

DISTRICT COURT, GRAND COUNTY, COLORADO PO Box 192/307 Moffat Avenue Hot Sulphur Springs, CO 80451 970-725-3357	DATE FILED: November 17, 2022 CASE NUMBER: 2021CV30008
<p>Plaintiff: GRANBY RANCH METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado,</p> <p>v.</p> <p>Defendants: HEADWATERS METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado; GRAY JAY VENTURES, LLC.; REDWOOD CAPITAL FINANCE CO., LLC, GRANBY PRENTICE, LLC; and GR TERRA, LLC.</p>	
	<p style="text-align: center;">▲ <i>COURT USE ONLY</i> ▲</p> <p>Case No. 2021CV30008</p> <p>Division 1</p>
<p>STIPULATED PROTECTIVE ORDER</p>	

Granby Ranch Metropolitan District (“GRMD”), Headwaters Metropolitan District (“Headwaters”), GR Terra, LLC, Gray Jay Ventures, LLC and Granby Prentice, LLC (collectively the “Parties”), by and through their respective counsel, agree to and submit the following Stipulated Protective Order, under C.R.C.P 26(c). Because discovery in this action involves or may involve the disclosure of documents, material, and information potentially entitled to protection under C.R.C.P 26(c), including but not limited to proprietary information or confidential research, development, or commercially sensitive information,

IT IS HEREBY ORDERED THAT:

(A) The following terms and conditions shall apply to all documents, material, and

information disclosed by the Parties in the course of discovery in this action that any party may deem to be potentially entitled to protection under C.R.C.P 26(c):

1. Definitions.

- (a) “Confidential Material” shall mean any confidential or proprietary information designated as “Confidential” by the party producing that information pursuant to paragraph 2 hereof, including, but not limited to, interrogatory answers, documents produced during discovery by any party in this action, whether produced voluntarily, in response to an informal request, or in response to a formal discovery request, deposition testimony and/or transcripts, and any portions of any pleadings or other court papers that quote from or summarize any of the foregoing.
- (b) “Producing Party” shall mean the party designating material as Confidential Material.
- (c) “Requesting Party” shall mean any party other than the Producing Party.

2. Designation of Information Produced in Discovery as Confidential Material.

Documents may be designated as Confidential Material by stamping the phrase “Confidential” on all pages of any document in a conspicuous place. Deposition testimony may be designated as Confidential Material either by a statement by counsel on the record at the time the testimony is given, specifying both the beginning and ending of each section so designated, or by written notice from counsel for the designating party within 21 days after the transcript becomes available specifying by page and line number the material to be treated as Confidential Material. All transcripts shall be treated as Confidential Material from the day they become available until the earlier of (a) the date that counsel defending the deposition submits confidentiality designations or (b) 21 days after the transcript becomes available. Any other non-documentary material shall be designated as Confidential Material by identifying that material as Confidential Material in a written disclosure bearing the caption of this civil case and signed by the Producing Party’s counsel of record. Inadvertent failure to designate materials as “Confidential” at the time of production shall not constitute a waiver of the right to do so and may be remedied at any time thereafter by supplemental written notice. The designation of material as Confidential Material, in the manner described hereunder, shall constitute a certification by the attorney making such designation that he or she in good faith believes, based on reasonable investigation, that the material is confidential or proprietary.

3. Challenges to Designation of Information Produced in Discovery as Confidential Material. A Requesting Party may challenge a designation of Confidential Material by contacting counsel for the Producing Party in writing and conferring in good faith. In the event

that the Parties cannot resolve their dispute as to such designation of allegedly confidential material, the Producing Party may file a motion for a protective order regarding the information within 14 days after communication of the notice from the Requesting Party. The Producing Party bears the burden of proving that materials are Confidential Material. If the Producing Party files such a motion, the Requesting Party shall continue to protect the information until the Court rules on the Producing Party's motion. If the Producing Party fails to file a motion within 14 days of notice from the Requesting Party that the Requesting Party is challenging the designation of information produced in discovery as Confidential Material, the Requesting Party shall have no further obligation to preserve the confidentiality of the information.

4. Treatment of Confidential Material. All documents, material, and information designated as Confidential Material under paragraph 2 shall be treated in accordance with the provisions of this Order until such designation has been released by the Producing Party or by order of the Court.

5. Disclosure of Confidential Material. Except as set forth herein or pursuant to other valid legal process, neither the contents nor the substance of Confidential Material may be disclosed to anyone other than (i) persons who have entered their appearance as Counsel of Record in this action, or persons in the same law firm working under the direction of such counsel; (ii) the Parties to this action, including employees and the current board members of GRMD and Headwaters at the time such documents are produced; (iii) subject to the conditions in paragraph 6 below, to consultants and vendors who assist the law firms in their analysis of the evidence and presentation of the case; and (iv) any other person as counsel for the Producing Party agrees in writing in advance provided that person agrees, in the form attached hereto as Exhibit A, to be bound by the terms of this Protective Order. For clarification, former board members of GRMD and Headwaters shall not be given access to any Confidential Information and, in the even a board member's term ends during the pendency of this litigation, that board member shall be required to return all Confidential Information to his or her counsel and shall delete any Confidential Information from his or her computers, servers, phones, and any electronic storage devices and that board member will provide written certification of same to all Parties in the litigation. The Parties also may disclose any Confidential Material to this or any other court of competent jurisdiction, the jury, or any court reporter in this civil action. Any filings made with the Court that include Confidential Materials shall be filed so that they are not available to the public, and this order shall serve as a standing order permitting Parties to file Confidential Materials under suppression without the need for further order.

6. Disclosure of Confidential Material to Outside Experts or Consultants. Upon the good faith determination by an attorney representing a party that disclosure to an outside expert or consultant is necessary to appropriately litigate this matter, Confidential Material may be disclosed to such persons provided that prior to disclosure of any Confidential Material to such person, such person shall sign a Statement Regarding Confidentiality in the form attached hereto as Exhibit A, stating the signatory's full name, address, and present employer,

and acknowledging his or her understanding of the terms of this Stipulated Protective Order and his or her agreement to be bound by its terms. Each such signed statement shall be retained by the attorney or party disclosing any Confidential Material pursuant to this paragraph.

7. Witness Refusal. A witness's refusal to sign the form attached hereto as Exhibit A shall not prevent any party from showing and examining that witness about Confidential Materials during any deposition, hearing, or trial; however, the Disclosing Party may designate that portion of the transcript as Confidential Material.

8. Colorado Open Records Act. The Parties hereto acknowledge that GRMD and Headwaters are public entities subject to the provisions of the Colorado Open Records Act, C.R.S. § 24-72-201 et. seq. ("CORA"). The Parties agree that, to the extent permitted by CORA, at any meetings of such entities at which Confidential Information is discussed, such parts of the meeting shall be conducted as closed meetings and all documents containing Confidential Information shall be maintained as closed records. If any person or entity not a party hereto requests or demands, by CORA request, subpoena or otherwise, the production or disclosure of any Confidential Information from any Party, counsel for such party will immediately notify all other counsel who are signatories to this Order, and each of the Parties so notified or to whom such request or demand has been made will take all steps necessary to permit the assertion of all applicable rights and privileges with respect to said Confidential Information, including the assertion that such Confidential Information constitutes a closed record under CORA.

In the event GRMD or Headwaters does not intend to assert closure of any such information, they shall immediately notify the Producing Party, prior to the time for disclosure under CORA, and the Producing Party is entitled to assume responsibility for seeking relief from the court. In the event GRMD or Headwaters asserts closure of any meetings or documents under CORA and the requesting party takes further action, including litigation, to challenge the closure of the meetings or documents, GRMD or Headwaters shall notify the Producing Party immediately upon receipt of said further request or service of said suit and the Producing Party may assume responsibility for seeking relief from the court or intervene in any existing actions to protect Confidential Information.

9. Use of Confidential Material. Any person who receives or is afforded access to any Confidential Material pursuant to the provisions of this Stipulated Protective Order shall neither use nor disclose said Confidential Material for any purpose other than the purposes of preparation for and conduct of this proceeding. Confidential Information does not include information that (a) is or becomes generally available to the public other than by fault of the Requesting Party or (b) becomes available to the Requesting Party on a non-confidential basis from sources other than the Producing Party, provided that the sources are not prohibited from disclosing such information to Requesting Party by any contractual or other obligation with the

Producing Party or otherwise.

10. Retention of Privilege. Nothing herein shall in any respect constitute a waiver of any attorney-client or work product privilege of any party, nor does any provision herein affect the right of any party to contest any assertion or finding of confidentiality or privilege, and/or to appeal any adverse determination of the Court regarding said confidentiality or privilege. Any Producing Party that inadvertently produces material subject to a claim of privilege or protection from disclosure (e.g., attorney client privilege or work product protection) may recall those documents by providing a notice to all Receiving Parties of the documents to be returned. Upon receipt of such a notice, counsel for all Receiving Parties shall immediately destroy or return all copies of any such documents (regardless of whether counsel disagrees with the basis for the recall).

11. Modification. Each party reserves the right to move to modify the terms of this Stipulated Protective Order for good cause.

12. Retained Jurisdiction. The Court retains jurisdiction subsequent to settlement or entry of judgment to enforce the terms of this Order.

13. Custodian Of Confidential Material. The signatories to this Order shall be deemed Custodians of any confidential materials that they, their law firms, or any experts or consultants engaged by them or their law firms in this action may receive. Each of the Custodians agrees to be responsible for compliance with this Order by their law firm, and shall reasonably ensure that attorneys and other personnel employed or contracted by their law firm are aware of and adhere to the proper treatment of confidential material pursuant to this Order.

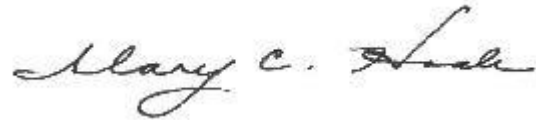
14. Termination of Action. Within one hundred twenty (120) days of termination of this action, including all appeals, Parties in possession of Confidential Material shall cause all such Confidential Material produced in this action by an opposing party, including copies, extracts and summaries, to be destroyed; provided, however, that counsel (which includes any vendor used by counsel for file management and retention) may retain Confidential Information. With regard to information produced or stored electronically, the Parties shall make reasonable, good-faith efforts to delete Confidential Information from their computers, servers, and any electronic storage devices to the extent such information is readily accessible; provided, however, that Requesting Party shall be under no obligation to take steps that may result in destruction of property or loss of other information. Upon request by the Producing Party, Requesting Party shall certify to the Producing Party in writing that it has fulfilled the obligations imposed by this paragraph.

15. Survival of Order and Parties Bound. Absent written modification hereof by the Parties hereto or further order of the Court, the provisions of this Protective Order that restrict the disclosure and use of Confidential Information shall survive the final disposition of this arbitration and continue to be binding on all persons subject to the terms of this Protective

Order.

IT IS SO ORDERED THIS 17th DAY OF November, 2022.

BY THE COURT:



Mary C. Hoak, District Court Judge

STIPULATED AND AGREED TO THIS 17th DAY OF NOVEMBER 2022 BY THE PARTIES OR THEIR COUNSEL:

s/ Kyler K. Burgi

Mark E. Champoux
Kyler K. Burgi
DAVIS GRAHAM & STUBBS LLP
1550 Seventeenth Street, Suite 500
Denver, CO 80202
*Attorneys for Defendants Gray Jay Ventures,
LLC and Granby
Prentice, LLC*

s/Erica N. Garcia

David K. TeSelle
Brian K. Matise
Erica N. Garcia
BURG SIMPSON
ELDREDGE HERSH & JARDINE, P.C.
*Attorneys for Granby Ranch Metropolitan
District*

s/ Jamie H. Steiner

Jamie H. Steiner, #49304
JoAnn T. Sandifer (Admitted Pro Hac Vice)
HUSCH BLACKWELL LLP
1801 Wewatta St., Suite 1000
Denver, CO 80202
*Attorneys for Defendant Headwaters Metro. District and GR
Terra, LLC*

