

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF GRANBY,
COLORADO, HEADWATERS METROPOLITAN DISTRICT AND GRANBY RANCH
METROPOLITAN DISTRICT, CONCERNING THE FACILITATION OF PAYMENT
OF CAPITAL FACILITIES FEES.**

THIS INTERGOVERNMENTAL AGREEMENT (the "**Agreement**") is made and entered into as of this 11th day of April, 2006, by and between the **TOWN OF GRANBY**, a municipal corporation and political subdivision of the State of Colorado ("**Town**"), **HEADWATERS METROPOLITAN DISTRICT** ("**Headwaters**") and **GRANBY RANCH METROPOLITAN DISTRICT** ("**Granby Ranch**"), quasi-municipal corporations and political subdivisions of the State of Colorado, formerly known as SOLVISTA METROPOLITAN DISTRICT NO. 1 and SOLVISTA METROPOLITAN DISTRICT NO. 2, respectively. Headwaters and Granby Ranch are collectively referred to herein as the "**Districts**." The Town and the Districts are collectively referred to herein as the "**Parties**."

RECITALS

WHEREAS, Article XI, Section 7, of the Colorado Constitution allows the State and its political subdivisions to give direct or indirect assistance to any other political subdivision as may be authorized by general statutes; and

WHEREAS, Article XIV, Section 18(2)(a) of the Colorado Constitution supports the cooperation or contracting by or among any of its political subdivisions to provide any function or facility lawfully authorized to each of the cooperating units, including, without limitation, the sharing of costs, the imposition of taxes, or the incurring of debts; and

WHEREAS, Sections 29-1-201 and 203, C.R.S., permit and encourage governmental entities to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governmental entities to provide any function, service or facility lawfully authorized to each, including the sharing of costs; and

WHEREAS, the Districts were organized as a means of furnishing certain capital facilities and services in connection with the development of property within their boundaries, which are entirely within the boundaries of the Town (as more particularly described in their Service Plans, defined below, the "**Facilities**"); and

WHEREAS, the Districts are authorized to provide financing and to exercise powers as more fully set forth in their Service Plans approved by the Town on July 22, 2003 (the "**Service Plans**"); and

WHEREAS, in order to provide one source of funding of such Facilities, including to provide for the payment of any debt issued for such purpose, the Districts have previously adopted on May 26, 2005, a "Joint Resolution of Headwaters Metropolitan District and Granby Ranch Metropolitan District to Establish a Capital Facilities Fee" (the "**Original Fee Resolution**") pursuant to which the Districts imposed a "Capital Facilities Fee" payable on the date a building permit is issued by the Town for any individual lot within the Districts; and

WHEREAS, Granby Ranch intends to issue certain general obligation bonds (the "**Bonds**"), including but not limited to its Limited Tax General Obligation Bonds, Series 2006 to be issued pursuant to an Indenture of Trust executed by Granby Ranch, which Bonds are to be payable from and secured by certain ad valorem property taxes as well as the Capital Facilities Fees; and

WHEREAS, in connection with the issuance of the Bonds, the Districts anticipate adopting a resolution amending and restating the Original Fee Resolution pertaining to Capital Facilities Fees and, as a result, "**Capital Facilities Fees**" as used hereafter in this Agreement shall mean and refer to Capital Facilities Fees imposed by the Original Fee Resolution or any amendment or restatement thereof; and

WHEREAS, the Districts have requested that the Town assist them in ensuring that the Capital Facilities Fees are paid to the Districts when due, in accordance with the Original Fee Resolution or any amendment or restatement thereof; and

WHEREAS, the Town acknowledges that without the assistance of the Town as set forth herein, the Districts could not ensure payment of the Capital Facilities Fees when due, and, as a result, the amount of Bond proceeds available to fund the Facilities could be adversely impacted; and

WHEREAS, the Town Board of Trustees, upon consideration of the impacts of development within the Town on the ability of the Districts to fund the Facilities, has determined that it is in the best interests of the citizens of the Town to enter into an Intergovernmental Agreement with the Districts for the purpose of ensuring payment of the Capital Facilities Fees as provided herein; and

WHEREAS, the Town and the Districts desire to define the rights and obligations with respect to ensuring payment of Capital Facilities Fees prior to issuance of building permits for development with the Districts.

NOW, THEREFORE, in consideration of the Recitals stated above, and the mutual covenants and promises of the parties hereto, the receipt and sufficiency of which is acknowledged, the Town and the Districts agree as follows:

SECTION 1

REQUIREMENT FOR ISSUANCE OF BUILDING PERMITS

1.1 During the term of this Agreement, for requests for building permits that are processed by the Town for zoning or building review, the Town shall not approve the zoning portion of such building permit for any property within the boundaries of the Districts until the applicant provides a signed acknowledgment from Granby Ranch and building plans stamped by Granby Ranch indicating the applicant's payment of the required Capital Facilities Fee and stamped building plans, which acknowledgment Granby Ranch agrees to provide to any property owner in exchange for the applicable Capital Facilities Fee. Notwithstanding any of the foregoing, the Parties acknowledge that certain building permits may have been issued for property within the boundaries of the Districts prior to the date of execution of this Agreement and the Town shall not be responsible for obtaining any acknowledgment of payment of the applicable Capital Facilities Fee for such properties.

SECTION 2

USE OF CAPITAL FACILITIES FEES REVENUES

2.1 Capital Facilities Fee funds may only be used by the Districts for costs of the Facilities, including payment of the Bonds, as more particularly provided in the Original Fee Resolution or any amendment or restatement thereof.

SECTION 3

LIABILITY AND INDEMNIFICATION

3.1 The Districts shall indemnify, defend and hold the Town and its officers, agents and employees harmless from and against any and all claims or liability arising from the Town's implementation of this Agreement or the Town's enactment of ordinances or resolutions pursuant to this Agreement, or the Town's involvement in any manner with the Capital Facilities Fee. Specifically, this indemnification shall include, but not be limited to, any legal action by any party contesting this Agreement, the implementation thereof by the Town, any enabling ordinances or resolutions of the Town or the validity of the Capital Facilities Fees on the grounds of unconstitutionality, lack of authority, preemption by State law, or an alleged violation of Section 20 of Article X of the Colorado Constitution, or any other basis. The Districts shall also indemnify, defend and hold the Town, and its officers, agents and employees, harmless from and against any and all claims arising from any breach or default in the performance of the obligations on the Districts' part to be performed under the provisions of this Agreement, or arising from any intentional acts, negligence or omissions of the Districts or any of their directors, officers, agents, and employees. Such indemnification by the Districts as provided in this Section shall include all

costs, attorneys' fees, expenses and liabilities incurred in the defense of any claim or any action or proceeding brought on any such claim. Provided, however, nothing contained herein waives or is intended to waive any protections that may be applicable to the Districts or the Town under the Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., or any other rights, protections, immunities, defenses or limitations on liability provided by law, and subject to any applicable provisions of the Colorado Constitution and applicable laws. In the event the Town is named as a party in any legal action covered by the foregoing indemnification provisions, in consultation with the Town, the Districts shall select legal counsel to represent the Town in such action.

SECTION 4

TERM OF AGREEMENT

4.1 The term of this Agreement shall commence upon execution hereof and shall end on the date on which the Districts have provided notice to the Town that all Capital Facilities Fees required with respect to property in the boundaries of Granby Ranch have been paid.

SECTION 5

REMEDIES

5.1 If a party violates or breaches or fails to keep or perform any covenant, agreement, term or condition of this Agreement at the time designated; or in the event a party is in default or in violation of a term of this Agreement for which no specific time is designated, and the default or violation continues or is not remedied within thirty (30) days after notice in writing is given by the non-breaching party to the other party specifying the matter claimed to be in default, the non-breaching party shall be entitled to pursue all remedies available at law or in equity to enforce the terms of this Agreement, including the right of specific performance. Provided, however, with respect to any default that cannot be cured within thirty (30) days, such legal remedies shall not be pursued if the breaching party takes all steps necessary to cure the default within such period and thereafter continuously exercises due diligence to cure the default.

SECTION 6

NOTICES

6.1 All notices that may be required or given pursuant to this Agreement by a party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States first class mail, postage prepaid, and addressed as follows:

If to the Town:

Town of Granby
62543 US Highway 40, Unit 100
P.O. Box 440
Granby, Colorado 80446

With copies to:

Mr. Scotty P. Krob
Attorney at Law
8400 E. Prentice Avenue, Penthouse
Greenwood Village, Colorado 80446

If to the Districts:

Headwaters Metropolitan District
Robertson & Marchetti
28 Second Street, Suite 213
Edwards, CO 81632
Attention: Ken Marchetti

With copies to:

Mr. Gary White
White Bear & Ankele Professional Corporation
1805 Shea Center Drive, Suite 100
Highlands Ranch, Colorado 80130

SECTION 7

MISCELLANEOUS PROVISIONS

7.1 No modification or waiver of this Agreement or any covenant, condition or provision contained herein shall be valid unless in writing and duly executed by all parties.

7.2 This written Agreement embodies the whole Agreement between the parties and there are no inducements, promises, terms, conditions or other obligations made or entered into by the parties other than those contained herein.

7.3 This Agreement shall be binding upon the parties hereto, the respective successors or assigns, and may not be assigned by any party without the express written consent of the other parties.

7.4 All terms contained in this Agreement are severable and in the event that any of them shall be held invalid by a court of competent jurisdiction, this Agreement shall be interpreted as if such invalid term or condition is not contained herein.

7.5 The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.

7.6 This Agreement may be amended from time to time by written Agreement duly authorized by all the parties to this Agreement.

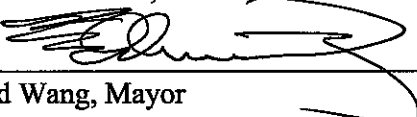
7.7 This Agreement does not and shall not be deemed to confer upon or grant to any third party any right enforceable at law or equity arising out of any term, covenant, or condition herein or the breach thereof.

7.8 This Agreement, or a memorandum of this Agreement, may be recorded in the records of the Grand County Clerk and Recorder.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

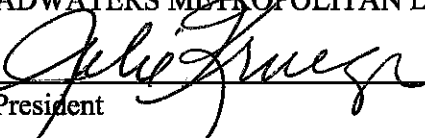
TOWN OF GRANBY, COLORADO

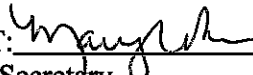
By: 
Edward Wang, Mayor

ATTEST: 
Deb Hess, Town Clerk

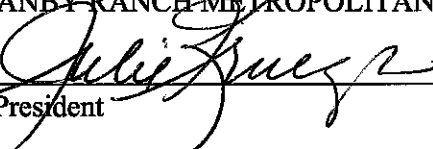


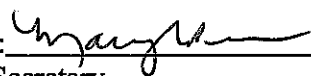
HEADWATERS METROPOLITAN DISTRICT

By: 
President

ATTEST: 
Secretary

GRANBY RANCH METROPOLITAN DISTRICT

By: 
President

ATTEST: 
Secretary