

DISTRICT COURT, GRAND COUNTY, COLORADO Court Address: 307 Moffat Ave., Hot Sulphur Springs, CO 80451	DATE FILED: October 25, 2023 2:28 PM FILING ID: 293DCCF46FA9F CASE NUMBER: 2021CV30008
<p><b>Plaintiff:</b> GRANBY RANCH METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado</p> <p>v.</p> <p><b>Defendants:</b> 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;">▲ COURT USE ONLY ▲</p>
<p><i>Attorneys for Plaintiff:</i>          David K. TeSelle, Reg. No. 29648          Lisa R. Marks, Reg. No. 31683          D. Dean Batchelder, Reg. No. 38425          Patrick M. Sweet, Reg. No. 51130          Burg Simpson Eldredge Hersh &amp; Jardine, P.C.          40 Inverness Drive East          Englewood, CO 80112          Phone No.: (303) 792-5595          Email: <a href="mailto:dteselle@burgsimpson.com">dteselle@burgsimpson.com</a>  <a href="mailto:lmarks@burgsimpson.com">lmarks@burgsimpson.com</a>  <a href="mailto:dbatchelder@burgsimpson.com">dbatchelder@burgsimpson.com</a>  <a href="mailto:psweet@burgsimpson.com">psweet@burgsimpson.com</a></p>	<p>Case Number: 2021CV30008</p> <p>Div.: 1</p>
<b>MOTION FOR ENTRY OF FINAL JUDGMENT</b>	

Plaintiff, Granby Ranch Metropolitan District (“GRMD”), by and through its attorneys, Burg Simpson Eldredge Hersh & Jardine, P.C., respectfully submits this Motion for Entry of Final Judgment, and states, as follows:

**CERTIFICATE OF C.R.C.P. 121(c) §1-15(8) CONFERRAL**

Counsel for GRMD conferred with counsel for Defendants / Counterclaim Plaintiffs Headwaters Metropolitan District (“Headwaters”) and GR Terra LLC (“GR Terra,” together “Counterclaimants”) regarding this Motion and is authorized to state that this Motion is opposed.

**I. INTRODUCTION**

This litigation relates to the development of the Granby Ranch community in Grand County, Colorado, and the parties’ disputes regarding various agreements relating to certain amenities in Granby Ranch. GRMD and Headwaters are both special districts located in Grand County and they, along with the developer and property owner, entered into a series of agreements regarding these amenities. In sum: As relevant here, to fund the amenities, GRMD agreed to impose a one-time \$10,000 per lot amenity fee paid to Headwaters; Headwaters in turn agreed to be responsible for financing the amenities with these funds and had, via a Lease Purchase Agreement (LPA), the ability to acquire the amenities after all fees had been paid (or for nominal consideration at the end of the LPA’s term).

GRMD brought this action to enforce the LPA and its claimed rights to the amenity fees. As relevant here, Headwaters and GR Terra counterclaimed, alleging that GRMD could not assert rights under the LPA and further asserting that GRMD was in breach of certain agreements confirming this fact. Previously in the case, GRMD had prevailed on various motions to dismiss, where this Court held that GRMD could assert claims to enforce the LPA (it had standing and the covenants in the LPA ran with the land and so survived the foreclosure).<sup>1</sup> However, subsequently,

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<sup>1</sup> January 28, 2022, Order Granting in Part the Defendant Headwater Metropolitan District’s

on July 30, 2023, addressing the parties' various motions for summary judgment, this Court determined that GRMD did not have standing, that the LPA was terminated, and that its covenants did not run with the land. *See* note 5, *infra*.

GRMD submits that the July 30 Orders were dispositive of the issues in the case and the litigation is complete. As discussed below, of the 17 claims asserted by the parties, the July 30 Orders expressly resolved nine claims and counterclaims, functionally resolved two further counterclaims, leaving four unique breach of contract counterclaims (the two remaining GR Terra counterclaims are materially similar to the two asserted by Headwaters). Each asserted that GRMD was in breach of various agreements by bringing the instant litigation. Given that GRMD's claims have now been dismissed, these counterclaims are mooted by the July 30 Orders and any issue regarding GRMD's ability to bring such an action has been resolved.

More importantly, these counterclaims are fatally flawed: there is no basis to award the damages claimed. Counterclaimants assert their damages are the attorney's fees they incurred in defending this action. However, Colorado law is clear that attorney's fees are not available as damages absent an express, unambiguous agreement to shifting attorney's fees. None of the five agreements at issue in the remaining claims contain such provisions. Counterclaimants know they have no basis to claim attorney's fees as damages, yet they persist in their counterclaims. If GRMD is forced to continue litigating this issue, it will seek a determination from this Court that

Counterclaimants' position is frivolous, groundless, and vexatious, and will consequently seek an award of its own attorney's fees.

Thus, Counterclaimants' remaining four counterclaims are moot and should be dismissed. GRMD respectfully requests this Court confirm that its July 30 Orders were a final judgment in this matter. Given that the July 30 Orders were a final judgment, out of an abundance of caution, GRMD filed a notice of appeal to preserve its rights. Even so, this Court may still confirm that its July 30 Orders were a final judgment, notwithstanding GRMD's appeal.

Alternatively, if the Court determines it needs a full set of briefing on the issues in order to confirm the remaining four counterclaims are moot and should be dismissed, GRMD proposes that, once jurisdiction is returned to this Court from the Court of Appeals, a briefing schedule be set and the issues be fully briefed to the Court.<sup>2</sup>

## **II. DISCUSSION**

### **A. GRMD's Claims and the Majority of the Counterclaims Were Expressly or Functionally Addressed in the July 30 Orders.**

#### ***1. The majority of the claims and counterclaims that were at issue have been expressly resolved.***

The parties asserted 17 claims and counterclaims in this action. Six were asserted by GRMD: claims for breach of contract and declaratory relief against Headwaters, GR Terra, and

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<sup>2</sup> If this Court does determine that it requires further briefing or a confirmation of its jurisdiction to act before ruling, GRMD reserves its right to assert further bases that Counterclaimants' remaining counterclaims are moot and/or should be dismissed. In the interests of economy, GRMD has here focused primarily on the issues of breach and damages without intending to present every argument as to why Counterclaimants' remaining counterclaims should be dispensed with. If there is further briefing on the issue, GRMD reserves its right to present additional argument.

others were asserted in its Third Amended Complaint.<sup>3</sup> Six counterclaims were asserted by Headwaters and five by GR Terra: counterclaims for breach of contract, quiet title, and declaratory relief against GRMD.<sup>4</sup> Once all parties' responsive pleadings were filed, the parties submitted numerous dispositive motions. These were addressed by the Court in three July 30 Orders.<sup>5</sup>

The parties' claims and counterclaims and the Court's rulings are summarized in the below table. Dark grey entries summarize claims and counterclaims that were expressly resolved by the July 30 Orders. Light grey entries summarize counterclaims that were functionally resolved by the July 30 Orders or are duplicative of other counterclaims. Unshaded entries summarize the counterclaims under discussion here. GRMD maintains, as discussed below, that these are moot or should be dismissed and the final judgment should enter.

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<sup>3</sup> October 13, 2022, Granby Ranch Metropolitan District Third Amended Complaint (GRMD's "Third Amended Complaint") CCE Filing ID FFB77A03CFEAA.

<sup>4</sup> November 3, 2022, Headwaters Metropolitan District's Answer and Affirmative Defenses to Plaintiff's Third Amended Complaint, Jury Demand, and Counterclaims (Headwaters' "Counterclaims") CCE Filing ID D3778A7889784; November 3, 2022, GR Terra LLC's Answer, Affirmative Defenses to Plaintiff's Third Amended Complaint, Jury Demand and Counterclaims (GR Terra's "Counterclaims") CCE Filing ID BE23DDF1B662F.

<sup>5</sup> *First*: Order Granting the Defendants Headwater Metropolitan District and GR Terra's Renewed Motion under C.R.C.P. 12(b)(1) to Dismiss ("Order Granting CRCP 12(b)(1) Motion to Dismiss"); *Second*: Order Denying the Plaintiff / Counterclaim Defendant GRMD's Renewed Motion for Summary Judgment on Counts I, II, and III of Defendant / Counterclaim Plaintiff GR Terra's Counterclaims to GRMD's Third Amended Complaint; Order Granting the Defendant / Counterclaim Plaintiff GR Terra's Cross Motion for Summary Judgment on Counts I, II, and III of Defendant / Counterclaim Plaintiff GR Terra's Counterclaims to GRMD's Third Amended Complaint ("Order Granting Cross-MSJ"); and *Third*: Order Denying as Moot (1) GR Terra's Motion for Summary Judgment on [] GRMD's Claims IV (Breach of Contract), V (Declaratory Judgment), and VI (Declaratory Judgment); (2) Headwaters' Motion for Summary Judgment on GRMD's Claim II (Breach of Contract against Headwaters) and VI (Declaratory Judgment); and (3) Gray Jay and Granby Prentice's Motion for Summary Judgment as to GRMD's Claim III (Breach of Contract) and VI (Declaratory Judgment) ("Order Denying as Moot," together the "July 30 Orders").

## SUMMARY OF CLAIMS AND COUNTERCLAIMS

<b>GRMD – Third Amended Complaint</b>			
<b>Cl. #</b>	<b>Claim Asserted</b>	<b>Adverse Party</b>	<b>Resolution</b>
1	Breach of Contract	Gray Jay	Order Granting CRCP 12(b)(1) Motion to Dismiss (dismissing Third Amended Complaint without prejudice)
2	Breach of Contract	Headwaters	Order Granting CRCP 12(b)(1) Motion to Dismiss (dismissing Third Amended Complaint without prejudice)
3	Breach of Contract	Granby Prentice	Order Granting CRCP 12(b)(1) Motion to Dismiss (dismissing Third Amended Complaint without prejudice)
4	Breach of Contract	GR Terra	Order Granting CRCP 12(b)(1) Motion to Dismiss (dismissing Third Amended Complaint without prejudice)
5	Declaratory Judgment	Gray Jay, GR Terra	Order Granting CRCP 12(b)(1) Motion to Dismiss (dismissing Third Amended Complaint without prejudice)
6	Declaratory Judgment and Injunctive Relief: Covenant Running with the Land	Headwaters, GR Terra, Gray Jay, Granby Prentice	Order Granting CRCP 12(b)(1) Motion to Dismiss (dismissing Third Amended Complaint without prejudice)
<b>Headwaters' Counterclaims</b>			
1	Breach of Contract (Exclusion Agreement)	GRMD	Claim is moot / should be dismissed because there is no breach and there are no damages.
2	Breach of Contract (Letter Agreement and Master IGA Termination Agreement)	GRMD	Claim is moot / should be dismissed because there is no breach and there are no damages.
3	Breach of Contract (Waiver and Release Agreement)	GRMD	Claim is moot / should be dismissed because there is no breach and there are no damages.

4	Breach of Contract (Second Amendment to GRMD Service Plan)	GRMD	Claim is moot / should be dismissed because there is no breach and there are no damages.
5	Breach of Contract (Hypothetical Claim) (Second Granby IGA)	GRMD	Order Granting CRCP 12(b)(1) Motion to Dismiss: claim is moot. This is a hypothetical claim (“if this Court would impose any such obligation [to obtain the leased premises] on Headwaters, then GRMD is also liable for such breach.” Headwaters’ Counterclaims ¶ 173). While the Order did not rule on this claim directly, it dismissed GRMD’s Third Amended Complaint and the hypothetical condition in this claim (award of damages against Headwaters) will not occur, therefore the claim is moot.
6	Declaratory Judgment (LPA was terminated)	GRMD	Order Granting Cross-MSJ: claim is moot. While the Order did not rule on this claim directly, it declared the LPA was extinguished (by the foreclosure) or terminated (by Headwaters’ failure to appropriate funds) and “the 2012 LPA, including any and all restrictive covenants contained therein, is hereby terminated, removed, and canceled . . . .” Order, at 21. Thus, the claim is moot.
<b>GR Terra’s Counterclaims</b>			
1	Declaratory Judgment (LPA was terminated)	GRMD	Order Granting Cross-MSJ: <i>Expressly resolved in favor of GR Terra.</i>
2	Declaratory Judgment (Alternative) (LPA and any restrictive covenants were terminated)	GRMD	Order Granting Cross-MSJ: <i>Expressly resolved in favor of GR Terra.</i>
3	Quiet Title	GRMD	Order Granting Cross-MSJ: <i>Expressly resolved in favor of GR Terra.</i>
4	Breach of Contract (Second Amendment to GRMD Service Plan)	GRMD	Materially similar to Headwaters Counterclaim # 4.
5	Breach of Contract (2018 Waiver and Release Agreement)	GRMD	Materially similar to Headwaters Counterclaim # 3.

Thus, each of GRMD's six claims were dismissed, and GR Terra's first three counterclaims were granted. *See* Order Granting CRCP 12(b)(1) Motion to Dismiss; Order Granting Cross-MSJ. GR Terra's fourth and fifth counterclaims are materially similar to Headwaters' third and fourth counterclaims and so rise or fall together on the grounds discussed here.<sup>6</sup> Headwaters' fifth and sixth counterclaims were functionally resolved by the Court's July 30 Orders.<sup>7</sup>

This then leaves Headwaters' Counterclaims 1-4 to discuss.

***2. There are four remaining unique counterclaims asserted against GRMD—each a breach of contract claim.***

Headwaters' Counterclaims 1-4, all breach of contract claims, may be summarized as:

***Headwaters' Counterclaim 1*** asserted that, by bringing the current action, GRMD breached the April 21, 2010, Exclusion Agreement. Headwaters' Counterclaims, ¶¶ 111-32. Attached here, as **Exhibit 1**, is the Exclusion Agreement (as attached to Headwaters' Counterclaims, ¶ 38, as Exhibit C thereto).

***Headwaters' Counterclaim 2*** asserted that, by bringing the current action, GRMD breached both the August 22, 2016, Letter Agreement and the November 17, 2017, Termination of Intergovernmental Agreement (the "Master IGA Termination Agreement"). Headwaters'

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<sup>6</sup> Both GR Terra's Counterclaim 4 and Headwaters' Counterclaim 4 assert a breach of GRMD's Amended Service Plan (Exhibit 5 (attached *infra*)). *Compare* GR Terra's Counterclaims, ¶¶ 137-47 (Counterclaim 4), *with* Headwaters' Counterclaims, ¶¶ 159-71 (Counterclaim 4). Similarly, both GR Terra's Counterclaim 5 and Headwaters' Counterclaim 3 assert a breach of the Waiver and Release Agreement (Exhibit 4 (attached *infra*)). *Compare* GR Terra's Counterclaims, ¶¶ 148-57 (Counterclaim 5), *with* Headwaters' Counterclaims, ¶¶ 147-58 (Counterclaim 3).

<sup>7</sup> *See* discussion *supra* at 7. GRMD anticipates that Headwaters maintains that its fifth and sixth counterclaims remain active, despite being functionally addressed—and mooted—by the July 30 Orders.

Counterclaims, ¶¶ 133-46. Attached here are, as **Exhibit 2**, the Letter Agreement (as attached to Headwaters' Counterclaims, ¶ 67, as Exhibit G thereto), and, as **Exhibit 3**, the Master IGA Termination Agreement (as referenced in Headwaters' Counterclaims, ¶ 73 (originally attached to GRMD's Third Amended Complaint as Exhibit 8 thereto)).

*Headwaters' Counterclaim 3* asserted that, by bringing the current action, GRMD breached the April 11, 2018, Agreement Re Waiver and Release ("Waiver and Release Agreement"). Headwaters' Counterclaims, ¶¶ 147-58. Attached here, as **Exhibit 4**, is the Waiver and Release Agreement (as attached to Headwaters' Counterclaims, ¶ 86, as Exhibit J thereto).

*Headwater's Counterclaim 4* asserted that, by bringing the current action, GRMD breached the October 11, 2016, Second Amendment to the GRMD Service Plan ("Amended Service Plan").<sup>8</sup> Headwaters' Counterclaims, ¶¶ 159-71. Attached here, as **Exhibit 5**, is the Amended Service Plan (as attached to Headwaters' Counterclaims, ¶ 69, as Exhibit H thereto).

Both Headwaters' and GR Terra's Counterclaims included extensive—and nearly identical—discussions of the above agreements. *Compare* Headwaters' Counterclaims, ¶¶ 9-101 *with* GR Terra's Counterclaims, ¶¶ 10-102. Both contained specific allegations focused on and limited to these agreements.

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<sup>8</sup> Note that Headwaters' Counterclaim 4 did make reference to GRMD's original Service Plan. *Id.*, ¶¶ 163-65. However, these allegations are either made in light of the allegations of breach of the Amended Service Plan or are moot in light of the Court's July 30 Orders, and, in any event, relate to the same allegations of damages and breach discussed herein.

**B. Counterclaimants' Claimed Damages from the Alleged Breach of These Agreements Are Limited to Attorney's Fees Incurred in This Matter.**

Counterclaimants have limited their claimed damages to their attorney's fees incurred in litigating this matter. To counsel's recollection, neither Headwaters nor GR Terra have provided, as is plainly required, a formal C.R.C.P. 26(a)(1)(C) damages computation. However, at their respective C.R.C.P. 30(b)(6) depositions, both Counterclaimants testified that each of their claims for damages was limited to the attorney's fees incurred in litigating this action.

GR Terra testified that, apart from time spent on the litigation (for which it admitted it had not provided a calculation and for which it appears no valuation or calculation has been provided), its claimed damages for its fourth and fifth counterclaims were the attorney's fees incurred in this litigation. **Exhibit 6** (excerpts from transcript of Feb. 22, 2023, C.R.C.P. 30(b)(6) deposition of GR Terra) 186:23-192:3 (GR Terra C.R.C.P. 30(b)(6) representative testifying to same). Headwaters testified similarly: its claimed damages for its counterclaims were the attorney's fees incurred in this litigation. **Exhibit 7** (excerpts from transcript of Mar. 1, 2023, C.R.C.P. 30(b)(6) deposition of Headwaters) 207:6-14, 234:14-235:21 (Headwaters C.R.C.P. 30(b)(6) representative testifying to same).

**C. The Remaining Four Breach of Contract Counterclaims Asserted against GRMD Are Moot or Must Be Dismissed.**

**1. Counterclaimants have failed to assert any recoverable damages, therefore the remaining counterclaims should be dismissed because there is no basis to award attorney's fees, the sole damages asserted.**

*Colorado follows the American Rule, requiring an express statutory, rule, or contractual basis to award attorney's fees—no such basis for an award of fees exists under these Agreements.*

“In the absence of a statute or private contract to the contrary, attorney fees and costs generally are

not recoverable by the prevailing party in a breach of contract case.” *Bunnett v. Smallwood*, 793 P.2d 157, 160 (Colo. 1990) (collecting cases); *Allstate Ins. Co. v. Huizar*, 52 P.3d 816, 818 (Colo. 2002) (same); *S. Colo. Orthopaedic Clinic Sports Med. & Arthritis Surgeons, P.C. v. Weinstein*, 2014 COA 171, ¶ 10 (“Colorado courts follow the American rule, which requires parties to a lawsuit to pay their own legal expenses.”). Any derogation of the American Rule must be narrowly construed. *Sotelo v. Hutchens Trucking Co.*, 166 P.3d 285, 287 (Colo. App. 2007).

Thus, absent other authority permitting an award of attorney’s fees, the parties must expressly and unambiguously agree to such an award. *See, e.g., Bunnett*, 793 P.2d at 162-63 (agreement must be “plain” and “unambiguous” and must “expressly provide[]” for an award of attorney’s fees); *Cont’l W. Ins. Co. v. Heritage Estates Mut. Hous. Ass’n*, 77 P.3d 911, 913 (Colo. App. 2003) (“[T]he parties may agree otherwise by express provision in their contract.”). Indeed, in a leading case on this point, the Colorado Supreme Court held that this is true even where the agreement at issue is a release. *Bunnett*, 793 P.2d at 161-63 (specifically rejecting arguments that the American Rule does not apply because in litigating a release, attorney’s fees are the subject of litigation itself and because it would be equitable to award attorney’s fees in this context).

While no “formulaic language” is required in a fee-shifting provision, it must “clearly inform” the parties that breach exposes them to a potential fee award. *Morris v. Belfor USA Grp.*, 201 P.3d 1253, 1260 (Colo. App. 2008). The issue for the trial court is one of contract interpretation. *Id.*, at 1259 (“Whether a contract provides for an award of attorney fees is a question of interpretation that we review de novo. It is axiomatic that a contract should be interpreted according to the plain and ordinary meaning of its terms.” (citations and quotation marks omitted)); *Gattis v. McNutt (In re Estate of Gattis)*, 2013 COA 145, ¶¶ 35-36.

*Counterclaimants' only claimed damages are their attorney's fees in this action.* Both counterclaimants testified clearly that their respective claims for damages were limited to the attorney's fees allegedly incurred in litigating this action. To counsel's knowledge, to date, no other damages have been calculated as required by Rule 26(a). Attorney's fees are the sole claim.

*However, none of the relevant agreements contain a clear, express, unambiguous fee-shifting provision.* Incredibly, one expressly states the opposite (that the parties bear their own fees). The remaining three are silent, while one contains a provision that does nothing more than mention attorney's fees. Briefly, they provide:

*Headwaters' Claim 1* asserted a breach of the Exclusion Agreement. This agreement does not contain an express, unambiguous fee-shifting provision. *See Exhibit 1* generally. While it does contain reservation of rights language, this is not a fee-shifting provision.

The Parties may protect and enforce their rights under this Agreement by such suit, action, or special proceedings as they shall deem appropriate, including without limitation any proceedings for specific performance of any covenant or agreement contained herein, for the enforcement of any other appropriate legal or equitable remedy, or for the recovery of damages caused by breach of this Agreement, including attorney's fees and all other costs and expenses incurred in enforcing this Agreement.

**Exhibit 1, 12, § 8.5.2.** This provision is simply a reservation of rights stating that the parties may “protect and enforce their rights” under any action “they shall deem appropriate.” True, it mentions attorney's fees. However, under longstanding principles of contract interpretation, this is clearly not a fee-shifting provision. It simply lists all the various actions that the parties might take. Further, as discussed above, a valid fee-shifting provision must be clear, express, unambiguous, and provide clear notice of the risk that the court may award fees against the losing party. *Bunnett,*

793 P.2d at 162-63; *Cont'l W. Ins. Co.*, 77 P.3d at 913; *Morris*, 201 P.3d at 1260. Thus, there is no basis under Colorado law to award attorney's fees under this Agreement.

*Headwaters' Claim 2* asserted a breach of the Letter Agreement and of the Master IGA Termination Agreement. Neither of these agreements contain a fee-shifting provision. See **Exhibits 2, 3** generally. Indeed, the Master IGA Termination Agreement contains a *waiver provision* that expressly releases any claim to all damages and specifically attorney's fees. **Exhibit 3**, at 2 ¶ 5 ("Waiver and Release"). Not only is there is no basis under Colorado law to award attorney's fees under these Agreements, it appears that such a claim has already been waived by the Master IGA Termination Agreement.

*Headwaters' Claim 3* asserted a breach of the Waiver and Release Agreement. Not only does this agreement not contain a fee-shifting provision, *it states the opposite*: the parties expressly agreed that they shall bear their own legal fees and costs.

Legal Costs and Expenses. *Each party shall pay its own legal fees and costs incurred in connection with the resolution of the issues between the parties.*

See **Exhibit 4** generally, and specifically at 4, ¶ 4 (emphasis added). There is no basis under Colorado law to award attorney's fees under this Agreement—indeed it expressly states the parties agree to bear their own fees and costs.

*Headwaters' Claim 4*: This claim asserted a breach of GRMD's own Amended Service Plan. This agreement contains no fee-shifting provision. See **Exhibit 5**. There is no basis under Colorado law to award attorney's fees under this Agreement.

In sum, none of the agreements forming the basis of the remaining claims against GRMD contain a clear, express, and unambiguous fee-shifting provision. Other than the Exclusion Agreement, they are all at least silent as to a fee award and two (the Master IGA Termination

Agreement and the Waiver and Release Agreement) contain provisions barring such a claim. Thus, there should be no dispute that Headwaters' Claims 1-4 (as well as GR Terra's Claims 4 and 5) fail because there is no basis, as a matter of law, for the claimed damages.

These claims are fatally flawed and, if they are not moot, should be dismissed.

**2. *Further, these counterclaims are moot because there is no basis to assert a breach.***

In addition to the above complete lack of actionable damages, which is dispositive of the issue, it remains that these counterclaims are moot because there is no factual basis that GRMD breached any of the agreements, GRMD's claims were dismissed, and the litigation is done.

There is no support or basis that GRMD breached any of these agreements. Counterclaimants have completely taken these agreements out of context. Bringing suit to try to honor the LPA does not breach these agreements (which, in truth, pertained to other issues and are distinguishable). Counterclaimants have twisted the language of the various agreements cited in their counterclaims beyond recognition, and have taken them out of context to manufacture claims against GRMD. These agreements stand for what they stand for, they are limited to that scope, and Counterclaimants' attempts to weave them into some single cloth barring GRMD from engaging in good faith litigation on a disputed issue regarding the LPA should be rejected.

In any event, litigation is now done, and the claimed breaches are moot given that the Court dismissed GRMD's claims in the July 30 Orders. Counterclaimants assert only that GRMD breached its obligations by filing this action to try to enforce their rights under the LPA. They did not assert other bases for their breach of contract claims—there were not other ways in which GRMD was alleged to have been in breach of these agreements. They did not allege that GRMD failed to take any action required by the agreements (*i.e.*, issue bonds, impose fees, transfer funds,

adopt or amend budgets). Despite the lengthy allegations in their Counterclaims, there are not other allegations that conduct by GRMD breached any of the agreements. It is only that GRMD breached its obligations by filing this action. Now that GRMD's claims are dismissed, and there is no basis for Counterclaimants to assert breach or damage, the Court should enter a final judgment.

**D. GRMD Filed a Protective Notice of Appeal.**

As this Court knows, GRMD filed a September 15, 2023, protective notice of appeal. CCE Filing ID 1EEE48132191D. This bears discussion here because it implicates this Court's jurisdiction. As a general proposition, once an appeal has been initiated, jurisdiction is transferred to the appellate courts and the trial court is divested of jurisdiction. *See, e.g., Coors Brewing Co. v. City of Golden*, 2013 COA 92, ¶ 60 (“Once the notice is filed, the trial court is divested of authority to consider matters of substance affecting directly the judgment appealed from.” (alterations incorporated) (*quoting Molitor v. Anderson*, 795 P.2d 266, 269 (Colo. 1990)); *see also In re WC*, 2020 CO 2, ¶ 11 (same).

However, the trial court is not wholly divested of jurisdiction: “[a] trial court retains jurisdiction to act on matters that are not relative to and do not affect the judgment on appeal.” *Musick v. Woznicki*, 136 P.3d 244, 248 (Colo. 2006). Thus, while jurisdiction is transferred to the appellate courts, the trial court may enter matters that do not impact the substance of the appeal. *See, e.g., Molitor*, 795 P.2d at 268 (retains jurisdiction as to matters that do not challenge the “propriety of the judgment itself”); *In re WC*, 2020 CO 2, ¶ 14 (divestment rule prevents two courts from simultaneously considering the merits of the judgment, avoiding the attendant risks of mooting the issue on appeal, wasting of judicial resources, and causing significant confusion).

GRMD submits that the Court has jurisdiction to confirm that its July 30 Orders were a final judgment from which an appeal lies, given that it resolves all claims between all parties. The July 30 Orders addressed the 17 pending claims and counterclaims: expressly resolved nine, functionally resolved two, and mooted the remaining four unique (six total) counterclaims—either because they were mooted by the July 30 Orders or because they should be dismissed.

If the Court determines that briefing is necessary, or if it is unsure that it has jurisdiction to act, GRMD proposes that: it request a stay of the present appeal, as well as a limited remand to confirm this Court’s jurisdiction and to permit briefing; and, on remand, that this Court set a briefing schedule on the issues raised herein so that this Court can confirm for itself that the Counterclaimants’ remaining claims are moot and/or should be dismissed.

### **III. CONCLUSION: THIS COURT SHOULD ENTER FINAL JUDGMENT**

For the reasons discussed above, GRMD respectfully requests that this Court enter final judgment in this matter and confirm that all claims asserted between all parties have been resolved through its Order Granting CRCP 12(b)(1) Motion to Dismiss and its Order Granting Cross-MSJ.

Alternatively, if this Court determines that it requires the issues discussed here in summary format to be presented on full Rule 56 briefs in order to confirm the remaining counterclaims are moot and/or dismissed, GRMD proposes a stay and limited remand be requested from the Court of Appeals and this Court’s jurisdiction be confirmed, and then a briefing schedule be set so that the parties may fully address whatever questions the Court may have.

Respectfully submitted October 25, 2023.

**BURG SIMPSON  
ELDREDGE HERSH & JARDINE, P.C.**

*Duly signed original is on file in this office and available for  
inspection and/or copying upon request.*

*/s/ D. Dean Batchelder*

David K. TeSelle, Reg. No. 29648

Lisa R. Marks, Reg. No. 31683

D. Dean Batchelder, Reg. No. 38425

Patrick M. Sweet, Reg. No. 51130

**CERTIFICATE OF SERVICE**

I certify that on October 25, 2023, a true and correct copy of this **MOTION FOR ENTRY OF FINAL JUDGMENT** was filed and served upon all counsel of record via CCE.

*Duly signed original is on file in this office and available for inspection and/or copying upon request.*

*/s/ Natalie Elliott*

\_\_\_\_\_  
Natalie Elliott

DATE FILED: October 25, 2023 2:28 PM  
FILING ID: 293DCCF46FA9F  
CASE NUMBER: 2021CV30008

# **EXHIBIT 1**

*Case Number 2021CV30008*

*April 21, 2010 Exclusion Agreement*

**EXCLUSION AGREEMENT**

This **EXCLUSION AGREEMENT** (this "Exclusion Agreement") is entered into as of the 21<sup>st</sup> day of April, 2010 by and among **GRANBY REALTY HOLDINGS LLC**, a Colorado limited liability corporation ("GRH"), **HEADWATERS METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado ("HWMD"), and **GRANBY RANCH METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado ("GRMD"). HWMD and GRMD may be referred to individually as a "District" and collectively as the "Districts." GRH, HWMD, and GRMD may be referred to individually as a "Party" and collectively as the "Parties."

**RECITALS**

This Exclusion Agreement is made with respect to the following facts, all of which the Parties acknowledge are an integral part of this Exclusion Agreement.

A. The Granby Ranch development ("Granby Ranch") is an approximately 5,000 acre planned, multi-use development which provides recreational, residential, lodging, dining, commercial and other experiences and opportunities to the general public and owners of property within Granby Ranch.

B. GRH is the master developer of Granby Ranch.

C. HWMD was organized pursuant to the laws of the State of Colorado to coordinate the acquisition, financing, and construction of public improvements, including streets and roadways, safety protection systems, water improvements, sanitary sewer and storm drainage, and park and recreation facilities, benefitting Granby Ranch, (collectively, the "Facilities") and for the management, operation and maintenance of improvements not conveyed to the Town of Granby.

D. GRMD was organized pursuant to the laws of the State of Colorado, contemporaneously with HWMD, in order to provide the funding for the Facilities and ongoing operations of the Districts.

E. The Service Plans for HWMD and GRMD (collectively, the "Service Plan") set forth the relationship between HWMD and GRMD and provide that HWMD is to construct, manage, own, operate and maintain the Facilities and provide services to Granby Ranch, and GRMD is to produce tax and other revenue sufficient to pay all costs related to the construction, financing, acquisition, operation, and maintenance of the Facilities.

F. In order to assure the orderly provision of the Facilities and essential services to Granby Ranch, and to assure the economic administration of the Districts' fiscal affairs, the Service Plan disclosed and established the necessity for a master intergovernmental agreement to fully implement the provisions of the Service Plan.

G. On June 1, 2006, the Districts entered into an intergovernmental agreement titled "District Facilities Construction and Service Agreement" (the "2006 Master IGA") setting forth the dual responsibilities and nature of the functions and services to be provided by each District.

H. Pursuant to the 2006 Master IGA, the Districts agreed that HWMD would own, operate, construct, and maintain the Facilities benefiting the Districts and that GRMD would pay all costs related to the construction, financing, acquisition, operation and maintenance of the Facilities.

I. The financial obligations of GRMD under the 2006 Master IGA are contractual general obligation debt of GRMD, and GRMD is obligated to, inter alia, impose an ad valorem property tax levy for the payment of its obligations thereunder.

J. In order to comply with its obligations under the 2006 Master IGA and to pay certain costs of designing, acquiring, constructing, completing, installing, relocating, and providing public improvements benefiting Granby Ranch, GRMD has previously issued its Limited Tax General Obligation Bonds, Series 2006 in the total principal amount of \$14,725,000 (the "2006 Bonds"), and is obligated, inter alia, to impose an ad valorem property tax levy for the payment of its obligations thereunder at a "gallagherized" cap of 50 mills without reduction for obligations associated with the 2006 Master IGA.

K. In order to properly allocate revenue from GRMD's debt levy in accordance with the terms of the indenture for the 2006 Bonds, GRMD and HWMD desire to amend their respective budgets.

L. The outstanding obligations of GRMD under the 2006 Master IGA as of March 31, 2010 include \$913,964 in Service Costs and \$11,753,178 in Capital Costs, as those terms are defined in the 2006 Master IGA.

M. As partial consideration for this Agreement, the Parties agree to an allocation of Capital Costs set forth immediately above to properties other than those in GRMD. This allocation will reduce the Capital Costs due and owing under the 2006 Maser IGA to \$10,205,653.

N. In order to refund GRMD's existing debt obligations under the 2006 Master IGA, GRMD will issue its Taxable Subordinate Limited Tax General Obligation Bonds, Series 2010, in the original aggregate principal amount of \$11,119,000, and will be obligated, inter alia, to impose an ad valorem property tax levy for the payment of its obligations thereunder at a "hard" cap of 50 mills.

O. Three initiated measures (the "Ballot Initiatives") have been placed on the November 2010 statewide general election ballot, and the Ballot Initiatives, if passed, may unduly restrict the ability of GRMD to refund its debt at a later date, including the present obligations of the 2006 Master IGA.

P. Granby Ranch Metropolitan District Nos. 2-8 ("GRMD Nos. 2-8") were organized in order to more fully accommodate phasing of the Granby Ranch project and to provide greater flexibility for the potential uses of property within the development.

Q. Subsequent to the organization of GRMD Nos. 2-8, the 2006 Master IGA was amended and restated by a First Amended and Restated District Facilities Construction and Services Agreement (the "2008 Master IGA") to amend and restate certain provisions of the 2006 Master IGA and add GRMD Nos. 2-8 as parties to the agreement.

R. As partial consideration for the exclusions contemplated herein and this Agreement, and in order to clarify the obligations of the parties with respect to future contractual obligation indebtedness of GRMD, HWMD and GRMD agree that GRMD will repudiate the 2008 Master IGA and thereafter be governed by the provisions of the 2006 Master IGA.

S. In addition, GRMD and HWMD agree to amend the 2006 Master IGA to make the obligations of the Districts thereunder subject to annual appropriation and to revise the termination provision to be more consistent with annually appropriated obligations.

T. At the time of the organization of GRMD Nos. 2-8, it was anticipated that future boundary adjustments would occur with respect to the boundaries of the districts serving Granby Ranch.

U. The Parties acknowledge that the best interests of the entire Granby Ranch community are served by the continued, orderly development of Granby Ranch to create a tax-base sufficient to provide cost-effective facilities and services to the community, and in order to lessen the burden on existing property owners within Granby Ranch

V. In order to take advantage of the organization of GRMD Nos. 2-8, to properly phase development within Granby Ranch, and to not unduly burden GRMD with debt for future facilities, GRH has filed a petition for exclusion of certain of its property (the "GRH Property") from the boundaries of GRMD with the GRMD Board.

W. In order to assure that the roadways serving Granby Ranch remain open and available for the intended uses, including access to properties within GRMD, and the application of uniform rules applied throughout the Granby Ranch community, HWMD has filed a petition for exclusion of its roadways (the "HWMD Property") from the boundaries of GRMD with the GRMD Board.

X. In order to assure the greatest likelihood of continued development within Granby Ranch, GRMD recognizes the necessity of excluding the GRH Property and the HWMD Property (collectively, the "Property") from GRMD.

Y. As partial consideration for the exclusion, GRH agrees to exclusion of the GRH Property after the issuance of the 2010 Bonds. The GRH Property will therefore remain liable for its proportionate share of the principal and interest on the 2006 Bonds as well as the 2010 Bonds.

Z. As provided in the Service Plan, upon due organization of GRMD and HWMD the Districts executed an intergovernmental agreement with the Town of Granby (the "Town"), dated December 9, 2003 (as amended, the "Town IGA"), which Town IGA imposes, inter alia, certain obligations on the Districts with respect to the maintenance of streets, and contemplates that in order to provide for the payment of such obligations (as more particularly defined therein, the "Cure Amount"), the Districts would, if necessary, impose an operations fee.

AA. In order to provide for the ongoing operations and maintenances of the Facilities, GRMD and HWMD adopted a Joint Resolution of the Boards of Directors of Headwaters Metropolitan District and Granby Ranch Metropolitan District Concerning the Imposition of District Fees (as may be amended from time to time, the "Operations Fee Resolution"), pursuant to which the Districts authorized the imposition of a monthly "Operations Fee" to be imposed as set forth in the Operations Fee Resolution.

BB. The Parties desire to set forth their understanding with regards to the implementation of the Operations Fee Resolution.

CC. GRH and HWMD have entered into a 2006 Funding and Reimbursement Agreement ("2006 Funding Agreement") whereby GRH agreed to advance funds to HWMD for operations and maintenance costs until certain thresholds were met ("Funding Threshold").

DD. As the "Funding Threshold" has been met, the Parties desire to set forth their understanding regarding the funding of general administrative costs (e.g. insurance, legal fees, accountants' fees, auditing costs, etc.) and operation and maintenance costs associated with owning and maintaining the Facilities (collectively, the "O&M Costs").

EE. As questions have arisen concerning the proper method of implementing the "Gallagherization" concept set forth in the Service Plan and respective bond documents, the parties desire to set forth the Gallagherization methodology to be used with respect to both the 2006 Bonds and the 2010 Bonds.

## AGREEMENT

**NOW THEREFORE**, in consideration of the mutual covenants and promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

### ARTICLE I PURPOSE

1.1 Purpose. The purpose of this Agreement is to document the terms and conditions under which GRMD will exclude the Property from the boundaries of District; together with the maintenance, operations, and future obligations of each of the Parties.

1.2 Effective Date. The Effective Date for purposes of this Agreement shall be April 21, 2010.

ARTICLE II  
EXCLUSION OF THE PROPERTY/ DEBT OBLIGATIONS

2.1 Property to be Excluded. GRMD agrees, pursuant to the terms and conditions herein, and upon making the determinations required by Section 32-1-501 *et seq.*, C.R.S, to adopt an Order and Resolution excluding the Property from the boundaries of GRMD, pursuant to Section 32-1-501, *et seq.*, C.R.S, and to process the exclusion with the District Court in and for Grand County, Colorado.

2.2. Continued Obligation for Outstanding Debt. The Property, once excluded, shall remain liable for its proportionate share of the principal and interest on any outstanding bonded indebtedness of the District existing immediately prior to the effective date of the exclusion order. The indebtedness for which the Property shall remain proportionately liable is set forth as follows:

- a. Granby Ranch Metropolitan District, Limited Tax General Obligation Bonds, Series 2006, in the principal amount of \$14,725,000, dated June, 1, 2006, with a final maturity date of December 1, 2036.
- b. Granby Ranch Metropolitan District, Limited Tax General Obligation Subordinate Bonds, Series 2010, in the principal amount of \$11,119,000, dated April 21, 2010, with a final maturity date of December 15, 2049.

2.3 Contractual Obligation Indebtedness. The contractual obligation indebtedness for which the Property shall remain liable is \$0.00.

2.4 Future Debt. The Property shall not be liable for any indebtedness issued after the effective date of the Court's order for exclusion.

2.5 Future Inclusions. Within six (6) months of the Effective Date, GRH shall file a petition for inclusion with one of the GRMD Nos. 2-8 or GRMD requesting the GRH Property be included within the boundaries of such district.

ARTICLE III  
FEES, RATES, TOLLS, AND CHARGES

3.1 Capital Facilities Fees. The Property shall remain liable for payment of the District's Capital Facilities Fee imposed pursuant to the Amended and Restated Joint Resolution of the Board of Directors of Headwaters Metropolitan District and Granby Ranch Metropolitan District to Establish a Capital Facilities Fee, adopted on June 7, 2006, ("Capital Facility Fee Resolution").

3.2 Amenity Fees. Unless otherwise agreed by HWMD, the Parties agree that the "Amenity Fee" established pursuant to the Joint Resolution of the Boards of Directors of Headwaters Metropolitan District and Granby Ranch Metropolitan District to Establish an Amenity Fee, duly adopted May 26, 2005 (as amended, the "Amenity Fee Resolution") shall

remain in full force in effect, that the Property shall remain liable for payment of Amenities Fees, and HWMD shall continue to impose and collect the Amenity Fee pursuant to the terms of the Amenity Fee Resolution.

3.2.1 Assignment and Receipt. GRMD acknowledges and agrees that the Amenity Fees are payable to HWMD and GRMD has no right, title or interest thereto. Accordingly, any Amenity Fees received by GRMD shall be paid over to HWMD by GRMD as soon as practical, and GRMD agrees to execute any necessary documents to assign all right, title, and interest in any Amenity Fee to HWMD.

3.3 Operations Fee. GRMD shall, subject to the consent of HWMD, impose the Operations Fee in an amount sufficient to fund the deficiency in the Improvement Operating Budgets and Cure Amounts, in accordance with the Operations Fee Resolution. GRMD and HWMD agree that the adopted 2010 budget for HWMD constituted and incorporated the Improvement Operating Budgets as part thereof and shall constitute the Improvement Operating Budgets to be used for determination of the Monthly Rate to be imposed and collected during the 2010 fiscal year, if any. As at the time of the adoption of the HWMD and GRMD 2010 budgets it was not anticipated that an Operations Fee would be imposed, the December 20 deadline for providing written notice of the imposition of the fee to all homeowners is hereby extended to June 1, 2010, applicable to the 2010 fiscal year only.

3.3.1 The Property shall not be liable for the Operations Fee and the Districts shall record an amendment to the Memorandum of Resolution Concerning the Imposition of District Fees, recorded in the real property records of Grand, County, Colorado at reception #2007002391 (the "Fee Memorandum") stating that the Fees, as that term is defined in the Fee Memorandum, no longer constitute a valid, perpetual lien against the Property.

3.4 Operations and Maintenance Levy. The Property shall not be liable for any property tax levied by GRMD for operating costs of GRMD after the effective date of the Court's order for exclusion and, in addition, shall not be liable or have any obligations for operations of GRMD of any kind.

3.5 Imposition of other Fees, Rates, Tolls or Charges. Other than the Capital Facility Fee and the Amenity Fee, GRMD acknowledges and agrees that it has no right or authority to impose, and shall not otherwise attempt to impose, establish, or assess, any new or additional fee, rate, toll, or charge, against any portion of the Property, and that the Capital Facility Fee and Amenity Fee shall be limited to increases in accordance with the terms of the respective implementing resolution (collectively, the "Implementing Resolutions"). Neither GRMD nor HWMD shall repeal, modify, or amend the Implementing Resolutions without the written consent of the other party. In accordance herewith, the Property shall not be liable for any service charge, tap fees, or other rates, fees, tolls or charges imposed pursuant to Section 32-1-503, C.R.S., to supplement the proceeds of tax levies for any indebtedness of GRMD and the interest thereon.

ARTICLE IV  
MASTER INTERGOVERNMENTAL AGREEMENT

4.1 Repudiation of 2008 Master IGA. GRMD hereby confirms its repudiation of the 2008 Master IGA, acknowledges and agrees that the 2006 Master IGA is of full force and effect, and covenants to comply with its commitments and obligations thereunder.

4.1.1 Consent to Repudiation. HWMD hereby consents to GRMD's repudiation of the 2008 Master IGA and affirms that the 2006 Master IGA is of full force and effect.

4.2 Contractual Obligations. The Parties agree that as of March 31, 2010, the obligations owing from GRMD to HWMD under the 2006 Master IGA include \$913,964 in Service Costs and \$11,753,178 in Capital Costs. As partial consideration for this Agreement, the Parties agree to an allocation of Capital Costs to properties other than those in GRMD. This allocation reduces the Capital Costs due and owing under the 2006 Maser IGA to \$10,205,653. The Parties agree that upon issuance of the 2010 Bonds in the aggregate principal amount of \$11,119,000, all debt obligations of GRMD to HWMD under the 2006 Master IGA are hereby deemed paid in full.

4.3 Amendment to 2006 Master IGA. HWMD and GRMD agree to amend the 2006 Master IGA as follows:

4.3.1 Liability of the Districts. Notwithstanding any provision in the 2006 Master IGA to the contrary, no provision, covenant, or agreement contained in the 2006 Master IGA, nor any obligation imposed upon HWMD or GRMD thereunder, shall constitute or create indebtedness of either District within the meaning of any Colorado constitutional provision or statutory limitation. No provision of the 2006 Master IGA shall be construed or interpreted as a delegation of governmental powers, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever, or statutory debt limitation, including, without limitation, Article X, Section 20 or Article XI, Section 6 of the Constitution of the State of Colorado. Each District's obligations under the 2006 Master IGA shall exist subject to annual budgeting and appropriations. All payment obligations of either District are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the District's current fiscal period. Financial obligations of a District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the applicable rules, regulations, and resolutions of the District and any other applicable law.

4.3.2 Termination. The termination provision contained in Section 8.2 (g) of the 2006 Master IGA is hereby amended to provide that failure of a District to budget and appropriate funds for the succeeding year shall terminate the 2006 Master IGA in its entirety as of December 31 of the current year. In order to allow the Districts adequate time to prepare budgets for the ensuing fiscal year, if either District anticipates terminating the 2006 Master IGA, the terminating District shall, on or before August 1, notify the other District, in writing, of its intent to terminate the 2006 Master IGA. On or before September 1, the terminating District

shall send written confirmation of its intent to terminate to the non-terminating District, and said confirmation shall constitute adequate notice of termination.

4.4 Conveyance of Improvements. GRMD shall convey and dedicate any public improvements for which it has ownership to HWMD for ownership, operations, and maintenance. GRMD shall execute such necessary conveyance documents to transfer and public improvements and related appurtenances to HWMD, including as necessary and appropriate, special warranty deeds, bills of sale, assignment agreements, or other conveyance documents, conveying title to the public facilities, infrastructure, any property and any appurtenances thereto owned by GRMD to HWMD.

#### ARTICLE V

##### O&M ADVANCES / BUDGET AMENDMENT/GALLAGHERIZATION

5.1 GRH Advances. The Parties acknowledge and agree that pursuant to the 2006 Funding and Reimbursement Agreement, dated April 11, 2006, the obligations of GRH to advance funds to HWMD for the purpose of funding operations and maintenance expenses of the Districts and any Cure Amounts, have been fulfilled, and therefore the obligation of GRH to make advances under said agreement is terminated and is no longer of any force or effect.

5.2 Contractual Obligation - Mill Levy Revenues. HWMD and GRMD agree that notwithstanding the fact that the Board of Directors of GRMD certified a contractual obligation levy of 9.044 mills (\$162,096.97) to the Board of County Commissioners of Grand County, Colorado, to fund its contractual obligation to HWMD, the revenue from 3.414 mills of the amount so certified shall remain in the GRMD Debt Service Fund to be used towards debt service on the 2006 Bonds. GRMD shall transfer the remaining 5.630 mills (\$100,915) to HWMD upon receipt from Grand County.

5.3 Budget Amendment. GRMD and HWMD shall each use good faith efforts to adopt amended budgets that recognize the provisions of this Article V.

5.4 Gallagherization. The Parties agree that with regard to the 2006 Bonds and the 2010 Bonds, the proper method of Gallagherization is that methodology demonstrated in Exhibit A, attached hereto and incorporated herein by this reference, which operates so that District revenues as a whole neither increase nor decrease as a result in the change of the percentage valuation of residential property.

#### ARTICLE VI OPERATIONS

6.1 O&M Services. HWMD and GRMD agree that consistent with the Service Plan, the Town IGA, and the 2006 Master IGA, HWMD shall provide all general administrative services, operation and maintenance services, and Facilities for GRMD, and GRMD shall impose property taxes, fees, rates, tolls or charges and take other actions in cooperation with HWMD that may be necessary to fund the O&M Costs and allow HWMD to provide, operate and maintain the Facilities. GRMD agrees that it shall not attempt to provide, independent of HWMD, any operation and maintenance services for the Facilities.

6.2 Access to Improvements. GRMD shall not interfere with the operations and maintenance responsibilities of HWMD and shall not impair HWMD's access to any Facilities through the adoption of any rules, regulations, policies, procedures or other action reasonably interpreted by HWMD to impair HWMD's access, or access granted by HWMD to others, to any Facilities.

6.3 Future Development. Neither GRMD nor HWMD shall interfere with or restrict future construction or development with the Granby Ranch development.

## ARTICLE VII GENERAL REPRESENTATIONS AND WARRANTIES

7.1 General Representations and Warranties. To induce the Parties to enter into this Exclusion Agreement and to consummate the exclusion, each Party hereby represents and warrants to the other Parties, the following, with the understanding and intention that the other Parties are relying upon the accuracy of such representations and warranties, which representations and warranties will be deemed to be made by such Party to the other Parties as of the date of this Agreement and as of the Effective Date:

7.1.1 That it has all requisite power and authority to enter into and perform its obligations under this Agreement.

7.1.2 It has the full right, power and authority to execute and deliver, and to perform its obligations under, this Agreement without the consent, approval or license of any third party, and that this Agreement, when executed, shall constitute the valid, legal and binding obligation of the Party, enforceable in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally.

7.1.3 Neither the execution, delivery or performance of this Agreement by the Party will violate any law, rule, regulation, order or the like applicable to the Party, or conflict with, or result in, a breach or default, or require the consent under, the organizational documents or any agreement, order, or instrument to which it is a Party or by which it is bound.

7.1.4 To each of the Party's actual knowledge, there is no suit, governmental investigation or other proceeding or any pending or threatened suit or proceeding that would have an adverse affect on this Agreement or any of the acts or agreements contemplated hereunder.

7.1.5 Neither the execution of this Agreement, the consummation of the transactions contemplated hereunder, nor the fulfillment of or by the compliance with the terms and conditions of this Agreement by any of the Parties will conflict with or result in a breach of any terms, conditions, or provisions of, or constitute a default under, or result in the imposition of any prohibited lien, charge, or encumbrance of any nature under any agreement, instrument,

indenture, or any judgment order, or decree to which any Party is a party of or by which any Party is bound.

ARTICLE VIII  
EVENTS OF DEFAULT, REMEDIES, AND CONFLICT RESOLUTION

8.1 Event of Default. It shall be an "Event of Default" hereunder if any Party fails to timely perform any of its obligations herein, including, but not limited to:

8.1.1 The violation of or failure to perform any material provision of this Agreement by any Party or the failure of any representation or warranty of any Party to be true;

8.1.2 The failure to pay any payment when the same shall become due and payable as provided herein and to cure such failure in accordance with Section 8.3.

8.1.3 The failure to perform or observe any other covenants, agreements, or conditions in this Agreement on the part of any Party and to cure such failure in accordance with Section 8.3.

8.1.4 Any effort by any Party, or the failure of any Party to resist the efforts of any person, that might reasonably be believed to result in the avoidance by court order or otherwise of any Party's obligations under this Agreement;

8.1.5 Any act or omission by any Party, or the failure of any Party to resist the acts or omissions of any person, that might reasonably be believed to result in the interference in the exercise of any Party's rights hereunder; and/or

8.1.6 The failure of any Party to take such action as is required by law to enable each Party to perform its obligations hereunder, including but not limited to the failure of GRMD to appropriate revenues in any year sufficient to perform its obligations hereunder.

8.2 Delay/Waiver of Event of Default. No delay or omission of any Party to exercise any right or power accruing upon any Event of Default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such Event of Default, or acquiescence therein.

8.2.1 No waiver of any Event of Default hereunder by any Party shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the Parties provided herein may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

8.3 Remedies. Upon an Event of Default, the non-defaulting Party shall provide written notice to the defaulting Party, which notice shall explicitly state the Event of Default. The defaulting Party shall have fifteen (15) days to cure such Event of Default, or, to commence to cure such Event of Default if the default is of a nature that a cure cannot be cured within

fifteen (15) days. If the defaulting Party fails timely to cure such Event of Default, the Parties shall initiate the Dispute Resolution provisions of Section 8.4.

8.4 Dispute Resolution. If a Party claims that an Event of Default has occurred and is continuing and the defaulting Party has failed to cure as required in 8.3:

8.4.1 The non-defaulting Party shall provide a written "Notice of Continuing Event of Default" to the other Party explaining the dispute and at least one alternative for a solution;

8.4.2 a Resolution Committee shall be convened no later than ten (10) working days after receipt of the Notice of Continuing Event of Default;

8.4.3 Each party to the dispute shall appoint two (2) board members/representatives to the Resolution Committee and each party may utilize such staff support as that entity deems appropriate;

8.4.4 forthwith, the Resolution Committee shall meet to review such information as may be presented to the Resolution Committee, make such independent investigations, and decide the dispute by concurrence of the Resolution Committee at a meeting following reasonable notice at which all are present;

8.4.5 in its review of the dispute, the Resolution Committee shall review the facts, the technical objections, and any other materials presented to the Resolution Committee, and shall make a determination that shall resolve all of the issues concerning the dispute. The standards that the Resolution Committee shall use in the determination of any dispute shall include (i) the impact of any technical, operational or maintenance issues, (ii) the financial impact of any proposed resolution, (iii) the feasibility of any proposed resolution, and (iv) the language and intent of this Agreement and any related agreements impacting the Event of Default, and (v) whether the determination substantially hinders a party from the benefit of this Agreement, the Property or the Facilities described herein and in which it has an interest;

8.4.6 the Resolution Committee shall provide its written decision to the Parties within thirty (30) days of the convening of the Resolution Committee.

8.5 Legal Proceedings. The decision of the Resolution Committee may be appealed to the District Court in and for Grand County, Colorado and shall not be deemed a final decision by arbitration. If the Resolution Committee fails to render a decision within thirty (30) days of being convened, then the non-defaulting party may seek such other remedies as may be allowed by law. As a condition precedent to the exercise of any legal or equitable remedy by any Party for an alleged Event of Default, each Party agrees to comply with the provisions of Section 8.4.

8.5.1 In addition to remedies generally available at law or in equity, any Party may ask a court of competent jurisdiction to enter a writ of mandamus to compel any other Party to perform its duties under this Agreement, and any District may seek from a court of competent

jurisdiction temporary and/or permanent injunctions, or orders of specific performance, to compel the other to perform in accordance with the obligations set forth under this Agreement.

8.5.2 The Parties may protect and enforce their rights under this Agreement by such suit, action, or special proceedings as they shall deem appropriate, including without limitation any proceedings for specific performance of any covenant or agreement contained herein, for the enforcement of any other appropriate legal or equitable remedy, or for the recovery of damages caused by breach of this Agreement, including attorney's fees and all other costs and expenses incurred in enforcing this Agreement.

8.5.3 Except as otherwise provided by law, no recovery of any judgment by the Parties shall in any manner or to any extent affect any rights, powers, and remedies of the Parties hereunder, but such rights, powers, and remedies of the Parties shall continue unimpaired as before.

8.5.4 In case any Party shall have proceeded to enforce any right under this Agreement and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to such Party, then and in every such case the Parties shall be restored to their former positions and rights hereunder, and all rights, remedies, and powers of the Parties shall continue as if no such proceedings had been taken.

#### ARTICLE IX GENERAL PROVISIONS

9.1 Negotiated Provisions. This Agreement shall not be construed more strictly against one Party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

9.2 Termination Upon Mutual Agreement. This Agreement may be terminated at any time by written agreement signed by all of the parties to this Agreement.

9.3 Relationship of Parties. Nothing contained in this Agreement shall be construed as making the Parties partners, agents or joint venturers of the other. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only. Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, consultant or contractor of the Parties. Absolutely no third party beneficiaries are intended by this Agreement. Any third party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.

9.4 Amendment. No amendment or modification of this Agreement will be valid or binding unless reduced to writing and executed by the Parties hereto.

9.5 Further Assurances. Each Party hereto will from time to time execute and deliver such further reasonably acceptable instruments as the other Party or its counsel may reasonably request to effectuate the intent of this Agreement.

9.6 Cooperation/Good Faith. Each party shall fully cooperate to give effect to the intent and purposes of this Agreement. In the performance of this Agreement, or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

9.7 Controlling Law. The parties hereto expressly agree that the terms and conditions hereof, and subsequent performance hereunder, will be construed and controlled by the laws of the State of Colorado.

9.8 Interpretation. Captions and headings used in this Agreement are for convenience of reference only and will not affect the construction of any provision of this Agreement. As used herein, the singular will include the plural, and vice versa; any gender will be deemed to include the masculine, feminine and neuter gender; and the terms "including," "include" or derivatives thereof, unless otherwise specified, shall be interpreted in as broad a sense as possible to mean "including, but not limited to," or "including, by way of example and not limitation."

9.9 Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

9.10 Binding Effect. The provisions hereof will be binding upon and inure to the benefit of the heirs, successors, personal representatives and assigns of the Parties.

9.11 Waiver. No exercise or waiver, in whole or in part, of any provision of this Agreement will operate as a waiver of any right or remedy, or constitute a waiver of any other provision of this Agreement, nor shall such waiver constitute a continuing waiver, unless otherwise expressly provided herein. The waiver of any default hereunder shall not be deemed a waiver of any subsequent default hereunder.

9.12 Article X, Section 20/TABOR. The Parties understand and acknowledge that each Party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The Parties represent that they have or will have budgeted and appropriated sufficient funding to meet their respective obligations set forth in this Agreement. Therefore, the Parties acknowledge that the provisions of Article X, Section 20 of the Colorado Constitution are met. For any amounts not fully appropriated, the Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, all payment obligations of a Party are expressly dependent and conditioned upon the

continuing availability of funds beyond the term of the Party's current fiscal period. Financial obligations of a Party payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the applicable rules, regulations, and resolutions of the Party and any other applicable law.

9.13 Entire Agreement. This Agreement and the Exhibits attached hereto embody the entire agreement between the parties hereto with respect to the subject matter hereof and supersede any and all prior agreements and understandings, written or oral, formal or informal with respect thereto.

9.14 Assignment. No Party shall assign this Agreement or any interest hereunder in whole or in part, without the prior written consent of each of the other Parties, which consent shall not be unreasonably withheld. Any assignment attempted with the prior written consent of all Parties hereto shall be deemed void and of no force or effect. Consent to one assignment shall not be deemed to be consent to any subsequent assignment nor the waiver of any right to consent to such subsequent assignment.

9.15 Notices. All notices, demands and communications (collectively, "Notices") under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section, or (c) sent by confirmed facsimile transmission, PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

To HWMD:

Headwaters Metropolitan District  
c/o Robertson & Marchetti, P.C.  
28 Second Street, Suite 213  
Edwards, CO 81632  
Attn: Melissa McClendon  
(P) 970-926-6060  
(F) 970- 926-6040  
Email: [melissa@rmpccpa.com](mailto:melissa@rmpccpa.com)

With a copy to:

WHITE, BEAR & ANKELE  
Professional Corporation  
Attention: Gary R. White, Esq.  
1805 Shea Center Drive, Suite 100  
Highlands Ranch, Colorado 80129  
(P) 303-858-1800  
(F) 303-858-1801  
Email: [gwhite@wbapc.com](mailto:gwhite@wbapc.com)

To GRMD:

Granby Ranch Metropolitan District  
c/o Robertson & Marchetti, P.C.  
28 Second Street, Suite 213  
Edwards, CO 81632  
Attn: Eric Weaver  
(P) 970-926-6060  
(F) 970-926-6040  
Email: [eric@rmpccpa.com](mailto:eric@rmpccpa.com)

With a copy to:

WHITE, BEAR & ANKELE  
Professional Corporation  
Attention: Gary R. White, Esq.  
1805 Shea Center Drive, Suite 100  
Highlands Ranch, Colorado 80129  
(P) 303-858-1800  
(F) 303-858-1801  
Email: [gwhite@wbapc.com](mailto:gwhite@wbapc.com)

To GRH:

Granby Realty Holdings, LLC  
PO Box 1110  
Granby, Colorado 80446

With a copy to:

Holme Roberts & Owen LLP  
1700 Lincoln St., Suite 4100  
Denver, Colorado 80203-4541  
Attn: Paul V. Timmins, Esq.  
(P) 303-866-7000  
(F) 303-866-0200  
Email: [paul.timmins@hro.com](mailto:paul.timmins@hro.com)

Any Party may change its address for the purpose of this Section 9.15 by giving written notice of such change to the other Party in the manner provided in this Section.

9.16 Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to a Party, its respective officials, employees, contractors, or agents, or any other person acting on behalf of a Party and, in particular, governmental immunity afforded or available to the GRMD and HWMD pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

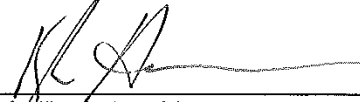
9.17 Governing Law/Venue. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed by, and enforced in accordance with, the laws of the State of Colorado. Any suit or proceeding arising from or relating in any way to the subject matter of this Agreement shall be brought only in the District Court for and in Grand County, Colorado. Each Party hereby consents to the exclusive personal jurisdiction and venue of the Grand County District Court.

9.18 Counterparts. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the Parties.

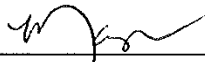
*[Signature page follows]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above. This Agreement shall be deemed effective as of the Effective Date upon delivery of a fully executed copy hereof to the Parties.


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

  
\_\_\_\_\_  
Kyle Harris, President


ATTEST:

  
\_\_\_\_\_  
Secretary

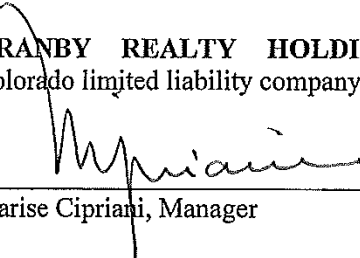
**HEADWATERS METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado

  
\_\_\_\_\_  
Kyle Harris, President

ATTEST:

  
\_\_\_\_\_  
Secretary

**GRANBY REALTY HOLDINGS LLC**, a Colorado limited liability company

  
\_\_\_\_\_  
Marise Cipriani, Manager

*[Signature page to Exclusion Agreement]*

EXHIBIT A  
TO EXCLUSION AGREEMENT

[See attached]

Granby Ranch Metro District  
 Calculation of "Gallagherized" Mill Levy Rate  
 For 2010 Budget Year - Final

	Debt Service	
	Assd Value @ New Residential Assessment Rate	Hypothetical Assd Value @ Original Residential Assessment Rate
Residential Assessment Rate	7.96%	9.15%
Residential Assessed Value	7,672,520	8,819,542
Non-Residential Assessed Value	10,250,630	10,250,630
Total Assessed Value	17,923,150	19,070,172
Debt Service Mill Levy Rate	44.156	41.500
Property Taxes	791,415	791,412
Debt Service Mill Levy Rate Above	44,156	
Contractual Obligations Mill Levy Rate	9,044	
Total Mill Levy Rate	53,200	

1. This is the "base" assessment rate from when the "Gallagherization" is to occur.

2. This is the current residential assessed value based on the current assessment rate.

3. This is a calculated hypothetical residential assessed value based on the residential assessment at the time the original mill levy rate was established.

4. The non-residential assessed value is the same in both columns.

5. This is the original debt service mill levy rate

6. This is the calculated mill levy rate to generate the same amount of tax that the old mill levy rate generated.

Contractual Obligation	
Assd Value @ New Residential Assessment Rate	Hypothetical Assd Value @ Original Residential Assessment Rate
7.96%	9.15%
7,672,520	8,819,542
10,250,630	10,250,630
17,923,150	19,070,172
9,044	8,500
162,097	162,096

DATE FILED: October 25, 2023 2:28 PM  
FILING ID: 293DCCF46FA9F  
CASE NUMBER: 2021CV30008

# **EXHIBIT 2**

*Case Number 2021CV30008*

*August 22, 2016 Letter Agreement*

August 22, 2016

via e-mail: jcollins@CCCFIRM.COM

Granby Realty Holdings, LLC  
Jim Collins, Esq.  
Collins Cockrel & Cole  
390 Union Blvd., Suite 400  
Denver, CO 80228

via e-mail: gwhite@wbapc.com; cwaldron@wbapc.com

Headwaters Metropolitan District  
Granby Ranch Metropolitan District No. 8  
Gary White, Esq.  
Clint Waldron, Esq.  
White Bear Ankele Tanka & Waldron, P.C.  
2154 East Commons Ave., Suite 2000  
Centennial, CO 80122

Re: Granby Ranch Metropolitan District, Granby Realty Holdings, LLC, Headwaters Metropolitan District, and Granby Ranch Metropolitan District No. 8 – Plan for Refunding of 2006 Bonds; Road Operation and Maintenance; and Related Issues

Dear Jim, Gary and Clint:

At the meeting held on August 12, 2016 between Granby Ranch Metropolitan District (“GRMD”) and Granby Realty Holdings, LLC (“GRH”) regarding refunding of the GRMD 2006 and 2010 Bonds, operation and maintenance of the roads in Granby Ranch, and related issues, the parties agreed that accomplishing several goals would be in each of their best interests and agreed to the following plan:

1. Refunding of 2006 Bonds
  - a. Based on the cash flow projections presented at the August 12, 2016 meeting, GRMD will proceed with refinancing its 2006 Bonds, to close before November 8, 2016 (the refunding bonds are called the “2016 Bonds”).
  - b. In connection with the 2016 Bonds and as memorialized as appropriate, GRH will guarantee the payment of 10 capital facilities fees per year for four years, beginning in 2017. The actual payment obligation will be reduced by the number of capital facilities fees paid in each calendar year by third-parties.
  - c. Before closing on the 2016 Bonds, Granby Ranch Filing No. 17 and the property anticipated to be included in Granby Ranch Filing No 18 as modeled in the August 12 cash flow projections will be included into GRMD.

{00238022}

d. All property in Granby Ranch Metropolitan District No. 8 currently subject to the debt service mill levy for the 2006 bonds will remain obligated for payment of the debt service mill levy on the 2016 Bonds.

e. At the time of closing on the 2016 Bonds, GRH will cancel or otherwise release any right to payment under the 2010 Bonds, which are held solely by GRH.

f. The funds currently held in the Lot Sale Escrow Account as additional security for the 2006 Bonds will be released in full to GRH at the time of closing on the 2016 Bonds.

2. Roads within Granby Ranch

a. Repair of Roads

i. GRH will, at its sole expense, repair as necessary the roads within Granby Ranch to a level supporting initial acceptance by the Town of Granby, including, but not limited to, the road repairs associated with Granby Ranch Filing Nos. 8 and 10 (the “Major Repairs”). All Major Repairs must be completed and initial acceptance made by the Town of Granby no later than October 31, 2017, unless an extension is required as caused by persons or matters over which GRH has no control, in which case the Major Repairs will be completed as soon as reasonably possible. Upon initial acceptance, the contractor must provide a two-year warranty on the Major Repairs in favor of the Town of Granby and Headwaters Metropolitan District.

b. Operation and Maintenance of Roads and Future Replacement/Repairs

i. Beginning January 1, 2017, GRMD will pay for the costs of road operation, maintenance and minor repairs necessary on or after January 1, 2017 for the roads that are within the boundaries of GRMD, except for the Major Repairs set forth above in paragraph 2.a.i. It is anticipated that Headwaters Metropolitan District will administer the contract for road operation and maintenance. GRMD will remit these funds to Headwaters Metropolitan District as payment for Headwaters Metropolitan District providing road operation, road maintenance, and minor repairs.

ii. Granby Ranch Metropolitan District No. 8 will certify a mill levy to fund the costs of road operation, road maintenance, and minor repairs equal to the mill levy certified by GRMD to fund road operation, road maintenance and minor repairs. Granby Ranch Metropolitan District No. 8 will remit these funds to Headwaters Metropolitan District as payment for Headwaters Metropolitan District providing road operation, road maintenance, and minor repairs.

c. On or before December 31, 2016, Headwaters Metropolitan District and GRH will execute non-exclusive public access easements for all roads within Granby Ranch in favor of GRMD and the other taxing districts within Granby Ranch.

Re: Granby Ranch Metropolitan District, Granby Realty Holdings, LLC, Headwaters Metropolitan District, and Granby Ranch Metropolitan District No. 8 – Plan for Refunding of 2006 Bonds; Road Operation and Maintenance; and Related Issues  
August 22, 2016  
Page 3 of 8

3. No later than seven days after the closing of the 2016 Bonds, GRH will transfer \$75,000 to GRMD with no repayment obligation.

4. On or before January 15, 2017, GRH will loan GRMD \$100,000 without interest, with repayment in full due on or before August 31, 2017.

5. The Intergovernmental Agreement between Headwaters Metropolitan District and GRMD dated June 1, 2006 as amended on April 21, 2010 will be amended or replaced on or before December 31, 2016 to eliminate any obligations between the parties other than GRMD's funding of road operations, maintenance and minor repairs.

6. GRMD will take those steps necessary to amend its service plan in conjunction with the service plans of the other special districts in Granby Ranch before closing on the 2016 Bonds to:

a. allow for a total maximum debt service mill levy of 50 mills, a total maximum operations and maintenance mill levy of 50 mills, and a total combined maximum mill levy of 60 mills, subject to approval by the Town of Granby; and

b. terminate any financial obligations other than road operation, maintenance and minor repairs between GRMD and Headwaters Metropolitan District.

7. GRH will cause the appointment and/or election of an eligible elector of GRMD not employed by or associated with GRH or any affiliated entities to the Headwaters Metropolitan District Board of Directors on or before December 31, 2016.

Re: Granby Ranch Metropolitan District, Granby Realty Holdings, LLC, Headwaters  
Metropolitan District, and Granby Ranch Metropolitan District No. 8 – Plan for Refunding of  
2006 Bonds; Road Operation and Maintenance; and Related Issues  
August 22, 2016  
Page 4 of 8

The parties recognize that achieving these goals will require cooperation between the parties and pursuit of their obligations in good faith.

This plan was approved by the GRMD Board of Directors at its meeting held Friday, August 19, 2016 at 1:30 p.m. and incorporates prior edits and comments from the parties prior to this date.

Please arrange for approval and signature in the space below. Once agreed to by all parties, we can begin working on accomplishing the objectives of the plan and preparing any additional contracts or transactions as required.

Sincerely,

**SETER & VANDER WALL, P.C.**



Jeffrey E. Erb

cc: Granby Ranch Metropolitan District, Board of Directors  
Ms. Marise Cipriani, Granby Realty Holdings, LLC  
Mr. Jason Carrol, CliftonLarsonAllen, LLP  
Mr. Bob Blodgett, CliftonLarsonAllen, LLP  
Mr. Jonathan Heroux, Piper Jaffray & Co.  
Ms. Stacey Berlinger, Piper Jaffray & Co.  
Dee Wisor, Esq., Butler Snow, LLP  
Kim J. Seter, Esq., Seter & Vander Wall, P.C.  
Russell Newton, Esq., Seter & Vander Wall, P.C.

{00238022}

EXHIBIT G

Re: Granby Ranch Metropolitan District, Granby Realty Holdings, LLC, Headwaters  
Metropolitan District, and Granby Ranch Metropolitan District No. 8 – Plan for Refunding of  
2006 Bonds; Road Operation and Maintenance; and Related Issues  
August 22, 2016  
Page 5 of 8

Agreed to by each party as set forth below:

Date: August 31, 2016.

Granby Ranch Metropolitan District

  
Name: Natasha Wall  
Title: president

Attest:

  
Secretary/Assistant Secretary

Re: Granby Ranch Metropolitan District, Granby Realty Holdings, LLC, Headwaters  
Metropolitan District, and Granby Ranch Metropolitan District No. 8 – Plan for Refunding of  
2006 Bonds; Road Operation and Maintenance; and Related Issues  
August 22, 2016  
Page 6 of 8

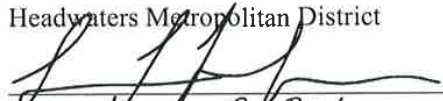
Date: August , 2016

Granby Realty Holdings, LLC  
  
\_\_\_\_\_  
Marise Cipriani, Manager

Re: Granby Ranch Metropolitan District, Granby Realty Holdings, LLC, Headwaters Metropolitan District, and Granby Ranch Metropolitan District No. 8 – Plan for Refunding of 2006 Bonds; Road Operation and Maintenance; and Related Issues  
August 22, 2016  
Page 7 of 8

Date: August 30, 2016

Headwaters Metropolitan District



Name: Vance C. Badger

Title: President

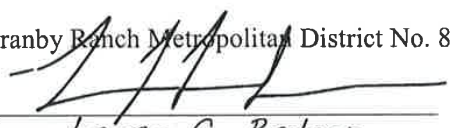
Attest:

  
Secretary/Assistant Secretary

Re: Granby Ranch Metropolitan District, Granby Realty Holdings, LLC, Headwaters  
Metropolitan District, and Granby Ranch Metropolitan District No. 8 – Plan for Refunding of  
2006 Bonds; Road Operation and Maintenance; and Related Issues  
August 22, 2016  
Page 8 of 8


Date: August 30, 2016.

Granby Ranch Metropolitan District No. 8



Name: Lance C. Badger  
Title: \_\_\_\_\_

Attest:

  
Secretary/Assistant Secretary

DATE FILED: October 25, 2023 2:28 PM  
FILING ID: 293DCCF46FA9F  
CASE NUMBER: 2021CV30008

# **EXHIBIT 3**

*Case Number 2021CV30008*

*November 17, 2017 Termination of Intergovernmental Agreement*

# TERMINATION OF INTERGOVERNMENTAL AGREEMENT

BETWEEN DATE ENTERED FILED 11/18/2017 10:53 AM  
BY JANE H. FISHER, CLERK OF DISTRICT COURT  
CASE NO. 2017-0008/30008

GRANBY RANCH METROPOLITAN DISTRICT  
GRANBY RANCH METROPOLITAN DISTRICT NO. 2  
GRANBY RANCH METROPOLITAN DISTRICT NO. 3  
GRANBY RANCH METROPOLITAN DISTRICT NO. 4  
GRANBY RANCH METROPOLITAN DISTRICT NO. 5  
GRANBY RANCH METROPOLITAN DISTRICT NO. 6  
GRANBY RANCH METROPOLITAN DISTRICT NO. 7  
GRANBY RANCH METROPOLITAN DISTRICT NO. 8  
AND  
HEADWATERS METROPOLITAN DISTRICT

This **TERMINATION OF INTERGOVERNMENTAL AGREEMENT** (“**Termination Agreement**”) is entered into this 17<sup>th</sup> day of November, 2017 by and among GRANBY RANCH METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (“**GRMD**”); GRANBY RANCH METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (“**GRMD 2**”); GRANBY RANCH METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado (“**GRMD 3**”); GRANBY RANCH METROPOLITAN DISTRICT NO. 4, a quasi-municipal corporation and political subdivision of the State of Colorado (“**GRMD 4**”); GRANBY RANCH METROPOLITAN DISTRICT NO. 5, a quasi-municipal corporation and political subdivision of the State of Colorado (“**GRMD 5**”); GRANBY RANCH METROPOLITAN DISTRICT NO. 6, a quasi-municipal corporation and political subdivision of the State of Colorado (“**GRMD 6**”); GRANBY RANCH METROPOLITAN DISTRICT NO. 7, a quasi-municipal corporation and political subdivision of the State of Colorado (“**GRMD 7**”); GRANBY RANCH METROPOLITAN DISTRICT NO. 8, a quasi-municipal corporation and political subdivision of the State of Colorado (“**GRMD 8**”); (GRMD, GRMD 2, GRMD 3, GRMD 4, GRMD 5, GRMD 6, GRMD 7, and GRMD 8 are collectively referred to herein as “**Granby Ranch Districts**”); and HEADWATERS METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (“**HMD**”) (individually a “**District**” and together, the “**Districts**” or the “**Parties**”).

## RECITALS

- A. GRMD and HMD entered into the “District Facilities Construction and Service Agreement” dated June 1, 2006 (the “**2006 Agreement**”); and
- B. GRMD, HMD, and Districts 2-8 entered into the “First Amended and Restated District Facilities Construction and Service Agreement” dated September 17, 2008 which, among other things, terminated the 2006 Agreement (the “**2008 Master IGA**”); and

C. GRMD, HMD and Granby Realty Holdings, LLC entered into an “Exclusion Agreement” dated April 21, 2010 under which HMD and GRMD repudiated the 2008 Master IGA as between them and intended to revert to the 2006 Agreement; and

D. GRMD and HMD entered into the “First Amendment to District Facilities Construction and Service Agreement” dated April 21, 2010 amending and reinstating the 2006 Agreement (the “**2006 Master IGA**”); and

E. The 2006 Master IGA and the 2008 Master IGA (together, the “**Master IGAs**”) were entered into pursuant to the service plans for the Districts; and

F. The Districts amended their service plans on November 8, 2016 to eliminate any relationship between HMD as the “service district” and the Granby Ranch Districts as the “tax districts,” including any obligation of the parties to enter into a the Master IGAs; and

G. The Parties intend for certain of the Granby Ranch Districts, specifically GRMD, to operate independently from HMD; and

H. Due to the amended service plans and the intention of certain of the Parties to operate independently from each other, there is no further need for the Master IGAs.

### COVENANTS AND AGREEMENTS

NOW THEREFORE, in consideration of the mutual covenants and promises set forth in this Termination Agreement, the receipt and sufficiency of which are hereby acknowledged, the Districts agree as follows:

1. Effective Date. The “Effective Date” of this Termination Agreement is November 8, 2016.

2. Termination of 2006 Master IGA. The 2006 Master IGA is terminated and of no further force and effect as of the Effective Date, without any further action of the Districts. To the extent required, GRMD 2, GRMD 3, GRMD 4, GRMD 5, GRMD 6, GRMD 7 and GRMD 8 consent to the termination of the 2006 Master IGA.

3. Termination of 2008 Master IGA. The 2008 Master IGA is terminated and of no further force and effect as of the Effective Date, without any further action of the Districts. To the extent required, GRMD consents to the termination of the 2008 Master IGA.

4. Satisfaction of Obligations. The Districts agree that by execution of this Termination Agreement, they have fully satisfied their obligations under the Master IGAs.

5. Waiver and Release. The Districts have satisfied their obligations under the Master IGAs and are released from any further obligations thereunder. To the extent permitted by law, each District hereby waives the right to recover from and generally, unconditionally, fully and irrevocably releases, waives, acquits and forever discharges each of the other Districts, their officers and directors, (collectively, the “**Released Parties**”), from and against any and all costs, losses, claims, liabilities, damages, expenses, demands, debts, controversies, actions or

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causes of action, agreements, and promises, including reasonable attorneys' fees (including appeals) (collectively, "**Claims**"), which has been raised or could have been raised, whether arising before, on or after the date hereof.

6. Miscellaneous.

a. Execution of Additional Documentation. Each District agrees that at the request of another District, it will, at any time hereafter, make such further assurances and execute or cause to be executed such further instruments as may be reasonably requested by another District in order that this Termination Agreement may be fully performed in accordance with its intent and provisions.

b. Severability. In case any one or more of the provisions contained in this Termination Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Termination Agreement, and this Termination Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

c. Provisions Negotiated and Independent. Each and every provision of this Termination Agreement has been independently, separately and freely negotiated by the Districts as if this Termination Agreement were drafted by all Districts hereto. The Districts, therefore, waive any statutory or common law presumption which would serve to have this document construed in favor of, or against, any District.

d. Governing Law/Venue. This Termination Agreement shall be governed by and interpreted under the laws of the state of Colorado. Venue for any legal action relating to this Termination Agreement shall be exclusive to the State District Court in and for Grand County, Colorado.

e. Successors and Assigns. This Termination Agreement and all of the provisions hereof shall be binding upon the Districts and their respective heirs, successors and assigns.

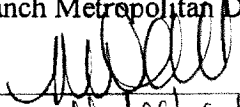
f. Counterpart Execution. This Termination Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

[SIGNATURE PAGES TO FOLLOW]

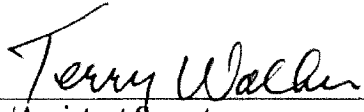
Agreed to by each party as set forth below:

Date: \_\_\_\_\_, 2017.

Granby Ranch Metropolitan District

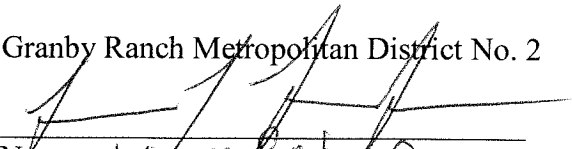
  
\_\_\_\_\_  
Name: Natasha Watt  
Title: President

Attest:

  
\_\_\_\_\_  
Secretary/Assistant Secretary

Date: \_\_\_\_\_, 2017.

Granby Ranch Metropolitan District No. 2

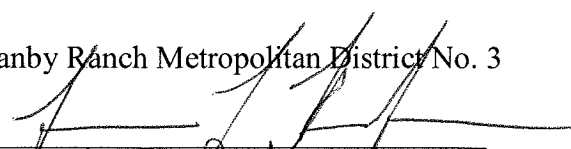
  
Name: Lance Badger  
Title: President

Attest:

\_\_\_\_\_  
Secretary/Assistant Secretary

Date: \_\_\_\_\_, 2017.

Granby Ranch Metropolitan District No. 3

  
Name: Lance Badger  
Title: President

Attest:

\_\_\_\_\_  
Secretary/Assistant Secretary

Date: \_\_\_\_\_, 2017.

Granby Ranch Metropolitan District No. 4

Name: Francis Backer

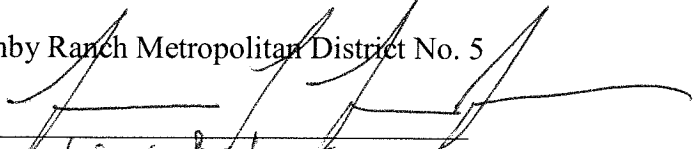
Title: President

Attest:

\_\_\_\_\_  
Secretary/Assistant Secretary

Date: \_\_\_\_\_, 2017.

Granby Ranch Metropolitan District No. 5

  
Name: Lance Badger  
Title: President

Attest:

\_\_\_\_\_  
Secretary/Assistant Secretary

Date: \_\_\_\_\_, 2017.

Granby Ranch Metropolitan District No. 6

  
Name: Lance Badger

Title: President

Attest:

\_\_\_\_\_  
Secretary/Assistant Secretary

Date: \_\_\_\_\_, 2017.

Granby Ranch Metropolitan District No. 7

Name: Lance Badger

Title: President

Attest:

\_\_\_\_\_  
Secretary/Assistant Secretary

Date: \_\_\_\_\_, 2017.

Granby Ranch Metropolitan District No. 8

  
Name: Lance Badger

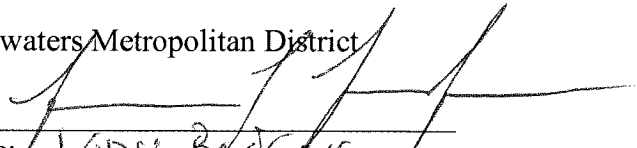
Title: President

Attest:

\_\_\_\_\_  
Secretary/Assistant Secretary

Date: \_\_\_\_\_, 2017.

Headwaters Metropolitan District

  
Name: Lane Badger  
Title: President

Attest:

\_\_\_\_\_  
Secretary/Assistant Secretary

DATE FILED: October 25, 2023 2:28 PM  
FILING ID: 293DCCF46FA9F  
CASE NUMBER: 2021CV30008

# **EXHIBIT 4**

*Case Number 2021CV30008*

*April 11, 2018 Agreement Re Waiver and Release*

**AGREEMENT RE WAIVER AND RELEASE OF CLAIMS**

This AGREEMENT RE WAIVER AND RELEASE OF CLAIMS (the "Agreement") is entered into this 11<sup>th</sup> day of April, 2018 by and between Granby Realty Holdings, LLC, a Colorado limited liability company ("GRH"); Headwaters Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado ("HMD"); Granby Ranch Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado ("GRMD"); and Granby Ranch Metropolitan District No. 8, a quasi-municipal corporation and political subdivision of the State of Colorado ("GRMD 8") (HMD, GRMD and GRMD 8 together the "Districts") (the Districts and GRH, together the "Parties").

A. GRH is the developer of a ski-area, golf course, and residential community known as Granby Ranch located in the Town of Granby, Grand County, Colorado; and

B. HMD is a special district located within Granby Ranch that provides public improvements and services within Granby Ranch; and

C. GRMD is a special district located within Granby Ranch that provides public improvements and services within Granby Ranch; and

D. GRH was the proponent of the organization of HMD and GRMD and permitted certain of its key employees to serve as directors of the Districts, (collectively, "Directors") which employees, as directors of the Districts, engaged employees, agents, attorneys, accountants, managers, and other representatives to advise the Directors regarding the business of the Districts (collectively, the "Consultants"); and

E. GRMD 8 is a special district located within Granby Ranch that provides public improvements and services within Granby Ranch; and

F. GRMD issued approximately \$14.7 million in bonds in 2006 related to the costs of constructing public improvements (the "Senior Bonds"); and

G. GRMD issued approximately \$11.1 million worth of bonds in 2010 related to the costs of constructing public improvements (the "Subordinate Bonds"); and

H. Pursuant to the GRMD service plan dated July 22, 2003, as first amended on June 27, 2006 (the "GRMD Service Plan"); and the HMD service plan dated July 22, 2003 (the "HMD Service Plan") (together, the "Service Plans"); HMD was designated the "service district" and GRMD was designated the "tax district"; and

I. Pursuant to the Service Plans, HMD and GRMD were parties to various intergovernmental agreements regarding the provision of certain services and the contracting of the authority to perform such services to HMD (the "Master IGAs"); and

J. Pursuant to the Master IGAs, HMD provided all administrative and discretionary services to GRMD; and

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Agreement re Waiver and Release of Claims between Granby Realty Holdings, LLC; Headwaters Metropolitan District; Granby Ranch Metropolitan District; and Granby Ranch Metropolitan District No. 8

K. Since approximately 2010, GRMD has not generated revenue from property taxes sufficient to pay the principal and interest payments owed on the Senior Bonds; and

L. GRMD has not made any payments on the Subordinate Bonds, which are owned solely by GRH; and

M. Since approximately 2010, GRH provided for the costs of the administration and operation of GRMD, HMD and GRMD 8; and

N. Beginning on January 1, 2017, GRH indicated it will no longer pay for the costs of the operation of GRMD, including the costs of road maintenance and snow removal; and

O. GRMD has the opportunity to refinance its Senior Bonds at a lower interest rate which will reduce its principal and interest payments; and

P. In connection with the refinance of its Senior Bonds, GRH has agreed to discharge in full the Subordinate Bonds under terms set forth herein; and

Q. Due to the reduced principal and debt payments on the Senior Bonds and the discharge of the Subordinate Bonds, GRMD will have sufficient funds available to pay for its operations expenses and a portion of the maintenance and snow removal expenses for roads within Granby Ranch beginning on January 1, 2018 and thereafter; and

R. GRH agreed to provide GRMD with \$75,000 in 2017 in accordance with the terms hereof due to its lack of operating funds; and

S. Due to the status of development within GRMD and the amendment of the Service Plans and the service plan for GRMD 8, as approved by the Town Board of the Town of Granby on November 8, 2016, the Master IGAs are no longer necessary; and

T. The Parties entered into an agreement dated August 22, 2016, as amended on November 17, 2017 and April 11, 2018 setting forth the promises of the Parties to accomplish (1) the refinancing of the Senior Bonds; (2) the discharge of the Subordinate Bonds; (3) the termination of the Master IGA; (4) the repair and operation and maintenance of the roads within Granby Ranch; and (5) other items as identified in the agreement (the "Letter Agreement", attached as Exhibit A); and

U. The Parties have determined that it is in their collective best interests to resolve the matters in dispute among them regarding the Senior Bonds, the Subordinate Bonds, the Master IGAs, and the repair and operation and maintenance of the roads within Granby Ranch without any admissions by any party.

NOW, THEREFORE, in consideration of the mutual covenants and obligations of this Agreement, the promises and conditions contained in the Letter Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

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Agreement re Waiver and Release of Claims between Granby Realty Holdings, LLC; Headwaters Metropolitan District; Granby Ranch Metropolitan District; and Granby Ranch Metropolitan District No. 8

EXHIBIT J

1. Waiver and Release of Claims. Each Party, for itself, its respective successors, assigns, shareholders, directors, officers, employees, agents, attorneys, accountants, managers and other representatives, fully and forever irrevocably releases, waives, relinquishes and discharges the other Parties, and their respective successors, assigns, shareholders, directors, officers, employees, agents, attorneys and other representatives, including the Directors and Consultants (collectively, the “Released Parties”) from and against any and all claims, demands, obligations, duties, liabilities, damages, expenses, breaches of contract, acts, omissions, causes of action, promises, damages, costs, and remedies therefor of every kind, description, character or nature whatsoever now or in the future, whether known or unknown, raised or which could have been raised, which may otherwise exist or which may arise in relation to the Senior Bonds, the Subordinate Bonds, the Master IGA, the repair and operation and maintenance of the roads within Granby Ranch or any other matter related to the formation, administration, and operation of the Districts (the “Claims”) existing as of the Release Date (defined below in Paragraph 3). The foregoing release shall not apply to the obligations contained in the Letter Agreement as amended.

Each party assumes the risk of any and all Claims which exist as of the Release Date but which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise; and which, if known, would materially affect their decision to enter into this Agreement. The Parties assume this risk, and notwithstanding this risk freely enter into this Agreement and the releases contained herein. This Agreement is a compromise of disputed claims, and by entering into this Agreement, the Parties and other persons released hereby are not making any admissions regarding any of the Claims.

2. Good Faith Compromise. This Agreement is entered into as a good faith compromise between the Parties for the complete and final settlement of all current disputes between them and arising out of or relating to the Claims. By this Agreement, no Party admits liability to any other Party in any respect, or makes any admission as to factual or legal contentions relating to the matters addressed in this Agreement.

3. Effective Date of the Waiver and Release of Claims. The waiver and release of Claims related to the (a) Senior Bonds, (b) the Subordinate Bonds, (c) the Master IGAs, and (d) the repair and operation and maintenance of the roads within Granby Ranch or any other matter related to the formation, administration, and operation of the Districts are effective on the Release Date, defined as follows for each item:

- a. “Senior Bonds” - upon the refinancing of the Senior Bonds;
- b. “Subordinate Bonds” - upon the release and discharge of the Subordinate Bonds;
- c. “the Master IGAs” - upon the termination of the Master IGAs and the obligations of the parties therein; and
- d. “repair and operation and maintenance of the roads within Granby Ranch” - upon the completion of the Major Repairs as defined and set forth in the Letter Agreement.

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Agreement re Waiver and Release of Claims between Granby Realty Holdings, LLC; Headwaters Metropolitan District; Granby Ranch Metropolitan District; and Granby Ranch Metropolitan District No. 8

EXHIBIT J

e. “any other matter related to the formation, administration, and operation of the Districts” – upon the refinancing of the Senior Bonds, release and discharge of the Subordinate Bonds, and Termination of the Master IGAs.

4. Legal Costs and Expenses. Each Party shall pay its own legal fees and costs incurred in connection with the resolution of the issues between the Parties.

5. Additional Facts. The Parties may subsequently discover facts different from or in addition to those each now believes to be true, and each of the Parties agrees that this Agreement shall remain effective notwithstanding such different or additional facts.

6. Counterparts and Signatures. This Agreement may be executed in any number of counterparts each of which, when executed and delivered, shall be deemed an original and all of which together shall constitute but one and the same agreement. Signatures obtained by facsimile or email in PDF format shall be deemed original signatures.

7. No Third Party Beneficiaries. This Agreement is not intended to benefit, and does not benefit, any person or entity other than the Released Parties, who is not specifically identified or referenced herein as a Party to, or intended beneficiary of this Agreement.

8. Authority to Execute. Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement on behalf of the Party for which he or she is executing, and to bind the Party to the terms of this Agreement. The Districts represent and warrant that all proper and required steps have been taken by the Board of Directors of each to approve this Agreement, and that this Agreement is a valid and binding obligation of the respective District, enforceable in accordance with its terms.

9. Plain Meaning. The Parties acknowledge that they were represented by competent counsel during negotiations of this Agreement and that they each consulted with their respective attorneys regarding the meaning and effect of this Agreement. The Parties each agree that (a) the terms and provisions of this Agreement are not to be construed more strictly against any of the Parties; and (b) it is their mutual intention the terms and provisions of this Agreement be construed as having the plain meaning of the terms used in this Agreement.

10. Entire Agreement. This Agreement, including all Exhibits, constitutes the entire Agreement between the Parties relating to waiver and release of claims as set forth above. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement related to waiver and release of claims are of no force and effect. This Agreement may not be modified except by a writing executed by all Parties.

11. Applicable Law/Venue. The Parties agree that any dispute arising out of or related to this Agreement shall be governed by Colorado law. Venue for any dispute shall be in the Colorado district court for Grand County, Colorado.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered as of the date first written above.

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of 8

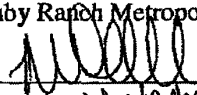
Agreement re Waiver and Release of Claims between Granby Realty Holdings, LLC; Headwaters Metropolitan District; Granby Ranch Metropolitan District; and Granby Ranch Metropolitan District No. 8

EXHIBIT J

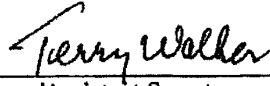
Agreed to by each party as set forth below:

Date: April 11, 2018.

Granby Ranch Metropolitan District

  
Name: Nancy Maxwell  
Title: president

Attest:

  
Secretary/Assistant Secretary

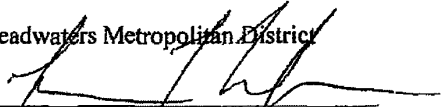
Date: 4/17, 2018.

Granby Realty Holdings, LLC

*Marise Cipriani*  
Marise Cipriani, Manager

Date: March 22, 2018.

Headwaters Metropolitan District

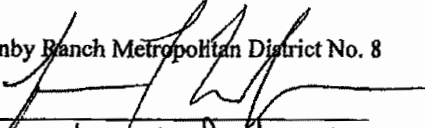
  
Name: Lance Baggett  
Title: President

Attest:

Only one board member  
Secretary/Assistant Secretary

Date: March 22, 2018

Granby Ranch Metropolitan District No. 8

  
Name: Lance Bagger  
Title: Assistant

Attest:

only one board member  
Secretary/Assistant Secretary

DATE FILED: October 25, 2023 2:28 PM  
FILING ID: 293DCCF46FA9F  
CASE NUMBER: 2021CV30008

# **EXHIBIT 5**

*Case Number 2021CV30008*

*October 11, 2016 Second Amendment to GRMD Service Plan*

DATE FILED: November 3, 2022 5:05 PM  
FILED ID: D3778A7889784  
CASE NUMBER: 2021CV30008

**SECOND AMENDMENT TO  
SERVICE PLAN**

**OF**

**GRANBY RANCH METROPOLITAN DISTRICT**

**(FORMERLY SOLVISTA METROPOLITAN DISTRICT NO. 2)**

**ORIGINALLY APPROVED BY THE TOWN OF GRANBY, COLORADO**

**ON JULY 22, 2003 AND AS AMENDED ON JUNE 27, 2006**

Prepared by:

Seter & Vander Wall, P.C.

7400 East Orchard Road, Suite 3300

Greenwood Village, CO 80111

Second Amendment to Service Plan approved by the Town of Granby

on

October 11, 2016

## I. INTRODUCTION

This Second Amendment to the Service Plan (the “Second Amendment”) of Granby Ranch Metropolitan District (formerly named “SolVista Metropolitan District No. 2” and hereinafter referred to as “GRMD”), constitutes an amendment to certain provisions of the original service plan for GRMD (the “Original Service Plan”) approved by the Board of Trustees of the Town of Granby (the “Town”) on July 22, 2003, and the First Amendment to the Service Plan of the Granby Ranch Metropolitan District approved by the Town on June 27, 2006 (the “First Amendment”) (together, the “Service Plan”).

GRMD was organized by the Original Service Plan to serve the needs of the Granby Ranch development and existing community.

This purpose of this Second Amendment is to clarify and, to the extent necessary, amend provisions of the Service Plan relating to GRMD’s ability to impose *ad valorem* property taxes, to note that the District IGA between GRMD and Headwaters Metropolitan District (formerly named “SolVista Metropolitan District No. 1” and hereinafter referred to as “HMD”) will be terminated and replaced with a road maintenance and snow removal agreement, and to clarify that the relationship between GRMD and HMD as otherwise set forth in the Service Plan is terminated and rendered null and void.

## II. AMENDMENT

A. Section V.B., page 13 (as amended by the First Amendment).

1. The phrase “The property tax levy of the Tax District will not exceed 50 mills for operating and debt repayment purposes, unless otherwise Approved by the Town; provided, however, in the event that the method of calculating assessed valuation is changed after May 1, 2003” is amended as follows:
  - a. “The property tax levy of GRMD will not exceed a total combined mill levy of 60 mills for operations, maintenance and debt repayment, with a limit of 50 mills for debt and 50 mills for operations and maintenance, unless otherwise Approved by the Town; provided, however, in the event that the method of calculating assessed valuation is changed after November 1, 2016”

B. Modification of Relationship Between the District and HMD

The Original Service Plan makes references to the relationship between HMD (as the Service District) and GRMD (as the Tax District) concerning the roles of each district, and to the existence of a “District IGA” to further detail this relationship.

The Original Service Plan is amended as a whole to clarify that the District IGA between GRMD and HMD will be terminated, GRMD will provide all of its own operation and maintenance functions, including debt issuance and repayment, and that GRMD will enter into an agreement with HMD regarding the funding of road maintenance and snow removal for the roads located within GRMD. The Service plan is further amended to clarify that any obligation of GRMD, other than as set forth in the road maintenance and snow removal agreement, to provide funds to HMD, or any delegation of power or delegation of approval or disapproval authority to HMD of any acts of the District, are repealed and rendered null and void with the intent that any role or relationship of GRMD as a “Tax District” and HMD as a “Service District” is terminated.

### III. NO ADDITIONAL CHANGES

Except as amended herein, all other provisions of the Service Plan shall remain in full force and effect.

DATE FILED: October 25, 2023 2:28 PM  
FILING ID: 293DCCF46FA9F  
CASE NUMBER: 2021CV30008

# **EXHIBIT 6**

*Case Number 2021CV30008*

*GR Terra C.R.C.P. 30(b)(6) Deposition*

**Robert Glarner, Jr.**

GR Terra, LLC 30(b)(6) Witness

**Date: February 22, 2023**

**GRANBY RANCH**

v.

**HEADWATERS**



**2415 East Camelback Road  
Suite 700  
Phoenix, AZ 85016  
602.358.0225**

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DISTRICT COURT  
GRAND COUNTY, COLORADO

GRANBY RANCH METROPOLITAN )  
DISTRICT, a quasi-municipal )  
corporation and political )  
subdivision of the State of )  
Colorado, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
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, )  
 )  
Defendants. )

Case No. 2021CV030008

VIDEOTAPED DEPOSITION OF GR TERRA, LLC

CORPORATE DESIGNEE

ROBERT BLAKESLEE GLARNER, JR.

Taken on behalf of Plaintiff  
February 22, 2023

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## INDEX OF QUESTIONERS

QUESTIONS BY:	PAGE NO.
Mr. Matise	7

## INDEX OF EXHIBITS MARKED ON 2/22/23 AND REFERENCED

EXHIBIT NO.	DESCRIPTION	PAGE(S)
Exhibit 176	First Amended Notice of Deposition, etc.	8, 14, 16
Exhibit 177	Notice of Deposition, etc.	10, 14, 152
Exhibit 178	GR Terra, LLC specifics	10, 11, 98, 159, 163, 165
Exhibit 179	Full list of investments made by GR Terra GRT 00412-00413	11, 144, 157
Exhibit 180	Purchase and Sale Agreement GRT 00091-000158	85-101, 111, 112
Exhibit 181	Assignment of Purchase and Sale Agreement - GRT 00075-00090	105-112
Exhibit 182	Agreement for Legal Services dated 6/23/21 with HMD	194

EXHIBIT NO.	DESCRIPTION	PAGE(s)
8	SolVista Metropolitan District No. 1 service plan	43
13	Amended and Restated Joint Resolution of the boards of directors of HMD and GRMD and joint resolution of the boards of directors of Granby Ranch Metropolitan District No. 2 and Granby Ranch Metropolitan District No. 8 to establish amenity fee	60
17	Second Amended and Restated Lease Purchase Agreement	181
28	Termination of Intergovernmental Agreement Between GRMD and Granby Ranch Metropolitan Districts Nos. 2 through 8 and HMD	32, 41, 53
38	Amended and Restated Intergovernmental Agreement by, between and among the Town of Granby, Colorado, HMD, GRMD, etc.	51-56
99	Memorandum of Lease	163-168
100	Title policy	138

(Previously marked exhibits are not  
attached to this transcript.)

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DISTRICT COURT  
GRAND COUNTY, COLORADO

GRANBY RANCH METROPOLITAN	)	
DISTRICT, a quasi-municipal	)	
corporation and political	)	
subdivision of the State of	)	
Colorado,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2021CV030008
	)	
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,	)	
	)	
Defendants.	)	

VIDEOTAPED DEPOSITION OF ROBERT BLAKESLEE  
GLARNER, JR., produced, sworn and examined on February  
22, 2023, on behalf of Plaintiff, between the hours of  
nine o'clock in the forenoon and five o'clock in the  
afternoon of that day, at the law firm of Husch  
Blackwell, 190 Carondelet Plaza, Suite 600, St. Louis,  
Missouri 63105, before TAMI L. BRUDER, a Registered  
Professional Reporter and a Certified Court Reporter in  
the State of Missouri.

## 1 A P P E A R A N C E S

2 For the Plaintiff:

3 Brian K. Matisse, Esquire  
4 Erica N. Garcia, Esquire (via Zoom)  
5 Burg Simpson Eldredge  
6 Hersh & Jardine, P.C.  
7 40 Inverness Drive East  
8 Englewood, Colorado 80112  
9 303.792.5595  
10 bmatise@burgsimpson.com

11 For the Defendants Headwaters Metropolitan District  
12 and GR Terra, LLC:

13 JoAnn T. Sandifer, Esquire  
14 Husch Blackwell LLP  
15 1801 Wewatta Street, Suite 1000  
16 Denver Colorado 80202  
17 303.749.7200  
18 joann.sandifer@huschblackwell.com

19 David G. Richardson, Esquire  
20 Husch Blackwell LLP  
21 190 Carondelet Plaza, Suite 600  
22 St. Louis, Missouri 63105  
23 314.480.1718  
24 david.richardson@huschblackwell.com

25 For the Defendants Gray Jay Ventures, LLC and Granby  
Prentice, LLC (via Zoom):

26 Kyler Burgi, Esquire  
27 Davis, Graham & Stubbs LLP  
28 1550 17th Street, Suite 500  
29 Denver, Colorado 80202  
30 303.892.9400  
31 kyler.burgi@dgsllaw.com

32 Also present:

33 Melissa King, Videographer  
34 DepoTech  
35 602.680.9697

1 THE VIDEOGRAPHER: This is the videotaped  
2 deposition of Bob Glarner, Jr., the corporate rep of GR  
3 Terra, LLC. Today's date is February 23rd [sic], 2023,  
4 and the time is 10:13 a.m. Central Standard Time.

5 This is the case of Granby Ranch Metropolitan  
6 District, et al. v. Headwaters Metropolitan District, et  
7 al., Case No. 2021CV030008. This case is pending in the  
8 District Court of Grand County, Colorado.

9 My name is Melissa King, and I am representing  
10 DepoTechnologies. The court reporter is Tami Bruder  
11 with DepoTechnologies, and the deposition is taking  
12 place as Husch Blackwell law firm in Clayton, Missouri.

13 Counselors, will you please state your  
14 appearance?

15 MR. MATISE: I'm Brian Matisse on behalf of  
16 the Plaintiff Granby Ranch Metropolitan District.

17 MS. SANDIFER: JoAnn Sandifer on behalf of  
18 GR Terra, LLC and Headwaters Metropolitan District.

19 MR. RICHARDSON: David Richardson on behalf  
20 of GR Terra and Headwaters Metropolitan District.

21 THE VIDEOGRAPHER: Okay. The court  
22 reporter will now swear in the witness.

23 MR. MATISE: Yeah. We also probably  
24 should --

25 MS. SANDIFER: Yeah.

1 that's a legal term, Mr. Glarner, but you understand  
2 that a statute of limitations is generally a time limit  
3 within which you have to bring a lawsuit?

4 A. Correct.

5 Q. What does GR Terra contend was untimely  
6 about Granby Ranch Metro District's bringing this  
7 lawsuit?

8 MS. SANDIFER: Object, calls for a legal  
9 conclusion.

10 A. Yeah. I have no opinion because I don't --  
11 I don't know what statute of limitations is --

12 BY MR. MATISE:

13 Q. Okay

14 A. -- for something like this.

15 Q. Okay. Okay. Now, let's go to Topic No.  
16 14. Talks about GR Terra's affirmative defenses --  
17 actually, that was 14. I'm sorry.

18 Topic 15 is GR Terra's counterclaims in this  
19 litigation. I have got a few general questions about --  
20 about some of the -- the counterclaims that I want to  
21 focus on, and I am going to try to avoid any -- any  
22 legalistic definitions in any of those.

23 So, first of all, has GR -- in -- in GR Terra's  
24 counterclaims, is GR Terra seeking any monetary losses  
25 or damages?

1 MS. SANDIFER: Object as to form. I've got  
2 a written copy of the counterclaims. Would that help if  
3 I give it to you?

4 THE WITNESS: It would.

5 A. You know, I relied on my attorneys for this  
6 also, so I don't know if in this -- in the counterclaims  
7 is a request for damages or a claim for damages.

8 MS. SANDIFER: Go through them if you'd  
9 like.

10 BY MR. MATISE:

11 Q. And what's -- what's that based on? I mean  
12 what -- in other words, what -- what -- what exactly --  
13 how exactly has GR Terra been damaged in terms of its  
14 counterclaims?

15 MS. SANDIFER: Okay. Start here. So just  
16 -- just give him a minute to look through --

17 MR. MATISE: Yeah. Take -- take a while.

18 MS. SANDIFER: -- look through this.

19 MR. MATISE: Take as long as --

20 MS. SANDIFER: Just kind of get the general  
21 gist of them.

22 THE WITNESS: Is this it right here?

23 MS. SANDIFER: No. It's actually  
24 starting --

25 THE WITNESS: Oh, goodness.

1 MS. SANDIFER: No. These are all the facts  
2 leading up to it.

3 THE WITNESS: Oh, goodness gracious.

4 MS. SANDIFER: These are just the actual  
5 claims, but -- and the relief sought, so you can kind  
6 of --

7 BY MR. MATISE:

8 Q. And -- and I'll just save you the trouble.  
9 The declaratory judgment ones don't have damages. It  
10 would just be -- be the others.

11 MS. SANDIFER: So what -- what's the first  
12 one you're looking at? Let me help you.

13 A. So you're asking for what damages have been  
14 requested in this or what damages have been incurred  
15 and --

16 BY MR. MATISE:

17 Q. Yeah, either way. What damage does GR  
18 Terra claims that it has suffered and -- and/or what  
19 damages it is seeking.

20 MS. SANDIFER: There's two claims that --

21 THE WITNESS: Which -- what am I supposed  
22 to read? I'm sorry.

23 MS. SANDIFER: Basically there's a claim  
24 that -- for breach of the service plan.

25 THE WITNESS: Right.

1 MS. SANDIFER: This is the relief side.  
2 Then there's a claim for -- that's it. Is that it?  
3 Yeah. Count 5?

4 BY MR. MATISE:

5 Q. I mean, for example --

6 MS. SANDIFER: A breach of the waiver and  
7 release.

8 MR. MATISE: Yeah.

9 MS. SANDIFER: They're both --

10 THE WITNESS: I mean, isn't this all legal?  
11 I'm sorry.

12 MS. SANDIFER: Yes.

13 A. You're way smarter on --

14 BY MR. MATISE:

15 Q. Well, I'm -- I'm trying to ask you as the  
16 GR Terra representative --

17 MS. SANDIFER: He's entitled to ask what  
18 your damages are that you're claiming, and I'm just  
19 going to jump in for a minute that both the claims are  
20 really based upon the breach in various agreements by  
21 bringing this lawsuit, if that helps, and so we are  
22 seeking damages.

23 THE WITNESS: Oh, I thought -- okay. I get  
24 that part. I thought this was something different.

25 A. So what would the damages be for GR Terra?

1 BY MR. MATISE:

2 Q. Yes. I mean, for example, paragraph 147  
3 says GR Terra requests that this court enter judgment in  
4 its favor and against GRMD as follows, for all damages  
5 caused by GRMD's breach of its service plan in amounts  
6 to be proven at trial, so I guess --

7 A. Got you.

8 Q. -- the question is, what -- what damages  
9 does GR Terra claim it suffered because of an alleged  
10 breach of a service plan that GRMD --

11 A. Got you. Okay.

12 MS. SANDIFER: Object as to form, but you  
13 can answer.

14 A. Yeah. I mean, for one thing, an insane  
15 amount of legal fees.

16 BY MR. MATISE:

17 Q. All right.

18 A. I don't know how you put a value -- you  
19 probably can't, because I'm not an attorney like you and  
20 don't understand this. The -- the time spent on this  
21 has been really sad, where it could be spent on  
22 improving the -- the resort and moving it forward.  
23 Those would probably be the two. I'm sure there could  
24 be others, and I would rely on my attorneys to tell me  
25 what those are.

1 Q. So if I'm understanding correctly, these  
2 damages are basically legal fees and time related to  
3 defending against this matter; is that correct?

4 A. I think that's accurate, and --

5 Q. Okay.

6 A. -- I reserve judgment that there could be  
7 others that I am not aware of.

8 Q. Okay. Have you provided any estimate of  
9 the damages in terms of your lost time?

10 A. I have not.

11 Q. Count 5, a breach of the waiver and release  
12 agreement, once again, it asks for all damages caused by  
13 GRMD's breach of the waiver and release, including,  
14 without limitation, costs in attorneys' fees in  
15 defending the claims. So besides the cost in attorney  
16 fees, are there any other damages that GR Terra is  
17 claiming that were caused by the breach of the waiver  
18 and release agreement?

19 A. That's the main one right now, but I would  
20 reserve -- reserve anything else that my attorneys come  
21 up with.

22 Q. Okay. But sitting here today, that's all  
23 you can point to; is that fair?

24 A. Unless you can get damages for your time.

25 Q. And -- and once again, with regard to the

1 damages for your time, you haven't disclosed what those  
2 amounts are; is that correct?

3 A. Nope. They're accruing daily and nightly.

4 Q. Okay. Okay. Let's go back. We can go to  
5 No. 7 -- Topic No. 17 asks for any fee -- since -- you  
6 know, since you're claiming attorneys' fees in this  
7 matter, 17 asks for any fee agreements, retainer letters  
8 or agreements or similar documents between GR Terra and  
9 any legal counsel, law firm or other entity for legal  
10 services that GR Terra contends it has incurred or will  
11 incur to defend against the claims in this litigation.

12 MS. SANDIFER: And we object to this. I  
13 mean he can -- I think you can ask a question that he  
14 can answer, but this is -- does not make any sense at  
15 all in terms of has incurred. Agreements that he --  
16 that has occurred or will incur, it -- it -- it's not  
17 intelligible, but you can probably ask a question along  
18 those lines that he will respond to.

19 BY MR. MATISE:

20 Q. Well, Mr. Glarner, if I'm understanding  
21 correctly, you just said that GR Terra is seeking to  
22 recover legal fees as damages; is that correct?

23 A. Correct.

24 Q. Okay. And so -- and so, therefore, this  
25 asks for basically any type of fee agreements or

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CASE NUMBER: 2021CV30008

# **EXHIBIT 7**

*Case Number 2021CV30008*

*Headwaters C.R.C.P. 30(b)(6) Deposition*

**Roxanne Hoover**

Headwaters Metropolitan District 30(b)(6) Witness

**Date: March 1, 2023**

**GRANBY RANCH**

v.

**HEADWATERS**



**2415 East Camelback Road  
Suite 700  
Phoenix, AZ 85016  
602.358.0225**

1 DISTRICT COURT, GRAND COUNTY, STATE OF COLORADO

2 Case Number: 2021CV030008

3 -----

4 30(b)(6) DEPOSITION OF:

5 ROXANNE HOOVER - 03/01/2023

6 -----

7 Plaintiff:

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

10 v.

11 Defendants:

12 HEADWATERS METROPOLITAN  
13 DISTRICT, a quasi-municipal corporation and  
political subdivision of the State of Colorado;  
14 GRAY JAY VENTURES, LLC.; REDWOOD CAPITAL FINANCE  
CO., LLC, GRANBY PRENTICE, LLC; and GR TERRA  
15 LLC.

16 -----

17 The deposition of ROXANNE HOOVER was  
18 taken by the Plaintiff on March 1, 2023 at Granby  
19 Ranch, 1000 Village Road, Granby, Colorado,  
20 commencing at the hour of 9:21 a.m., before ROSIE  
21 STAHL, Shorthand Reporter and Notary Public within  
22 and for the State of Colorado.

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## A P P E A R A N C E S

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## I N D E X

EXAMINATION OF ROXANNE HOOVER: MARCH 1, 2023		PAGE
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DEPOSITION EXHIBITS:		INITIAL REFERENCE
Exhibit 183	Notice of Deposition HMD 30(b)(6)	Page 14
Exhibit 184	Amenity Fees Collected by Headwaters (Updated to Include 2022 Payments) (Bates HWMD 8457-8469)	Page 56
Exhibit 185	List of Board Members - Headwaters MD	Page 75
Exhibit 186	GR Timeline 2003-2022	Page 120
Exhibit 187	HWMD (Notes from Deponent)	Page 125
Exhibit 188	2005 Amenity Fee Resolutions (Notes from Deponent)	Page 128
Exhibit 188A	2005 Lease Purchase Agreement (Notes from Deponent)	Page 128
Exhibit 189	Headwaters Board Meetings Summary November 2022-January 2023)	Page 134
Exhibit 190	Topics for HW Depo	Page 136
Exhibit 191	Budget Resolution 2021	Page 174
Exhibit 192	Budget Resolution 2022	Page 176

1 Exhibit 193 Funding Agreement Page 201  
(Administrative,  
2 Operations and  
3 Maintenance) (Bates  
HWMD 8471-8476)

4 Exhibit 194 Summary of Paid Page 202  
Invoices for Husch  
5 Blackwell Professional  
6 Services Rendered and  
Costs Advanced on  
7 behalf of Headwaters  
Metropolitan District  
8 Through December 31,  
2023 (Bates HWMD 8470)

9 Exhibit 195 Subordination, Page 209  
Non-Disturbance and  
10 Attornment Agreement  
(Bates GPGJ 1287-1293)

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1 ROXANNE HOOVER,  
2 Being first duly sworn, was examined and testified  
3 as follows:

4 EXAMINATION

5 BY MR. MATISE:

6 Q Good morning. Could you please  
7 state your full name for the record?

8 A Roxanne Fairchild Hoover.

9 Q Ms. Hoover, what is your address?

10 A 27 -- mailing or physical?

11 Q Oh, physical please.

12 A 2759 Mill Creek Rd, Dumont, Colorado  
13 80436.

14 Q How long have you lived at that  
15 address?

16 A Since 2014.

17 Q Okay. Do you own any property in  
18 Granby Ranch Metropolitan District?

19 A I have an option in the Headwaters  
20 District, option to purchase.

21 Q Okay. Is that also -- okay. So  
22 that's in the Headwaters District but not the  
23 Granby Ranch Metro District; is that correct?

24 A Correct.

25 Q But it's in the Granby Ranch

1 District and any legal counsel, law firm or other  
2 entity providing legal services to Headwaters  
3 Metropolitan District that Headwaters Metropolitan  
4 District contends has incurred or will incur to  
5 defend against the claims."

6 My understanding is that one of the  
7 legal firms that Headwaters Metropolitan District  
8 retained to defend against the claims in this  
9 litigation was Husch Blackwell; is that right?

10 A That's correct.

11 Q And Headwaters is seeking damages  
12 under the counterclaims for the Husch Blackwell  
13 legal fees, correct?

14 A That's correct.

15 Q Okay. So have you reviewed the  
16 Husch Blackwell retainer agreement?

17 A I have looked at it, yes.

18 Q Okay. And in particular, there is  
19 an exhibit -- let me get this up here -- that was  
20 labeled at a prior deposition, Exhibit 182, that  
21 was a letter to Scot Johnson.

22 Do you recall that?

23 A Yes. I'm briefly familiar with  
24 this.

25 Q Okay. Do you know when Husch

1 she still works for them as well, to my knowledge.

2 Q Okay. All right. All right. Let  
3 me just check one more thing. I think we may be  
4 done here. Make sure I'm not missing anything,  
5 because I know Ms. Sandier is not going to give me  
6 another chance at you if I don't ask you all the  
7 questions today.

8 A Well if I get to give you a  
9 compliment, I was a little worried this morning but  
10 you are a pretty nice guy. I wasn't sure how we  
11 were going to go early this morning, but I'm not  
12 part of your crew. You were fussy with your crew.

13 Q I just want one -- this is a more  
14 general question. This relates to the question of  
15 damages here. You are aware that Headwaters  
16 Metropolitan District has asserted counterclaims  
17 against Granby Ranch Metropolitan District in this  
18 case; is that right?

19 A I am.

20 Q Has Headwaters Metropolitan District  
21 suffered any damages other than attorney fees in  
22 connection with those counterclaims?

23 A I refer to legal -- from my  
24 standpoint, I refer to legal on that. As of now  
25 it's legal fees.

1           Q       So you are not aware of any other  
2 facts or documents of any other types of damages or  
3 forms of damages other than the legal fees; is that  
4 correct?

5           A       Well, I believe that our legal team  
6 has submitted some other complaints, but I refer to  
7 them on what they're litigating there.

8           Q       Do you mean complaints in different  
9 lawsuits other than this lawsuit?

10          A       No, I meant in damages.

11          Q       Okay.

12          A       Potentially.

13          Q       I understand, but, I mean, one of  
14 the topics here was any damages that HMD is  
15 claiming in this litigation, including all facts  
16 and documents supporting its claims. Sitting here  
17 today, you haven't been able to identify any other  
18 claims for damages other than or categories of  
19 damages other than that category of legal fees; is  
20 that right?

21          A       As of today yes yeah.

22          Q       Okay that's fine. Are you aware of  
23 whether or not Headwaters Metropolitan District has  
24 any type of agreement such as a contract or an  
25 insurance policy or some other informal agreement

DISTRICT COURT, GRAND COUNTY, COLORADO  
Court Address:  
307 Moffat Ave., Hot Sulphur Springs, CO 80451

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CASE NUMBER: 2021CV30008

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

v.

**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.

▲ COURT USE ONLY ▲

Case Number: 2021CV30008

Div.: 1

***[PROPOSED]* ORDER GRANTING MOTION FOR ENTRY OF FINAL JUDGMENT**

THIS MATTER, having come before the Court on Plaintiff Grandy Ranch Metropolitan District's Motion for Entry of Final Judgment, and the Court having reviewed the Motion, and any response and reply thereto, and having been fully advised herein, hereby:

GRANTS the Motion. All pending claims and counterclaims between all parties have been resolved by the Court's July 30, 2023, Orders and final judgment in this matter was entered as of that date.

DATED: \_\_\_\_\_

BY THE COURT:

\_\_\_\_\_  
DISTRICT COURT JUDGE