



Heather Gardens

METROPOLITAN DISTRICT

**HEATHER GARDENS METROPOLITAN DISTRICT
BOARD ACTION**

DATE: NOVEMBER 21, 2024

MOTION NUMBER: 2024-11-21-5

MOTION: APPROVE ATTORNEY ENGAGEMENT FOR EMPLOYEE TRANSFER

I move that the Heather Gardens Metropolitan District Board of Directors approve the attached engagement agreement with Littler Mendelson, P.C. to begin on December 4, 2024, to negotiate the transfer of management of employees serving the District to the District with ADP and the employees. *If Robin & David are recalled attorney will not conduct work until after the subsequent board meeting.*

ECONOMIC COST TO THE DISTRICT: \$5,000 - \$8,000 No retainer required

APPROPRIATED BY: Operating Account – Professional Fees

Motion by: Daniel Taylor

Second by: Robin O'Meara

Debate: _____

Secondary Motion to: Table
 Secondary Motion by: Forrest McClure Second by: Eloise Laubach

VOTE:

	Yes	No
Eloise Laubach	✓	
Forrest McClure	✓	
Robin O'Meara	✓	
Daniel Taylor	✓	
Steve Stratton	✓	
Total	5	

Motion to Table

	Yes	No
Eloise Laubach	✓	
Forrest McClure	✓	
Robin O'Meara		✓
Daniel Taylor		✓
Steve Stratton		✓
Total		3

The secondary motion does/does not have a majority and passes/fails. as amended
 The main motion does/does not have a majority and passes/fails. as amended

Robin O'Meara
 Robin O'Meara, Secretary
 HGMD Board of Directors

Daniel Taylor
 Daniel J. Taylor, President
 HGMD Board of Directors

Engagement Agreement

Thank you for selecting Littler Mendelson, P.C. to represent Heather Gardens Metropolitan District ("you" or "your"). This engagement agreement ("Engagement Agreement") sets forth the terms under which we will provide legal representation to you in the area(s) of labor and employment law.

Scope of Engagement

We will represent you in all matters agreed upon during the attorney-client relationship, subject to the terms of this Engagement Agreement. Specifically, you are currently asking us to represent you with respect to the following: general employment and labor advice and counseling.

We represent you only; our representation does not include any of your subsidiary or affiliated companies, or any of their employees or representatives, unless we both agree.

We are engaged to handle the matter identified specifically above; our representation of you in other matters will require our mutual agreement. Unless we are retained by you to handle a particular matter, our engagement as your attorneys does not include matters for which we have not been specifically retained. Once a matter is concluded, our representation of you in that matter will end automatically.

Fees, Deposit, and Billing

We will bill you for services based on the terms of this Engagement Agreement. If we and you have agreed in writing to any terms regarding billing or other relationship guidelines, those written guidelines are incorporated into this Engagement Agreement and are considered part of this Agreement. If there is a conflict between the terms of this Engagement Agreement and any written guidelines you have provided, we will discuss that conflict with you to determine which term(s) should apply. We base our bills on hourly fees charged for our services, or, in some instances, a fixed fee negotiated with you. We strive to be efficient and cost-effective with respect to the legal services we provide.

For the calendar year 2024, my hourly rate is US\$745, and the hourly rates of other attorneys in the Firm who may assist me in representing you range from US\$290 to US\$1,600 and from US\$90 to US\$750 for non-attorneys. From time to time, we review and may increase hourly rates, consistent with our ethical requirements and any written guidelines that are part of this Engagement Agreement. If the hourly rate of any individual is increased, the new rate will be indicated on your next bill, subject to any billing guidelines you may have implemented. We will provide you with information regarding our current hourly rates at your request at any time.

We may request a deposit to handle a matter for you. If a deposit is requested, the scope and terms of this deposit will be defined in other communications between us. At present we are not requesting a deposit. If one is later requested, we will discuss the terms with you.

We invoice bills monthly and expect you to pay our statements within 30 days of receipt. We will, of course, discuss any billing questions you may have at any time.

We bill for reasonable expenses we incur on your behalf, either generally or related to a specific matter. Unless we are ethically obligated to do so, we reserve the right not to incur expenses on your behalf unless and until there is an agreement that you will pay the expenses. We will provide you with additional details about any expenses upon request. These expenses may include such items as court fees, online research

fees, deposition transcripts, expert witness/consultant fees, courier and messenger services, any postage over one dollar, purchased copies, car rental fees, and travel expenses. We bill these at the actual cost incurred by us. Unless otherwise agreed, we will forward to you invoices from vendors in amounts that exceed US\$2500.00 for prompt payment directly to the vendor.

Fees will also be charged for Littler's processing and loading data into our evidence handling/review/production platform (known as Relativity®), for Littler's storage and management of evidence databases, and for the services of Litigation Support Specialists, should the use of these services be indicated by the needs of the matter we are handling on your behalf. You should anticipate that we will be using Relativity in any litigation matter. A schedule of these fees is attached as Exhibit "A."

In some instances, you and we may enter into a fixed fee arrangement for a matter. A fixed fee arrangement means that the fee you pay for a matter does not depend on the time we spend on it. By taking on work according to a fixed fee arrangement: (a) we potentially forgo other opportunities; and (b) some matters resolve prior to our incurring legal fees\costs equal to the fixed fee paid, while others may require us to incur fees\costs that exceed the fixed fee. You understand that the fee paid for a fixed fee matter does not depend on the fees and costs we incur for the matter and that no part of the fixed fee is refundable. The fixed fee amount will be negotiated between us considering, among other things, the work to be done, the experience and time likely to be required, the advantage to both of us in having a set fee on which we can rely, and the reasonableness of the fixed fee in comparison with the work to be done. As a result, if we negotiate a fixed fee arrangement with you, we understand that you agree the fixed fee is reasonable and fair.

Certain locations in which Littler or Littler Global provides legal services charge taxes on our services (for example, a goods and services tax). Any taxes imposed on services we provide shall be paid by you. We will add the appropriate tax to each invoice including services that are subject to such taxes.

Responsibility for Fees/Duty to Cooperate

You are responsible for paying our fees and costs incurred in any matter we handle for you. For billing and collection purposes, each client we represent in a matter is jointly and severally responsible for all fees and costs unless otherwise agreed in writing. We also require your cooperation in connection with our representation. While we look forward to a productive and cooperative relationship, should you fail in your payment or cooperation obligations, we may withdraw from further representation in a manner consistent with our ethical obligations.

If you fail to timely pay the fees and expenses we incur in a matter, you agree that we may withdraw from the matter identified above. If we represent you in other matters going forward, and you fail to pay the fees and expenses we incur in those matters, you also agree that we may withdraw from all matters in which we are representing you. Also, if you fail to cooperate with us in any matter, you agree we may withdraw from representing you in all pending matters.

Insurance Issues

If you have insurance that covers a particular matter, we will work with your insurer and you to establish the terms and conditions under which we will agree to represent you based on such coverage. However, you agree that you are responsible for payment to us. We are not responsible for providing notice of claims or lawsuits to your insurer and cannot assist you with coverage determinations or other issues relating to coverage. These are expressly your responsibility. We will cooperate with your insurance

carrier and insurance professionals by providing information regarding your claim and copies of your billings.

Many states establish a “tripartite” relationship between an insurance company, its insured, and the lawyer retained to represent the insured. If this relationship exists with respect to any of your matters, we are obligated to treat both the insurance company and you as clients for purposes of the specific matter we are handling. If the matter is insured, we will comply with the law of the state in which the matter is pending with respect to the relationship that exists among your insurance company, you, and us.

Accrual Requests

You may occasionally request information regarding fees and costs incurred in matters we handle in order to determine accruals or respond to requests from your independent certified public accountants. The information we provide may be considered confidential information we are required to protect from disclosure under applicable ethics rules. It also may be information you do not wish to be disclosed generally throughout your organization. If any person within your organization or your outside accounting firm requests accrual information, you agree we may disclose that information to the person making the request and agree such disclosure does not constitute a violation of our obligations to maintain the confidentiality of information you have provided us or information we have created in the course of providing service to you.

Information Protection; Privacy

We maintain a written Information Security and Privacy Program that complies with laws applicable to the services we provide to you under this Engagement Agreement. The security program is designed to (a) protect the confidentiality of your non-public information; (b) protect against any reasonably anticipated threats or hazards to the security of such information; and (c) protect against unauthorized access to, use, deletion, or modification of such information.

Before providing us with personal data of residents of the European Union, Switzerland, or the European Economic Area, you will notify us that an engagement will include such data, and both you and we will execute an appropriate Data Protection Addendum to this Engagement Agreement that addresses our use and protection of your information and includes, where applicable, the EU Standard Contractual Clauses for Controller-to-Controller transfers of Personal Data.

We use several third-party vendors to support our general operations, including vendors that provide services such as offsite records storage, document destruction, data centers, and security services. Some of these vendors use a “cloud” infrastructure. Although using such vendors may pose some additional risk, we believe the benefits of using such vendors outweigh these risks. These vendors allow us to reduce costs and rapidly innovate to support our work for clients. We review these vendors’ information security programs and bind them by contract to maintain a security and privacy program to protect our clients’ data and applicable privileges. By engaging us, you consent to our use of such third parties.

When you are required by applicable law to execute privacy and security terms with another business to protect personal information, we will execute appropriate data protection terms. Littler can provide template data protection agreements upon request. Please contact compliance@littler.com to request a copy.

To the extent necessary to provide services you have requested, we may also engage lawyers or other professionals in one of our global firms and share data with them, provided we have taken steps to ensure data is reasonably safeguarded.

Termination of Relationship and Client Files

We look forward to a productive relationship with you but recognize that both you and we have the right to terminate our representation at any time for any reason, subject to our obligations under applicable rules of professional conduct and any court orders or directives. You may request in writing that we send your files to you or to another law firm at any time, but we may retain a copy of the file, at our own expense. Any files and documents you send to us, and our file, are subject to the retention period for those files set forth in our document retention policy. Unless prohibited by the law or ethics rules in the applicable jurisdiction, we may require you to pay any outstanding fees owed to us before transferring a file for a matter to you or another law firm.

At times, you may ask us to use our proprietary tools and techniques to review data or documents, perform calculations, or create data maps, data visualizations, or other analyses that may aid in our representation of you (“Analyses”). Littler retains ownership of the underlying proprietary tools and techniques used to create the Analyses. Also, until you have paid for the Analyses, they remain our work product and do not constitute part of your client file.

Resolution of Disputes and Arbitration

While we will of course work diligently on your behalf, we cannot guarantee a particular result or outcome for any matter or make any promises with respect to the costs and expenses of litigation. Should a dispute arise between us, we will first seek to resolve it by dialogue and/or mediation, if you and we agree to do so.

If a dispute between us cannot be resolved by dialogue and/or mediation, both you and we agree that any dispute will be resolved by binding arbitration.

This arbitration provision is intended to be interpreted and applied as broadly as legally permissible. It applies to all claims or controversies that would otherwise be resolved in any court, including claims arising out of or related to this Engagement Agreement and services we render for you on your behalf, including without limitation any issues or disputes regarding fees or billing. This arbitration provision survives the termination of this Engagement Agreement and of the attorney-client relationship.

We both agree that any dispute between us will be submitted to arbitration by a single arbitrator under the Commercial Arbitration Rules of the American Arbitration Association (AAA Rules) or the JAMS Rules of Arbitration (JAMS Rules). In the event a state bar or local jurisdiction’s fee arbitration rules apply, we both agree that we can either submit the dispute to arbitration under these rules for arbitration or waive arbitration under these rules and proceed under the AAA Rules or the JAMS Rules.

Under this section of the Engagement Agreement, you agree to waive your right to a jury trial. You further agree that you may only bring any claims covered in this section in your individual capacity or corporate capacity and not as a class action. You and we agree that we both waive any right for any claim to be brought, heard, decided, or arbitrated as a class action.

This arbitration provision is governed by the provisions of the Federal Arbitration Act (9 USC § 1 et seq.). The award issued by the arbitrator may be entered in any court of competent jurisdiction.

In some states, we may be bound by ethics rules or state law with respect to the scope and terms of an arbitration agreement. In these states, if the scope and terms described above do not comply with the ethical requirements, we will either: (a) agree that the terms set forth above shall be considered modified to take into account those ethical requirements; or (b) provide you with a separate dispute resolution agreement that meets these requirements, at which time the dispute resolution portions of this Engagement Agreement set forth above will be considered null and void. In states where no such ethics requirements exist, both you and we agree to be bound by the terms for dispute resolution set forth in this section.

Littler Entities

We are a member of an international legal practice comprised of many independent professional firms that operate under the collective trade name "Littler." Littler includes a Swiss verein that does not provide any legal or other client services. Services are provided solely by its member firms and their affiliated firms. Each Littler verein member provides legal services in particular jurisdictions and is subject to the laws and professional regulations of the jurisdictions in which it operates. A current list of the Littler verein members and the jurisdictions in which they practice can be found on our website.


Although you have engaged us, the professionals in any Littler verein member are available to meet your needs, and professionals from other Littler verein member firms may be selected to provide services to you. To enable all Littler verein members to provide you with services, they may have access to our network and information about our representation of you. These Littler verein members may share profits, engage in common training of their professionals, and share strategies and expertise among them. Unless otherwise specified, no individual who is a shareholder, member or partner of any Littler verein member is a shareholder, member or partner of any other Littler verein member. Unless expressly agreed in writing between or among the Littler verein members involved, no Littler verein member (or any individual who is a shareholder, member or partner of that member) is responsible for the acts or omissions of, or has any authority to obligate or bind, any other Littler verein member.

Littler Mendelson, P.C. has and operates wholly owned subsidiaries which are: LM Global Services, LLC, LMG PTY, LTD (Australia), Littler Asia LLP, Littler Global Services UK LTD, and Littler LLP (Canada), that are used to collect client fees and pay applicable taxes in the various foreign jurisdictions where we do business.

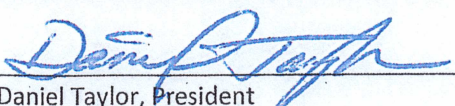
Acknowledgement

You understand that the terms of this Engagement Agreement, including the arbitration provisions and any attachments, constitute the terms under which we will undertake representation. If you find these terms acceptable, please execute and return a copy for our files. If you do not agree or have any questions about the agreement, please call me as soon as possible. By signing you consent to the terms of our representation. We look forward to working with you and appreciate the opportunity to be of assistance.

LITTLER MENDELSON, P.C.

By: 
Stephen E. Baumann II, Shareholder

HEATHER GARDENS METROPOLITAN DISTRICT

By: 
Daniel Taylor, President

DATE: 11/11/2024

DATE: 11-21-24