

# TOWN OF GRANBY

## Board of Trustees

MEETING DATE: JANUARY 26, 2021

Consent Agenda

Resolution or Ordinance

Citizen Requests

Public Hearing

Committee/Staff Reports:

TOWN CLERK

FINANCE DIRECTOR

BUILDINGS AND STREETS

ECONOMIC DEVELOPMENT

PUBLIC SAFETY

PUBLIC WORKS

WATER DEPARTMENTS

MAYOR

TOWN MANAGER

TOWN ATTORNEY

Other

Executive Session

Workshop

TIME OF AGENDA ITEM: 6:50 PM

### Agenda Request No. 8

### MEETING TO BE HELD AT:

Town Hall, Zero Jasper Avenue

Granby, CO 80446

(8) DISCUSSION OF THE GRANBY RANCH REIMBURSEMENT AGREEMENT / TOWN ATTORNEY

NATHAN KROB


6:50 PM

## Reimbursement agreement related to Mediation of IFIC bond claims

Nathan Krob <nathan@kroblaw.com>

Fri 1/22/2021 9:11 AM

To: Deb Hess <dhess@townofgranby.com>; Ted Cherry <tcherry@townofgranby.com>; Sharon Spurlin <sspurlin@townofgranby.com>

 1 attachments (40 KB)

Reimbursement Agreement - Surety Mediation-012621.docx;

Deb,  
Attached please find a reimbursement agreement between GP Granby Holdings and the Town of Granby. The agreement provides that GPGH will reimburse the Town for the costs of participating in mediation related to the Town's bond claims with IFIC. Please provide this for the Board's consideration at next Tuesday's BOT meeting.

Best,  
Nathan

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Krob Law Office, LLC  
8400 E. Prentice Ave.  
Penthouse  
Greenwood Village, CO 80111  
Ph. 303.694.0099

## MEDIATION COST REIMBURSEMENT AGREEMENT

This Mediation Cost Reimbursement Agreement (this “Agreement”), is entered into this \_\_\_\_\_ day of January, 2021, (the “Effective Date”), by and among GP Granby Holdings LLC, a Delaware limited liability company (“Lender”), and the Town of Granby, Colorado, a Colorado municipal corporation (the “Town”), acting on its own behalf. Town and Lender may also each be referred to herein as “Party,” and collectively as “Parties”.

### Recitals

This Agreement is made on the basis of the following facts:

- A. As the result of that certain foreclosure proceeding styled as *Granby Prentice LLC v. Granby Realty Holding LCC*, Grand County Colorado District Court Case No. 2020CV030024, Lender became the fee title owner of certain real property located within the Town, consisting of various parcels and tracts within the development commonly known as Granby Ranch (collectively, the “Property”).
- B. Town is the beneficiary of those certain surety bonds issued by International Fidelity Insurance Company (the “Surety”) and numbered DVIFSU0460048 and DVIFSU0489967 (together, the “Bonds”) that the Surety issued in connection with the construction of certain improvements throughout the Property.
- C. Town has made and asserted claims against the Bonds and the Surety (the “Claims”).
- D. Lender, Surety, and Town wish to participate in a mediation proceeding to resolve the Claims without resorting to litigation or other methods of dispute resolution (the “Mediation”).
- E. Lender is willing to reimburse Town for the specified and reasonable legal fees and costs associated with the Mediation, as described in more detail below.

### Agreement

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Reimbursement Payment. In consideration of the Town’s agreement to prepare for and appear at the Mediation, Lender shall reimburse Town for the legal fees and costs that the Town reasonably incurs in connection with preparing for and appearing at the Mediation, up to a cap of \$10,000. Following the completion of the Mediation, the Town shall supply Lender with copies of the invoices submitted to the Town by its counsel, redacted to the extent necessary to preserve the attorney-client privilege and work product immunity, and the Lender shall make payment to the Town within 45 days. Lender shall also pay the entity administering the Mediation for the share, if any, of the mediator’s fee for which the Town is responsible.
2. Lender’s obligations and rights. This Agreement shall not affect Lender’s duties and obligations, if any, to construct the infrastructure pursuant to the various subdivision improvement agreements. Any payments, reimbursements, or other expenditures made by Lender, including its obligations of reimbursement pursuant to this Agreement, that relate to the Mediation and collection of the Bonds shall be the sole responsibility of the Lender, and Lender agrees that it will not seek

reimbursement either directly or indirectly from current residents of the Granby Ranch development.

3. Relationship of Parties. Nothing contained herein will be construed or interpreted as (a) creating a joint venture, partnership, or other similar relationship between Lender or the Parties; (b) entitling any person or entity not a party to this Agreement to any of the benefits of this Agreement; (c) appointing a party to this Agreement as agent of the others or authorizing a party to this Agreement to make contracts in the name of the others; (d) creating, establishing or imposing a fiduciary duty owned by one party to the other hereunder or in any way creating a fiduciary relationship between the parties; or (e) an admission of liability by one Party to the other Party.
4. Notices. Any notice provided for or required to be given hereunder will be in writing and will be deemed given (a) the date personally delivered or transmitted by facsimile or email transmission to the recipient of such notice at the facsimile numbers or email addresses hereinafter identified; or (b) three days after the date deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the recipient of such notice at such place as a Party may designate in writing for such purpose or, in the absence of such designation. Notices shall be provided as follows:

If to Town:

Town of Granby, Colorado  
c/o: Town Clerk  
PO Box 440  
Granby, Colorado 80446

And:

Krob Law Office, LLC  
8400 E. Prentice Ave., Penthouse  
Greenwood Village, CO 80111  
nathan@kroblaw.com

If to Lender:

GP Granby Holdings LLC  
Attention: Phil Russick  
c/o PCCP, LLC  
100 Pine Street, 29th Floor  
San Francisco, CA 94111  
prussick@pccpllc.com

And:

GP Granby Holdings LLC  
C/O PCCP, LLC Legal Notices  
10100 Santa Monica Blvd, Suite 1000  
Los Angeles, CA 90067

With a copy to:

Brownstein Hyatt Farber Schreck, LLP  
Attention: Jonathan G. Pray

410 17<sup>th</sup> Street, Suite 2200  
Denver, CO 80202  
jpray@bhfs.com

5. Captions. Captions to paragraphs are for convenience and reference purposes only and will not affect the construction of the meaning of the terms and provisions of this Agreement.
6. Successors and Assignability. This Agreement shall not be assignable without the written approval of the Town.
7. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Colorado. The parties agree that the exclusive venue for any dispute arising out of this Agreement shall be the county or district court in Grand County, Colorado.
8. Counterparts. This Agreement may be executed in one or more counterparts, each of which will constitute an original agreement, but all of which together will constitute a single agreement. A facsimile transmitted copy of this Agreement executed by one of the Parties hereto will be accepted as an originally executed copy of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Mediation Cost Reimbursement Agreement as of the Effective Date. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

**LENDER:**

**GP Granby Holdings LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**TOWN:**

TOWN OF GRANBY, COLORADO

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Josh Hardy, Mayor

Attest:

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Deborah K. Hess, CMC, Town Clerk