

**JOINT RESOLUTION OF HEADWATERS METROPOLITAN DISTRICT  
AND GRANBY RANCH METROPOLITAN DISTRICT  
TO ESTABLISH AN AMENITY FEE**

**COPY**

WHEREAS, the Headwaters Metropolitan District ("Headwaters") and Granby Ranch Metropolitan District ("Granby Ranch"; Headwaters and Granby Ranch collectively, the "Districts") were organized to provide services, programs and facilities, including the construction, completion, maintenance and operation of public infrastructure within and without the boundaries of the Districts, in accordance with the Service Plans of the Districts; and

WHEREAS, the Districts have determined that it is in the best interest of the Districts to acquire, lease, finance, construct, maintain, provide, operate and/or administer certain recreational amenities benefiting the property within the Districts, which include a golf course, ski area, river park and related improvements, trails, and other recreational improvements, facilities, appurtenances, rights-of-way and other amenities as shall from time to time be acquired, constructed and/or operated by the Districts (collectively, the "Amenities"); and

WHEREAS, the Districts will incur significant expenses for the financing, acquisition, construction, installation, maintenance, operation and/or administration of the Amenities; and

WHEREAS, pursuant to the authority set forth in Section 32-1-1001(1)(j), C.R.S., the Districts may establish fees and charges for the use and the funding of expenses incurred for such services, programs and facilities of the Districts; and

WHEREAS, the establishment of a fair and equitable amenity fee (the "Amenity Fee") will provide a source of funding to pay for costs incurred by the Districts for the financing, acquisition, construction, installation, and/or replacement of the Amenities, which are generally attributable to the persons subject to such charges, and such fees and charges are necessary to provide for the prosperity and general welfare of the Districts and their inhabitants and for the orderly and uniform administration of the Districts' affairs; and

WHEREAS, Headwaters will impose and collect the Amenity Fee as set forth herein relative to real property within the District (the "Property").

WHEREAS, Headwaters will also impose and collect the Amenity Fee as set forth in the Amenity Fee Agreements (collectively, the "Amenity Fee Agreement") between Headwaters and Granby Realty Holdings, LLC or Aspen Meadows Condominiums, LLC, which are incorporated herein by reference relative to real property within the District (the "Property").

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Headwaters Metropolitan District and the Board of Directors of the Granby Ranch Metropolitan District hereby adopt and establish an Amenity Fee as follows:

Section 1. Amenity Fee. Subject to the limitations set forth in Section 11(a) hereof, an Amenity Fee initially imposed at the rate of \$10,000 per residential dwelling unit (including,

without limitation, condominiums, townhouses, apartments and any other attached dwelling units, and detached single family dwelling units) is hereby established to be collected as provided in Section 3 below by Headwaters in coordination with Granby Ranch on a one-time basis with respect to each lot or parcel of land within the Property ("Lot"). The amount of the Amenity Fee for each Lot shall be determined based upon the maximum number of residential dwelling units that may be constructed on the Lot (based upon zoning and the density allocated to such Lot). The Boards of Directors of the Districts find that the Amenity Fee calculation contained herein is fair and equitable, and approximates a pro rata calculation of not more than the appraised value of the Amenities, which are not otherwise funded by the Districts.

**Section 2. Priority Access.** Each residential dwelling unit for which the Amenity Fee has been paid shall be referred to as an "Eligible Property" and shall be entitled to the below listed "Priority Access" to the Amenities, subject to availability of the Amenities from time to time and subject to the Operating Plan (defined below). Subject to Section 11(b) hereof, the owner(s) of each Eligible Property shall designate a person who shall be eligible to receive the Priority Access to one or more of the Amenities, hereafter referred to as the "Eligible Purchaser." The Priority Access entitlements for an Eligible Purchaser are as follows:

(a) **Fishing:** Discounted rod fees (to access the Fraser River for fishing at designated times) for the Eligible Purchaser and the Eligible Purchaser's spouse and immediate family members under the age of 24, and Priority Access to the river camp for the Eligible Purchaser and the Eligible Purchaser's spouse and immediate family members under the age of 24, including the right to make reservations in advance of the general public and a discounted overnight fee as determined from time to time by Headwaters in coordination with the Operator (defined below) (and in accordance with any Operating Agreement (defined below)).

(b) **Golf:** The right of the Eligible Purchaser to reserve tee times in advance of the general public for the Eligible Purchaser and the Eligible Purchaser's spouse and immediate family members under the age of 24 and/or their accompanied guests; the right of the Eligible Purchaser to receive up to 16 rounds of golf (four tee times per year with up to four players per tee time) without payment of greens fees for use by the Eligible Purchaser, the Eligible Purchaser's spouse and immediate family members under the age of 24 and/or their accompanied guests; the right of the Eligible Purchaser and the Eligible Purchaser's spouse and immediate family members under the age of 24 to receive a 30% discount on greens fees off the rate charged from time to time by the District for members of the general public residing outside of the Town of Granby; and any other entitlement as may be established from time to time by Headwaters in coordination with the Operator (and in accordance with any Operating Agreement).

(c) **Ski:** Four free individual passes per year for four persons designated by the Eligible Purchaser for four days each (for a maximum of 16 ski days per year); a discount on all ski lift fees for the right of the Eligible Purchaser and the Eligible Purchaser's spouse and immediate family members under the age of 24 as may be established from time to time by Headwaters in coordination with the Operator (and in accordance with any Operating Agreement) to receive a 30% discount on lift tickets off the rate charged

from time to time by the District for members of the general public residing outside of the Town of Granby; and any other entitlement as may be established from time to time by Headwaters in coordination with the Operator (and in accordance with any Operating Agreement).

(d) Special Access: The right of the Eligible Purchaser to acquire, for additional annual or periodic use fees, additional preferred golf, ski and fishing access for the Eligible Purchaser and the Eligible Purchaser's spouse and immediate family members under the age of 24, pursuant to plans and programs established from time to time by Headwaters in coordination with the Operator (and in accordance with any Operating Agreement) ("Special Access").

Section 3. Payment of Amenity Fee. Subject to Section 11(a) hereof, the Amenity Fee shall be payable as follows:

(a) Transfers of Subdivided Lot(s) With Density Allocation of Ten or More Units. Except as otherwise provided in subsection 3(b) below, in the case of a transfer in a single transaction of one or more Lots having a density allocation (as designated by SolVista Corp., its successor or assign, pursuant to Article 1 of the Planned Development Overlay District Preliminary Plan for the Property) (the "Density Allocation"), collectively (if more than one Lot), of ten (10) or more residential units, the Amenity Fee shall be due and payable in full with respect to each such Lot upon the earlier of (i) the first Non-Exempt Transfer of such Lot after the Initial Unrelated Party Transfer, or (ii) the third anniversary of the Initial Unrelated Party Transfer; provided, however, that in the case of any such Lot having a Density Allocation of more than one residential unit, the Amenity Fee with respect to such Lot shall be payable on a per-unit basis on the earlier of (x) the first Non-Exempt Transfer of each residential unit within such Lot after the Initial Unrelated Party Transfer, or (y) the third anniversary of the Initial Unrelated Party Transfer.

(b) Bulk Transfers of Unsubdivided Lots With Density Allocation of 25 or More Units. In the case of a transfer of any unplatted Lot at least 35 acres in size having a Density Allocation of at least 25 residential units to an Unrelated Third Party, the Amenity Fee shall be due and payable with respect to each portion of such Lot based upon the date of subdivision of each such portion (each, a "Platted Portion"), as follows: the Amenity Fee shall be payable with respect to each Platted Portion on a per unit basis (based on the density allocated to each Lot within the Platted Portion) on the earlier of (i) the first Non-Exempt Transfer of each residential unit within such Lot, or (ii) the third anniversary of the date of approval of a subdivision plat whereby such Platted Portion is subdivided into two or more legally transferable Lots.

(c) Transfers of Subdivided Lots With Density Allocation of Fewer than Ten Units. In the case of any other Lots (i.e., Lots not covered by subsections (a) and (b) above), the Amenity Fee shall be due and payable in full with respect to each

such Lot upon the earlier of (i) the first Non-Exempt Transfer or the initial occupancy of such Lot after the Initial Unrelated Party Transfer, or (ii) either the first anniversary of the Initial Unrelated Party Transfer, if no building permit for such Lot is issued within the first year after the Initial Unrelated Party Transfer, or the second anniversary of the Initial Unrelated Party Transfer, if a building permit is issued with respect to such Lot within the first year after the Initial Unrelated Party Transfer; provided, however, that in the case of any such Lot having a Density Allocation of more than one residential unit, the Amenity Fee with respect to such Lot shall be payable on a per-unit basis on the earlier of (x) the first Non-Exempt Transfer of each residential unit within such Lot after the Initial Unrelated Party Transfer, or (y) either the first anniversary of the Initial Unrelated Party Transfer, if no building permit for such Lot is issued within the first year after the Initial Unrelated Party Transfer, or the second anniversary of the Initial Unrelated Party Transfer, if a building permit is issued with respect to such Lot within the first year after the Initial Unrelated Party Transfer.

(d) Responsible Party. If, in accordance with subsections (a), (b) or (c) above, the Amenity Fee is payable upon a transfer of a Lot or residential unit, the Amenity Fee is payable by the transferee(s) of such Lot or residential unit. Otherwise, the Amenity Fee is payable by the party(ies) that is/are the owner(s) of the Lot at the time the Amenity Fee becomes due and payable. The party(ies) responsible for paying the Amenity Fee is/are referred to in this Agreement as the "Responsible Party," and if the Responsible Party consists of more than one party, then the obligation to pay the Amenity Fee shall be the joint and several obligation of all of the parties constituting the Responsible Party.

(e) Definitions. As used herein, (i) the term "Unrelated Third Party" means a party who is not an affiliate or successor by merger or acquisition of Granby Realty Holdings, LLC (the "Developer"); (ii) the term "affiliate" means any entity which Developer has any direct or indirect ownership interest in, controls, is controlled by, or is under common control with; (iii) the term "successor" means any person or entity acquiring all or substantially all of the Property then owned by Developer (or a successor by merger, consolidation or reorganization of Developer) (iv) the term "transfer" includes any transfer of a direct or indirect ownership interest in the owner of a Lot that results in a change in control of such owner, (v) the term "Initial Unrelated Party Transfer" with respect to any Lot(s) means the first transfer of such Lot(s) to an Unrelated Third Party, (vi) the term "Non-Exempt Transfer" means any transfer that is not an Exempt Transfer, and (vii) the term "Exempt Transfer" means any one of the following transfers:

(1) any transfer in which the transferee is an affiliate or successor of Developer;

(2) a transfer without consideration made for the purpose of confirming or correcting a previous transfer;

(3) any decree or order of a court determining or vesting title, such as a dissolution of marriage proceeding or quiet title proceeding;

(4) a transfer of a mineral interest only;

(5) transfers to secure a debt or other obligation (or a release or re-conveyance of any such security);

(6) any other transfer that Headwaters, in its sole discretion, determines should not trigger the payment of the Amenity Fee.

(f) Headwaters May Allow Annual Payments. Notwithstanding anything to the contrary contained in subsections (a), (b) and (c) above, Headwaters may allow the Amenity Fee to be paid in up to four annual payments upon a determination that such payment over time is in the best interest of Headwaters. Deferred payments shall bear interest at such rate as may be determined from time to time in the sole discretion of Headwaters. Any party paying the Amenity Fee over time in accordance with the foregoing provisions shall not be entitled to Priority Access unless and until all such payments (together with all interest thereon) have been made. The later of (1) the time set forth in subsection (a), (b) or (c) above, as applicable, or (2) the date set for final payment by Headwaters as provided in this subsection (f) shall be the "Due Date" for the Amenity Fee.

Section 4. Out-of-District Users. Headwaters in coordination with the Operator (and in accordance with any Operating Agreement) may determine from time to time the fees necessary for those who reside outside of Granby Ranch to receive Priority Access. In order to receive Priority Access, such individuals must pay (i) a fee, which Headwaters may establish by resolution, but which shall not be less than the Amenity Fee, and (ii) an annual amount, which Headwaters may establish by resolution, payable on January 1 of each year, but which amount shall not be less than 100% of the average amount of ad valorem taxes and other amounts payable by residents within Granby Ranch, as determined by Headwaters. This resolution does not cap the fee or annual amount that Headwaters may impose on individuals who reside outside of Granby Ranch to receive Priority Access. Residents outside of Granby Ranch who have not paid such amounts shall not be entitled to Priority Access to the Amenities as described above.

Section 5. Fee Increases. The Parties agree the Amenity Fee may be increased as adjusted on an annual basis by the change in the Denver/Boulder/Greeley Cost of Living Index, as produced by the U.S. Department of Labor Statistics; and may otherwise be increased in such amounts as are determined from time to time by the Boards of Directors of the Districts by resolution, to fund the actual costs of the Amenities, not to exceed a cumulative increase of 10% per year.

Section 6. Method of Payment and Use of Amenity Fee. Until such time as the purchase price for the Amenities to be purchased by Headwaters pursuant to the Lease Purchase Agreement between Developer and Headwaters has been paid in full (and all debt used to

finance or refinance such purchase price has been paid in full) (the "Initial Amenities Payment Date"), the revenues generated by the Amenity Fee shall be used solely for the purpose of financing the acquisition, leasing, construction, and replacement of Amenities, which may include, without limitation: (1) the issuance of bonds or (2) reimbursement of amounts advanced by other parties. This restriction on the use of Amenity Fee revenues shall be absolute and without qualification. After the Initial Amenities Payment Date, the revenues generated by the Amenity Fee may be used for the foregoing purposes and/or for the operation, maintenance and repair of Amenities.

**Section 7. Late Fees.** Until paid, all Amenity Fees shall be subject to accrual of interest at a rate of 12% per annum from the Due Date and may be collected in accordance with the provisions of Section 32-1-1001(1)(j), C.R.S. Headwaters shall have the following rights and remedies: (i) if the default is a failure to pay, to declare by written notice such defaulted Amenity Fee immediately due and payable in full; (ii) to collect or foreclose its lien against the Lot and/or residential unit for which such Amenity Fee is in default pursuant to Section 32-1-1001(1)(j), C.R.S., or as otherwise provided by Colorado law; or (iii) to initiate an action at law or in equity for actual (but not punitive or consequential) damages arising from any breach of the Amenity Fee Agreement or for specific performance. The prevailing party shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, in connection with any enforcement action, and such costs and expenses incurred by Headwaters shall be secured by its lien against the Lot and/or residential unit to which such costs and expenses are allocable.

**Section 8. Amenity Fee Constitutes Lien.** The Amenity Fee imposed hereunder is imposed by the Districts pursuant to Section 32-1-1001(1)(j), C.R.S., for the purpose of furnishing public facilities serving properties within the Districts and is deemed by the Districts to be necessary in order to fulfill their governmental purposes. As a result, the Amenity Fee, together with any late fees or penalty interest due thereon, constitutes a valid, perpetual lien on and against the Property, such lien securing the payment of such Amenity Fee until paid in full. All such liens shall be in a senior position as against all other liens, whether or not of record, affecting the Property, other than the lien created by the imposition of the Facilities Fee established by a joint resolution of the Boards of Directors of the Districts on the date hereof, which lien is *pari passu* to that of the Amenity Fee. Upon request by the owner of any Lot, Headwaters shall issue a certificate stating the amount(s) of the Amenity Fee(s) that have been paid with respect to such Lot. Such certificate shall be furnished within 30 days after receipt of such request. All interested parties shall be entitled to rely upon such certificate. Headwaters acknowledges and agrees that each Responsible Party shall be obligated to pay only the Amenity Fee payable with respect to the Lot or residential unit owned by such Responsible Party, and the lien referenced herein with respect to such Lot or residential unit secures payment of only such Amenity Fee (together with any late fees or penalty interest thereon).

**Section 9. Operating Plan.** The Boards of Directors of the Districts may establish and prepare a plan (the "Operating Plan") detailing use and access to the Amenities, which may be amended by Headwaters from time to time and shall be administered by Headwaters or such entity ("the Operator"), if any, with which Headwaters shall contract by lease, management agreement or other form of agreement ("Operating Agreement") to operate the Amenities, provided the Priority Access set forth herein shall not be diminished.

Section 10. Collection Provisions. All Amenity Fees, late fees and penalty interest shall be paid to Headwaters, in cash or an equivalent form made payable to "Headwaters Metropolitan District." In the event that any such amount is not paid when due, Headwaters shall direct its General Counsel to undertake collection efforts for any and all outstanding amounts, in accordance with the following procedures. Headwaters (or, if so directed, its General Counsel) shall send, by certified mail, a delinquency notice to the Responsible Party for which Headwaters has not received Amenity Fees five days after the due date thereof. In the event that such delinquent Amenity Fees have not been received by Headwaters 35 days after the mailing of such notice, Headwaters (or, if so directed, its General Counsel) shall send to such Responsible Party, by certified mail, a notice of intent to lien. In the event that the delinquent Amenity Fees have not been paid ten days after the mailing of such notice of intent to lien, Headwaters (or, if so directed, its General Counsel) shall record a lien statement with respect to such unpaid Amenity Fees and shall immediately commence foreclosure proceedings with respect to the subject property. Headwaters shall be entitled to charge reasonable legal fees and costs to the Responsible Party for said collections efforts.

Section 11. Affordable Housing Units; Rental Properties; Ownership Interests. Notwithstanding any provision in this Agreement to the contrary:

(a) Headwaters shall not impose the Amenity Fee upon any Affordable Housing Unit. An "Affordable Housing Unit" is defined as a residential unit to which a deed restriction has been affixed, providing that the housing can only be owned and occupied in perpetuity by persons residing full-time within Grand County, or as otherwise defined by the Board of Trustees of the Town of Granby. Individuals living in Affordable Housing Units shall be eligible to purchase Priority Access on the same terms as set forth in Section 4 hereof for individuals residing outside of the Granby Ranch Metropolitan District.

(b) In order to be an "Eligible Purchaser" pursuant to Section 2 hereof, such individual must either (1) own a fee simple interest (including by joint tenancy or by tenancy by the entirety, but excluding tenancy in common) in a Lot or residential unit in the Property, or (2) own a leasehold interest for a term of at least six months for a Lot or residential unit in the Property.

(c) The Districts hereby grant to the Operator the authority, in its discretion, to impose rules, regulations and operating procedures regarding the definitions, limitations, requirements, conditions and obligations of "Affordable Housing Units" and "Eligible Purchasers" in order to implement the Amenity Fee, provide Priority Access, or operate the Amenities.

This Joint Resolution was duly adopted by the Board of Directors of the Headwaters Metropolitan District and the Board of Directors of the Granby Ranch Metropolitan District at their coordinated special meeting held on May 26, 2005, to become effective immediately.

HEADWATERS METROPOLITAN DISTRICT

By Julie Krueger  
President

ATTEST:

By [Signature]  
Secretary

GRANBY RANCH METROPOLITAN DISTRICT

By Julie Krueger  
President

ATTEST:

By [Signature]  
Secretary