



**NOTICE OF HGMD BOARD OF DIRECTORS SPECIAL
MEETING January 30, 2025, at 4:00 P.M.**

Pursuant to Section 24-6-402(2)(c), C.R.S., the Board of Directors of the Heather Gardens Metropolitan District hereby gives notice that it will hold a special meeting at the at the Heather Gardens Clubhouse in the boardroom and via Zoom video conference at **4:00 p.m.** on **January 30, 2025**. The meeting will be held for the purpose of conducting the business of the Heather Gardens Metropolitan District. This meeting is open to the public.

Join Zoom

<https://us06web.zoom.us/j/86715655125>

Meeting ID: 867 1565 5125

Pass code: Not Required

Or Dial-In: +1 346 248 7799

AGENDA

1. Pledge of Allegiance
2. Determine quorum present
3. Call meeting to order
4. Consider Approval of/Additions To/Deletions From the Agenda
5. President's Report
6. New Business
 - a. Motion 2025-01-30-1 Approve Addendum to Forensic Audit Engagement Letter
 - b. Motion 2025-01-30-2 Approve Action Related to Litigation with Heather Gardens Association
 - c. Motion 2025-01-30-3 Approve Engagement of Rubin Brown for 2024 Audit of Financial Statements Required by Local Government Audit Law
7. Public Comments on Non-Agenda Items (time limit of 5 minutes per speaker)
8. Announcements
9. Adjournment

The next HGMD regular Board meeting will be held on Thursday, February 20, 2025, at 1:00 PM.

2888 S. Heather Gardens Way • Aurora, CO 80014 • (303) 755-0652 (Office) • (303) 745-5253 (Fax)
www.heathergardens.org



HEATHER GARDENS METROPOLITAN DISTRICT

BOARD ACTION

DATE: JANUARY 30, 2025

MOTION NUMBER: 2025-01-30-1

MOTION: APPROVE ADDENDUM TO FORENSIC AUDIT ENGAGEMENT LETTER

I move that the Heather Gardens Metropolitan District Board of Directors approve the January 14, 2025 Addendum to the Engagement Letter with Eide Bailey LLP

ECONOMIC COST TO THE DISTRICT: \$0

APPROPRIATED BY: N/A

Motion by: _____ **Second by:** _____

Rationale: The original engagement letter was by the Board of Directors on August 15, 2024, by Motion 2024-8-15-13 and indicated that Eide Bailey LLP would work with the District’s litigation attorney to complete the District’s 2023 audit. The engagement letter that was signed did not expressly state that the forensic audit was for, and was to be used in connection with, the District’s claims in the ongoing litigation with the Heather Gardens Association concerning the Association’s compliance with the terms of the Management and this addendum clarifies this intent, the delivery and use of any written deliverables, and Eide Bailey LLP’s scope of services.

Debate: _____

VOTE:

	Yes	No
William Gold		
Eloise Laubach		
Forrest McClure		
David Kennedy		
Steve Stratton		
Total		



HEATHER GARDENS METROPOLITAN DISTRICT

BOARD ACTION

DATE: JANUARY 30, 2025

MOTION NUMBER: 2025-01-30-2

MOTION: APPROVE ACTION RELATED TO LITIGATION WITH HEATHER GARDENS ASSOCIATION

I move that the Heather Gardens Metropolitan District Board of Directors:

Option 1: Authorize legal counsel to take all actions and make all necessary filings in order to obtain the agreement of the Heather Gardens Association (the "Association") to dismiss Case Number 2023cv32439 *Heather Gardens Metropolitan District v. The Heather Gardens Association, a Colorado nonprofit corporation* with prejudice, all parties to bear their own fees and costs.

Option 2: Authorize legal counsel to take all actions and make all necessary filings in order to obtain the agreement of the Association to dismiss Case Number 2023cv32439 *Heather Gardens Metropolitan District v. The Heather Gardens Association, a Colorado nonprofit corporation* without prejudice, all parties to bear their own fees and costs.

Option 3: Authorize legal counsel to take all actions and make all necessary filings in order to obtain the agreement of the Association to dismiss Case Number 2023cv32439 *Heather Gardens Metropolitan District v. The Heather Gardens Association, a Colorado nonprofit corporation* without prejudice, all parties to bear their own fees and costs, and subject to a tolling agreement with the Association allowing completion of the forensic audit being performed by Eide Bailey LLP and discussion of the results of that audit with the Association.

Option 4: Authorize legal counsel to take all actions and make all necessary filings in order to obtain the agreement of the Association to place Case Number 2023cv32439 *Heather Gardens Metropolitan District v. The Heather Gardens Association, a Colorado nonprofit corporation* in administratively closed status with the court pending completion of the forensic audit being performed by Eide Bailey LLP and discussion of the results of that audit with the Heather Gardens Association.

Option 5: Authorize legal counsel to take all actions and make all necessary filings in order to request that the trial for Case Number 2023cv32439 *Heather Gardens Metropolitan District v. The Heather Gardens Association, a Colorado nonprofit corporation* be reset for a later date, including, but not limited to, seeking the agreement of the Association to resetting the trial for a later date.

ECONOMIC COST TO THE DISTRICT: \$0
APPROPRIATED BY: N/A

Motion by: _____ **Second by:** _____

Rationale: A forensic audit is being undertaken by Eide Bailey LLP to determine whether the

charges made to the District by the Association pursuant to its Management Agreement with the District were proper under the terms of that Management Agreement. From the District's perspective, that is the most significant matter remaining at issue in Case Number 2023cv32439 *Heather Gardens Metropolitan District v. The Heather Gardens Association, a Colorado nonprofit corporation* (the "Litigation"). The Litigation is currently set for a trial beginning on April 14, 2025, and the monthly reconciliations needed to complete the audit in an efficient manner have been requested from the Association. The Association has indicated that it is in the process of preparing those reconciliations and will provide them to the District upon receipt. Because the reconciliations cannot be prepared and the forensic audit completed within the current case management deadlines for the Litigation based on the scheduled April 14, 2025 trial date, legal counsel has advised the Board that, at a minimum, Option 5 should be approved, due to the aforementioned delays.

Proceeding with discovery and trial preparation for a trial in 2025 (even if set for a later date) would result in additional significant legal fees being incurred by both the District and the HGA in 2025. Additionally, members of the Heather Gardens community and realtors have made the Board aware that the Litigation is causing issues related to the sale of units within the community. As such, at the request of the Board, legal counsel has provided alternatives Options 1 – 4 which would allow a significant reduction in future legal costs incurred (and may help mitigate the concerns related to the sale of units in the community) while the forensic audit is completed, its results can be discussed with the Heather Gardens Association, and the parties continue to negotiate matters related to the Management Agreement. Based on the foregoing, the Board authorizes its legal counsel to pursue Option **[insert selected option]**

Debate: _____

VOTE:

	Yes	No
William Gold		
Eloise Laubach		
Forrest McClure		
David Kennedy		
Steve Stratton		
Total		



Heather Gardens

METROPOLITAN DISTRICT

**HEATHER GARDENS METROPOLITAN DISTRICT
BOARD ACTION**

DATE: JANUARY 30, 2025

MOTION NUMBER: 2025-01-30-3

MOTION: APPROVE RUBIN BROWN TO DO THE 2024 HGMD AUDIT

I move that the Heather Gardens Metropolitan District (HGMD) Board of Directors approve having Approve Rubin Brown LLP to do the 2024 HGMD statutory audit

ECONOMIC COST TO THE DISTRICT: \$38,000

APPROPRIATED BY: 2025 Budget

Motion by: William Gold **Second by:** _____

Rationale: The deadline for the 2024 statutory audit to be completed and filed is July 30, 2025. Based on advice from legal counsel, Community Resource Services of Colorado, LLC and considering timing constraints and unavailability of other audit firms, engaging Rubin Brown LPP to conduct the 2024 statutory audit as soon as possible is necessary in order to maintain the District’s compliance with applicable legal requirements.

Debate: _____

VOTE:

	Yes	No
William Gold		
Eloise Laubach		
Forrest McClure		
David Kennedy		
Steve Stratton		
Total		



January 28, 2025

Heather Gardens Metro District
2888 S. Heather Gardens Way
Aurora, CO 80014

RE: ADDENDUM TO ENGAGEMENT LETTER DATED SEPTEMBER 24, 2024

At this time, we anticipate changing the scope of our engagement to include expert witness services.

This addendum confirms our understanding that you have retained our firm to perform forensic accounting consulting services with possible expert witness services to be performed as a result of our work for the matter Heather Gardens Metropolitan District vs. The Heather Gardens Association. If we act as testifying experts, we understand that any work performed by us, as well as information disclosed to us for this engagement, will be subject to discovery as appropriate for testifying expert witnesses.

During the course of our engagement, it may be necessary for us to prepare written deliverables that support our conclusions. We will report to your attorney(s), directly, and will submit to them all deliverables, communications, and work product. These deliverables are to be used only in connection with the referenced litigation and, except as otherwise required by law, including, but not limited to, the Colorado Open Records Act, Sections 24-72-200.1, et seq., C.R.S., they may not be published or used in any other manner without the written consent of this firm.

You will provide us, as promptly as possible, all requested information and documentation reasonably deemed necessary or desirable by us in connection with the engagement. You represent and warrant that all information and documentation provided or to be provided to us is true, correct and complete, to the best of your knowledge and belief.

All other terms of the original engagement letter will remain in effect.

Respectfully,

Douglas Cash, MBA, CFE, CFI, CFCI, CECFE
Sr. Manager, Fraud & Forensic Advisory

Brett A. Johnson, CPA/CFF, CFE, CFI
Partner, Fraud & Forensic Advisory

Note the terms of this Agreement expire 30 days after the date upon it was issued, unless fully executed prior to that date.

RESPONSE:

This letter correctly sets forth our understandings.

Acknowledged and agreed on behalf of Heather Gardens Metro District by:

Signature

Signature

Title

Title

Date

Date



Heather Gardens

METROPOLITAN DISTRICT

**HEATHER GARDENS METROPOLITAN DISTRICT
BOARD ACTION**

DATE: AUGUST 15, 2024

MOTION NUMBER: 2024-8-15-13

MOTION: APPROVE THE ENGAGEMENT OF DOUG CASH

I move that the Heather Gardens Metropolitan District Board of Directors approve the engagement of Doug Cash as a forensic auditor. His retainer is \$10,000 which is applied to the hourly billing. His rate is \$300 per hour.

ECONOMIC COST TO THE DISTRICT: \$10,000
APPROPRIATED BY: OPERATING ACCOUNT – 2023 AUDIT

Motion by: Daniel Taylor

Second by: Rita Effler

Rationale: Mr. Cash will work with our litigation attorney to assist in the completion of the District's 2023 audit. He is a senior manager with Eide Bailly LLP.

Debate: _____

Secondary Motion to: _____

Secondary Motion by: _____ Second by: _____

VOTE:

	Yes	No
Craig Baldwin		
Rita Effler	✓	
Eloise Laubach		
Robin O'Meara	✓	
Daniel Taylor	✓	
Total	3	

	Yes	No

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

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

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



2888 S Heather Gardens Way, Aurora, CO 80014
Office: (303) 755-0652 • Fax: (303) 745-5253

**HEATHER GARDENS METROPOLITAN DISTRICT
CONTRACT**

1. **PARTIES.** The Heather Gardens Metropolitan District (hereinafter, "District") hereby contracts with -Doug Cash of Eide Bailly LLP, (hereinafter "Contractor") to provide the products and/or services defined in paragraph 3, Scope of Work, below, (hereinafter "Work"). The Contractor hereby agrees to perform such Work, pursuant to the terms and conditions set forth herein as an independent contractor of the District.
2. **TERM.** The Contractor shall commence the Work on September 30, 2024, or within 14 days of the acceptance of this contract by the parties, or as otherwise agreed to by the District. The Contractor shall continue to perform the Work provided for herein, on a monthly basis, until such time as the District or the Contractor terminate the contract upon written notice. If the contract is terminated by either party, the Contractor will be paid for the Work completed.
3. **SCOPE OF WORK.** The "Work" contracted for pursuant to this Work Order shall consist of the following:

The Contractor will provide forensic accounting consulting services for the scope time period of January 1, 2022 through September 15, 2024. The purpose of the engagement shall be to substantiate the accuracy of revenue and amounts billed to the District by HGA for wages, benefits, and all other expenses for which the District reimbursed HGA. The Contractor will not be providing statutory audit services.

In performing the Work, the Contractor hereby agrees to: (a) comply with all applicable federal, state and local laws, and (b) be responsible for providing, at its cost and expense, all management, supervision, labor, materials, administrative support, supplies and equipment necessary to perform the Work.

4. **COMPENSATION.** The Contractor shall be paid a \$15,000 retainer against which the hourly work shall be billed. Thereafter, the Contractor will be paid monthly, by the District for Work performed within 10 days of completion. The Contractor shall be solely responsible for all expenses it incurs in the performance of the Work and shall not be entitled to any reimbursement or compensation except as set forth herein.
5. **INDEMNIFICATION.** Subject to the provisions of Section 13-50.5-102(8), C.R.S., to the extent applicable to this contract, the Contractor shall indemnify and hold harmless the District and each of its directors, employees, agents and consultants (collectively the "Indemnitees"), from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities of, by or with respect to, third parties ("Any Claims") to the extent they arise from the intentional or negligent acts or omissions of the Contractor or any of its subcontractors, agents, representatives or employees, or the agents, representatives, or employees of any subcontractors, in connection with this contract and/or the Work provided hereunder, including, without limitation, any claims which cause or allows to continue a

condition or event which deprives the Indemnitees, as applicable, of its sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., C.R.S., as amended from time to time. Provided, however, that such Contractor shall not be liable for any claim, loss, damage, injury, or liability arising out of the negligence, willful acts, or intentional torts of the Indemnitees. The obligations of this paragraph shall survive termination or expiration of this contract.

6. **INSURANCE.** The Contractor shall secure and maintain for the term of this contract adequate statutory workers' compensation insurance coverage, comprehensive general liability insurance and excess liability coverage, from companies licensed in the State of Colorado, as will protect itself and the Indemnitees from claims for bodily injuries, death, personal injury or property damage, which may arise out of or result from the Contractor's acts, errors or omissions. Such insurance coverage shall be acceptable to the District in its sole discretion. To provide evidence of the required insurance coverage, copies of certificates of insurance shall be furnished to the District.
7. **CONFIDENTIALITY.** During the performance of this contract the Contractor may have access to confidential information and hereby agrees that the Contractor will not use or disclose to anyone, except as required in the performance of this contract or by law, or as otherwise authorized by the District, any or all confidential information given to the Contractor by the District, developed by the Contractor as a result of the performance of this contract or accessed by the Contractor as a result of this contract. The Contractor acknowledges and agrees that all documents in the District's possession, including documents submitted by the Contractor, are subject to the provisions of the Colorado Open Records Act, Sections 24-72-200.1, et seq., C.R.S. The obligations of this paragraph shall survive termination or expiration of this contract.
8. **MISCELLANEOUS PROVISIONS.**
 - a. **Subject to Annual Budget and Appropriation.** The performance of those obligations of the District hereunder requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations. As applicable, the provisions of Section 24-91-103.6, C.R.S. are hereby incorporated by this reference into this contract as though fully set forth herein and shall hereinafter bind the District and the Contractor accordingly.
 - b. **Governmental Immunity.** Nothing in this contract, or in any actions taken by the District pursuant to this contract, shall be deemed a waiver of the District's sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., C.R.S.
 - c. **Integration/Modification/Assignment/Termination.** This contract may be modified, amended, or changed only by an agreement in writing duly authorized and executed by both parties. The Contractor shall not assign this contract or any interest hereunder, in whole or in part, without the prior written consent of the District, which

consent may be withheld for any reason or for no reason. The District may assign this contract or any interest hereunder, in whole or in part, at any time. The District may terminate this contract at any time for convenience or for cause, in whole or in part, by delivery to the Contractor of a written notice of termination at least five (5) days prior to the effective date.

- d. **Severability/Non-Waiver/Governing Law and Venue.** If any term or provision of this contract is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this contract; provided, however, that if any fundamental term or provision of this contract is invalid, illegal, or unenforceable, the remainder of this contract shall be unenforceable. No waiver of any of the provisions of this contract shall be deemed to constitute a waiver of any other provision of this contract, nor shall such waiver constitute a continuing waiver or waiver of any subsequent default unless otherwise expressly provided herein. This contract shall be governed by and construed in accordance with the laws of the State of Colorado, and venue for any dispute hereunder shall lie in the state courts of the State of Colorado.
- e. **Execution.** This contract may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument. The parties consent to the use of electronic signatures pursuant to the Uniform Electronic Transactions Act, Sections 24-71.3-101, et seq., C.R.S., as amended from time to time.

By signature of its representatives below, each party affirms it has taken all necessary action to authorize said representative to execute this contract.

DISTRICT:

CONTRACTOR:

Signed by:
Daniel J. Taylor
F45A108AEC494F2...
Signature

Signed by:
Doug Cash
ECEBBB1F70784CB...
Signature

By: Daniel Taylor
Title: HGMD President
Date: 9/24/2024 | 13:18 PDT

By: Doug Cash
Title: Senior Manager
Date: 9/24/2024 | 20:55 PDT

DocuSigned by:
Robin O'Meara
9376D0AD0DEA415...
Signature

Signature

By: Robin O'Meara
Title: HGMD Treasurer
Date: 9/25/2024 | 10:09 PDT

By: _____
Title: _____
Date: _____

Attachments: Eide Bailly Engagement Letter



September 24, 2024

Heather Gardens Metro District
2888 S. Heather Gardens Way
Aurora, CO 80014

RE: FORENSIC ACCOUNTING CONSULTING SERVICES

This letter outlines the understanding of the terms and objectives of the consulting engagement between Eide Bailly LLP (Eide Bailly) and Heather Gardens Metro District (you).

SCOPE OF ENGAGEMENT

We are engaged to provide forensic accounting consulting services for the scope time period of January 1, 2022 through September 15, 2024. The services we are to provide include, and are limited to:

- Provide forensic accounting consulting services for the purpose of substantiating the accuracy of the revenue and amounts billed to Heather Gardens Metro District by the Heather Gardens Association (Association) for wages, benefits, and all other expenses for which you reimbursed the Association.
- Communicate our findings to you (orally and/or in writing).

Should additional items surface during our engagement, we will only proceed after consultation with you.

Our engagement will be performed under the *Statements on Standards for Consulting and/or Forensic Services* issued by the American Institute of Certified Public Accountants (AICPA). We will not provide audit, review, compilation or financial statement preparation services to any historical or prospective financial information or provide attestation services under the AICPA Statements on Standards for Attestation Engagements and assume no responsibility for any such information. We will not be providing statutory audit services.

Our engagement will be conducted in accordance with forensic accounting techniques. Due to the hidden nature of fraud, we cannot provide assurances that fraud, if it exists, will be uncovered as a result of our engagement. However, we will report to you on a regular basis, thus providing you with a sense of progress in terms of cost and findings.

You understand that any written deliverables or other documents we may prepare are to be used only for the purpose of internal use associated with any findings discovered, as a result of our engagement. Such deliverables or other documents may not be published or used for any other purposes without our written consent. Any draft deliverables or calculations that we send to you prior to preparation of any final customized deliverable should be viewed as preliminary.

Heather Gardens Metro District

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We may use third party service providers and/or affiliated entities (including Eide Bailly Shared Services Private Limited) (collectively, "service providers") in order to facilitate delivering our services to you. Our use of service providers may require access to client information by the service provider. We will take reasonable precautions to determine that they have the appropriate procedures in place to prevent the unauthorized release of confidential information to others. We will remain responsible for the confidentiality of client information accessed by such service provider and any work performed by such service provider.

We agree to retain our work papers for a period of at least eight years from the date of our report.

You will provide us, as promptly as possible, all requested information and documentation reasonably deemed necessary or desirable by us in connection with the engagement. You represent and warrant that all information and documentation provided or to be provided to us is true, correct and complete, to the best of your knowledge and belief. We are authorized to rely upon such information and documentation without independent investigation or verification.

During the course of the engagement, we will only provide confidential engagement documentation to you via Eide Bailly's secure portal or other secure methods, and request that you use the same or similar tools in providing information to us. Should you choose not to utilize secure communication applications, you acknowledge that such communication contains a risk of the information being made available to unintended third parties. Similarly, we may communicate with you or your personnel via e-mail or other electronic methods, and you acknowledge that communication in those mediums contains a risk of misdirected or intercepted communications.

Should you provide us with remote access to your information technology environment, including but not limited to your financial reporting system, you agree to (1) assign unique usernames and passwords for use by our personnel in accessing the system and to provide this information in a secure manner; (2) limit access to "read only" to prevent any unintentional deletion or alteration of your data; (3) limit access to the areas of your technology environment necessary to perform the procedures agreed upon; and (4) disable all usernames and passwords provided to us upon the completion of procedures for which access was provided. We agree to only access your technology environment to the extent necessary to perform the identified procedures.

TIMELINE

We will begin our procedures upon acceptance of this engagement agreement and payment of our retainer. If delays are experienced in receiving information, the delivery of the deliverable will be delayed accordingly. Should we experience difficulties in these areas we will inform you promptly and discuss the effect on our timetable with you. You also agree that we may discuss this engagement with other partners or associates in our firm for the purpose of obtaining expertise, research materials or other matters essential to this engagement. You agree to accept the limiting conditions as listed in our deliverable and to the scope of the deliverable. You also agree that we may disengage ourselves from this engagement for any reason.

FEES

Eide Bailly is dedicated to professionalism and service to our clients. While professional fees should be reasonable, they must be representative of the professional quality of the services to be provided. Our fees are based upon the amount of time required to complete the assignment and the level of personnel assigned. The fees for our forensic accounting services will be as follows: \$425/hour for partners/directors/senior managers, \$350/hour for managers and \$250/hour for associates/staff.

Heather Gardens Metro District

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If you request that we issue a deliverable or provide additional services, we will be paid in full in advance for our total estimated time and expenses for the completion of such deliverable and services. Our fee is not contingent upon the final results, and we do not warrant or predict results or final developments in this matter.

In addition to the professional fees listed above, you will be billed for actual out-of-pocket expenses as incurred. Expenses to be reimbursed to us include, but are not limited to: travel, lodging, food, and a 5% administrative and technology fee. Automobile mileage will be reimbursed at the current GSA rate. Travel time will be charged at half the standard hourly rates identified. Due to inflation or other cost-of-living increases, hourly rates may increase slightly annually. One-month advance notice will be provided of any rate changes.

We will require a retainer of \$15,000 upon acceptance of this engagement. The retainer will be applied to our final invoice and any remaining amount is fully refundable.

The ability to perform and complete our engagement depends upon the quality of your underlying accounting and financial records and the timeliness of your personnel in providing information and responding to our requests. To assist with this process, we will provide you with a document request list that identifies the information we will require to perform our engagement. Failure to provide this information in an accurate and timely manner may result in an increase in our fees and/or a delay in the completion of our engagement.

We may be requested to make certain engagement documentation available to outside parties, including regulators, pursuant to authority provided by law or regulation or applicable professional standards. If requested, access to such engagement documentation will be provided under the supervision of Eide Bailly's personnel. Furthermore, upon request, we may provide copies of selected engagement documentation to the outside party, who may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies. We will be compensated for any time and expenses, including time and expenses of legal counsel, we may incur in making such engagement documentation available or in conducting or responding to discovery requests or participating as a witness or otherwise in any legal, regulatory, or other proceedings as a result of our Firm's performance of these services. You and your attorney will receive, if lawful, a copy of every subpoena we are asked to respond to on your behalf and will have the ability to control the extent of the discovery process to control the costs you may incur.

In accordance with our firm policies, work may be suspended if your account becomes 30 or more days overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination even if we have not completed our deliverable. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

Should our relationship terminate before our procedures are completed and a deliverable issued, you will be billed for services to the date of termination. All bills are payable upon receipt. A service charge of 1% per month, which is an annual rate of 12%, will be added to all accounts unpaid 30 days after billing date. If collection action is necessary, expenses and reasonable attorney's fees will be added to the amount due.

Heather Gardens Metro District

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MEDIATION

Any disagreement, controversy or claim arising out of or related to any aspect of our services or relationship with you (hereafter a "Dispute") shall, as a precondition to litigation in court, first be submitted to mediation. In mediation, the parties attempt to reach an amicable resolution of the Dispute with the aid of an impartial mediator. Mediation shall begin by service of a written demand. The mediator will be selected by mutual agreement. If we cannot agree on a mediator, one shall be designated by the American Arbitration Association ("AAA"). Mediation shall be conducted with the parties in person in Denver Colorado. Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties. Neither party may commence a lawsuit until the mediator declares an impasse.

LIMITED INDEMNITY

Eide Bailly and its partners, affiliates, officers and employees (collectively "Eide Bailly") shall not be responsible for any misstatements in the information provided to us to complete our engagement that we may fail to detect as a result of misrepresentations or concealment of information by any of your owners, directors, officers or employees. You shall indemnify and hold Eide Bailly harmless from any claims, losses, settlements, judgments, awards, damages and attorneys' fees arising from any such misstatement or concealment of information.

If through no fault of Eide Bailly we are named as a party to a dispute between you and a third party, you shall indemnify and hold Eide Bailly harmless against any losses, damages, settlements, judgments, awards, and the costs of litigation (including attorneys' fees) we incur in connection with the dispute.

Eide Bailly shall not be entitled to indemnification under this agreement unless the services were performed in accordance with professional standards in all material respects.

LIMITATION OF LIABILITY

The exclusive remedy available to you for any alleged loss or damages arising from or related to Eide Bailly's services or relationship with you shall be the right to pursue claims for actual damages that are directly caused by Eide Bailly's breach of this agreement or Eide Bailly's violation of applicable professional standards. In no event shall Eide Bailly's aggregate liability to you exceed two times fees paid under this agreement, nor shall Eide Bailly ever be liable to you for incidental, consequential, punitive or exemplary damages, or attorneys' fees.

TIME LIMITATION

You may not bring any legal proceeding against Eide Bailly unless it is commenced within twenty-four (24) months ("Limitation Period") after the date when we delivered our report, return, or other deliverable under this agreement to you, regardless of whether we do other services for you or that may relate to the engagement. The Limitation Period applies and begins to run even if you have not suffered any damage or loss, or have not become aware of a possible Dispute.

GOVERNING LAW AND VENUE

Any Dispute between us, including any Dispute related to the engagement contemplated by this agreement, shall be governed by Minnesota law. Any unresolved Dispute shall be submitted to a federal or state court located in Minneapolis, Minnesota.

Heather Gardens Metro District
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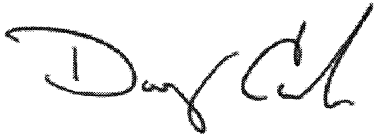
ASSIGNMENTS PROHIBITED

You shall not assign, sell, barter or transfer any legal rights, causes of actions, claims or disputes you may have against Eide Bailly to any person.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our engagement including our respective responsibilities.

We appreciate the opportunity to be of service to you.

Respectfully,



Douglas Cash, MBA, CFE, CFI, CFCI, CECFE
Senior Manager - Fraud & Forensic Advisory Services

RESPONSE:

This letter correctly sets forth our understandings.

Acknowledged and agreed on behalf of Heather Gardens Metro District by:

Signed by:
Daniel J. Taylor
F45A108AEC494F2...
Daniel Taylor

DocuSigned by:
Robin O'Meara
9376D0AD00EA415...
Robin O'Meara

President, HGMD
Title

Secretary
Title

9/24/2024 | 13:18 PDT
Date

9/25/2024 | 10:09 PDT
Date



1900 16th Street
Suite 1700
Denver, CO 80202

T: 303.698.1883
E: info@rubinbrown.com
www.RubinBrown.com

CERTIFIED PUBLIC ACCOUNTANTS & BUSINESS CONSULTANTS

January 28, 2025

Board Members
c/o Mr. Bill Gold
Heather Gardens Metropolitan District
2888 S Heather Gardens Way
Aurora, CO 80014

Dear Members of the Board of Directors,

We appreciate the opportunity to be of service to Heather Gardens Metropolitan District ("Client"). This letter ("Letter") sets forth the services that RubinBrown LLP ("RubinBrown") will provide for you. In order to better understand each party's obligations, the terms "we," "us," and "our" refer to RubinBrown and the terms "you," "your" and "management" refer to Heather Gardens Metropolitan District. Your engagement of RubinBrown will be governed by the terms of this Letter and the attached RubinBrown LLP Engagement Terms.

Scope of Services

We are pleased to confirm our understanding of the services we are to provide Heather Gardens Metropolitan District for the year ended December 31, 2024. We will audit the financial statements of the business-type activities and the aggregate remaining fund information, including the related notes to the financial statements which collectively comprise the basic financial statements of Heather Gardens Metropolitan District as of and for the year ended December 31, 2024. Accounting standards generally accepted in the United States of America (GAAP) provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement Heather Gardens Metropolitan District's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Heather Gardens Metropolitan District's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- Management's Discussion and Analysis

We have also been engaged to report on supplementary information other than RSI that accompanies Heather Gardens Metropolitan District's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the

financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

- Proprietary Fund Schedule of Revenues, Expenditures and Changes in Funds Available – Budget and Actual
- Note to Budgetary Comparison Schedule

Audit Objective

The objectives of our audit are to obtain reasonable assurance about whether the Financial Statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditors' report that includes our opinion about whether your Financial Statements are presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America and will include tests of your accounting records and other procedures we consider necessary to enable us to express such an opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America (GAAS) will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the Financial Statements. We will issue a written report upon completion of our audit of your Financial Statements. Our report will be addressed to those responsible for corporate governance of. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinion, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

Our audit will be conducted in accordance with GAAS and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of your financial statements. Our report will be addressed to those responsible for governance of Heather Gardens Metropolitan District. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement as permitted by our professional standards and after providing as much advance notice to Heather Gardens Metropolitan District as reasonably possible..

Audit Procedures – General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements and determining whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. As part of an audit in accordance with GAAS, we exercise professional judgment and maintain professional skepticism throughout the audit. GAAS requires that we plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management, consultants or employees acting on behalf of the entity. Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination

of all transactions, there is an unavoidable risk that material misstatements exist and will not be detected by us, even though the audit is properly planned and performed in accordance with GAAS. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or government regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts and may include tests of the physical existence of inventories (if applicable), and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about your ability to continue as a going concern for a reasonable period of time.

Russell White will serve as the partner responsible for the overall supervision of the audit engagement and for authorizing the Firm's signature on the audit report letter.

Audit Procedures - Internal Control

We will obtain an understanding of the entity and its environment, including internal control relevant to the audit, sufficient to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures – Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of Heather Gardens Metropolitan District's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. You are responsible for making all management decisions and performing all management functions relating to the financial statements and related notes and for accepting full responsibility for such decisions. If you have requested our assistance with the preparation of the financial statements and related notes, you will be required to acknowledge in a written representation letter our assistance

with such preparation and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee our assistance with the preparation of your financial statements and related notes (if applicable) and any other nonattest services we provide; and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; and for the fair presentation in the financial statements of the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the Heather Gardens Metropolitan District and the respective changes in financial position and where applicable, cash flows, in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements (whether obtained from within or outside of the general and subsidiary ledgers) such as financial records, documentation, and identification of all related parties and all related-party relationships and transactions, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

We are not responsible for electronically hosting, storing or maintaining any of your original financial or non-financial information (or sole copies). You are expected to retain all financial and non-financial information including, but not limited to, anything you upload to a portal and are responsible for downloading and retaining anything we upload to a portal or transmit to you in a different manner. Portals are only meant as a method of transferring data and are not intended for the storage of your information.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management or consultants, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws and regulations.

Those charged with governance and management are solely responsible for (i) the preparation and fair presentation of the Financial Statements including the related footnotes (ii) selecting and applying sound accounting principles, (iii) designing, implementing, and maintaining adequate internal controls relevant to the preparation and fair presentation of Financial Statements that are free from material misstatement, whether due to fraud or error, including monitoring ongoing activities, (iv) preventing and detecting fraud, (v) adjusting the Financial Statements to correct material misstatements, and (vi) affirming to RubinBrown in a written representation letter that the effects of any uncorrected misstatements aggregated by RubinBrown during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the Financial Statements taken as a whole. You are responsible for the preparation of the supplementary information in conformity with accounting principles generally accepted in the United States of America. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited Financial Statements with any presentation of the supplementary information that

includes our report thereon. If the supplementary information is issued separately from the audited Financial Statements that contain our report on supplementary information, you agree to make those audited Financial Statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon.

As a condition of our engagement, management agrees to sign a written representation letter attesting to the completeness and truthfulness of representations and disclosures made to us during the course of our work, and you acknowledge and understand your responsibility to include required representations regarding supplementary information in the written representation letter.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

We understand that your consultants will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

Timing, Fees, And Other

Our fee for the Attest Services will be \$38,000 reasonable plus out-of-pocket expenses, technology and administrative fees. The fees are based upon anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. **Unexpected circumstances include: account balances not reconciled, trial balances that do not balance, accounting department turnover, unusual items related to former board members, recalled board members, related party receivable/payable to HGA, issues with transition of accounting team and system, and heavy accounting assistance to complete the audit.** Additional time related to unexpected circumstances will be billed out at our standard hourly rates.

RubinBrown reserves the right to disengage if the predecessor board members become re-elected prior to the Attest Services being performed.

Engagement Terms

Attached is an additional statement of terms regarding our engagement titled, RubinBrown LLP Engagement Terms (hereinafter "RubinBrown Engagement Terms"). The RubinBrown Engagement Terms are hereby incorporated by reference and the contents of this Letter should be construed in accordance with the terms set forth therein, unless expressly stated otherwise in this Letter. When construing or interpreting the contents of this Letter or the terms of our engagement, the RubinBrown Engagement Terms will govern. To the extent any apparent or actual contradiction may exist, the RubinBrown Engagement Terms will be deemed controlling and will supersede any such statement contained herein, unless expressly stated otherwise in the provision or portion of this Letter at issue.

Conclusion

We appreciate the opportunity to be of service to you. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this Letter and the RubinBrown Engagement Terms, please sign the enclosed copy and return it to us. By signing the enclosed copy of this Letter, you acknowledge that you have read, understood and agreed to the terms as set forth in this Letter and in the RubinBrown Engagement Terms.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

Sincerely,

RubinBrown LLP



Russell White

Partner

Direct Dial Number:303-952-1247

Email: russell.white@rubinbrown.com

Attachment(s):

Exhibit A - RubinBrown LLP Engagement Terms

By signing below, the signatory further represents and warrants that she/he is authorized to approve the terms of this engagement on behalf of Heather Gardens Metropolitan District.

Approved By: _____ Date: _____
Mr. Bill Gold

EXHIBIT A - RUBINBROWN LLP ENGAGEMENT TERMS

These Engagement Terms (the "Terms") and the engagement letter (the "Letter") incorporating the Terms (the Terms and Letter are hereinafter collectively referred to as the "Agreement"), entered into by and between RubinBrown LLP ("RubinBrown") and Heather Gardens Metropolitan District ("Client"), set forth the terms and conditions of RubinBrown's engagement with Client (the "Engagement"). These Terms shall also apply to any additional work that Client requests RubinBrown to perform unless a separate engagement letter is entered into by and between RubinBrown and Client for such additional work.

1. Agreed Upon Scope of Work/Services. RubinBrown shall be obligated only for the work product and deliverables specified in the Letter (the "Services"), and only for changes in such scope that are set forth in writing and duly executed by the parties hereto. Unless expressly provided for in the Letter, RubinBrown's Services do not include giving testimony, appearing or participating in any discovery proceedings, administrative hearings, court, or other legal or regulatory inquiries or proceedings and, in the event RubinBrown later agrees to perform such additional services, RubinBrown will charge and Client shall pay RubinBrown's customary fee for such services pursuant to RubinBrown's billing terms as outlined in paragraph 3 herein.

2. Period Covered/Term and Termination. This engagement letter covers the period beginning on the date the described Services begin (the "Effective Date") and ending on the date all such Services have been completed unless earlier terminated pursuant to these Terms. Either party may terminate this Agreement, for any reason, without penalty, on thirty (30) days' written notice to the other party or may terminate immediately for material breach of the other party on written notice to the other party. RubinBrown may also immediately terminate this Agreement or any separate engagement letter in whole or in part or decline to perform certain tasks if information comes to RubinBrown's attention indicating that performing such tasks could cause RubinBrown to be in violation of any applicable law, regulations or standards, to be in a conflict of interest or to suffer reputational damage.

3. Billing Terms. Invoices will be rendered monthly and presented the Client for Services performed in the prior month and are due and payable within thirty (30) days of the date of the billing statement. We reserve the right to suspend or terminate further Services until payment is received on all invoices that are not paid in full within thirty (30) days of the date of the billing statement. In the event that we suspend or terminate this Engagement as a result of non-payment, the Client agrees that we will not be responsible for the Client's failure to meet government or other filing deadlines, or for penalties, losses, damages of any nature, or interest that may be assessed against the Client resulting from the Client's failure to meet said deadlines. A one and a half percent (1½%) per month service charge will be added to balances remaining unpaid sixty (60) days or more after the invoice date. Client agrees that in the event Client fails to make any payment when due hereunder, RubinBrown may immediately terminate this Agreement or any separate engagement letter or statement of work and/or withhold delivery of any complete or incomplete Services. RubinBrown shall be entitled to recover all costs including reasonable attorney's fees incurred in furtherance of collecting such past due payments whether or not arbitration is filed.

4. Client's Cooperation, Participation, Representations and Warranties. While RubinBrown may from time to time suggest various options that may be available to Client and further give its professional evaluation of each of these options, Client must make the ultimate decision as to which, if any, of these options to implement. Client shall be solely responsible for applying independent business judgment with respect to RubinBrown's Services, work product and/or deliverables (including decisions regarding implementation or other further course(s) of action) and shall be solely and exclusively responsible for such decisions. Client warrants that RubinBrown shall be entitled to rely on all decisions and approvals of Client (and its counsel). Except as specifically provided in the Letter, Client further represents and warrants that RubinBrown shall be entitled to rely on the accuracy and completeness of all information provided by Client and that Client has maintained all books and records provided to RubinBrown in good order. Client agrees that RubinBrown has no duty to verify the accuracy or completeness of information provided by Client.

5. Access to Resources and Information. Unless specified herein as the responsibility of RubinBrown to provide, Client shall obtain for RubinBrown, on a timely basis, any internal and third-party permissions, licenses or approvals that are required for RubinBrown to perform the Services contemplated hereunder (including the use of any necessary software or data). Client shall also provide RubinBrown with such information, signoffs and assistance as may be necessary for

RubinBrown to perform the Engagement or as RubinBrown may reasonably request. Delays by Client in providing RubinBrown with requested information or in providing inconsistent, disorganized, or missing information may result in additional fees.

6. Record Retention. Pursuant to RubinBrown's record retention policy, at the conclusion of this Engagement, RubinBrown may retain copies of the records supplied to RubinBrown by Client and RubinBrown will return all such original records to the Client. Copies of the Client's records and any subsequent files created by RubinBrown (collectively "Work Papers") are RubinBrown's property and are not a substitute for the Client's own records. Client shall be responsible for retaining and maintaining records of its operations and records required to backup and support the Client's financial reports and tax returns. RubinBrown will destroy all pertinent Work Papers after a retention period of seven (7) years, after which time these items will no longer be available ("Record Retention Period"). RubinBrown shall not be obligated to destroy any Confidential Information created electronically pursuant to automatic or ordinary course archiving, back-up, security or disaster recovery systems or procedures. Catastrophic events or physical deterioration may result in RubinBrown's records being unavailable. RubinBrown's email retention policy is eighteen (18) months, after which time emails will no longer be available ("Email Retention Period").

7. Confidentiality. RubinBrown shall maintain the confidentiality of Client information, which is of a confidential nature ("Confidential Information"), using the same degree of care it uses in maintaining its own confidential information, but no less than reasonable care. Confidential Information means all Client information or material of Client, whether revealed orally, visually, or in tangible or electronic form, that is competitively sensitive material not generally known to the public that relates to the business of Client, or any of their respective interest holders, unless such information (i) was already rightfully known to RubinBrown at the time of disclosure by disclosing Party; (ii) is in or has entered the public domain through no breach of this Agreement or other wrongful act of RubinBrown; (iii) has been rightfully received by RubinBrown from a third party not under obligation of confidentiality to Client and without breach of this Agreement; or (iv) is independently developed by RubinBrown without reference or reliance on any confidential information of Client. Nothing herein shall preclude RubinBrown from disclosing Confidential Information to RubinBrown's attorneys, advisors, insurers, experts, or agents who agree to maintain the confidentiality of such information, with or without notice to Client. If any Confidential Information is sought by a validly issued subpoena or otherwise required by law, then the provisions of paragraph 9 herein shall apply.

In the course of providing professional Services to Client in connection with this engagement, RubinBrown may require the assistance of third party professional service providers with specialized capabilities or expertise. RubinBrown uses commercially reasonable means to confirm that third party professional service providers utilize commercially reasonable means to protect confidential information and Client hereby consents to the use of third-party vendors.

Except as otherwise specifically provided herein or as required by law, including any applicable open records law, Client shall at no time disclose any of RubinBrown's Services, fees, and other confidential material, including but not limited to internally developed financial models, or RubinBrown's role in the Engagement, to any third party (except to a government agency, to the extent such filing is an agreed objective of the Agreement, or as otherwise legally compelled) without RubinBrown's prior written consent through a release letter or equivalent in each case. Client's use of RubinBrown's Services hereunder (except for copies of filed tax returns) shall in any event be restricted to the stated purpose, if any, in the Letter and otherwise to Client's internal business use only. Client and RubinBrown each retains the right in any event to use the ideas, concepts, techniques, industry data and know-how used or developed in the course of the Engagement.

Notwithstanding anything herein to the contrary, (i) no term of the Agreement is intended to be, and shall not be construed to be, a condition of confidentiality as such term is used in Sections 6011, 6111 and 6112 of the Internal Revenue Code of 1986, as amended ("IRC"), the regulations thereunder and/or Section 10.35 of Treasury Department Circular 230 ("Circular 230"), (ii) Client is hereby authorized to disclose to any and all persons, without any limitation of any kind, any aspect of any entity, plan, arrangement or transaction RubinBrown introduces, addresses or recommends, or with respect to which RubinBrown provides advice, consultation or Services pursuant to the Agreement, it being Client's duty to ascertain whether any additional authorization from any other person or entity is necessary or desirable, and (iii) there is no limitation imposed herein on any person or entity on disclosure of the tax treatment, tax structure or tax strategy of any transaction that is the subject of written advice (as defined in Circular 230) provided by RubinBrown pursuant to the Agreement.

RubinBrown is required to comply with certain peer review requirements in order to maintain its professional licensing. In complying with these peer review requirements certain confidential information may be disclosed to the reviewer. These peer reviews are only conducted by other qualified professionals who are subject to maintaining the confidentiality of information disclosed in the course of the review. Client consents to these confidential disclosures by RubinBrown and acknowledges they are not a violation of RubinBrown's obligation to maintain the confidentiality of information.

8. Electronic Communications. Except as instructed otherwise in writing, each party may assume that the other approves of electronic communications through encrypted or unencrypted wired or wireless email, cellular phones, voice over internet, electronic data/document web sites, portals, and/or other technology and voicemail communication of both confidential or sensitive and non-confidential or sensitive documents and other communications concerning the Engagement, as well as other means of communication used or accepted by the other. RubinBrown uses third party cloud-based services to process, transmit, store and access confidential and non-confidential client information regarding the representation of its clients. Accordingly, information regarding the Client and RubinBrown's Services may be transmitted to and from a third party cloud-based service providers in connection with this Agreement and Client hereby consents to RubinBrown's use of such third-party service providers.

9. Subpoenas/Legal Orders for Client's Records and Information. At any time during or after our Engagement, should RubinBrown receive a subpoena or other legal order from a Third Party seeking production of Client's records, documents, or Confidential Information, or testimony relating to RubinBrown's Engagement, RubinBrown will, to the extent permitted by law, notify Client as soon as practicable using the last contact information for Client known to RubinBrown. Upon such notification, should Client wish to take action to protect its records and/or its information from production in compliance with the subpoena, Client agrees to notify RubinBrown of Client's intent to take action to protect its records and/or its information from production within 3 business days after such notice or within 48 hours before the response is due, whichever is shorter and it shall be Client's obligation to take such action in compliance with applicable law, at Client's expense, using counsel of Client's choice. Irrespective of Client's decision regarding what action, if any, it intends to take to protect its records and information, RubinBrown shall have the right to engage its own counsel to assist and advise RubinBrown in coordinating with Client and/or Client's counsel in this regard, and/or in responding to the subpoena. If Client does not provide RubinBrown with notice of its intent to take action to protect its records and/or information, Client is deemed to not be asserting and/or to be waiving any accountant-client privilege and Client agrees that RubinBrown has the right to produce any and all records RubinBrown deems appropriate in compliance with the subpoena and law. Client shall reimburse RubinBrown, upon receipt of an appropriate invoice, for all of RubinBrown's internal and external costs and expenses in responding to any subpoena for Client's records, and/or providing testimony pursuant to such subpoena, including RubinBrown's reasonable and customary fees for such services, as well as its internal costs (employee time and expenses), external costs (copy services or other vendors), and reasonable attorneys' fees. For the avoidance of doubt, this provision survives any termination or expiration of this Agreement.

10. Taxpayer Confidentiality Privileges: Use of Counsel. The parties acknowledge that certain documents and other communications involving and/or disclosed to or by RubinBrown may be subject to one or more claims of privilege by or on behalf of Client (e.g., the attorney-client privilege, the accountant-client privilege, the IRC Section 7525 tax advisory privilege, etc.). Although Client is solely responsible for managing the recognition, establishment and maintenance (e.g., possible waiver) of these possible protections (and for involving legal counsel as it deems necessary), RubinBrown shall cooperate with Client's reasonable written instructions regarding such privileges.

11. Management Dishonesty. While RubinBrown will advise Client if RubinBrown discovers errors or irregularities, Client understands and agrees that Client cannot rely on RubinBrown to detect employee, consultant, or management dishonesty, including, without limitation, fraud or embezzlement, unless specifically set forth in the Letter.

12. External Factors; Standards of Performance. Client acknowledges that the Engagement will involve analysis, judgment and other performance from time to time in a context where the participation of Client or others is necessary, where answers are often uncertain or unverifiable in advance and where facts and available information change with time. Accordingly, evaluation of

RubinBrown's performance of its obligations shall be based solely on its substantial conformance with any standards or specifications expressly set forth in the Agreement and all applicable professional standards, any such nonconformance (and applicability) to be clearly and convincingly shown. If there are any changes in the relevant laws, regulations, industry, market conditions or other circumstances, including in the Client's own business practices, RubinBrown has no responsibility to advise Client of any such changes and Client acknowledges the need for it to re-evaluate RubinBrown's preceding Services.

13. Conflicts of Interest; Non-Exclusivity. Client acknowledges that RubinBrown is currently providing or may in the future provide services of the same or similar nature to other parties and the Client agrees that RubinBrown are not prevented or barred from rendering services of the same nature or a similar nature to any other individual or entity except as prevented by law or professional standards.

14. Affiliates. If the Letter provides that RubinBrown's Services may pertain not only to Client but also to a parent, subsidiaries, affiliates, advisors, contractors, family members, related trusts, partnerships, partners, estates or foundations, such Affiliates shall be bound by the terms of the Agreement. Client shall, as may be requested by RubinBrown from time to time (including subsequent to completion of the Engagement), obtain written confirmation of their agreement to the terms of the Agreement.

15. Limitation of Liability. The liability of RubinBrown (including its partners, employees, agents and affiliated companies) to Client (and any purported third-party beneficiaries, including Affiliates) for any claim or damages (including but not limited to incidental, special, exemplary, punitive, economic, or consequential), whether in contract, strict liability, tort (including but not limited to RubinBrown's negligence or fault, except that this provision does not purport to limit liability for RubinBrown's intentional/willful torts or for any other liabilities for which a limitation of liability is prohibited by Colorado law), or otherwise, arising out of, connected with, or resulting from RubinBrown's Services or the Engagement generally, shall not exceed all fees related to the Engagement giving rise to such claim paid by Client to RubinBrown, even if RubinBrown has been advised of the possibility of such claims or damages.

16. Baker Tilly International. RubinBrown is an independent member of Baker Tilly International. Baker Tilly International Limited is an English Company. Baker Tilly International provides no professional services to clients. Each of the member firm is a separate and independent legal entity and each describes itself as such. RubinBrown is not Baker Tilly International's agent and does not have authority to bind Baker Tilly International or act on Baker Tilly International's behalf. None of Baker Tilly International, RubinBrown or any of the other independent member firms of Baker Tilly International has any liability for each other's acts or omissions. In addition, neither Baker Tilly International nor any other member has a right to exercise management control over any other member firm. RubinBrown shall in no event be held liable for any work or conduct (whether negligent, intentional, fraudulent, or otherwise) done by Baker Tilly International or any other member firm or any partner, officer, manager, personnel, affiliates, employees, or agent thereof. The name Baker Tilly and its associated logo is used under license from Baker Tilly International Limited.

17. Indemnification. To the extent permitted by law, Client agrees to release, indemnify, and hold RubinBrown, its partners, officers, managers, personnel, agents, employees, affiliated companies, successors and assigns harmless upon demand from any liability and costs, including attorneys' fees, resulting from any knowing misrepresentation of management or any intentional or negligent act or omission by Client. Client's obligation to indemnify shall survive until such time as all claims against RubinBrown are legally barred under all applicable statutes of limitation.

18. Independent Contractor Status. Each party is an independent contractor with respect to the other and shall not be construed as having an employment, partnership, trustee or fiduciary relationship.

19. Assignments and Successors. Neither party may assign any of its rights or benefits under the Agreement without the prior written consent of the other party. Subject to the preceding sentence, the Agreement will apply to, be binding in all respects upon, and inure to the benefit of the permitted successors, assigns, heirs, estates, and legal representatives of the parties. Notwithstanding the foregoing, RubinBrown may authorize and allow its affiliates and contractors to assist in performing the Engagement and to share in RubinBrown's rights hereunder, provided any such party shall commit (as applicable) to be bound by the restrictions set forth in the Agreement.

20. No Third Party Rights. Unless specifically set forth in the Letter or herein, nothing expressed or referred to in the Agreement will be construed to give any person, other than the parties to the Agreement, any legal or equitable right, remedy, claim, benefit, priority or interest under or with respect to the Agreement or any provision of the Agreement. Except as specifically provided in the Letter, the Agreement and any Services hereunder are for the sole and exclusive benefit of the Client and its permitted successors and assigns, and neither Client nor RubinBrown intends for RubinBrown's Services to be used by or to provide any benefit or guidance to any other persons.

21. Mediation. If Client (including any purported third-party beneficiaries, including Affiliates) is dissatisfied with the quality or timeliness of RubinBrown's Services, or believes such Services were in any way negligently performed, Client agrees to promptly notify RubinBrown in writing of its dissatisfaction and specifically set forth its complaints. If the parties are unable to resolve their differences within thirty (30) days after RubinBrown's receipt of Client's written notice, it is agreed that either party may invoke the services of an impartial mediator under the auspices of the commercial mediation rules of the American Arbitration Association, United States Arbitration and Mediation Service, or any other national neutral mediation service, at the election of the party who first requests mediation. It is agreed that no claim pertaining to the quality or timeliness and/or alleged negligence of RubinBrown's provided Services shall be arbitrated unless the foregoing procedures have first been followed and the mediator fails to settle the claim within thirty (30) days after the mediation process has concluded.

22. BINDING ARBITRATION. ANY AND ALL DISPUTES IN ANY WAY CONCERNING, ARISING OUT OF OR RELATED TO THE SERVICES PROVIDED BY RUBINBROWN PURSUANT TO THE AGREEMENT (INCLUDING SERVICES PERFORMED UNDER ANY PRIOR AGREEMENT) OR THE BUSINESS RELATIONSHIP ARISING OUT OF THE ENGAGEMENT OR ANY PRIOR ENGAGEMENT SHALL BE COMMITTED TO BINDING ARBITRATION BEFORE THE AMERICAN ARBITRATION ASSOCIATION ("AAA"), INCLUDING ANY DISPUTES INVOLVING PARTIES WHO ARE AFFILIATES OF CLIENT OR WHO ARE ALLEGED THIRD-PARTY BENEFICIARIES TO THIS AGREEMENT. THE ARBITRATOR, AND NOT ANY FEDERAL, STATE, OR LOCAL COURT OR AGENCY, SHALL HAVE EXCLUSIVE JURISDICTION TO RESOLVE ANY DISPUTES INVOLVING RUBINBROWN, AND IT IS THE INTENT OF THIS AGREEMENT THAT THIS GRANT OF JURISDICTION BE THE BROADEST ALLOWED BY LAW, AND THAT ANY DISPUTES REGARDING THE SCOPE OF THE ARBITRATOR'S JURISDICTION BE BOTH DECIDED BY THE ARBITRATOR AND RESOLVED IN FAVOR OF ARBITRATION, EXCEPT WHERE EXPRESSLY PROHIBITED BY APPLICABLE LAW. WITHOUT LIMITING THE FOREGOING, THE ARBITRATOR SHALL HAVE EXCLUSIVE JURISDICTION TO RESOLVE ANY DISPUTE RELATING TO THE INTERPRETATION, APPLICABILITY, ENFORCEABILITY OR FORMATION OF THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO ANY CLAIM THAT ALL OR ANY PART OF THIS AGREEMENT WAS NOT AGREED TO, IS INVALID, OR IS VOID OR VOIDABLE. SUCH ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH THE AAA'S COMMERCIAL ARBITRATION RULES THEN IN EFFECT, AS MODIFIED BY THE PROVISIONS STATED HEREIN. THE LOCATION OF THE ARBITRATION SHALL BE IN THE DENVER METROPOLITAN AREA. THE PARTIES SHALL SELECT ONE ARBITRATOR, UNLESS THE AMOUNT OF ANY DEMAND OR COUNTERCLAIM IN THE ARBITRATION SHALL BE \$750,000 OR MORE, IN WHICH CASE THE PARTIES SHALL SELECT THREE ARBITRATORS. THE PARTIES SHALL HAVE THE RIGHT TO CONDUCT DISCOVERY IN THE ARBITRATION CONSISTENT WITH THAT DISCOVERY PERMITTED BY THE FEDERAL RULES OF CIVIL PROCEDURE, WITH THE ARBITRATOR(S) TO DECIDE ANY DISCOVERY DISPUTES. ALL PROCEEDINGS CONDUCTED IN THE ARBITRATION, INCLUDING ANY DISCOVERY AND ANY ORDER ENTERED BY THE ARBITRATOR(S), SHALL BE STRICTLY CONFIDENTIAL. THE AWARD OF THE ARBITRATOR(S) SHALL BE FINAL, AND MAY BE CONFIRMED BY THE PARTIES IN THE DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO, OR IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO. THE PARTIES AGREE THAT ANY DISPUTE RESOLUTION PROCEEDINGS WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION. THE PARTIES EACH HEREBY WAIVE THE RIGHT TO PARTICIPATE IN ANY CLASS ACTION, REPRESENTATIVE ACTION, OR CONSOLIDATED ACTION, WHETHER IN COURT OR ARBITRATION.

23. Covenant Not to Hire or Solicit Employees. Client agrees that during the term of this Agreement, and for a period of one (1) year following the termination or expiration of this Agreement,

Client shall not, directly or indirectly, hire, retain or engage, or offer to hire, retain or engage, or solicit for employment or other retention or engagement of services, or otherwise induce to leave RubinBrown, for the benefit of Client, any employee, consultant or contractor who is employed by, engaged by, or contracted with RubinBrown. This provision shall be without prejudice to RubinBrown's right to seek injunctive relief or other legal remedies. Notwithstanding the forgoing, this covenant shall not be applicable to hiring, offering to hire, or otherwise engaging pursuant to a response to a general advertisement by Client.

24. Governing Law. The Agreement will be deemed to be made, negotiated, and accepted in Colorado, governed by, and construed in accordance with the laws of the State of Colorado or, if applicable, by controlling federal law under the precedent of the United States Court of Appeals for the Tenth Circuit, without giving effect to conflicts of laws rules irrespective of place of domicile or residence of either party and without reference to conflicts of law principles.

25. Attorneys' Fees and Costs. In connection with any legal action, arbitration or litigation arising from or in connection with the Agreement or its subject matter, the prevailing party shall be entitled to recover, subject to the damage limitations set forth in the Agreement, all costs incurred by such party in furtherance of such legal action, arbitration or litigation, including reasonable attorney's fees.

26. Construction. To the extent any apparent or actual contradiction may exist when construing or interpreting the contents of the Letter and the Terms, the Terms shall control and supersede any statement contained in the Letter, unless expressly stated otherwise in the provision or portion of the Letter or Terms at issue.

27. Waivers. Neither the failure nor any delay by any party in exercising any right, power or privilege under the Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege.

28. Force Majeure. Neither party shall be held responsible for delay or default caused by fire, riot, terrorism, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions; acts of God or war if the event is beyond the party's reasonable control and the affected party gives written notice to the other party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default; however, no Force Majeure event shall excuse Client of any obligation to pay any outstanding invoice or fee or from any indemnification obligation under this Agreement.

29. Entire Agreement and Modification. The Agreement supersedes all prior agreements, arrangements and communications between the parties with respect to its subject matter and constitutes a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. The Agreement may not be modified or amended except by the mutual written agreement of both parties.

30. Severability. If any arbitrator or court of competent jurisdiction holds any provision of the Agreement invalid or unenforceable, the other provisions of the Agreement will remain in full force and effect. Any provision of the Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

31. Headings; Counterparts; Electronic Signatures. The headings of paragraphs contained in the Agreement are provided for convenience only. They form no part of the Agreement and shall not affect its construction or interpretation. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument. Client hereby consents to the use of electronic signatures for this Agreement and all RubinBrown related Services and agrees that any electronic signature or signature delivered via facsimile or other electronic means shall be deemed to be of the same force and effect as a handwritten signature.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES