

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:23-cv-01351-RMR-STV

GRCO LLC, a Missouri limited liability company,

Plaintiff,

v.

GRANBY RANCH METROPOLITAN DISTRICT, a quasi-municipal corporation  
and political subdivision of the State of Colorado,

Defendant.

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**GRANBY RANCH METROPOLITAN DISTRICT’S ANSWER TO PLAINTIFF’S  
SECOND AMENDED COMPLAINT**

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Defendant Granby Ranch Metropolitan District (the “District”), by and through its counsel, William T. O’Connell III and Saugat K. Thapa of Wells, Anderson & Race, LLC, submits this Answer to Plaintiff’s Second Amended Complaint (ECF No. 53; “SAC”) and states as follows:

**INTRODUCTION**

1. In response to the allegation of Paragraph 1 of the SAC, the District admits that Plaintiff is a property owner and taxpayer within the District. The District denies the remaining allegations of Paragraph 1.

2. In response to the allegation of Paragraph 2 of the SAC, the District admits that it has collected from Plaintiff and has indicated its intention to continue to collect certain capital facilities fees. The averment concerning the authorizing resolution calls for a legal conclusion and therefore no response is required. To the extent a response is required, the document speaks for

itself and the District denies all allegations that contradict or are inconsistent therewith. The District denies the remaining allegations of Paragraph 2.

3. In response to the allegations of Paragraph 3 of the SAC, the District admits only that it collected and temporarily deposited fees into its General Fund. The District denies the remaining allegations of Paragraph 3 of the SAC, including any allegation or inference that the fees were used for general fund expenses.

4. In response to the allegation of Paragraph 4 of the SAC, the District admits that it passed a Resolution Regarding the Pledge of Capital Facility Fees Collected and Yet to Be Collected Subsequent to May 2018, dated November 10, 2023. That document speaks for itself. The District denies the remaining allegations of Paragraph 4.

5. The allegations of Paragraph 5 of the SAC call for legal conclusions and therefore no response is required. To the extent a response is required, the District denies the same.

6. The allegations of Paragraph 6 of the SAC call for legal conclusions and therefore no response is required. To the extent a response is required, the District denies the same.

7. The allegations of Paragraph 7 of the SAC call for legal conclusions and therefore no response is required. To the extent a response is required, the District denies the same.

8. The averment in Paragraph 8 of the SAC is not a factual allegation to which a response is required. To the extent a response is required the District admits that the SAC purports to seek such relief but denies that Plaintiff is entitled to it.

### **THE PARTIES**

9. In response to the allegations of Paragraph 9 of the SAC, the District admits, upon information and belief, that Plaintiff is a foreign limited liability company that is registered to do

business in Colorado; some of Plaintiff's property is located within the boundaries of the District; and Plaintiff has paid certain capital facilities fees imposed by the District. The District is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 9 and, therefore, denies the same.

10. The District admits the allegation of Paragraph 10 of the SAC.

### **JURISDICTION & VENUE**

11. In response to the allegations of Paragraph 11 of the SAC, the District admits that this Court has jurisdiction.

- a. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations of sub-paragraph "a" of Paragraph 11 and, therefore, denies the same.
- b. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations of sub-paragraph "b" of Paragraph 11 and, therefore, denies the same.
- c. In response to sub-paragraph "c" of Paragraph 11 of the SAC, the District admits that it is a political subdivision of the State of Colorado.
- d. In response to sub-paragraph "d" of Paragraph 11 of the SAC, the District admits that Plaintiff purportedly seeks such relief but denies that it is entitled to it.

12. In response to the allegation of Paragraph 12 of the SAC, the District admits that this Court has jurisdiction but denies that Plaintiff is entitled to any of the relief requested in the Complaint.

13. The averment in Paragraph 13 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same and further denies that Plaintiff is entitled to any of the relief requested in the SAC.

14. The District admits that venue is proper in the United States District Court for the District of Colorado but denies that Plaintiff is entitled to any of the relief requested in the SAC.

### **GENERAL ALLEGATIONS**

15. In response to the allegations of Paragraph 15 of the SAC, the District admits that GRMD was formed in 2003. The District is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 15 of the SAC and, therefore, denies the same.

16. The District admits the allegation of Paragraph 16 of the SAC.

17. In response to the allegations of Paragraph 17 of the SAC, the District admits, upon information and belief, that at the time of the original Service Plan, the boundaries of the Tax District and Service District contained approximately 3,750 acres of property. The original order and decrees for the districts speak for themselves. The District denies the allegations of Paragraph 17 of the SAC to the extent they contradict or are inconsistent therewith.

18. The Service Plan speaks for itself. The District denies the allegation of Paragraph 18 of the SAC to the extent it contradicts or is inconsistent therewith.

19. The Service Plans speaks for themselves. The District denies the allegation of Paragraph 19 of the SAC to the extent it contradicts or is inconsistent therewith.

20. The Service Plan and referenced agreements speak for themselves. The District denies the allegations of Paragraph 20 of the SAC to the extent they contradict or are inconsistent therewith.

21. In response to the allegations of Paragraph 21 of the SAC, the District admits only that a First and a Second Amendment to the Service Plan was approved by the Town of Granby. The Service Plans speak for themselves. The District denies the allegations of Paragraph 21 of the SAC to the extent they contradict or are inconsistent therewith.

22. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 22 of the SAC and, therefore, denies the same.

23. The allegation of Paragraph 23 calls for a legal conclusion and therefore no response is required. To the extent a response is required, the statute speaks for itself. The District denies the allegation of Paragraph 23 to the extent that it contradicts or is inconsistent therewith.

24. The District admits the allegation of Paragraph 24 of the SAC.

25. The 2005 Facilities Fee Resolution speaks for itself. The District denies the allegations of Paragraph 25 of the SAC to the extent that they contradict or are inconsistent therewith.

26. The 2005 Facilities Fee Resolution speaks for itself. The District denies the allegation of Paragraph 26 of the SAC to the extent that it contradicts or is inconsistent therewith.

27. The District admits the allegation of Paragraph 27 of the SAC.

28. The Town Facilities Fee Agreement speaks for itself. The District denies the allegation of Paragraph 28 of the SAC to the extent that it contradicts or is inconsistent therewith.

29. The Town Facilities Fee Agreement speaks for itself. The District denies the allegations of Paragraph 29 of the SAC to the extent that they contradict or are inconsistent therewith.

30. The Town Facilities Fee Agreement speaks for itself. The District denies the allegation of Paragraph 30 of the SAC to the extent that it contradicts or is inconsistent therewith.

31. The District admits the allegation of Paragraph 31 of the SAC.

32. The 2006 Facilities Fee Resolution speaks for itself. The District denies the allegation of Paragraph 32 of the SAC to the extent that it contradicts or is inconsistent therewith.

33. The Service Plans speak for themselves. The District denies the allegation of Paragraph 33 of the SAC to the extent that it contradicts or is inconsistent therewith.

34. The 2006 Facilities Fee Resolution speaks for itself. The District denies the allegation of Paragraph 34 of the SAC to the extent that it contradicts or is inconsistent therewith.

35. The 2006 Facilities Fee Resolution speaks for itself. The District denies the allegation of Paragraph 35 of the SAC to the extent that it contradicts or is inconsistent therewith.

36. The 2006 Facilities Fee Resolution speaks for itself. The District denies the allegation of Paragraph 36 of the SAC to the extent that it contradicts or is inconsistent therewith.

37. The 2006 Facilities Fee Resolution speaks for itself. The District denies the allegation of Paragraph 37 of the SAC to the extent that it contradicts or is inconsistent therewith.

38. The 2006 Facilities Fee Resolution speaks for itself. The District denies the allegation of Paragraph 38 of the SAC to the extent that it contradicts or is inconsistent therewith.

39. The 2006 Facilities Fee Resolution speaks for itself. The District denies the allegations of Paragraph 39 of the SAC to the extent that they contradict or are inconsistent therewith.

40. The 2006 Facilities Fee Resolution speaks for itself. The District denies the allegation of Paragraph 40 of the SAC to the extent that it contradicts or is inconsistent therewith.

41. The boundary map speaks for itself. The District denies the allegation of Paragraph 41 of the SAC to the extent that it contradicts or is inconsistent therewith.

42. The District, upon information and belief, admits the allegation of Paragraph 42 of the SAC.

43. In response to Paragraph 43 of the SAC, the District admits that Memorandum of Resolution Concerning the Imposition of Capital Facilities was executed on June 7, 2006 and

recorded in Grand County on March 5, 2007. The District denies the allegations of Paragraph 43 of the SAC to the extent that it contradicts or is inconsistent therewith.

44. The Memorandum speaks for itself. The District denies the allegations of Paragraph 44 of the SAC to the extent that they contradict or are inconsistent therewith.

45. In response to the allegations of Paragraph 45 of the SAC, the District admits that the 2006 Bonds were secured, in part, by the Capital Facilities Fees. The Bond Indenture speaks for itself. The District denies the allegations of Paragraph 45 of the SAC to the extent that they contradict or are inconsistent therewith.

46. The District admits the allegation of Paragraph 46 of the SAC.

47. The District denies the allegations of Paragraph 47 of the SAC.

48. The allegation of Paragraph 48 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the statute speaks for itself.

49. The boundary maps speak for themselves. The District denies the allegations of Paragraph 49 to the extent that they contradict or are inconsistent therewith.

50. The documents related to the allegation speak for themselves. The District denies the allegations of Paragraph 50 to the extent that they contradict or are inconsistent therewith.

51. The 2018 Bond Indenture speaks for itself. The District denies the allegations of Paragraph 51 of the SAC to the extent that they contradict or are inconsistent therewith.

52. The Indenture documents speaks for itself. The District denies the allegations of Paragraph 52 of the SAC to the extent that they contradict or are inconsistent therewith.

53. The Indenture documents speaks for itself. The District denies the allegation of Paragraph 53 of the SAC to the extent that it contradicts or is inconsistent therewith.

54. The allegation of Paragraph 54 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the statute speaks for itself.

55. The allegation of Paragraph 55 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

56. The allegation of Paragraph 56 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

57. The District admits the allegations of Paragraph 57 of the SAC.

58. The District admits that it currently has no plans to undertake the construction, maintenance or repair of any Improvements or to undertake any capital improvement projects. As to the remaining part of the allegation of Paragraph 58 of the SAC, the Service Plan speaks for itself. The District denies the allegation of Paragraph 58 to the extent it contradicts or is inconsistent therewith.

59. The District denies the allegation of Paragraph 59 of the SAC.

60. In response to the allegation of Paragraph 60 of the SAC, the District admits that partly through 2018 it budgeted for and deposited the Capital Facilities Fees collected by it into its Debt Service Fund to be used for debt service on the 2006 Bonds.

61. The deposition transcript speaks for itself. The District denies the allegations of Paragraph 61 of the SAC to the extent they contradict or are inconsistent therewith.

62. In response to the allegations of Paragraph 62 of the SAC, the District admits only that it passed a resolution adopted November 10, 2023. The resolution speaks for itself. The District denies the allegation of Paragraph 62 to the extent that it contradicts or is inconsistent therewith. The District also denies that it illegally collected and used Capital Facilities Fees.

63. The allegation of Paragraph 63 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

64. The District is without knowledge or information sufficient to form a belief as to the truth of the allegation of Paragraph 64 of the SAC and, therefore, denies the same.

65. The District is without knowledge or information sufficient to form a belief as to the truth of the allegation of Paragraph 65 of the SAC and, therefore, denies the same.

66. The District is without knowledge or information sufficient to form a belief as to the truth of the allegation of Paragraph 66 of the SAC and, therefore, denies the same.

67. The District is without knowledge or information sufficient to form a belief as to the truth of the allegation of Paragraph 67 of the SAC and, therefore, denies the same.

68. The District admits only that it temporarily deposited Capital Facilities Fees in its General Fund. The District denies the remaining allegations of Paragraph 68 of the SAC.

69. The District denies the allegations of Paragraph 69 of the SAC.

70. The District is without knowledge or information sufficient to form a belief as to the truth of the allegation of Paragraph 70 of the SAC and, therefore, denies the same.

71. The District denies the allegations of Paragraph 71 of the SAC. The District is without knowledge or information sufficient to form a belief as to the truth of the allegation in the last sentence of Paragraph 71 and, therefore, denies the same.

72. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 72 of the SAC and, therefore, denies the same.

### **COUNT I**

#### **Declaratory and Injunctive Relief for Violation of the 2006 Facilities Resolution**

73. The District reincorporates and reasserts its responses to Paragraphs 1 through 72 above as if fully set forth herein.

74. The allegation of Paragraph 74 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the documents speak for themselves. The District denies the allegation of Paragraph 74 to the extent that it contradicts or is inconsistent therewith.

75. The District admits the allegations of Paragraph 75 of the SAC.

76. The allegation of Paragraph 76 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

77. The allegation of Paragraph 77 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

78. The District denies the allegations of Paragraph 78 of the SAC.

79. The District denies the allegations of Paragraph 79 of the SAC.

80. The District admits the allegations of Paragraph 80 of the SAC.

81. The District denies the allegations of Paragraph 81 of the SAC.

82. The District denies the allegations of Paragraph 82 of the SAC.

## **COUNT II**

### **Declaratory and Injunctive Relief for Violation of C.R.S. § 32-1-503**

83. The District reincorporates and reasserts its responses to Paragraphs 1 through 82 above as if fully set forth herein.

84. The allegation of Paragraph 84 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

85. The allegation of Paragraph 85 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

86. The allegation of Paragraph 86 of the SAC calls for a legal conclusion and therefore no response is required. The statute speaks for itself. The District denies the allegation of Paragraph 86 to the extent it contradicts or is inconsistent therewith.

87. The allegation in Paragraph 87 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

88. The allegation of Paragraph 88 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

89. In response to the allegation of Paragraph 89 of the SAC, the District admits only that it received Capital Facilities Fees for the referenced lots. The District denies the remaining parts of the allegation of that paragraph.

90. The averment in Paragraph 90 of the SAC is not a factual allegation to which a response is required. To the extent a response is required, the District admits that Plaintiff is subject to future Capital Facilities Fees for certain properties.

91. The District admits the allegation of Paragraph 91 of the SAC but affirmatively states that its refusal was as to properties that were within its boundaries as of the date of the imposition of the fee.

92. The District denies the allegation of Paragraph 92 of the SAC.

93. The District denies the allegation of Paragraph 93 of the SAC.

### **COUNT III**

#### **Declaratory and Injunctive Relief for Violation of C.R.S. § 32-1-1001(1)(j)**

94. The District reincorporates and reasserts its responses to Paragraphs 1 through 93 above as if fully set forth herein.

95. The allegations of Paragraph 95 of the SAC call for legal conclusions and therefore no response is required. To the extent a response is required, the District denies the same.

96. The allegations of Paragraph 96 of the SAC call for legal conclusions and therefore no response is required. To the extent a response is required, the District denies the same.

97. The 2006 Facilities Fee Resolution speaks for itself. The District denies the allegation of Paragraph 97 to the extent it contradicts or is inconsistent therewith.

98. The District admits only the allegations in the first sentence of Paragraph 98 of the SAC. The District denies the remaining allegations of that paragraph.

99. The allegation of Paragraph 99 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

100. The allegations of Paragraph 100 of the SAC call for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

101. The District admits the allegations of Paragraph 101 of the SAC.

102. The District denies the allegation of Paragraph 102 of the SAC.

103. The District denies the allegation of Paragraph 103 of the SAC.

#### **COUNT IV**

#### **Damages Under 42 U.S.C. § 1983 for Violation of Plaintiff's Rights Under The Fifth Amendment to the United States Constitution**

104. The District reincorporates and reasserts its responses to Paragraphs 1 through 103 above as if fully set forth herein.

105. The allegation of Paragraph 105 calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

106. The allegation of Paragraph 106 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District admits that it imposed the Capital Facilities Fees based on statutory authority.

107. The District denies the allegations of Paragraph 107 of the SAC.

108. The District denies the allegations of Paragraph 108 of the SAC.

109. The allegations of Paragraph 109 of the SAC call for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

110. The District denies the allegations of Paragraph 110 of the SAC.

111. The District denies the allegations of Paragraph 111 of the SAC.

112. The District denies the allegation of Paragraph 112 of the SAC.

113. The District denies the allegation of Paragraph 113 of the SAC.

114. The District denies the allegation of Paragraph 114 of the SAC.

#### **COUNT V**

#### **Damages for Due Process Violations under the United States and Colorado Constitutions and Damages Under 42 U.S.C. § 1983**

115. The District reincorporates and reasserts its responses to Paragraphs 1 through 114 above as if fully set forth herein.

116. The allegation of Paragraph 116 calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

117. The allegation of Paragraph 117 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District admits that it imposed the Capital Facilities Fees based on statutory authority.

118. The District denies the allegation of Paragraph 118 of the SAC.

119. The allegations of Paragraph 119 of the SAC call for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

120. The Capital Facilities Fees resolution speaks for itself. The District denies the allegation of Paragraph 120 of the SAC to the extent it contradicts or is inconsistent therewith.

121. The allegations of Paragraph 121 of the SAC call for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

122. The District denies the allegation of Paragraph 122 of the SAC.

123. The District denies the allegation of Paragraph 123 of the SAC.

124. The District denies the allegation of Paragraph 124 of the SAC.

125. The District denies the allegation of Paragraph 125 of the SAC.

126. The District denies the allegations of Paragraph 126 of the SAC.

#### **COUNT VI**

#### **Declaratory and Injunctive Relief For Continuing Due Process Violations of the United States and Colorado Constitutions and Attorneys' Fees under 42 U.S.C. § 1983**

127. The District reincorporates and reasserts its responses to Paragraphs 1 through 126 above as if fully set forth herein.

128. The allegation of Paragraph 128 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District admits that it imposed the Capital Facilities Fees based on statutory authority.

129. In response to the allegations of Paragraph 129 of the SAC, the District admits that it intends to continue to collect Capital Facilities Fees. The District is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 129 and, therefore, denies the same.

130. The allegation of Paragraph 130 of the SAC calls for a legal conclusion and therefore no response is required. To the extent a response is required, the District denies the same.

131. The District denies the allegation of Paragraph 131 of the SAC.

132. The District denies the allegation of Paragraph 132 of the SAC.

133. The District denies the allegation of Paragraph 133 of the SAC.

134. The District denies the allegation of Paragraph 134 of the SAC.

135. The District denies the allegation of Paragraph 135 of the SAC.

136. The District denies the allegation of Paragraph 136 of the SAC.

#### **PRAYER FOR RELIEF**

The District denies that Plaintiff is entitled to any of the relief requested in the SAC.

#### **DEFENSES AND AFFIRMATIVE DEFENSES**

1. The SAC fails to state a claim as to which any relief may be granted against the District.

2. The District did not violate any law or constitutional obligation.

3. Plaintiff may have failed to reasonably mitigate its damages, if any.

4. Plaintiff's claims may be barred by the applicable statute of limitations.

5. All or part of Plaintiff's claims fail to achieve the level of any constitutional violation sufficient to state a claim under 42 U.S.C. § 1983 or otherwise.

6. The District lacked the requisite intent to establish any claim against it in this action.

7. At all times pertinent herein, the District acted in accordance with all common law, statutory and constitutional obligations, and without any intent to cause Plaintiff harm.

**RESERVATION OF OTHER DEFENSES**

The District reserves the right to assert other defenses which may be discovered as the matter progresses and may request leave from the Court to amend its Answer, if necessary, at a later date.

WHEREFORE, Defendant Granby Ranch Metropolitan District requests that Plaintiff's Second Amended Complaint be dismissed and that judgment be entered its favor and against Plaintiff, for its costs expended in the defense of this action, and for such other relief as the Court deems just and proper.

**JURY DEMAND**

The District demands a jury trial on all issues so triable.

Dated this 19<sup>th</sup> day of April, 2024.

Respectfully submitted,

**WELLS, ANDERSON & RACE, LLC**

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 19, 2024, I electronically filed the foregoing, **GRANBY RANCH METROPOLITAN DISTRICT'S ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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