

AGENDA ITEM #5

Consideration of Resolution 2021-51
approving a waterline extension contract.

**GRANTSVILLE CITY
RESOLUTION NO. 2021-51**

**A RESOLUTION APPROVING A WILL SERVE AGREEMENT BETWEEN
GRANTSVILLE CITY AND IRONWOOD REAL ESTATE, LLC**

Be it enacted and ordained by the City Council of Grantsville City, Utah as follows:

WHEREAS, NorthStar Ranch, LLC (“Northstar”) and Mountain Vista Development, Inc. (“Mountain Vista”) (collectively “Developers”) are developing real property located in the City combined comprising several hundred acres of land located near the southeast corner of the City (the “Property”); and

WHEREAS, Developers have requested the City enter into an Impact Fee Agreement for installation of a new water transmission line (“Transmission Line”) to benefit the Property; and

WHEREAS, the Property requires construction of the Transmission Line for full development of the Property; and

WHEREAS, the Property requires the Transmission Line to be 10” (10 inches) in diameter, but the City has agreed to pay to upsize the Transmission Line to 12” (12 inches) to support future planning; and

WHEREAS, the City hereby agrees to reimburse Developer for the full cost of the Transmission Line, including all construction costs, to be paid as an Impact Fee credit on the terms and conditions set forth in the Impact Fee Agreement, attached as Exhibit “A”; and

WHEREAS, the City Council hereby finds that entering into and executing the Contract with Developers is beneficial to the City and its residents; and

WHEREAS, the Grantsville City Council hereby determines that it is in the best interest of the City to approve the Impact Fee Agreement between the City and Developers.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF GRANTSVILLE CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Impact Fee Agreement. The City of Grantsville hereby approves the Impact Fee Agreement for Northstar Ranch, LLC and Mountain Vista Development, Inc attached as Exhibit "A".

Section 2. Severability Clause. If any part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution and all provisions, clauses and words of this Resolution shall be severable.

ADOPTED AND PASSED BY THE CITY COUNCIL OF GRANTSVILLE CITY, THIS
26th DAY OF MARCH, 2021.

BY ORDER OF THE
GRANTSVILLE CITY COUNCIL

By Mayor Brent K. Marshall

ATTEST

Christine Webb, City Recorder

Exhibit A

**IMPACT FEE REIMBURSEMENT AGREEMENT
FOR NORTHSTAR RANCH, LLC AND MOUNTAIN VISTA DEVELOPMENT, INC
Water Transmission Line Reimbursement**

This Impact Fee Reimbursement Agreement (this "Agreement") is entered into by and among **Grantsville City**, a municipal corporation of the State of Utah (the "City") and **NorthStar Ranch, LLC**, a Utah limited liability company ("NSR") and **Mountain Vista Development, Inc.** ("MVD") NSR and MVD collectively referred to herein as the "Developers". City and Developers are collectively referred to herein as the "Parties."

RECITALS

- A. Developers are the developers of the NorthStar Ranch and Wells Crossing subdivisions located in Grantsville City, Utah (the "Projects").
- B. In connection with the Projects, Developers will install a 12" water transmission line, which the parties agree shall be included in the City's Capital Facilities Plan (a/k/a Impact Fee Facilities Plan) (the "Transmission Line").
- C. The Parties agree that the Transmission Line should be considered a System Improvement subject to reimbursement by the City from the City's collection of impact fees.
- D. It is the intent of the Parties that City will reimburse Developer for certain costs associated with the Transmission Line on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties contained herein, the parties agree as follows:

- 1. Construction and Approval of the Transmission Line. MVD will complete the installation of the Transmission Line at Developers' sole cost by qualified, licensed contractors acceptable to the City. NSR agrees to contribute \$228,139.71 or 58.33% of the total cost, whichever is less, and MVD agrees to contribute \$162,979.29 or 41.67% of the total cost, whichever is less. Developers acknowledge that installation of the Transmission Line is in furtherance of the conditions of development approval. Developers will warranty the Transmission Line in accordance with the City warranty requirements for infrastructure improvements.
- 2. Reimbursement to Developers from City. City has reviewed the projected costs to be incurred by Developers to install and upsize the Transmission Line, including the materials, labor, and equipment costs (but not including any administrative or management fees) (the "Cost Breakdown Information"), attached as Exhibit "A" and incorporated herein by this reference.

The source of funds at the time of construction shall be: \$228,139.71 by NSR, \$162,979.29 by MVD for a total of \$391,119.00 (the "Reimbursement Amount"). NSR and MVD shall be reimbursed only the amounts contributed by each respective party.

- 3. Changes in Impact Fee Regulations / Alternative Collection. Developer acknowledges and agrees that the City's obligation to reimburse Developer for the Reimbursement Amount shall be based solely on the City's ability to collect impact fees from development in the City in accordance with the Utah Impact Fees Act (Utah Code Ann. § 11-36a-101, et seq.) (the "Act"), and that changes to the Act or challenges to the City's Impact Fee Facilities Plan or Impact Fee Analysis may limit or negate the ability of the City to collect impact fees to reimburse developer under this Agreement or may require the City to amend the collection

and reimbursement methodology in this Agreement. Subject to the foregoing, the City shall make all reasonable effort to impose and collect impact fees to fully reimburse the Developer for the Reimbursement Amount in a timely manner.

4. Accounting and Payment. Developers may submit a reimbursement application to the City prior to the application deadlines of February 1 and August 1 for the six-month period immediately preceding such application deadlines (January through June and July Through December) ("Reimbursement Periods"). The Reimbursement Periods shall constitute the accounting period for determining the total amount of impact fees collected for reimbursement under this Agreement. Within 30 days following the end of each Reimbursement Period, each Developer may prepare and make available to the City a report of all impact fees which were collected during the preceding accounting period that are payable to such Developer under this Agreement. With respect to the initial reimbursement period following the update to the Impact Fee Facilities Plan, each Developer may apply for reimbursement of all impact fees collected from the date of execution of this Agreement through the final day of the initial Reimbursement Period. The City may require an application fee of \$150.00 each application, and shall have a period of 10 days to review and approve each application or reapplication (in the event of denial) for reimbursement and shall pay the amounts to each Developer applicant within 30 days of approval.
5. Collection and Payments to Developers. The impact fees shall be collected at a rate consistent with impact fees adopted at the time of issuance of the building permits within the impact fee service area of the Project. The impact fee reimbursement shall not exceed the Reimbursement Amount attributable to each party, and shall be paid according to the following schedule: (i) the first \$50,000 reimbursed to each developer shall be at a rate of \$2,545 per permit, and (ii) any subsequent reimbursements at a rate of \$1,272.50 per permit. In the City's sole discretion, Failure to apply for reimbursement by the deadline for any applicable Reimbursement Period may result in developer forfeiting its right to reimbursement for such period, but shall not apply to any subsequent Reimbursement Period. The Parties must work in good faith to not deprive one another of the rights, privileges and obligations of this Agreement.
6. Termination. This Agreement shall terminate on the earlier of (i) full repayment of the Reimbursement Amount, or (ii) ten years from the date of this Agreement, unless any portion of the Reimbursement Amount is owed and has not been forfeited as outlined herein and either NSR or MVD, in which case NSR or MVD shall be entitled to unilaterally extend this Agreement for one period of five years by sending notice no later than six months prior to Termination.
7. Developers' Remedies Upon Default. Developers acknowledge and agrees that Developers' sole and exclusive remedy under this Agreement shall be specific performance of the development rights granted in this Agreement and City's obligations under this Agreement. Outstanding amounts owed to Developers shall not accrue interest or penalties. IN NO EVENT SHALL CITY BE LIABLE TO DEVELOPER, THEIR SUCCESSORS OR ASSIGNS, FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, OR LIABILITIES TO THIRD PARTIES.
8. General Provisions. The following provisions are also an integral part of this Agreement:
 - a. Governmental Immunity. The City is a governmental entity under the "Utah Governmental Immunity Act" (*Utah Code Ann. § 63-30-1, et seq.*) (the "Immunity

Act"). Nothing herein shall be construed as a waiver of any defenses available under the Immunity Act nor does City waive any limits of liability provided by the Immunity Act or any other provisions of Utah law.

- b. **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.
- c. **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.
- d. **Severability.** The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.
- e. **Waiver of Breach.** Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to any subsequent breach of this Agreement.
- f. **Cumulative Remedies.** The rights and remedies of the parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of any other right, remedy or priority allowed by law.
- g. **Amendment.** This Agreement may not be modified except by an instrument in writing signed by both Parties.
- h. **Interpretation.** This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah.
- i. **Exhibits.** All exhibits annexed to this Agreement are expressly made a part of this Agreement as though completely set forth herein. All references to this Agreement, either in this Agreement itself or in any of such writings, shall be deemed to refer to and include this Agreement and all such exhibits and writings.
- j. **Recitals.** All recitals are expressly made a part of this Agreement as though completely set forth in the body of this Agreement.
- k. **No Partnership.** The Parties do not by this Agreement in any way or for any purpose become partners or joint venturers with each other.

DATED this ____ day of _____, 2021

GRANTSVILLE CITY

ATTEST:

Brent Marshall, Mayor

City Recorder

APPROVED AS TO FORM:

Brett Coombs, City Attorney

NORTHSTAR RANCH LLC

By: _____

Print Name: _____

Title: _____

MOUNTAIN VISTA DEVELOPMENT INC.

By: _____

Print Name: _____

Title: _____



Brent Marshall <bmarshall@grantsvilleut.gov>

Off-site water line

2 messages

Lamont Kingston <lkingston@me.com>

Mon, Mar 22, 2021 at 3:13 PM

To: Brent Marshall <bmarshall@grantsvilleut.gov>

Mayor,

I am checking in to see if the City has come to any conclusion on the way that you want to handle the off-site water line contributions by all parties, and the reimbursements to the developers.

I know that Travis has been talking with Timm, but Travis has not been able to get us any final agreement yet.

What would you suggest that we do to finalize this?

Thank you. We appreciate your help on this, and all our projects.

Monte

Brent Marshall <bmarshall@grantsvilleut.gov>

Mon, Mar 22, 2021 at 4:26 PM

To: Lamont Kingston <lkingston@me.com>

I will check on it.

[Quoted text hidden]

| | | |
|--|---|-------------------|
| Grantsville City | | |
| New Zone 4 Water Transmission Line | | |
| Cost of Construction | | |
| | 10" pipe - base cost | \$ 300,000 |
| | 12" pipe - upsize cost | \$ 60,000 |
| | Total Cost of Construction | \$ 360,000 |
| Source of Funds at Time of Construction | | |
| | 10" pipe - base cost | |
| | Wells Crossing | \$ 150,000 |
| | Northstar Ranch | \$ 150,000 |
| | 12" pipe - upsize cost | |
| | Northstar Ranch | \$ 60,000 |
| | Wells Crossing | \$ 150,000 |
| | Northstar Ranch | \$ 210,000 |
| | Total Source of Funds at Time of Construction | \$ 360,000 |
| Reimbursement | | |
| | Water impact fee per home | \$ 2,545 |
| | Number of permits subject to full or partial reimbursement - details below | 243.61 |
| | Total impact fee collected | \$ 620,000 |
| | Total project cost - reimbursement | \$ 360,000 |
| | Net impact fee collected after reimbursement | \$ 260,000 |
| | Base cost of construction - 10" pipe only | \$ 300,000 |
| | 1/3 of the base cost of construction (\$100,000) repaid through reimbursement - 1/6 to Wells Crossing (\$50,000) and 1/6 to Northstar Ranch (\$50,000) | |
| | Wells Crossing | |
| | 1/6 base cost of construction | \$ 50,000 |
| | full impact fee | \$ 2,545 |
| | number of permits - waiver or credit at full rate | 19.65 |
| | Northstar Ranch | |
| | 1/6 base cost of construction | \$ 50,000 |
| | full impact fee | \$ 2,545 |
| | number of permits - waiver or credit at full rate | 19.65 |
| | The remainder of the costs incurred would be repaid through reimbursement of water impact fee at a reduced rate of 50% of the fee collected per building permit | |
| | Wells Crossing | |
| | additional out of pocket cost of construction | \$ 100,000 |
| | 50% of impact fee | \$ 1,272.50 |
| | number of permits - waiver or credit at 50% rate | 78.59 |
| | Northstar Ranch | |
| | additional out of pocket cost of construction | \$ 160,000 |
| | 50% of impact fee | \$ 1,272.50 |
| | number of permits - waiver or credit at 50% rate | 125.74 |
| | Total Reimbursement | \$ 360,000 |
| Notes: | | |
| | Grantsville City is not paying any of the construction cost out of pocket | |
| | Each developer to submit quarterly reimbursement requests to the city based on the number of building permits paid for in the previous quarter within their development | |
| | Reimbursement schedule is based on best estimates of quantities. Final project costs will be used for actual reimbursements. | |



Brent Marshall <bmarshall@grantsvilleut.gov>

Off-Site Water Line

1 message

Lamont Kingston <lkingston@me.com>

Thu, Jun 24, 2021 at 4:47 PM

To: Brett Combs <bcoombs@grantsvilleut.gov>

Cc: Derek Ellis <dkellis@mtn-vista.com>, Travis Taylor <ttaylor@westcompllc.com>, Shay Stark <shay.stark@aquaeng.com>, Brent Marshall <bmarshall@grantsvilleut.gov>

Brett,

Attached is an updated bid for the off-site water line, so we will need to update the numbers in the agreement. The numbers shown in the draft agreement were almost 1 year old.

I think with the updated numbers, the agreement should be good to move forward with to the City Council.

One note... this bid assumes that the line will need to be started at the tank, but Shay thinks that the Romney Group will have installed that section of the line for their project, so this number may come down as much as \$75,000. Should we put in some language in the agreement that states the final cost will be adjusted at completion of the project, knowing that the number may come down in cost?

We are anticipating that will be on the July 7th City Council agenda, along with Mountain Vista's Development Agreement for the 155 acres.

Thank you!

Monte



NSR 12 Inch Water Line.pdf

149K

Estimate



Job Information

NSR 12" Off Site Water Line
North Star Ranch Grantsville
Grantsville, Ut.

Customer

Westates Construction
1950 North 2200 West Suite 9
SLC, UT 84116

985 W 14600 S
Bluffdale, UT 84065
(801)747-1055

Bid Date 6/22/2021

Job Contact Travis Taylor

Phone 801-694-5202

Email ttaylor@westcollc.com

Estimator

Brian Allen

Phone

(801) 889-9631

**Item
#**

Quantity Rate Amount

| | | | | |
|---|--|---------|---------|--------------|
| 1 | 12" Water Line, Includes Valves and all Parts for Install, Import of Bedding Sand, 6" Under 12" Over, Back fill with Native. Bid Includes Installing in rough cut field, No surface restoration or Top soil Restoration, No Haul-off of excess material, all Materials to be left on site. | 8,634.0 | \$54.00 | \$466,236.00 |
|---|--|---------|---------|--------------|

Total Bid

\$466,236.00

Contract Section

Ridge Rock, Inc. and

Westates Construction

agree to the following:

1. EXCLUSIONS (Unless otherwise noted above): traffic control, automobile towing/removal, removal of water or construction debris, bonds, fees, permits, surveying, testing, engineering, saw cutting, ground sterilant, quality control testing, samples, cores, prime coating, vapor barrier, bolts, hold downs, caulking, sealing, cold weather protection, concrete accelerant or Insurance in excess of our current policy (Insurance certificate will be provided on request). Note: Any delays caused by these exclusions will automatically add time to the contract period and will result in a change order.

2. FUEL PRICE DISCLAIMER: The cost of fuel is a large factor in determining the above pricing. In the event a large (more than 10%) increase in fuel prices occurs from the date of this bid to the start date of the project, a fuel surcharge will need to be added to this price. Or, during the contract period should a large fuel price increase occur, a fuel surcharge will need to be added in the form of a Change Order.

Bid Date

| | | |
|--|-----------|---------------|
| Cost of Deisel (average) as of the date of this bid | 6/22/2021 | \$3.80 |
|--|-----------|---------------|

3. CONTRACT PRICE: To the extent that the above is specified as a unit or square foot price, it is agreed that the number of units or square feet indicated is an approximation. Ridge Rock shall be paid for the actual number of units or square feet completed as determined by the field measurement. The price stated is also based on Ridge Rock's ability to purchase required materials. Any increase in the price, including freight and taxes, which Ridge Rock must pay for said materials, will be passed on to and paid for by the Buyer.

4. TERMS OF PAYMENT: Ridge Rock, Inc. will provide materials & services as described. Any changes will require a change in the contract price. Buyer hereby agrees to terms of any change orders submitted by RRI. The price for the work shall be as per actual quantities and unit prices as listed above. Quantities will be field verified and invoiced upon completion. RRI will invoice only work that has been completed and the quantities have been field verified. Signer personally guarantees payment to RRI in full within ten (10) days following the date of invoices, without retention regardless of the final completion date of the full contract. In the event that payment is not made as provided herein, RRI shall be entitled to all of its costs, including collection and attorney's fees and lien fees, in connection with the enforcement of its rights under this contract, whether or not legal proceedings are instituted. In addition, RRI shall be entitled to interest on all past due accounts at the rate of 1-1/2% per month from the date payment is due until payment is made.

5. CLAIMS OR DEFECTS: Written notice of any alleged claim or defect must be given to Ridge Rock at its address shown above no later than (5) five days after the completion of the work under this contract. Failure to give written notice as herein provided shall be and constitute a waiver of any such alleged defects or claims. Ridge Rock's sole and exclusive liability shall be to repair any defects deemed to be caused by faulty materials or workmanship. Ridge Rock will have no liability for damage or defects caused, by use or neglect by the property owner or any other contractors accessing the project. If a repair is made, Ridge Rock shall have a reasonable time to make such repair. Ridge Rock will not be liable for special, incidental or consequential damages, including, but not limited to, loss of use, loss of goodwill or loss of profits.

6. PERFORMANCE OF WORK: It is contemplated by the parties that the work specified in this contract shall be completed in a timely manner. If there is a date of substantial completion required by the buyer, it is agreed that Ridge Rock, Inc. will be notified in advance of the proposed schedule and afforded an opportunity to revise or decline this contract. In addition, Ridge Rock shall not be responsible for any delays in performing the work due to labor disputes, weather, shortages in material, equipment or labor, acts of God or any other cause beyond its control. In the event of a delay beyond Ridge Rock's control, and to the extent reasonably possible, Ridge Rock shall complete the work at the next available opportunity. In the event Ridge Rock elects not to perform any further work beyond the above specified date pursuant to the terms provided herein, Ridge Rock shall be paid for all work performed prior to the said date and shall otherwise be fully relieved of all of its duties and responsibilities under the terms of this contract.

7. PROPERTY DAMAGE: Buyer shall be responsible to direct Ridge Rock employees to proper ingress and egress of the property. To the extent that such direction is followed or that no direction is given, Ridge Rock shall not be responsible for any damage to the property where the work is being performed, including damage to landscaping, curbs, gutters and sidewalks.

8. MISCELLANEOUS PROVISIONS:

- a. Buyer specifically represents and warrants that either Buyer is the owner of the Premises where the work is to be performed, or, in the alternative, Buyer has written authorization from the owner of the Premises authorizing the work to be performed on the said Premises.
- b. Ridge Rock assumes no risk for non-disclosed or unforeseen conditions of the project site, including but not limited to, hazardous waste, soft subgrade, or water table issues.
- c. This contract shall be construed in accordance with the laws of the State of Utah.
- d. This contract is the entire agreement of the parties and no changes or additions to this contract shall be made except in writing signed by both parties.
- e. This contract shall be binding on the heirs, successors or assigns of the parties hereto.
- f. This contract is not binding until approved by Ridge Rock's credit department.

I/we unconditionally and individually guarantee the performance of the Buyer under the terms and conditions of the above contract, including all payments and any charges specified therein, including interest, attorney's fees and costs. This guarantee will continue unchanged by any bankruptcy, reorganization, or insolvency of the Buyer. This guarantee may not be withdrawn unless agreed to in writing by Ridge Rock. To the extent the described work is detailed in Plans and Specifications, such must be provided to Ridge Rock before the contract is negotiated. Any changes to the original Plans and Specifications used to prepare this contract may necessitate a change in the contract price and Buyer hereby agrees to execute all necessary change orders outlining the changed work and prices as submitted by Ridge Rock.

X _____
Authorized Signer



Brent Marshall <bmarshall@grantsvilleut.gov>

Updated bid

1 message

Lamont Kingston <lkingston@me.com>

Thu, Jul 1, 2021 at 11:57 AM

To: Brent Marshall <bmarshall@grantsvilleut.gov>, Brett Combs <bcoombs@grantsvilleut.gov>, Shay Stark <shays@aquang.com>

Cc: Travis Taylor <ttaylor@westcomp LLC.com>, Derek Ellis <dkellis@mtn-vista.com>

Mayor,

Attached is an updated bid, which removed that section of line from the water tank to the point that the line goes east, and which will be our connection point.

It is still our hope that we can get this on the City Council agenda.

Thanks,

Monte

Monte Kingston
801-360-7615

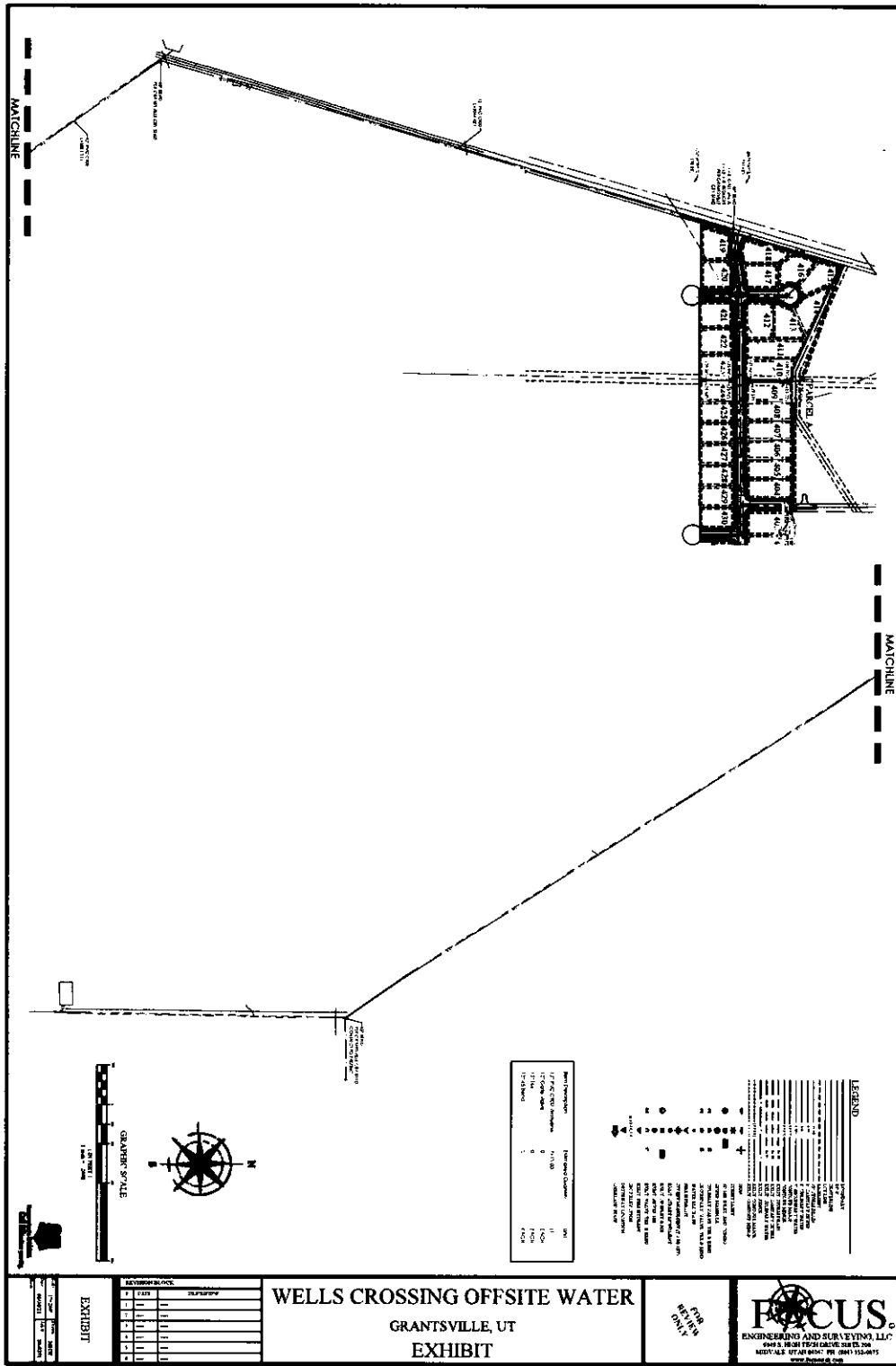
2 attachments



20-0291 Wells Crossing Offsite Culinary Water Exhibit 063021.pdf
575K



July 1 updated bid.pdf
153K





P.O. BOX 189 • OAKLEY, UT 84055

QUOTE

TO: MOUNTAIN VISTA HOMES

DATE 6/30/2021

JOB 12" OFF SITE
WATER LINE

GRANTSVILLE
Wells Crossing 4

12" OFF-SITE WATER LINE

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|----------|-------------------------|------------|--------------|
| 1 | CONNECT TO EXISTING | \$3,170.00 | \$3,170.00 |
| 7156 | L.F. 12" PVC WATER LINE | \$50.25 | \$359,589.00 |
| 4 | 12" BUTTERFLY VALVES | \$2,850.00 | \$11,400.00 |
| 1 | 12" FLANGE TEE | \$1,980.00 | \$1,980.00 |
| 4 | 12" BENDS | \$975.00 | \$3,900.00 |
| 2 | 12" WATER LOOPS | \$5,540.00 | \$11,080.00 |

DOES NOT INCLUDE: FEES, PERMIT, SURVEY, OR
COMPACTION TESTING.

TOTAL BID \$391,119.00

Y195F002101M 03/11