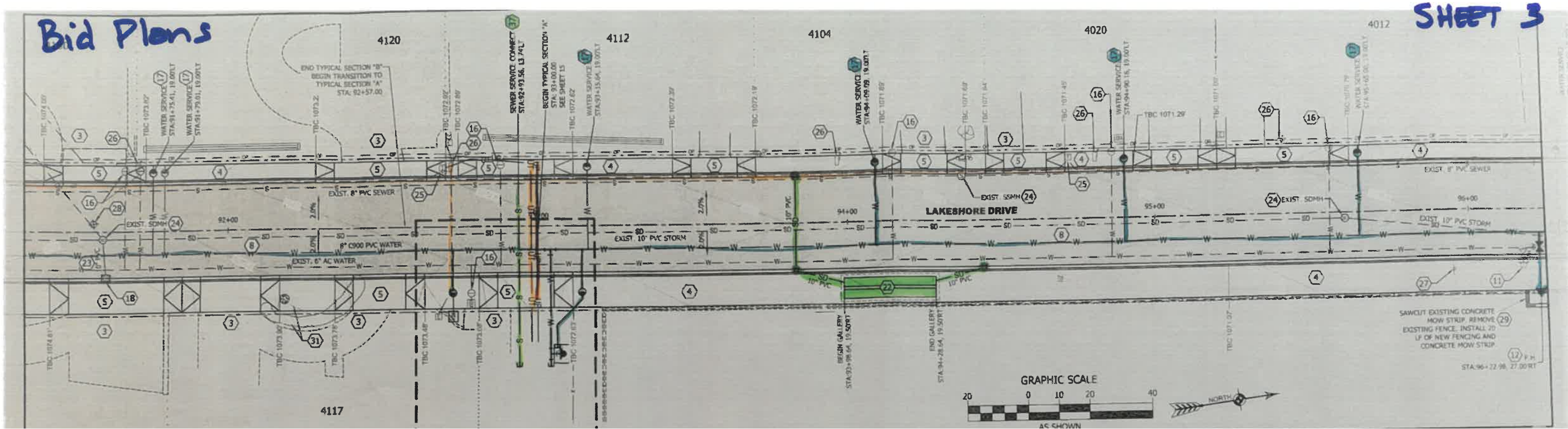


Example of unknown utilities and potholing crew exposing them

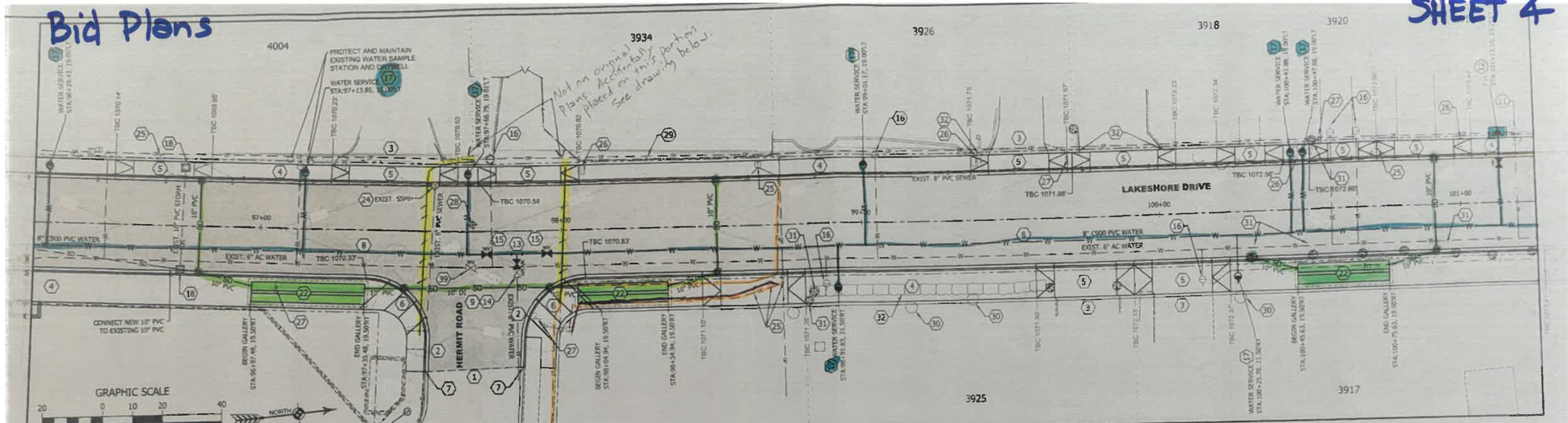


Storm cell location with unknown utilities not shown



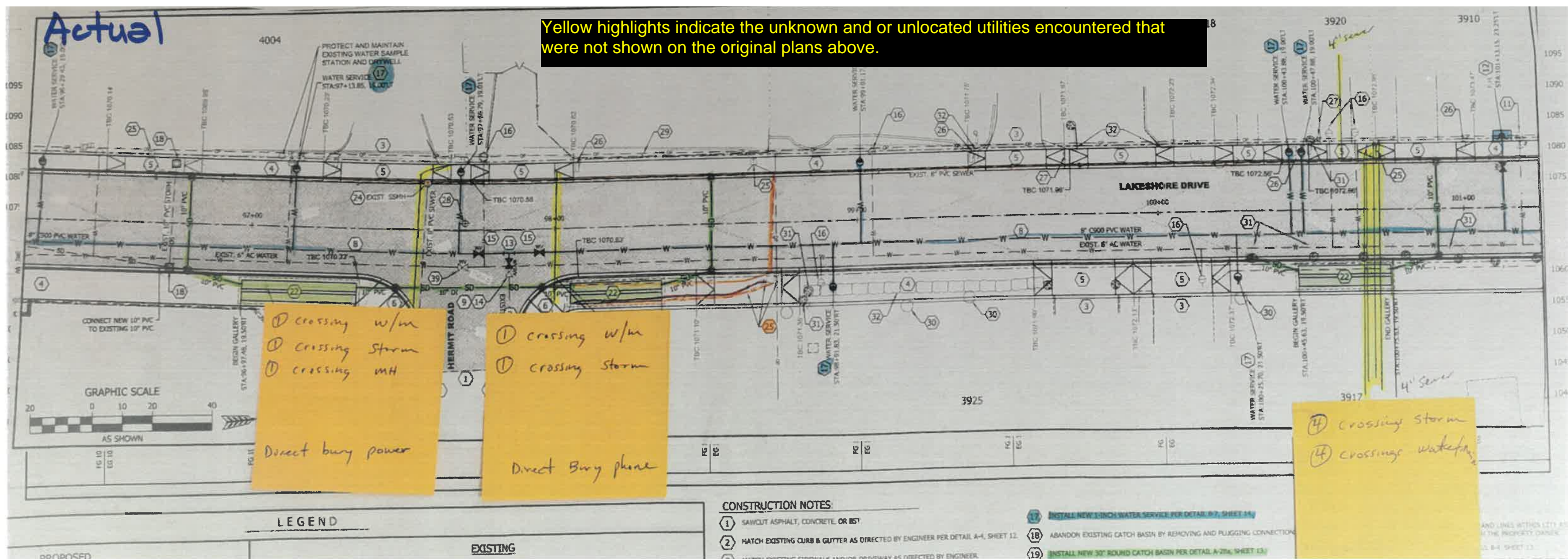


Bid Plans



Actual

Yellow highlights indicate the unknown and or unlocated utilities encountered that were not shown on the original plans above.



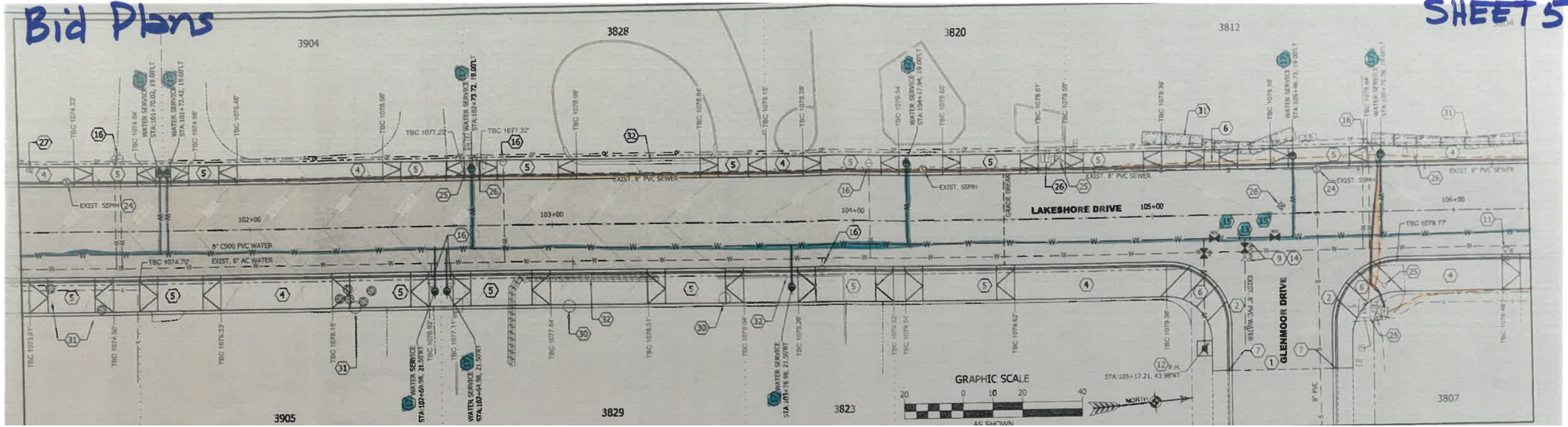
① crossing w/m
① crossing storm
① crossing MH
Direct bury power

① crossing w/m
① crossing storm
Direct Bury phone

④ crossing storm
④ crossings water

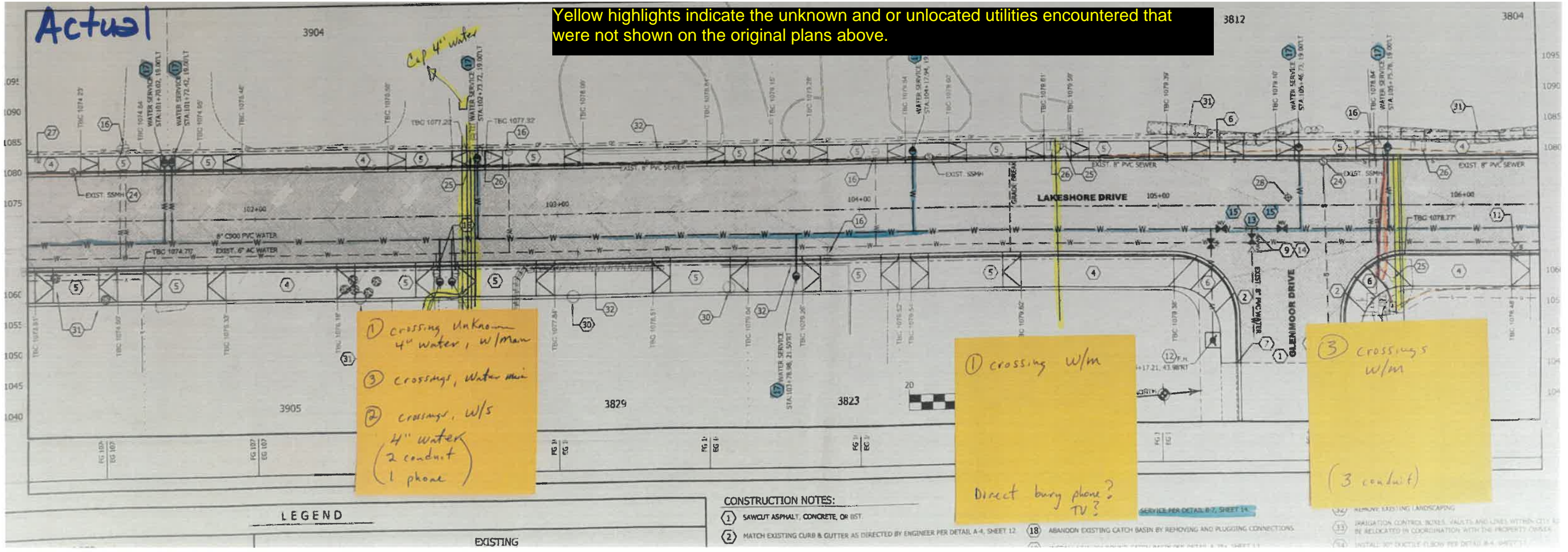
Bid Plans

SHEET 5



Actual

Yellow highlights indicate the unknown and or unlocated utilities encountered that were not shown on the original plans above.



① crossing unknown 4" water, w/man
 ③ crossings, water main
 ② crossing, w/s 4" water (2 conduit 1 phase)

① crossing w/m
 Direct bury phone? TV?

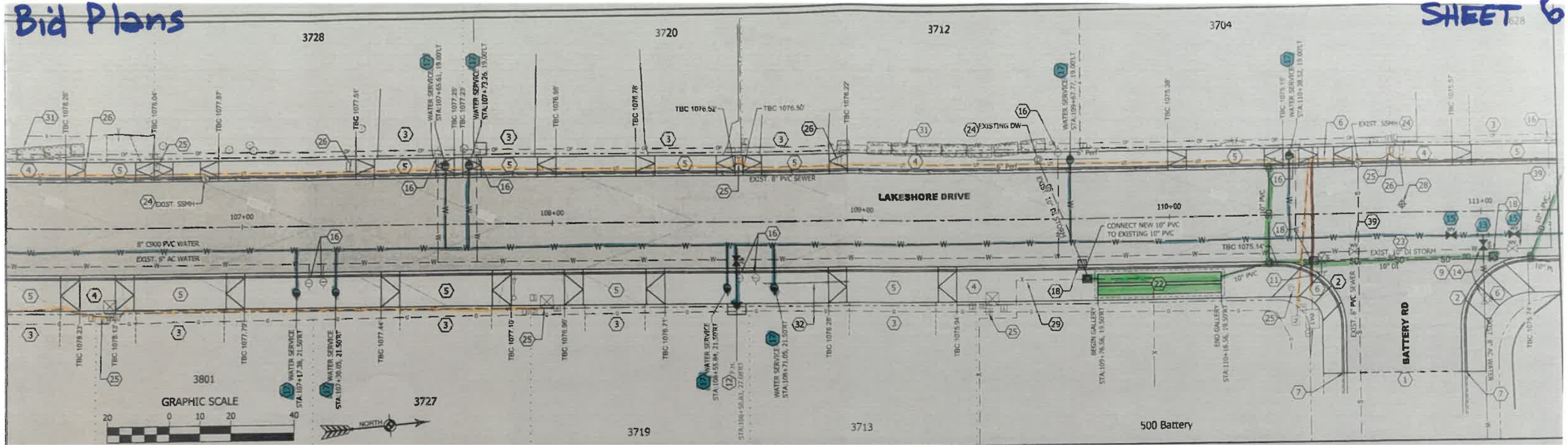
③ crossings w/m
 (3 conduit)

LEGEND

CONSTRUCTION NOTES:

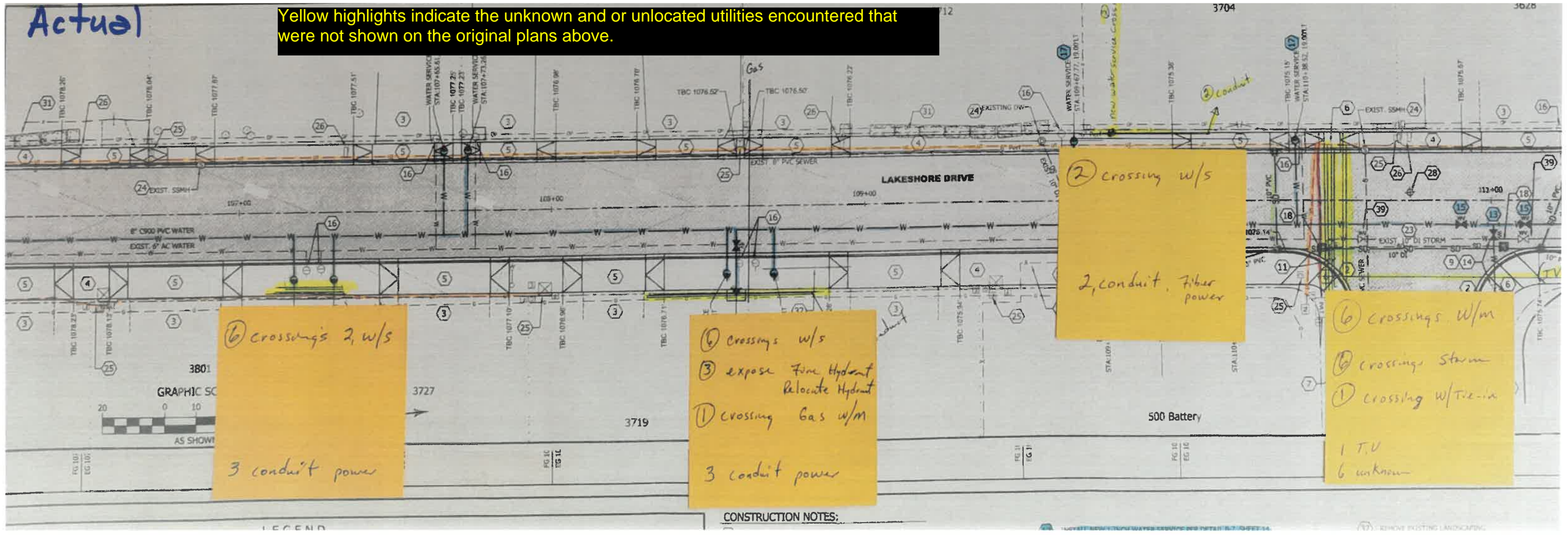
- ① SAWCUT ASPHALT, CONCRETE, OR B.T.
- ② MATCH EXISTING CURB & GUTTER AS DIRECTED BY ENGINEER PER DETAIL A-4, SHEET 12.
- ③ REMOVE EXISTING LANDSCAPING
- ④ IRRIGATION CONTROL BOXES, VALVES AND LINES WITHIN CITY & BE RELOCATED IN COORDINATION WITH THE PROPERTY OWNER.
- ⑤ INSTALL 90° EXACTLY ELBOW PER DETAIL B-4, SHEET 11.
- ⑥ ABANDON EXISTING CATCH BASIN BY REMOVING AND PLUGGING CONNECTIONS.
- ⑦ SERVICE PER DETAIL B-7, SHEET 14.

Bid Plans

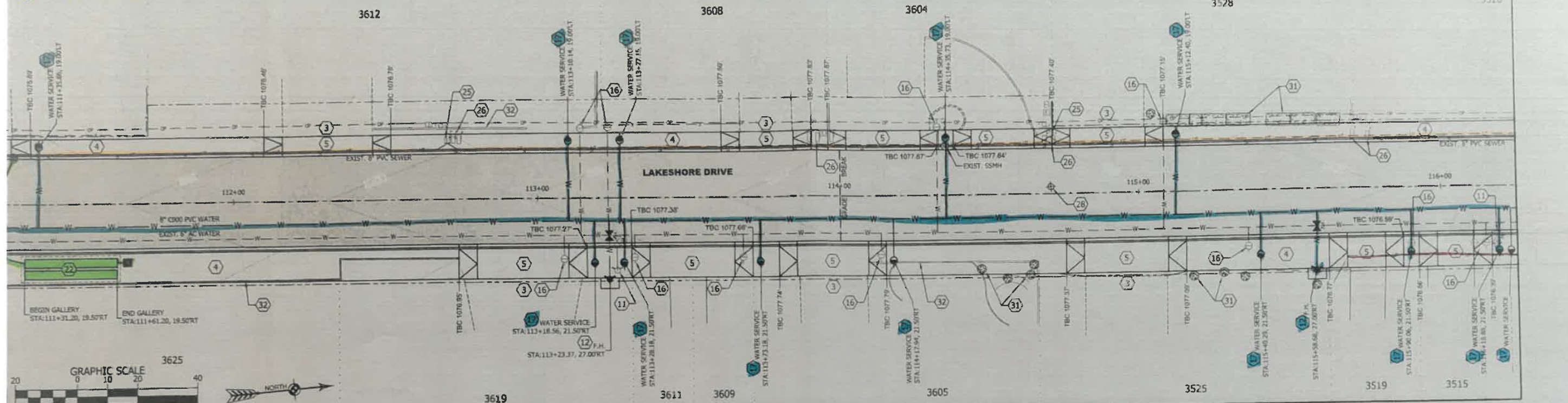


Actual

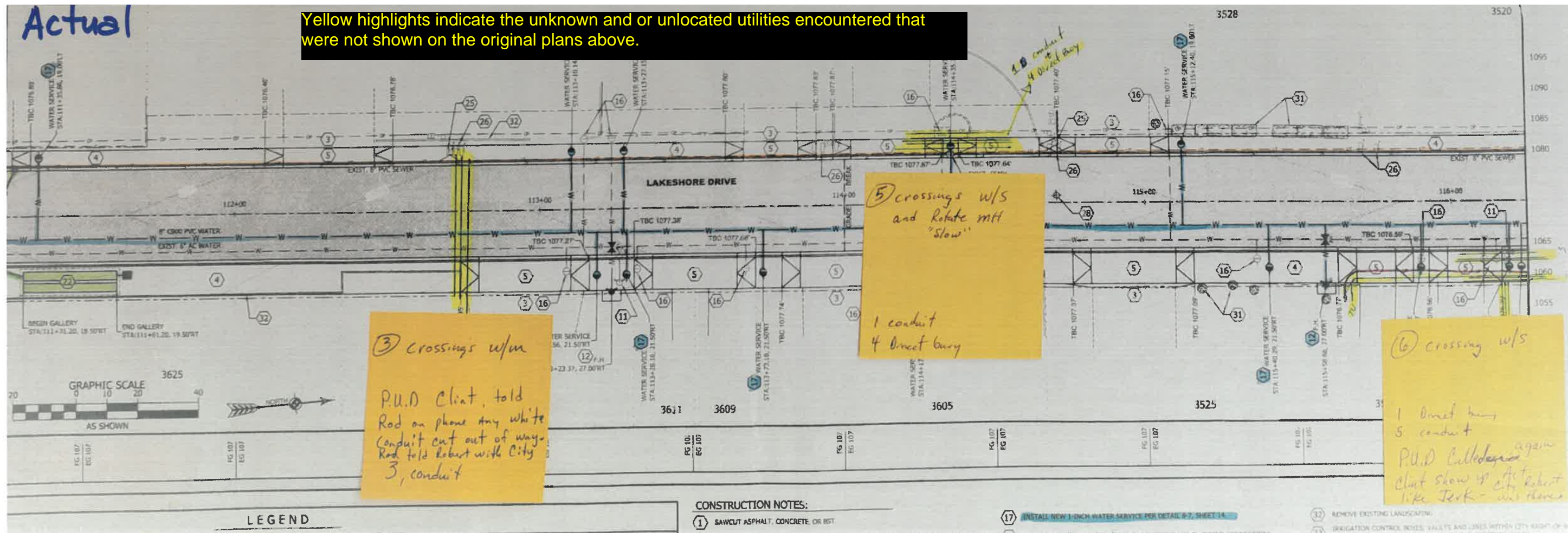
Yellow highlights indicate the unknown and or unlocated utilities encountered that were not shown on the original plans above.



CONSTRUCTION NOTES:



Yellow highlights indicate the unknown and or unlocated utilities encountered that were not shown on the original plans above.



3 crossings w/m
P.U.D. Client, told Rod on phone any white conduit cut out of way. Rod told Robert with City 3, conduit

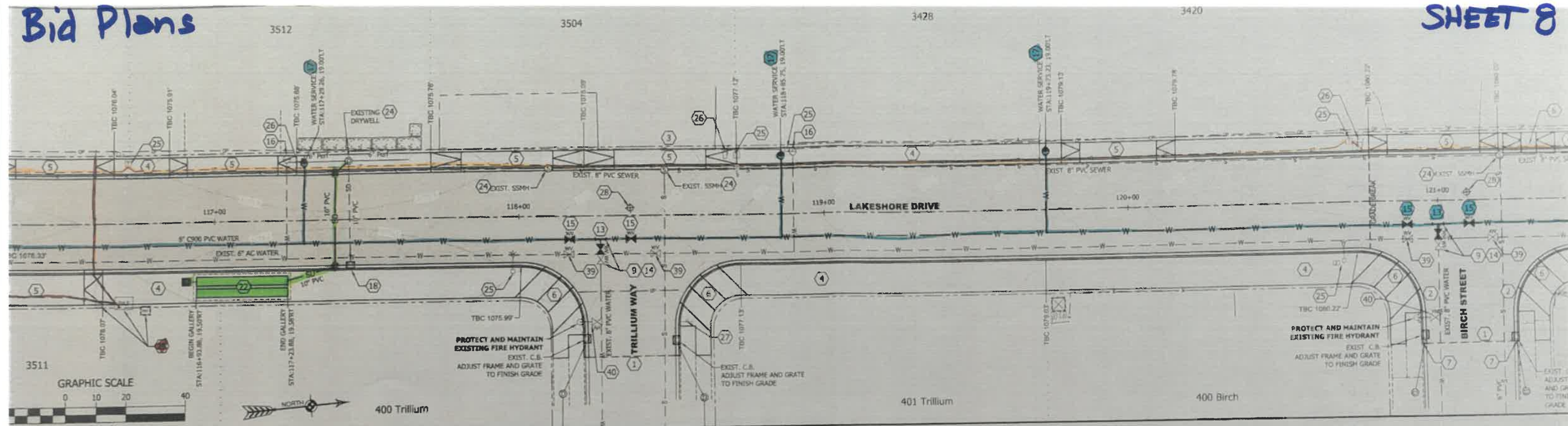
5 crossings w/s and Rotate mtl "slow"
1 conduit
4 Direct bury

6 crossing w/s
1 Direct bury
5 conduit
P.U.D. called again
Client show up at Robert like Jerk - was there

- CONSTRUCTION NOTES:
- 1 SAWCUT ASPHALT, CONCRETE, OR BST
 - 17 INSTALL NEW 1-INCH WATER SERVICE PER DETAIL 6-2, SHEET 1A
 - 18 REMOVE EXISTING LANDSCAPE
 - 19 IRRIGATION CONTROL NOTES: VALVES AND LINES WITHIN CITY RIGHT-OF-WAY TO BE REMOVED IN COORDINATION WITH THE PROPERTY OWNER
 - 20 REMOVE EXISTING LANDSCAPE
 - 21 IRRIGATION CONTROL NOTES: VALVES AND LINES WITHIN CITY RIGHT-OF-WAY TO BE REMOVED IN COORDINATION WITH THE PROPERTY OWNER

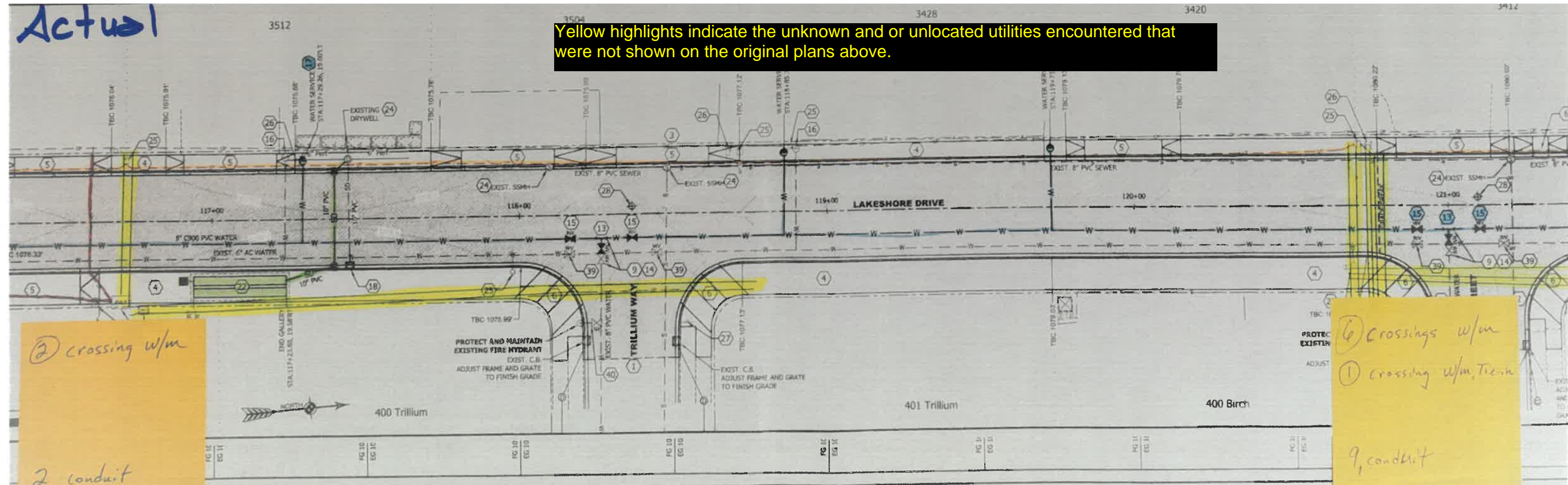
Bid Plans

SHEET 8



Actual

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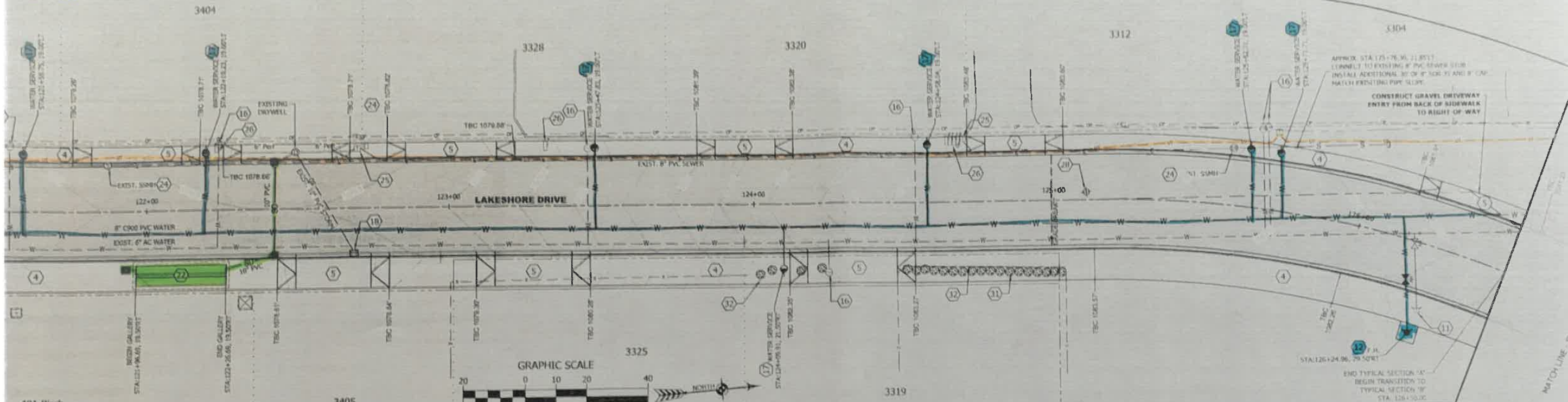
LEGEND

CONSTRUCTION NOTES:

- (1) SAWCUT ASPHALT, CONCRETE, OR IS.
- (2) MATCH EXISTING CURB & GUTTER AS DIRECTED BY ENGINEER PER DETAIL A-4, SHEET 12.
- (17) INSTALL NEW 1-INCH WATER SERVICE PER DETAIL B-7, SHEET 14.
- (18) ABANDON EXISTING CATCH BASIN BY REMOVING AND PLUGGING CONNECTIONS.
- (32) REMOVE EXISTING LANDSCAPING.
- (33) IRRIGATION CONTROL BOXES, VALVES AND LINES WITHIN LOT BE RELOCATED IN COORDINATION WITH THE PROPERTY OWNER.

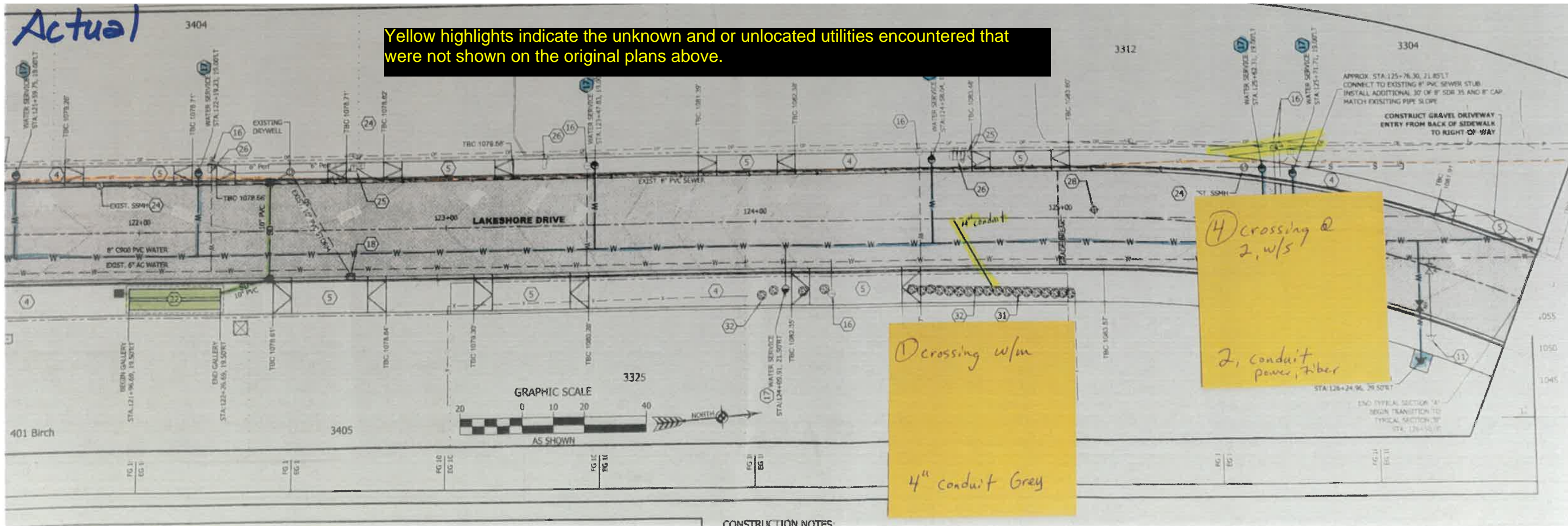
Bid Plans

SHEET 9



Actual

Yellow highlights indicate the unknown and or unlocated utilities encountered that were not shown on the original plans above.

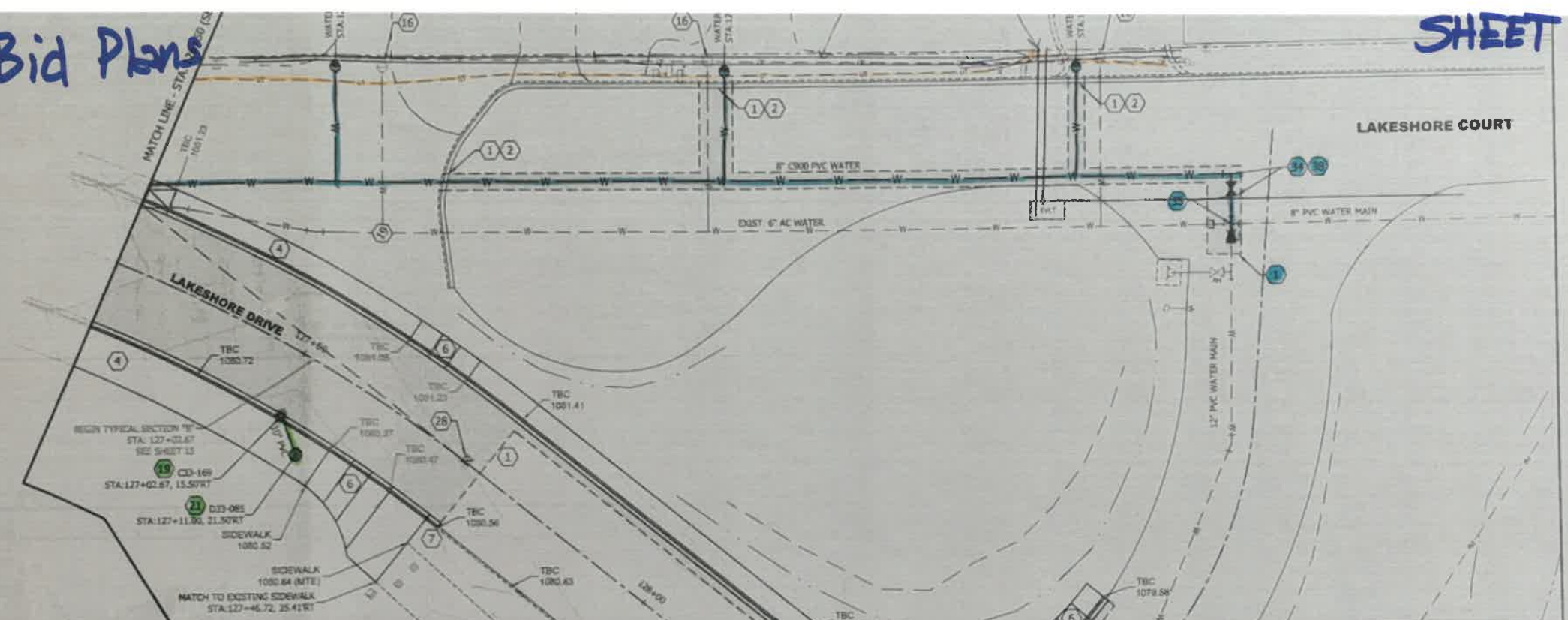


CONSTRUCTION NOTES:

- 25 UTILITY TO BE RELOCATED BY OTHERS
- 26 RELOCATE MAILBOXES PER DETAIL M-1, SHEET 13.
- 27 RELOCATE SIGN PER DETAIL 4-B, SHEET 13.
- 28 PROTECT AND PRESERVE EXISTING CENTERLINE MONUMENT. IF DISTURBED, INSTALL NEW MONUMENT ASSEMBLY PER DETAIL A-11A, SHEET 13, AT LOCATION DESIGNATED BY THE SURVEYOR AND SALVAGE EXISTING MONUMENT TO CITY STORAGE.
- 29 RELOCATE EXISTING FENCE.
- 30 REMOVE CLASS II TREE
- 31 REMOVE EXISTING LANDSCAPE VEGETATION
- 32 REMOVE EXISTING LANDSCAPING
- 33 IRRIGATION CONTROL BOXES, VAULTS AND LINES WITHIN CITY RIGHT-OF-WAY SHALL BE RELOCATED IN COORDINATION WITH THE PROPERTY OWNER.
- 34 **INSTALL 8" CRK PVC FLOW PER DETAIL 8-4, SHEET 13.**
- 35 **REMOVE TEMPORARY CAP AND INSTALL DUCTILE IRON TEE PER DETAIL 8-4, SHEET 13. CONNECT TO EXISTING 8" PVC AND 12" PVC WATER MAIN (12" AND 8" EXISTING 8" AC WATER MAIN AND ABANDON IN PLACE).**
- 36 CAP EXISTING WATER MAIN AND INSTALL THRUST BLOCK PER DETAIL 8-4, SHEET 13.
- 37 CONNECT NEW SEWER SERVICE TO EXISTING SEWER MAIN PER DETAIL C-3, SHEET 14.
- 38 **INSTALL 2" GATE VALVE AND TEMPORARY CAP WITH 2" BLOW OFF FOR FLOODING AND SURGING.**
- 39 SHUT OFF EXISTING WATER VALVE, REMOVE EXISTING WATER VALVE BOX, ABANDON WATER VALVE IN PLACE.
- 40 ADJUST VALVE BOX PER SPECIFICATIONS.

Bid Plans

SHEET 10



Actual

Yellow highlights indicate the unknown and or unlocated utilities encountered that were not shown on the original plans above.

