



**NOTICE OF HGMD BOARD OF DIRECTORS SPECIAL MEETING  
January 27, 2022, at 1:00 PM**

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 via Zoom videoconference at **1:00 PM on January 27, 2022**. The business meeting will be held for the purpose of conducting such business as may come before the Board. This meeting is open to the public.

**Join Zoom Meeting**

<https://zoom.us/j/98871140042?pwd=emNaYVMzMlJqRmtDOW5EeVNpU1RLdz09>

**Meeting ID: 988 7114 0042**

**Password: 542129**

**or**

**Dial-In Number: +1 346 248 7799 US**

**AGENDA**

1. Determine quorum present
2. Call meeting to order
3. Approval of/additions to/deletion from agenda
4. Approval of Minutes
  - a. Consider Approval of Minutes of December 23, 2021, Special Meeting
5. Reports of Directors, committees, and professional consultants
  - a. President's Report (Funk)
  - b. CEO (Rea) – January 18, 2022, Report
  - c. Clubhouse/Restaurant Committee (Mines) – January 11, 2022, Report
  - d. Foundation Committee (Laubach) – January 12, 2022, Report
  - e. Golf Committee (George) – No Meeting
  - f. Property Policy Committee (Funk) – No Meeting
  - g. Joint Long Range Planning Committee (Funk) – No Meeting
  - h. Treasurer's Report (Archambault) – January 2022 Report
  - i. Joint Budget and Finance Committee (Archambault) – January 17, 2022, Report
6. Unfinished Business
  - a. Consider Approval of the Custodial Agreement with Zion Bank
7. New Business
  - a. Consider Approval of Carry Forward 2021 Projects Spending Authority to 2022
  - b. Consider Approval of the Authorization for Treasurer to Direct Investments
  - c. Consider Approval to Extend the Appointment of Ray Nash to the Budget and Finance Committee
  - d. Consider Approval of Annual Administrative Resolution
  - e. Consider Approval of Election Resolution
8. Open Forum – Public comment (time limit-3 minutes per person)
9. Adjournment

**Note:** HGMD regular Board meetings, when held, are on the third Thursday of each month at 1:00 PM. Residents wishing to speak on agenda items will be given the opportunity at the time the item is discussed (time limit-3 minutes per person).

**The next regular Board meeting will be held Thursday, February 17, 2022, at 1:00 PM.**

**HEATHER GARDENS METROPOLITAN DISTRICT  
SPECIAL MEETING  
Thursday, December 23, 2021**

The special meeting of the Board of Directors of the Heather Gardens Metropolitan District was held via Zoom/Telephone in the office of the District, 2888 S. Heather Gardens Way, Arapahoe County, Colorado, on Thursday, December 23, 2021, at 1:00 P.M.

**CALL TO ORDER:** President Funk called the meeting to order at approximately 1:00 P.M. on Thursday, December 23, 2021. A quorum was present.

**BOARD MEMBERS PRESENT:** President David Funk, Vice President Michael George, William Archambault, and Directors Eloise Laubach and Maria Mines.

**BOARD MEMBERS ABSENT:** None

**STAFF PRESENT:** Chief Executive Officer (CEO) Jon Rea, Chief Operations Officer (COO) Jason Altshuler, Chief Financial Officer, and (CFO) Jerry Counts.

**GUESTS PRESENT:** Three members of the Heather Gardens Association Board, Lynn Donaldson with Heather 'n Yon, and approximately 18 members of the public were present.

**CHANGES TO AGENDA:** President Funk tabled item (a) Custodial Agreement with Zion Bank in new business until the next meeting. The attorneys have not reached an agreement on the terms of the legal language. Secretary/Treasurer Archambault said he will contact Zion Bank after the meeting to inform them of the postponement of the agreement.

**APPROVAL OF MINUTES:** Motion made by Vice President George and seconded by Director Laubach and passed unanimously to approve the minutes of the November 18, 2021, Regular Meeting as written.

**REPORTS OF DIRECTORS, COMMITTEES, AND PROFESSIONAL CONSULTANTS:**

**President Report:** No report.

**Chief Executive Officer (CEO) Report:** The Board received a copy of the CEO's Statement of Work Report. CEO explained that he and the COO have been working with each department manager to solidify their goals and adding dates. Each department goals will be compiled into what he calls "our big goals board" which will be posted in each department to reference and to review progress. The weather has been genuinely nice this month which has helped the Golf Course exceed their sales goals this month. The Clubhouse hours has reverted to its normal hours that was communicated to the

community. Secretary/Treasurer Archambault asked after the goals are finalized if the goals could be shared with the Board. CEO answered the goals will be shared with the Board after they are solidified. CEO also mentioned that in the January Heather n' Yon there will be an article that will outline the goals. There were no further questions or comments.

**Clubhouse/Restaurant Committee:** The Board received a copy of the Report. Director Mines reported the Committee asked CEO to help set up a workshop with the CFO to go over the monthly financials. The CEO has agreed and will be working with CFO on setting up a date and time for the workshop.

**Foundation Committee:** No Meeting.

**Golf Committee:** No Meeting.

**Property Policy Committee:** No Meeting.

**Joint Long Range Planning Committee:** No Meeting.

**Treasurer's Report:** The Board received a copy of the Treasurer's Report. There were no questions or comments.

**Joint Budget and Finance Committee:** The Board received a copy of the Joint Budget and Finance Report. Secretary/Treasurer Archambault reported that the Investment Subcommittee will be holding a meeting shortly to discuss other investments that may have a better return on the investments. The committee recommends that the Board approve the insurance premium for next year that will be discussed later in the meeting. There were a couple of items discussed on cost overruns on the parking structures and elevator jacks' replacement in buildings 235 and 242. Secretary/Treasurer Archambault commented it was a relevantly short meeting. There were no questions or comments.

**UNFINISHED BUSINESS:** None.

**NEW BUSINESS:**

- a.) **Motion to approve the Authorization for Board Treasurer to direct investment of Debt Service Funds held by Zions Bancorporation, National Association:** Motion made by Secretary/Treasurer Archambault and seconded by Vice President George and passed unanimously.

Text of Motion: I move that the Heather Gardens Metropolitan District Board of Directors approve to authorize the Board Treasurer to direct the investment of HGMD Debt Service Funds held by Zions Bancorporation, National Association and that the money be invested in funds that have a rating of AAA-mf (Moody's rating) or equivalent ratings from other rating agencies.

Explanatory Comment: The AAA-mf rating means that the fund has a very strong ability to meet the dual objectives of providing liquidity and preserving capital.

- b.) Motion to approve the Revisions to the Heather Gardens Joint Budget and Finance Procedure Memorandum JPM B-3:** Motion made by Treasurer/Secretary Archambault and seconded by Director Laubach and passed unanimously.

Text of Motion: I move that the Heather Gardens Metropolitan District Board of Directors approve the revisions to the Heather Gardens Joint Budget and Finance Memorandum JPM B-3.

Explanatory Comment: At the November 18, 2021, Board meeting the Board accepted the changes as presented and asked for public comments regarding the changes. There have been no comments regarding the changes. The Heather Gardens Association has already approved the changes to the Joint Budget and Finance Committee Procedure Memorandum.

- c.) Motion to approve the 2022 insurance coverage for Heather Gardens Metropolitan District:** Motion made by Secretary/Treasurer Archambault and seconded by Vice President George and passed unanimously.

Text of Motion: Based on the recommendation of the Joint Budget and Finance Committee, I move that the Heather Gardens Metropolitan District Board of Directors approve the payment of the annual insurance premium of \$50,935 to the Colorado Special District Property and Liability Pool for the District's property and liability insurance coverage that will be effective January 1, 2022.

Explanatory Comment: This approves the insurance coverage for 2022 as presented by the Colorado Special District Pool.

- d.) Motion to approve the Revisions to the Heather Gardens Foundation Procedure Memorandum:** Motion made by Director Laubach and seconded by Secretary/Treasurer Archambault and passed unanimously.

Text of Motion: I move that the Heather Gardens Metropolitan District Board of Directors approve the revisions to the Heather Gardens Foundation Procedure Memorandum.

- e.) Motion to approve of the RV Lot Fee Schedule for 2022:** Motion made by President Funk and seconded by Director Mines and passed unanimously.

Text of Motion: Based on the recommendation of the Property Policy Committee, I move that Heather Gardens Metropolitan District Board of Directors approve the RV Lot Fee Schedule for 2022 as presented.

Space Length	Space Width	Space sq. footage	# Spaces available (74 total)	Rent per quarter (Rounded up) @ 30 cents per sq. ft. resident 90 cents per sq. ft. non-resident
38'	12'	456	3	\$137/\$411
36'	11'	396	12	\$119/\$357
34'	11'	374	15	\$112/\$336
30'	11'	330	21	\$99/\$297
25'	11'	275	6	\$83/\$249
20'	11'	220	17	\$66/\$198

Explanatory Comment: Explanation: Due to the new sizing of spaces. Currently there are only three categories of Rental Rates, for residents \$90, \$100, and \$110 per quarter. For non-residents \$300, \$330, and \$340 per quarter. Taking \$100 for a 30' x 11' space as the middle figure, its cost per square foot is \$.3030. Therefore, the rental rate is based on 30 cents per square foot. The current non-resident rate is approximately three times the resident rate. So, the new calculation is simply three times the resident rate for simplicity. Assuming that all spaces are rented by residents, the potential rental income per quarter would be \$7,218 or \$28,872 per year. If all spaces were to be rented by non-residents the potential income would simply be three times the resident income or \$86,616. Over time, a mix of non-resident and resident rentals will provide an estimated income of around \$32,000 per year. That would be on par with income from several years ago.

- f.) **Motion to Sanction Heather Gardens Emergency Action Plan and Life Safety Procedures:** Motion made by President Funk and seconded by Director Laubach and passed unanimously.

Text of Motion: I move that Heather Gardens Metropolitan District Board of Directors sanction the implementation of Heather Gardens Emergency Action Plan and Life Safety Procedures as presented.

**OPEN FORUM:**

A resident asked if the Clubhouse/Restaurant's work session will be held via Zoom and open to the public. President Funk commented work sessions are primary open meetings, can be held via Zoom, and depending on the meeting, audience may not participate.

**ADJOURNMENT:** Upon motion by Vice President George and seconded by Secretary/Treasurer Archambault and passed unanimously the meeting adjourned at 1:32 P.M.

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William Archambault, Treasurer and Secretary

CEO Department Report  
Statement of Work (SOW)  
January 18, 2022  
End of Month Report - December 2021

\*\*\*\*\*NOTE: Based on Feedback, Long Range Projects, Implementations & Prospective Projects & Ideas Section has been removed to Consolidate - these projects did not move with frequency month to month\*\*\*\*\*

HGMD

Clubhouse

Project Status & Objectives

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
Post Monthly Room Schedules	communication	100			ongoing
Clubhouse Bulletin updates	communication	100	X		weekly
Extended Hours Execution	Be Prepared for change	100	X		1/3/2022
New Years Eve Celebration	complete details	100	X		12/5/2021
Increase Volunteer Participation / Orientation	participation/ clear expectations	90	X		12/8/2021
Increase Lighting in Lobby	Improve staff comfort	80	X		
Functional Equipment	Ensure all equipment can be used	80	X		1/31/2022
Communicate with Instructors	Stay on same page	75	X		ongoing
Rental contract	consistency	75	X		to be reviewed
Special Event planning	yearly plan	40	X		ongoing
Payroll Spreadsheet	Be in line with budget/ fully staffed	20	X		ongoing

Golf

Project Status & Objectives

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
Hand water dry spots on golf course	Maintenance	100	X		12/31/21
Complete Locker room project	Yearly Planning	100	X		12/31/21
Year end inventory	Yearly Planning	100	X		12/31/21
Decorate golf shop for Christmas	Customer Service	100	X		12/31/21
Tree branch pruning	Yearly Maintenance	100	X		12/31/21
Re-arrange golf shop	Yearly Maintenance	100	X		12/31/21
Set up Event Calendar for 2022	Yearly Planning	80		X	12/31/21

Restaurant

Project Status & Objectives

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
Hired a new server to help with the holiday schedule		100	X		12/31/21
Working on Online and loyalty program	ongoing server training	75		X	12/31/21
Looking into the new year and Sunday Brunch redefined		70		X	12/31/21
Training cooks to help with the kitchen workload		65		X	12/31/21
Create new menus for banquets and cost out for pricing		50		X	12/31/21
Researching entertainment for the spring		33		X	12/31/21
Working on a schedule for special dinners and events for 2022		25		X	12/31/21
Planning a New year meeting with all staff				X	1/4/22

HGA

CEO/General

Project Status & Objectives

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
Goals for All Depts	Review/Add Additional Goals/Sit w/ Mgmt.	100		X	6/30/21
Goals "Big Board"	Finalize Company/Dept Goals	100		X	10/31/21
Committee & Board Project List	Policy & Procedure Change/Project/Opportunities	100	X		12/15/21
PMA-1 Insurance/Policy Changes	Insurance Req's & Ideas --> ACC--> Sent to Committee (MN)	100	X		12/31/21
Misc. Resident Follow Up / Issues		98	X		ASAP
Comcast Addendum	Edit/Update Addendum Per Board Req's	80	X		12/31/21
CMCA Certification	Professional Certification (PPD)/After Budget	50	X		2/14/22
L/J Misc. Contract Renewal	2 years remaining/Vet Vendors (PPD)	50	X		3/31/22
Year at a Glance - HnY For all Depts - Post Online	Gantt/Project Chart/Goals & Info to Community	50	X		2/28/22
CP4 Supplement/Closeout	Close Out Final Project	50	X		3/31/22
Uniform/Identification Project/Program	Review Current/Establish New (PPD)	15	X		TBD

CFO/Accounting

Project Status & Objectives

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
Rebuild Control Environment		100		X	12/31/21
RV lot and Garden plots	Automate billing in Jenark. Update spreadsheet and send out delinquency letters	100		X	12/31/21
Send out delinquency notices	586 letters need to be sent. 283 are top priority in Sept	95		X	1/31/22
AR/Billing/Prop Mgt in Jenark	General cleanup	90		X	2/15/22
Review each direct report processes	Sit down and review with each team member	60	X		2/28/22
2021 Audit	Complete 2021 audit by March/April 2022	10	X		4/18/21
Monthly Delinquent Notice	Process delinquent notices monthly	0		X	2/15/22
Update Capital Reserve report	Review formulas and review hard coding	0		X	2/28/22



**COO/Operations**

**Project Status & Objectives**

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
Year at a Glance Calendar (HGA) + (R&G)	Gannt chart/calendar to show HGA items	100	X		12/15/21
2022 Project List	2022 Budget (Approved) Project Tracking	100	X		12/30/21
Safety Meetings 2022	Partner with HR for Safety Program launch	95	X		1/30/22
City of Aurora - Water Wise 2022	Plan with City of Aurora for reduction in \$\$	33	X		2/22/22

**CHRO/Human Resources**

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
Kick-off Safety Program	Re-Introduce	100	X		1/31/22
Complete Job Descriptions	Uniformity/Cleanup/Update	80	X		12/31/22
Manager/supervisor EPR Class	help understand scoring	50	X		12/31/21
Update all Forms new titles etc.	Uniformity/Cleanup/Update	50	X		12/31/21
Customer Service Training Course	Improve & Enhance CS	25	X		1/31/22
Employee recognition/reward program	Enhance Morale & Recognize	25	X		12/31/21
work on uniform change/color	more transparency easy to spot	10	X		1/31/22

**Communications**

**Project Status & Objectives**

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
Urgent Communications Issues	Create process/standard procedure for urgent issues	100			12/15/2021
Hard asset inventory	Inventory of hardware	100			11/30/2021
Brochure/Property Brochure	Update old brochure with new information.	90	X		1/1/2022
Communication Calendar/Cadence	Create schedule of comms	90		X	9/30/2021
Document Retention	Research Retention/Programs/Options	0	X		1/31/2022
S:/ Drive Clean-Up	Retention & File Removal/Clean	0	X		12/31/2021

**Contracts**

**Project Status & Objectives**

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
2021 Elevator Jack Replacement	Replace Elevator Jacks to meet City and State Code Regulations.	100	X		12/3/21
2021 B233 Re-Roof Project	Re-Roof B233 to preserve the structure and prevent leaks from occurring	100	X		12/31/21
PSAC - Parking Structure Engineered Conditions Report	To have a professional engineer conduct and conditions test and generate a report describing the current state of the parking structures.	95	X		ASAP
RV Parking Lot	Resurfacing and re-designing the layout of the RV Parking lot to better serve the users	75		X	When weather is optimal
HGMD Fuel Storage Tank	Install new 500g split tank to supply fuel needs for the small engine fleet.	30		X	ASAP
2022 Project Planning	Plan for the upcoming projects based on the approved budget.	10	X		ASAP
2022 FPE Replacement Project for CP 4, 5, and 6	Update existing FPE electrical panels to meet current NEC and City of Aurora Code	5			ASAP
Parking Structure - Security Enhancement Project	To help relieve community safety concerns	5			1st Quarter

**Custodial**

**Project Status & Objectives**

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
Work Orders	As we receive work orders we are taking care of carpet work orders	100			
Review (EP)	Annual/Perf Review	90			Yearly Review!
Zone Changes	Zone Changes with Staff to Different Buildings/Annual Change	90			Change whole team around the property.
Uniforms	Order uniforms for employees	50			Order new uniforms for whole team
Waxing buildings floors	Remove all the old build up wax on the laundry rooms, storage rooms and center stairs.	40			Remove old wax to make floors look more new

**Maintenance**

**Project Status & Objectives**

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
Performance Review	(RC) Annual	100	X		1/16/22
Performance Review	(JG) Annual	100	X		1/28/22
replacing shower unit in club	in progress	90	X		2/1/22
February reviews	reviews	50	X		2/28/22
Dry Vent cleaning 2022	in progress	25	X		3/1/22
training 2022 / service techs	training of different process/develop matrix	0	X		Ongoing
233 lights install in hallways	replacing old lights	0	X		1/31/22

**Maintenance Facilities Engineer**

\*\*\*\*\*NOTE: The Following Format is a Beta Test for the SOW - this might be utilized for departments with many projects running parallel in order to prioritize & complete\*\*\*\*\*

**Project Status & Objectives**

Project Name	Objective	% Conf	On-Time	Late	Goal for Completion
<b>TOP 3 - 5 PROJECTS</b>					
Building 233 roof replacement	Capital Reserve	95		X	12/10/21
Club men's shower stall	Ordered and install when received	90		X	12/30/21
Building 220 under slab metal door and jamb	Ordered and install when received	50		X	12/30/21
Building 244 garage CO2 system	Repair/replace	30	X		12/30/21
<b>MID-LEVEL PROJECTS</b>					
Restaurant HVAC Replacement	Schedule Replacement all done except UV light	100		X	11/29/21
Multiple Building Hot Shot Roof scan review. Separate roofs by repair or replace and make a prioritized list of buildings.	Identify moisture in foam roofs (Scans completed, scans received)	80		X	12/30/21
Building 216 - 501, 401, 301,201 and 101 flood	Abbotts Restoration hired	75		X	12/30/21
Building 244 Unit 209 floor repair/replacement after heat run leak	Water floor damage	65		X	12/30/21
Inspect CP pillars to obtain a list and count of pillars that need to be either removed or straightened.	For budgetary purposes.	50		X	12/30/21
<b>LONG TERM PROJECTS</b>					
Building 243 boiler retubing (96)	Get quotes for retubing or replacement for comparison	75		X	12/30/21
Research PS Security	PS Security	67		X	12/30/21
Building 216 Roof Safety Rails	Researching Options (Safety)	30	X		12/30/21
14205-14207 sewer pipe replacement in the basements	Remedy for Continuous drain backups	10		X	Unknown
2020 Cap Res- Chair Rail B233	Finish 2020 chair rail schedule	5		X	3/31/22

**Roads & Grounds**

**Project Status & Objectives**

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
512 Replacement	replace toro workman	100	X		12/31/21
Pine Needle clean-up		75	X		3/1/22
Replace Chipper	investigate (new/used)	5	X		3/1/22
2022 asphalt list	Repair driveway lifting/cracks	5	X		4/1/22
Replace #500		0	X		5/1/22
Plant List for 2022	where and what to plant	0	X		5/31/22
2022 Stump Grinding List	Removes stumps from property	0	X		6/1/22

**Security**

**Project Status & Objectives**

Project Name	Objective	% Comp	On-Time	Late	Goal for Completion
HGA Master Audit	Update Resident Info	90		X	12/31/21
Implement New Report software	Productivity	50	X		1/1/22
Purchase new Radios	Communication	25	X		2/1/22
Safety Meetings and Audits	Walk Property/Audit/Track Issues	0	X		1/15/22
Team Meeting		0	X		1/31/22
1st Qtr. Weapons Training	Training/ development	0	X		2/1/22
Employee Key Audit	Building Safety	0	X		3/31/22
Active Shooter Plan	Safety	0	X		5/31/22

## Heather Gardens Clubhouse/Restaurant Committee Meeting

January 11, 2022

Chair, Maria Mines opened the meeting at 3:08 PM with all committee members present. Report of the December 14th meeting was approved as written.

Maria's computer was having audio technical difficulties, so different committee members carried on the meeting according to the agenda.

**Report from Clubhouse Manager.** Montrell Anthony said that the pool was cleaned and repaired and opened on 3 January 22. The New Year's Eve party was a success, and he thanked all people that helped with that event. His motto continues to be the mission for the Clubhouse: "leaders in customer service." He and Cormac are working together to plan events for the coming year, like a Super Bowl watch party. He is reviewing all available resources that may be used for events in the Clubhouse, and monitoring their use to ascertain their feasibility, like the new revised hours of operation. These new hours of operation were announced through Pitera e-mails and Heather 'N Yon to all residents. A Volunteer Orientation is scheduled for 21 January in the Auditorium.

**Report from Restaurant Manager.** Cormac Ronan reported that 90 meals were served at the New Year's Eve party. The Super Bowl watch party is in its planning stages, and he is working with the Golf pro to possibly start TV watch parties for golf events. There are new menu items in progress and he and Montrell are working together to set up a list of volunteers who could service both facilities. He has contracted with a club who will be using the Restaurant on the 2<sup>nd</sup> Saturday of the month for a breakfast meeting. He also stated that COVID is still a defining problem for the Restaurant.

**Unfinished Business:** The Restaurant survey conducted by the previous CH/R committee was discussed briefly, and Cormac stated that he is using some of the suggestions contained in the survey. Montrell will be the coordinator for the Volunteer Group wishing to help with the Club House and Restaurant functions.

**New Business:** The workshop requested by the CH/R committee will be conducted by our CFO Jerry Counts on 28 January, at 2:00 PM. Some committee members prefer to attend in person in the Board Room, but the workshop will also be available through Zoom for those who prefer that option. The general public will be invited to attend and listen to the presentation, although they will be restricted from speaking. Evelyn will send a Pitera e-mail to all HG residents for this purpose.

There were no questions or comments from attendants, and with no further business to discuss, the meeting was adjourned at 3:42 PM.

The next Clubhouse/Restaurant Committee meeting will be held February 8, 2022, at 3:00 PM.

Lenora Tracy, Secretary

Foundation Notes for Jan. 12, 2022, meeting

Committee members present: Eloise Laubach, Chair, Becky Cole, Terry Schumacher, Mavis Richardson.

Charlene Pluchek was absent.

A Quorum was present.

The meeting was called to order at 1:05 P.M.

Chair Comments: 2021 Foundation annual summary: The Foundation Received \$2,956 in donations and had expenditures of \$1,341.38 for a bench and clubhouse Christmas tree. The Committee approved an expenditure of \$3762.01 by Roads and Grounds for a wall/bench project to be completed in 2022. The committee welcomes consideration of other projects.

Notes of the Nov. 10, 2021, meeting was approved.

Financial Reports were not available'

**Unfinished Business: Masked Warrior bench still has not been delivered. A motion was made by Terry with a second by Becky that the HGMD board look into having our money refunded and the bench be purchased by another vendor.**

**New Business: The Foundation has \$50,00 investment due for renewal in Jan. Jerry Counts said this was an HDMD decision not the committees. The opinion of the committee was to recommend the HGMD board vote to renew this investment.**

The committee asked Jason to share the tree plan with the committee as we would like management to spend some of Foundation funds for that purpose.

Meeting was adjourned at 1:40.

Next meeting Feb. 9, 2022 if needed.

## HGMD TREASURER'S REPORT for January 2022 Board Meeting

### **Highlights of District Operations for the year ended December 2021**

#### **Enterprise Fund**

Enterprise Fund revenue for the year was \$2,540,402 which is about \$268,200 less than budgeted. Enterprise Expenses for the year were \$2,219,351 which is about \$643,200 less than budgeted.

#### **Revenue Highlights:**

The main source of income for the Enterprise Fund is the Recreation Fee. Income from the Recreation Fee was \$1,517,040 which was \$282 more than budgeted. Because of rounding, a small variation is not unusual.

Clubhouse revenue of \$114,588 was \$5,540 more than budgeted. When the 2021 budget was set, the impact that Covid was unknown. The revenue budget, set by the Board, was conservative.

Golf Course revenue of \$445,303 was \$23,900 less than budgeted. Covid impacted the use of the course during the year.

Restaurant revenue of \$430,184 was \$228,300 less than budgeted. Covid impacted the days the restaurant was closed resulting in less revenue.

Revenue from the RV Lot was \$15,600 less than budgeted. During the year, the lot was redesigned to prevent theft from vehicles. This resulted in fewer vehicle parking spaces being available and, therefore, less revenue.

Garden plot income and miscellaneous sources of income were as budgeted.

#### **Expense Highlights:**

Clubhouse expenses for the year of \$676,380 were \$131,500 less than budgeted. Reduced operations during the year because of Covid resulted in less expense than budgeted. The District budgeted a subsidy of \$693,289 for the year but the Clubhouse only needed a subsidy of \$561,792 or 18.9% less than budgeted.

Golf Course expenses for the year of \$652,498 were \$11,831 more than budgeted. The District budgeted a subsidy of \$171,449 for the year but the Golf Course needed a subsidy of \$207,195 or 6.9% more than budgeted.

Restaurant expenses for the year of \$544,943 were \$179,953 less than budgeted. The reduction in expenses was the result of less business requiring less wages and operating costs. The District budgeted a subsidy of \$66,404 for the year but the Restaurant needed a subsidy of \$114,759 or 72.8% more than budgeted.

**Restricted Funds**

**Conservation Trust Fund (Lottery).** For the year, the District received \$20,741 from the Colorado lottery and spent \$12,477 on District projects. The bank account for the Conservation Trust Fund has a balance of \$173,157.

**Foundation Fund.** For the year, the Foundation received \$2,956 in donations. The Foundation Fund provided \$1,341 for District projects. At December 31<sup>st</sup>, the bank account has a balance of \$38,293 and there is an investment of \$150,000 in CD's.

**Debt Service Fund.** The District received \$493,757 in property tax revenue and \$33,937 in specific ownership tax for the year. At December 31<sup>st</sup>, the Zion Bank held \$183,438 for future payments of principal and interest on the bond issue.

**FOR THE MONTH ENDED December 2021**

	Budget	Actual
Clubhouse Profit (loss)	(\$54,333)	(\$58,017)
Golf Profit (loss)	(\$25,543)	(\$29,685)
Restaurant Profit (loss)	(\$ 5,325)	(\$24,580)

**FOR THE YEAR ENDED DECEMBER 2021**

	Budget	Actual
Clubhouse Profit (loss)	(\$693,289)	(\$561,792)
Golf Profit (loss)	(\$171,449)	(\$207,195)
Restaurant Profit (loss)	(\$ 66,404)	(\$114,759)

**HEATHER GARDENS BUDGET & FINANCE COMMITTEE**  
**JANUARY 17, 2022, MEETING REPORT**  
**ZOOM MEETING**

**TO:** Members of the Heather Gardens Budget & Finance Committee, HGA Board of Directors, HGMD Board of Directors, Chief Executive Officer, Chief Financial Officer and Chief Operations Officer.

**FROM:** Terry Hostetler, HGA Treasurer, and Bill Archambault, HGMD Treasurer

**Committee:** Terry Hostetler, Co-Chair, Craig Baldwin, Harry Laubach, Linda Serio, Randy Lane, Ray Nash, Richard Ferguson.

**Absent:** Bill Archambault, Co-Chair

**Staff:** Jon Rae, Chief Executive Officer; Jerry Counts, Chief Financial Officer, Jason Altshuler, Chief Operations Officer

**Audience:** Approximately 17 residents via Zoom, including HGA Board Members and HGMD Board Members

**Welcome and Chair Comments:** The B&F Committee meeting was called to order at 10:02 a.m. A quorum was established. Co-Chair Hostetler welcomed all members and residents present.

The December 20, 2021, B&F Committee meeting report was accepted as presented.

**Monthly Operating Analysis Review:**

CFO Counts reviewed the financial reports for both HGA and HGMD and answered all questions pertaining to the December 31, 2021 year-end financial reports, paying particular attention to the variances of income and expenses for the month, and year-end.

CFO Counts brought up that he will prepare and present in the first quarter of 2022, a simple review of HGA's and HGMD's financial information, that will be delivered in a workshop. He will provide this so that the "average" homeowner will have a better understanding of the financial knowledge of the community. It will be presented in an open forum, with there being No Dumb Questions.

CFO Counts also stated that he and CEO Rae and COO Altshuler have reviewed the Jenark accounting software, and he feels that having learned the system since starting here in March 2021, that the software does a good job of keeping everything up to date, and program is spot on and tracks everything to the penny.

## **Subcommittee and Other Reports:**

**Audit Subcommittee:** The report was included in the B&F committee package and there were no comments regarding the December 2020 review. There was a brief discussion on the handling of the year-end inventory. Prior to this year the committee provided assistance in the actual count. This year they provided this help with golf and restaurant. The HGA parts inventory was handled by employees, with members of the Audit Committee being there to observe the process.

**Insurance Subcommittee:** Randy Lane advised that he anticipates that in March 2022, that the committee will reconvene to address HGA and HGMD insurance and come up with an action plan for the review of insurance advisors and insurance policies currently in place.

**Capital Projects Subcommittee:** There was no meeting however staff is preparing updates to the capital component listings and will provide an update at a future meeting.

**Investment Committee:** Co-Chair Hostetler advised that the Investment Committee will hold a Zoom meeting on Thursday, January 27, 2022, at 10:00 a.m. with representatives from Raymond James, Heather Gardens' financial advisors, who are expected to present an update of HGA and HGMD investment portfolios, with an update on select Fixed Annuities that are available for potentially increasing the earnings on investment; as current certificates of deposit mature.

## **Unfinished Business:**

None

## **New Business:**

**A) Parking Structure Update:** Ray Nash, Chair of the Parking Structure Ad Hoc Committee (PSAC) updated B&F on the current condition of the structures. He stated that BC& E, the engineering firm that has knowledge and has previously provided reports on the structures, have created an updated draft report regarding the condition of the 4 parking structures. The PSAC has the recent draft report from BC& E, and the PSAC is expecting to receive an estimate of 2022 costs within the next two months.

**B) Motion: Recommend Extending Ray Nash's Appointment to the Budget and Finance Committee**

Baldwin moved and Lane seconded the motion that passed unanimously, that the Budget and Finance Committee recommends that the Heather Gardens Association Board of Directors approve Ray Nash's appointment to the Budget and Finance Committee be extended for a sixth year.

**Rationale/Notes:** Ray Nash has the financial experience valuable to the Budget and Finance Committee and the Capital Program Subcommittee.



**C) Motion: Recommend the HGMD Board of Directors Approves the Carry Forward of 2021 Projects Spending Authority Totaling \$87,513.50 Over to 2022.**

Lane moved and Baldwin seconded the motion that passed unanimously, that the Budget and Finance Committee recommends that the Heather Gardens Metro District Board of Directors approves the Carry Forward of the 2001 Projects Spending Authority Totaling \$87,513.50 over to 2022.

The following are the Approved 2021 HGMD projects, to request the remaining 2021 funds be carried over to the 2022 Budget:

- HVAC \$10K for 1/3 install for UV Light in the RTU – Installed on Jan 3, 2022. Waiting on vender provided equipment training for HG staff and final invoice.

**Carry Over Amount: \$22,937**

- Fuel Tank (Maintenance Building) – The projected installation date is late January/February 2022. **Carry Over Amount: \$45,373**

- Floating Water Fountain and Lights – Water Fountain Pump is Backordered. The supplier LL Johnson is scheduled to deliver in 2 weeks. (Lottery Money).

**Carry Over Amount: \$11,000**

- RV Parking Lot – \$3,703.50 was withheld from the vender for incomplete work associated with the 2021 Contract. This work will be completed and paid in early spring of 2022. Added change order work to skim patch the (2) large cracks located in the middle of the RV Parking Lot is \$4,500. We are waiting on approval from HGMD board to move forward with the added change order skim patch work, this added work would push the project over the approved total project amount by \$3,184.

**Carry Over Amount if Skim Patch Work is Approved: \$8,203.50**

**D) Motion: Recommend the HGA Board of Directors Approves the Carry Forward of 2021 Projects Spending Authority Totaling \$211,440 over to 2022.**

Lane moved and Baldwin seconded the motion that passed unanimously, that the Budget and Finance Committee recommends that the Heather Gardens Association Board of Directors approves the Carry Forward of the 2001 Projects Spending Authority Totaling \$211,440 over to 2022.

The following are the Approved 2021 HGA projects to request the remaining 2021 funds be carried over to the 2022 Budget:

- 2021 Elevator Jack Replacement Project at B235 and B242- The city of Aurora is requiring a change order to add an Accessible Hydraulic Line at B235 to meet new city code. This project will cost \$9,000 and was approved by B&F in their December 2021

meeting as part of \$58,720 added change order money needed to complete the project. (Additional cap reserve was not required). The contractors' Accessible Hydraulic Line proposal is attached. The remaining change order work will be completed in January of 2022. **Carry Over Amount: \$9,000**

- Chair Rail Project (2020 Budget) – B213 and B244 are complete. B233 is scheduled to be completed in 2022. **Carry Over Amount: \$30,422**

- Replace Carpet Extractor – The new Carpet Extractor is backordered. The expected delivery is late January/ February 2022. **Carry Over Amount: \$3,766**

- Construction Bid Administration - Project/Budget was originally created/approved to cover the cost for Walker Consultants to investigate and provide suggestions, regarding the Parking Structures. This project/budget is now used to cover the cost of Architects, Engineers and Contractors requested by PSAC to investigate and help recommend solutions to the board, regarding the direction of the Parking Structures. (No Cap Ex - Budget was approved without a Cap Ex). **Carry Over Amount: \$168,252**

**E) Motion: Approve the Replacement of the Remaining 55 FPE Panels In CP4, 5, and 6**

Lane moved and Laubach seconded the motion, that passed with 5 votes For, and Nash Abstaining, that based on the recommendation of the Budget & Finance Committee, moves that the Heather Gardens Association Board of Directors approves the request to pay for the \$180,468.75 cost of replacement of the remaining 55 FPE Panels in CP4, 5, and 6.

**Rationale/Notes:** Receiving early approval would allow for the creation of a PO for accounting to release a check as a down payment to reserve the stock panels at the supply house. If we wait until February of 2022 to receive approval from B&F and the Board, we run the risk of the panels being sold without knowing when the next shipment of panels will be arriving, considering the on-going supply shortages throughout the industry.

Based upon the success of the 2021 FPE replacement project, the recommendation is to contract with Positively Charged Electric to replace the remaining (55) Federal Pacific Electrical Panels throughout CP4, 5 and 6, completing the FPE replacement project throughout HG CP units.

**Members of the audience wishing to speak on non-agenda items:**

None

**The meeting was adjourned at 11:34 a.m.**

**The next meeting of the B&F Committee will be on February 14, 2022, at 10:00 a.m.**

**Heather Gardens Metropolitan District  
Board Action  
Date: January 27, 2022**

**Motion: Consider Approval of the Custodial Account at Zion Bancorporation, National Association for Funds Held for District Debt Service**

**Project Cost: \$500 cost to establish account and \$500 annual cost to maintain account**

I move that the Heather Gardens Metropolitan District Board of Directors approve the attached Custodial Account Agreement between the District and the Zion Bancorporation National Association for the Heather Gardens Metropolitan District Series 2017 Bond Account – Custody.

Motion by: Bill Archambault Seconded by: \_\_\_\_\_

Outcome of vote:

For: \_\_\_\_\_ Against: \_\_\_\_\_ Absent/Abstaining: \_\_\_\_\_

\_\_\_ The motion has a majority and is adopted.

\_\_\_ The motion does not have a majority and is not adopted.

\_\_\_\_\_  
David Funk, President  
HGMD Board of Directors

Rationale/Notes: At the February 18, 2021, HGMD Board of Directors meeting, the Board unanimously approved a formation motion authorizing the Zion Bank to establish a Custody account for the HGMD General Obligation Refunding Bonds Series 2017. The attached custodial account agreement is the result of the February 18 motion.

## CUSTODIAL AGREEMENT

**THIS CUSTODIAL AGREEMENT** (this “Agreement”) is entered into as of December 23, 2021, by and between **HEATHER GARDENS METROPOLITAN DISTRICT**, in the city of Aurora, Arapahoe County, Colorado (the “District”), and **ZIONS BANCORPORATION, NATIONAL ASSOCIATION**, in Denver, Colorado (the “Custodian”), in connection with the issuance by the District of its General Obligation Refunding Bonds, Series 2017, in the total aggregate principal amount of \$8,025,000 (the “Bonds”), pursuant to an authorizing resolution adopted by the Board of Directors of the District (the “Board”) on October 19, 2017 (the “Resolution”). Capitalized terms used in this Agreement and not otherwise defined shall have the meanings ascribed thereto in the Resolution.

### WITNESSETH:

**WHEREAS**, pursuant to the Resolution, the Board has authorized the issuance of the Bonds; and

**WHEREAS**, pursuant to the Resolution, the District is to establish and maintain the Bond Account.

**WHEREAS**, the District wishes to establish the Bond Account with Zions Bancorporation, National Association, pursuant to this Agreement;

**NOW, THEREFORE**, in consideration of the mutual promises contained in this Agreement, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

Capitalized terms used herein and not otherwise defined shall have the same meaning assigned to such terms as in the Heather Gardens Metropolitan District Resolution dated October 19, 2017, and the Paying Agent Agreement dated November 29, 2017 by and among Heather Gardens Metropolitan District (the “District”), and Zions Bancorporation, National Association (formerly known as ZB, National Association dba Zions Bank) (the “Paying Agent”).

**Section 1. The Bond Account-Custody.** There is hereby established and there shall be maintained with the Custodian a separate deposit account to be designated the “Heather Gardens Metropolitan District Series 2017 Bond Account-Custody (the “Bond Account-Custody”), which shall constitute the Bond Account established by the Resolution and shall be maintained in accordance with the Resolution for the benefit of the Owners of the Bonds. The moneys in the Bond Account-Custody shall be invested and disbursed only for the purposes and uses hereinafter authorized.

The District shall deposit, or cause to be deposited, in the Bond Account-Custody from time to time the amounts required by the terms of the Resolution.

The District hereby authorizes and directs the Custodian to transfer from such funds on deposit in the Bond Account-Custody, to the Paying Agent for the Bonds, not less than two business days immediately preceding each payment date, moneys, to the extent available, sufficient to make payment of the principal, premium, if any, and interest due on the Bonds.

The Custodian shall provide monthly reports regarding the balance of the Bond Account-Custody to the District promptly following the first business day of each month.

Any funds received by the Custodian for credit to the Bond Account-Custody that are not properly attributable to the Bond Account-Custody shall be refunded to the District promptly following receipt of written instructions of the District.

Within 45 days after the final payment date of the Bonds, the Custodian shall present a final statement and shall return any remaining funds to the District.

**Section 2. Investments.** The Custodian shall invest amounts in the Bond Account-Custody only at the written direction of the District. Interest earned from the investment or reinvestment of moneys credited to the Bond Account-Custody shall be credited to the Bond Account-Custody. The District agrees that amounts credited to the Bond Account-Custody shall be invested only in Permitted Investments as defined in the Resolution and which shall mature or be subject to redemption at the option of the holder on or prior to the date when the proceeds thereof must be available for the prompt payment of the principal of, and premium, if any, and interest on the Bonds as the same become due. The Custodian shall not be responsible ~~for any losses resulting from the investment of amounts credited to the Bond Account-Custody, or~~ for obtaining any specific yield or percentage of earnings on such investment

**Section 3. Custodian a Depository.** The Custodian shall act hereunder solely as a depository and shall not be responsible or liable for the sufficiency, correctness, genuineness or validity of any instrument deposited hereunder. ~~or with respect to the form or execution of the same or the identity, authority or rights of any person executing or depositing the same.~~ The Custodian acknowledges and agrees that it shall have no claim on moneys deposited with it pursuant to this Agreement.

**Section 4. Custodian Responsibilities.** The Custodian shall ~~not~~ be liable for anything ~~which it may do or refrain from doing in connection herewith, except for liability~~ resulting from its own gross negligence or willful misconduct. The Custodian may consult legal counsel in the event of any dispute or question as to the construction of any provisions hereof or its duties, ~~hereunder, and it shall incur no liability and shall be fully protected in acting in accordance with the advice of such counsel.~~ The District and the Custodian acknowledge that, except to the extent set forth in any separate instrument signed by the parties with respect to this Agreement, the Custodian's duties hereunder do not include any discretionary authority, control or responsibility with respect to the management or disposition of any amounts in the Bond Account-Custody, that the Custodian has no authority or responsibility to render investment advice with respect to any amounts in the Bond Account-Custody; and that the Custodian is not a fiduciary with respect to District or the Owners.

The Custodian shall only be responsible for the performance of such duties as are expressly set forth herein or in directions or other instructions of the District which are not contrary to the provisions of this Agreement. The Custodian shall exercise reasonable care in the performance of its services hereunder. ~~In no event shall the Custodian be liable for indirect or consequential damages.~~

The Custodian shall be protected in acting upon any notice, request, waiver, consent, receipt or other paper or document received from the District. ~~or and believed by the Custodian~~

We cannot accept deletion

OK

OK

OK

We cannot accept deletion

OK

~~to be genuine. The Custodian shall be under no duty or obligation to ascertain the identity, authority and/or rights of any person submitting instructions to the Custodian in accordance with this Agreement.~~

**Section 5. Indemnification.** The District hereby agrees, to the extent permitted by law, to indemnify the Custodian and its controlling person, officers, directors, employees and agents (each an "Indemnified Party") and hold each Indemnified Party harmless from and against any cost, losses, claims, liabilities, fines, penalties, damages and expenses (including reasonable attorneys' and accountants' fees (collectively, a "Claim") arising out of (a) the District's actions or omissions or (b) the Custodian's action taken or omitted hereunder in reliance upon the District's instructions, ~~or upon any information, order, indenture, stock certificate, power of attorney, assignment, affidavit or other instrument delivered hereunder to the Custodian, reasonably believed by the Custodian to be genuine or bearing the signature of a person or persons authorized by the District to sign, countersign or execute the same. The Custodian hereby agrees to indemnify the District for any claim arising from;~~ provided, that the District shall not indemnify an Indemnified Party for any Claim arising from the Indemnified Party's ~~judicially determined willful~~ misfeasance, bad faith or negligence in the performance of its duties under this Agreement. ~~The Custodian hereby agrees to indemnify the District and its board members, officers, directors, employees and agents (each a "District Indemnified Party") and hold each District Indemnified Party harmless from and against any Claim arising out of Custodian's misfeasance, bad faith or negligence in the performance of its duties under this Agreement.~~

~~Remove (bank policy and practice not to indemnify)~~

**Section 6. Amendments.** This Agreement may be amended by written agreement between the District and the Custodian.

**Section 7. Resignation or Replacement.** The Custodian may resign at any time on 30 days' prior written notice to the District. The District may remove the Custodian upon 30 days' prior written notice to the Custodian.

**Section 8. Successors.** Whenever in this Agreement the District or the Custodian is named or is referred to, such provision is deemed to include any successor of the District or the Custodian, respectively, immediate or intermediate, whether so expressed or not. The rights and obligations under this Agreement may be transferred by the Custodian to a successor. Any corporation or association into which the Custodian may be merged or converted or with which the Custodian may be consolidated or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which the Custodian may be a party or any corporation or association to which the Custodian may sell or transfer all or substantially all of its corporate trust business shall be the successor to the Custodian without the execution or filing of any document or any further act, anything herein to the contrary notwithstanding.

All of the stipulations, obligations, and agreements by or on behalf of and other provisions for the benefit of the District or the Custodian contained in this Agreement (a) shall bind and inure to the benefit of any such successor, and (b) shall bind and inure to the benefit of any officer, board, agent or instrumentality to whom or to which there shall be transferred by or in accordance with law and relevant right, power or duty of the District or the Custodian, respectively, or of its successor.

**Section 9. Time of Essence.** Time is of the essence in the performance of the obligations from time to time imposed upon the Custodian by this Agreement.

**Section 10. Other Obligations.** Nothing in this Agreement affects the rights, duties or obligations of either the District or the Custodian pursuant to any other agreement to which the District and the Custodian are parties.

**Section 11. Custodian Compensation.** As consideration for all services to be performed by the Custodian under this Agreement, the District agrees to pay to the Custodian an annual administrative fee as set forth in the Fee Schedule attached as Exhibit A hereto.

**Section 12. Notices.** Any notice to be given hereunder shall be delivered (i) by personal delivery, (ii) by electronic mail or (iii) by mail postage prepaid, return receipt requested, to the following addresses or such other address as either party may, by written notice to the other party, hereafter specify. Any notice shall be deemed to be given upon mailing or electronic mail.

If to the District: Heather Gardens Metropolitan District  
2888 South Heather Gardens Way  
Aurora, Colorado 80014  
Attention: David Funk  
Email: david.funk@heathergardensmail.com  
Tel. 303-483-8021

Attention: Gerald Counts  
Email: jcounts@heathergardensmail.com  
Tel. 303-755-0652

If to the Custodian: Zions Bancorporation  
1001 17<sup>th</sup> Street, Suite 850  
Denver, Colorado 80202  
Attention: James Scardaville  
  
Email: james.scardaville@zionsbank.com  
With a copy to: [DenverCorporateTrust@zionsbankcorp.com](mailto:DenverCorporateTrust@zionsbankcorp.com)  
Tel. 720-947-7458

**Section 13. Severability.** If any section, paragraph, clause or provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Agreement.

**Section 14. Counterparts.** This document may be executed in counterparts with the same force and effect as if the parties had executed one instrument, and each such counterpart shall constitute an original hereof.

**Section 15. Governing Law.** This Agreement shall be governed by the laws of the State of Colorado.

**Section 16. Patriot Act Notice.** To help the government fight the funding of terrorism and money laundering activities pursuant to the requirements of the Patriot Act the

Custodian is required to obtain, verify and record information that identifies the District, which information includes the name and address of the District and other information that will allow the Custodian to identify the District in accordance with the Patriot Act. The District agrees that it shall promptly provide such information upon request by the Custodian.

**Section 17. Authorized District Representative.** For purposes of this Agreement an Authorized District Representative shall mean the President, Vice President, Secretary or the Assistant Secretary of the District, or any other individual authorized in writing by the President or the Board to act as an Authorized District Representative and to provide instructions to the Custodian pursuant to this Agreement. Attached as Exhibit B is a certificate from the District identifying the names, titles and providing specimen signatures of the Authorized District Representatives.

[Execution page follows]



**IN WITNESS WHEREOF**, the parties hereto have caused this Custodial Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

**HEATHER GARDENS METROPOLITAN  
DISTRICT**

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

**ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, as Custodian**

By: \_\_\_\_\_  
David W. Bata, Senior Vice President –  
Zions Bank Division

**EXHIBIT A**

**FEE SCHEDULE**

**Heather Gardens Metropolitan District Bond Account-Custody  
Fee Schedule**

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<u>Acceptance Fee</u> .....	\$500.00
Covering the study and consideration of the governing agreements/documents, the preparation and establishment of the necessary accounts and files and performing all duties associated with the closing.	
<u>Annual Custody Fee (Bond Account-Custody)</u> .....	\$500.00
Covering the ordinary administrative duties of the as set forth in the custodial agreement so long as no default exists, payable in advance at closing.	
<u>Investment of Funds (if applicable)</u>	
Security Transaction Fee (if non-sweep fund) ... ..	\$25.00 each
<u>Initial Counsel Fee.</u> .....	Waived
Covering our in-house counsel’s study and consideration of the governing documents.	
<u>Out of Pocket Expenses</u> .....	At Cost
We will not charge for customary expenses incurred in the ordinary administration of accounts but will bill for DTC charges, UCC set-up/continuation/termination fees and non-routine costs such as travel, publication, and legal costs incurred as required or authorized during the acceptance and administration of the trust. Overnight delivery charges will be billed at \$15/minimum or at cost if over \$15.00.	

The aforementioned fees will cover normal services contemplated by such documents and are subject to change as circumstances may warrant. In the event of unusual complexities and special or extraordinary events, such as amendments to the documents, execution of additional documents or agreements, significant transaction increases (such as more than one redemption per year), the necessity to hire agents, defaults or other miscellaneous requests for additional services, we reserve the right to charge an additional amount based on the time and expenses incurred in handling such events should they occur.

**EXHIBIT B**

**INCUMBENCY AND SIGNATURE CERTIFICATE**

**[PREVIOUSLY RECEIVED FROM HEATHER GARDENS ON 2/22/21 - TO BE ATTACHED AS EXHIBIT B]**

**Heather Gardens Metropolitan District  
Board Action  
Date: January 27, 2022**

**Motion: Consider Approval of Carry Forward of 2021 Projects Spending Authority to 2022**

Based on the recommendation of the Budget and Finance Committee, I move that Heather Gardens Metropolitan District Board of Directors approve the following carry forward of 2021 spending authority to 2022 for the projects listed below:

The following are approved 2021 projects that the remaining 2021 funds totaling \$87,513.50 be carried over to the 2022 Budget.

- HGMD Project - HVAC \$10K for 1/3 install for UV Light in the RTU – Installed on Jan 3, 2022. Waiting on vender provided equipment training for HG staff and final invoice. **Carry Over Amount: \$22,937**
- HGMD Project – Fuel Tank (Maintenance Building) – The projected installation date is late January/ February 2022. **Carry Over Amount: \$45,373**
- HGMD Project – Floating Water Fountain and Lights – Water Fountain Pump is Backordered. The supplier LL Johnson is scheduled to deliver in 2 weeks. (Lottery Money). **Carry Over: \$11,000**
- HGMD Project – RV Parking Lot – \$3,703.50 was withheld from the vender for incomplete work associated with the 2021 Contract. This work will be completed and paid in early spring of 2022. Added change order work to skim patch the (2) large cracks located in the middle of the RV Parking Lot is \$4,500. We are waiting on approval from HGMD board to move forward with the added change order skim patch work, this added work would push the project over the approved total project amount by \$3,184. **Carry Over Amount if Skim Patch Work is Approved: \$8,203.50**

Motion by: Bill Archambault Seconded by: \_\_\_\_\_

Outcome of vote:

For: \_\_\_\_\_ Against: \_\_\_\_\_ Absent/Abstaining: \_\_\_\_\_

\_\_\_ The motion has a majority and is adopted.

\_\_\_ The motion does not have a majority and is not adopted.

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David Funk, President  
HGMD Board of Directors

**HEATHER GARDENS METROPOLITAN DISTRICT  
BOARD ACTION  
DATE: January 27, 2022**

**Motion: Consider Approval of Authorization of Board Treasurer to direct all investments of the District**

I move that the Heather Gardens Metropolitan District Board of Directors approve to authorize the Board Treasurer to direct the investment of all HGMD Funds and that monies available be invested in funds that have a rating of AAA-mf (Moody's rating) or equivalent ratings from other rating agencies.

Motion by: Bill Archambault Seconded by: \_\_\_\_\_

Outcome of vote:

For: \_\_\_\_\_ Against: \_\_\_\_\_ Absent/Abstaining: \_\_\_\_\_

\_\_\_ The motion has a majority and is adopted.

\_\_\_ The motion does not have a majority and is not adopted.

\_\_\_\_\_  
David Funk, President  
HGMD Board of Directors

Rationale/Notes: The AAA-mf rating means that the fund has a very strong ability to meet the dual objectives of providing liquidity and preserving capital. In addition, at the December 23, 2021, Board meeting the Board granted the Treasurer authority for directing investments for Debt Service Funds. This motion extends that authority to all investment of the District.

**Heather Gardens Metropolitan District  
Board Action  
Date: January 27, 2022**

**Motion: Consider Approval to Extend Ray Nash’s Appointment to the Budget and Finance Committee for a sixth year**

Based on the recommendation of the Budget and Finance Committee, I move that Heather Gardens Metropolitan District Board of Directors approve Ray Nash’s appointment to the Budget and Finance Committee be extended for a sixth year.

Motion by: Bill Archambault      Seconded by: \_\_\_\_\_

Outcome of vote:

For: \_\_\_\_\_ Against: \_\_\_\_\_ Absent/Abstaining: \_\_\_\_\_

\_\_\_ The motion has a majority and is adopted.

\_\_\_ The motion does not have a majority and is not adopted.

\_\_\_\_\_  
David Funk, President  
HGMD Board of Directors

Explanation: Ray Nash has the financial experience valuable to the Budget and Finance Committee and the Capital Program Subcommittee

**Heather Gardens Metropolitan District  
Board Action  
Date: January 27, 2022**

**Motion: Consider Approval of 2022 Annual Administrative Resolution**

I move that Heather Gardens Metropolitan District Board of Directors approve the 2022 Annual Administrative Resolution as presented.

Motion by: Mike George Seconded by: \_\_\_\_\_

Outcome of vote:

For: \_\_\_\_\_ Against: \_\_\_\_\_ Absent/Abstaining: \_\_\_\_\_

\_\_\_ The motion has a majority and is adopted.

\_\_\_ The motion does not have a majority and is not adopted.

\_\_\_\_\_  
David Funk, President  
HGMD Board of Directors



**ANNUAL RESOLUTION OF  
THE BOARD OF DIRECTORS OF THE  
HEATHER GARDENS METROPOLITAN DISTRICT**

At a special meeting of the Board of Directors of the Heather Gardens Metropolitan District, City of Aurora, Arapahoe County, Colorado, held at 1:00 P.M., on Thursday, January 27, 2022, held via Zoom/Telephone in the office of the District at Heather Gardens Clubhouse, 2888 South Heather Gardens Way, Aurora, Colorado, at which a quorum was present, the following resolution was adopted:

**WHEREAS**, the Heather Gardens Metropolitan District (the “District”) was organized as a special district pursuant to an Order of the District Court in and for the City of Aurora, County of Arapahoe, Colorado, dated April 6, 1983 and is located within Arapahoe County (the “County”); and

**WHEREAS**, the Board of Directors of the District (collectively referred to as the “Board” or individually as “Director(s)”) has a duty to perform certain obligations in order to assure the efficient operation of the District; and

**WHEREAS**, § 32-1-306, C.R.S. requires the District to file a current, accurate map of its boundaries with the County Assessor, County Clerk and Recorder and the Division of Local Government (the “Division”) on or before January 1 of each year; and

**WHEREAS**, §§ 24-10-109 and 24-32-116, C.R.S. require that the District provide its name, its principal address and/or mailing address, the name of its agent and the agent’s mailing address to the Department of Local Affairs (the “Department”) and keep such information updated regularly; and

**WHEREAS**, § 32-1-809, C.R.S. requires that the Board provide notice, containing certain information about the District, to the eligible electors of the District no more than sixty (60) days prior to and not later than January 15; and

**WHEREAS**, § 32-1-104(2), C.R.S. requires that the District, on or before January 15, file a copy of the notice required by § 32-1-809, C.R.S. with the Board of County Commissioners, the County Assessor, the County Treasurer, the County Clerk and Recorder in each county in which the District is located, the governing body of any municipality in which the District is located and the Division; and

**WHEREAS**, the Local Government Budget Law of Colorado, §§ 29-1-101 *et seq.*, C.R.S., requires the Board to hold a public hearing on proposed budgets and amendments thereto, to adopt budgets and to file copies of the budgets and amendments thereto; and

**WHEREAS**, § 29-1-205(1), C.R.S. requires the District to file a current list of all contracts in effect with other political subdivisions within thirty (30) days of receiving a request therefor from the Division; and

**WHEREAS**, in accordance with the Public Securities Information Reporting Act, §§ 11-58-101 *et seq.*, C.R.S., issuers of nonrated public securities shall make public within sixty (60) days following the end of each of such issuer's fiscal year, an annual information report or reports with respect to any of such issuer's nonrated public securities which are outstanding as of the end of each such fiscal year; and

**WHEREAS**, in accordance with § 29-1-604(1), C.R.S., if expenditures and revenues of the District are not in excess of \$100,000, the District may file an application for exemption from audit with the State Auditor; or in accordance with § 29-1-604(2)(b), C.R.S., if expenditures and revenues of the District for any fiscal year are at least \$100,000, but not more than \$750,000, the District may file an application for exemption from audit with the State Auditor; or in accordance with § 29-1-603, C.R.S., the Board shall cause to be made an annual audit of the financial statements of the District for each fiscal year; and

**WHEREAS**, the Revised Uniform Unclaimed Property Act, §§ 38-13-101 *et seq.*, C.R.S., requires that governmental subdivisions, if applicable, file an annual report listing unclaimed property with the State Treasurer by November 1 of each year; and

**WHEREAS**, pursuant to § 32-1-103(15), C.R.S., the legal notices of the District must be published one time, in one newspaper of general circulation in the District, and if there is not one such newspaper of general circulation, then in one newspaper in each county in which the District is located and in which the District also has fifty (50) or more eligible electors; and

**WHEREAS**, pursuant to § 24-6-402(2)(c)(I), C.R.S., the Board shall annually designate at the first regular meeting of the calendar year a posting place within the boundaries of the District for posting of notices; and

**WHEREAS**, pursuant to §§ 32-1-903(2) and 24-6-402(2)(c)(I) & (III), C.R.S., in addition to any other means of full and timely notice, the Board shall be deemed to have given full and timely notice of a public meeting if the Board posts the notice on a public website of the District or in the designated public place within District boundaries, no less than twenty-four (24) hours prior to the meeting; and

**WHEREAS**, § 32-1-903(1), C.R.S. requires that the Board shall meet regularly at a time and location to be designated by the Board and such location may be physical, telephonic, electronic, other virtual place, or combination of such means where a meeting can be attended; provided that meetings that are held solely at physical locations must be held at physical locations that are within the boundaries of the District or within the boundaries of any county in which the District is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the District boundaries, unless the proposed change of location for a meeting appears on the Board agenda of a meeting and a resolution is adopted stating the reason for which meetings of the Board are to be held in a physical location other than under the provisions of § 32-1-903(1.5), C.R.S. and further stating the date, time and physical location of such meeting; and

**WHEREAS**, pursuant to § 32-1-904, C.R.S., the office of the District shall be at some fixed place to be determined by the Board; and

**WHEREAS**, pursuant to § 32-1-901(1), C.R.S., each Director, within thirty (30) days after his or her election or appointment to fill a vacancy, shall take an oath or affirmation in accordance with § 24-12-101, C.R.S., and the oath must be filed with the County Clerk and Recorder, and in accordance with § 32-1-901(1), C.R.S. with the Clerk of the Court and with the Division; and

**WHEREAS**, in accordance with § 32-1-901(2), C.R.S., at the time of filing said oath, there shall also be filed for each Director a bond; and

**WHEREAS**, in accordance with § 24-14-102(2), C.R.S., the District may, in lieu of the required bond, purchase crime insurance to protect the District from any dishonesty, theft, or fraud; and

**WHEREAS**, pursuant to § 32-1-902(1), C.R.S., the Board shall elect one of its members as chairman of the Board and president of the District, one of its members as a treasurer of the Board and District, and a secretary who may be a member of the Board, or the secretary and treasurer may be one individual, who in such case is a member of the Board; and

**WHEREAS**, Directors may receive compensation for their services subject to the limitations imposed by § 32-1-902(3)(a), C.R.S.; and

**WHEREAS**, Directors are governed by § 32-1-902(3)(b), C.R.S., which requires any Director to disqualify himself or herself from voting on an issue in which he or she has a conflict of interest, unless the Director has properly disclosed such conflict in compliance with § 18-8-308, C.R.S.; and

**WHEREAS**, Directors are governed by § 32-1-902(4), C.R.S., which requires any Director who owns undeveloped land that constitutes at least twenty percent (20%) of the territory included in the District to properly disclose such fact in compliance with § 18-8-308, C.R.S. before each meeting of the Board, and such disclosure must be entered into the minutes of such meeting; and

**WHEREAS**, pursuant to § 32-1-1001(1)(o), C.R.S. the Board has the power to authorize the use of electronic records and electronic signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures in accordance with the Uniform Electronic Transaction Act, §§ 24-71.3-101 *et seq.*, C.R.S.; and

**WHEREAS**, pursuant to § 24-72-204.5, C.R.S., should the District operate or maintain an electronic mail communications system, the Board must adopt a written policy on any monitoring of electronic mail communications and the circumstances under which it will be conducted; and

**WHEREAS**, §§ 32-1-1604 and 32-1-1101.5(1), C.R.S. require the District to issue notice of the authorization or incurrence of general obligation indebtedness to the Board of County Commissioners of each county in which the District is located or the governing body of the municipality that has adopted a resolution of approval of the District and to record such notice

with the Clerk and Recorder in each county in which the District is located within thirty (30) days of incurring or authorizing such indebtedness; and

**WHEREAS**, § 32-1-1101.5(1), C.R.S. requires the District to certify the results of ballot issue elections to incur general obligation indebtedness to the Board of County Commissioners of each county in which the District is located or to the governing body of a municipality that has adopted a resolution of approval of the District within forty-five (45) days after the election, or at least thirty (30) days before issuing any general obligation debt if not previously certified, and requires the District to file a copy of such certificate with the Division of Securities within that timeframe; and

**WHEREAS**, in accordance with §§ 32-1-1101.5(1.5), C.R.S., the Board of County Commissioners or the governing body of a municipality that has adopted a resolution of approval of the District may require the District to file an application for the quinquennial finding of reasonable diligence; and

**WHEREAS**, in accordance with §§ 32-1-207(3)(c), C.R.S., and unless otherwise waived or requested by an earlier date, commencing in 2023 for the 2022 calendar year, any special district created after July 1, 2000, must electronically file an annual report for the preceding calendar year by October 1<sup>st</sup> with the governing body that approved the service plan or, if the jurisdiction has changed due to the annexation into a municipality, the current governing body with jurisdiction over the District, the Division, the State Auditor, and the County Clerk and Recorder, and make the same available on the website of the District; and

**WHEREAS**, in accordance with the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., the Board is granted the authority to obtain insurance; and

**WHEREAS**, the Colorado Open Meetings Law at § 24-6-402(2)(d.5)(II)(A), C.R.S. specifies that discussions that occur in an executive session of a local public body shall be electronically recorded; and

**WHEREAS**, pursuant to §§ 24-6-402(2)(d.5)(II)(E), C.R.S., such electronic recording of executive sessions shall be retained for at least ninety (90) days after the date of the executive session; and

**WHEREAS**, in accordance with the Public Deposit Protection Act, §§ 11-10.5-101 *et seq.*, C.R.S., the Board shall designate an official custodian with plenary authority to deposit public funds in any bank which has been designated by the Colorado Banking Board as an eligible public depository; and

**WHEREAS**, in accordance with § 32-1-104.8, C.R.S., the District must record a public disclosure document and a map of the boundaries of the District with the Clerk and Recorder of each county in which the District is located at any time thereafter that an order or decree confirming the inclusion of real property into the District is recorded; and

**WHEREAS**, elections may be held pursuant to the Special District Act, Article 1 of Title 32, C.R.S.; the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S.; and the Colorado Local Government Election Code, Article 13.5 of Title 1, C.R.S., for the purpose of (1) electing members of the Board; and (2) presenting certain ballot questions to the eligible electors of the District; and

**WHEREAS**, §§ 1-1-111(2), 1-13.5-108 and 32-1-804(2), C.R.S. provide that all powers and authority granted to the Board may be exercised by a “Designated Election Official” designated by the Board.

**NOW, THEREFORE**, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE HEATHER GARDENS METROPOLITAN DISTRICT AS FOLLOWS:

1. The Board directs the Heather Gardens Association’s general manager in accordance with the Management Agreement by and between the District and the Heather Gardens Association dated August 23, 2018, as may be amended from time to time (the “Manager”), to prepare an accurate map in accordance with the standards specified by the Division or directs the Heather Gardens Association’s general manager to prepare a letter asserting there have been no changes in the boundaries of the District, as applicable, for filing with the County Assessor, County Clerk and Recorder and the Division as required by § 32-1-306, C.R.S on or before January 1.
2. The Board directs the Manager to notify the Department of the District’s name, principal address and/or mailing address, agent’s name and agent’s mailing address in accordance with §§ 24-10-109 and 24-32-116, C.R.S.
3. The Board directs the Manager to: (1) provide notice, containing certain information about the District, to the eligible electors of the District, not earlier than November 16 and not later than January 15, in one or more of the ways set forth in § 32-1-809(2), C.R.S; and (2) in accordance with § 32-1-104(2), C.R.S., file a copy of the notice with the Board of County Commissioners, County Assessor, County Treasurer, County Clerk and Recorder’s Office in each county in which the District is located, the governing body of any municipality in which the District is located and with the Division. The Board further directs that a copy of the notice shall be made available for public inspection at the principal business office of the District.
4. The Board directs the Manager for the District to submit a proposed budget to the Board by October 15; to schedule a public hearing on the proposed budget; to prepare a final budget, including any resolutions adopting the budget, appropriating moneys and fixing the rate of any mill levy; to prepare budget resolutions, including certification of mill levies and amendments to the budget if necessary; to certify the mill levies on or before December 15; and to file the approved budgets and amendments thereto with the proper governmental entities not later than thirty (30) days after the beginning of the fiscal year of the budget adopted, in accordance with the Local Government Budget Law of Colorado.

5. The Board directs the Manager to prepare and file a current list of all contracts in effect with other political subdivisions with the Division within thirty (30) days of receiving a request therefor from the Division, if applicable.
6. The Board directs the Manager to prepare and file the annual public securities report for nonrated public securities issued by the District with the Department within sixty (60) days following the end of the District's fiscal year, if applicable.
7. The Board directs the accountant to file either an application for exemption from audit with the State Auditor within three (3) months after the close of the District's fiscal year, or that an audit of the financial statements is prepared and submitted to the Board within six (6) months after the close of the District's fiscal year. Further, the Board directs that the audit report be filed with the State Auditor within thirty (30) days after the Board's receipt of the audit report from the auditor.
8. The Board directs the Manager to prepare the Unclaimed Property Act report and forward to the State Treasurer by November 1, if applicable.
9. The Board designates the *Aurora Sentinel* as a newspaper of general circulation within the boundaries of the District or in the vicinity of the District if none is circulated within the District and directs that all legal notices shall be published in accordance with applicable statutes in the *Aurora Sentinel*.
10. The Board designates the Heather Gardens Clubhouse, 2888 South Heather Gardens Way, Aurora, as the posting place for notices of meetings in 2022 for purposes of § 24-6-402(2)(c)(I), C.R.S.
11. Emergency meetings may be called without notice, if notice is not practicable, by the president of the Board or any two (2) Directors in the event of an emergency that requires the immediate action of the Board in order to protect the public health, safety and welfare of the property owners and residents of the District. If possible, notice of such emergency meeting may be given to the Directors of the Board by telephone or whatever other means are reasonable to meet the circumstances of the emergency, and shall be provided to the public via any practicable means available, *if any*, including, but not limited to, posting notice of such emergency meeting on the District's website, if any. At such emergency meeting, any action within the power of the Board that is necessary for the immediate protection of the public health, safety and welfare may be taken; provided however, that any action taken at an emergency meeting shall be ratified at the first to occur: (a) the next regular meeting of the Board, or (b) the next special meeting of the Board.
12. The Board determines to hold regular meetings the third Thursday of each month, at 1:00 P.M. at the Heather Gardens Clubhouse, 2888 South Heather Gardens Way, Aurora, Colorado 80014. Any additional means of public participation, if any, will be designated on the meeting agenda.

13. Pursuant to § 32-1-904, C.R.S., the Board determined that the office of the District shall be at the Heather Gardens Clubhouse, 2888 South Heather Gardens Way, Aurora, Colorado 80014.
14. The Board directs the District's administrative assistance, with the assistance of legal counsel, to prepare, administer and file an oath or affirmation in accordance with §§ 32-1-901 and 24-12-101, C.R.S., and to file the oath or affirmation with the County Clerk and Recorder. In addition to the oath or affirmation, the Board directs legal counsel to procure either crime insurance in accordance with § 24-14-102(2), C.R.S. or a bond for each Director as required by § 32-1-901, C.R.S. in the total amount of \$10,000, and to file copies of the crime insurance or bond with the Clerk of the Court and the Division.
15. The Board hereby acknowledges that the District's Bylaws, adopted on July 18, 2019, and as may be amended from time to time, provide as follows regarding election of officers: "Election of officers shall be conducted annually at the first regular or special District meeting held in May and the officers shall serve for a term of one year. Election of officers may also be conducted at other meetings in order to fill a vacant office." In accordance therewith, the Board elected the following officers for the District:  

President/Chairman: David L. Funk  
Vice President: Michael E. George  
Secretary/Treasurer: William F. Archambault
16. The Board directs that each Director may receive compensation for services as Directors in accordance with §§ 32-1-902(3)(a)(I) & (II), C.R.S., subject to annual budgeting and appropriation.
17. The Board has determined that when so directed by one or more Directors legal counsel will file conflict-of-interest disclosures provided by Directors with the Secretary of State seventy-two (72) hours prior to each meeting of the Board. In addition, written disclosures provided by Directors required to be filed with the governing body in accordance with § 18-8-308, C.R.S. shall be deemed filed with the Directors of the District when filed with the Secretary of State.
18. The Board authorizes the use of electronic records and electronic signatures in 2022 and ratifies their use of electronic records and signatures in 2021. Use of electronic records and electronic signatures, when conducting transactions and in relation to the administration of the affairs of the District, will be performed and governed in accordance with the Uniform Electronic Transactions Act, §§ 24-71.3-101 *et seq.*, C.R.S.
19. The Board does not operate or maintain an electronic mail communication system devoted to the District but recognizes that its Directors and consultants may utilize

electronic mail to conduct matters on behalf of the District and that such communications may be a public record under the Colorado Open Records Act and may be subject to public inspection under § 24-72-203, C.R.S.

20. The Board directs the Manager to issue notice of indebtedness to the Board of County Commissioners or to the governing body of the municipality that has adopted a resolution of approval of the District, as applicable, and to record such notice with the County Clerk and Recorder in each county in which the District is located within thirty (30) days of incurring or authorizing any indebtedness in accordance with §§ 32-1-1604 and 32-1-1101.5(1), C.R.S. The Board also directs the Manager to certify the results of any ballot issue election to incur general obligation indebtedness to the Board of County Commissioners of each county in which the District is located, to the governing body of a municipality that has adopted a resolution of approval of the District, as applicable, and the Division of Securities within forty-five (45) days after such election, or at least thirty (30) days before the District's issuance of any general obligation debt if not previously certified, in accordance with § 32-1-1101.5(1), C.R.S.
21. The Board directs the Manager to prepare and file, if requested, the quinquennial finding of reasonable diligence with the Board of County Commissioners or to the governing body of a municipality that has adopted a resolution of approval of the District, as applicable, in accordance with §§ 32-1-1101.5(1.5), C.R.S.
22. The Board acknowledges that it is not obligated to prepare and file an annual report in accordance with § 32-1-207(3)(c), C.R.S. because the District was created prior to July 1, 2000.
23. The District is currently a member of the Special District Association ("SDA") and insured through the Colorado Special Districts Property and Liability Pool. The Board directs the District's accountant to pay the annual SDA membership dues and insurance premiums in a timely manner and complete all necessary conditions of the third-party insurance agent, as applicable. The Board will review all insurance policies and coverage in effect to determine appropriate insurance coverage is maintained, at least biannually.
24. The Board directs the custodian of all electronic recordings of executive sessions to retain all electronic recordings of executive sessions for purposes of the Colorado Open Meetings Law for ninety (90) days after the date of the executive session. The Board further directs the custodian to systematically delete all recordings of executive sessions made for purposes of the Colorado Open Meetings Law at its earliest convenience after the ninetieth (90<sup>th</sup>) day after the date of the executive session.
25. The Board hereby designates the Heather Gardens Association as its official custodian over public deposits in accordance with §§ 11-10.5-101 *et seq.*, C.R.S.



26. The Board directs legal counsel to prepare the special district public disclosure statement in accordance with § 32-1-104.8, C.R.S. and record the statement with the County Clerk and Recorder at any such time as a decree or order of inclusion of real property into the District's boundaries is recorded.
27. Evelyn Ybarra, Assistant to the Board, is hereby appointed as the "Designated Election Official" of the Board for any elections to be held during 2022 and any subsequent year unless another Designated Election Official is appointed by resolution. The Board hereby grants all powers and authority for the proper conduct of the election to the Designated Election Official, including, but not limited to, appointing election judges, appointing a canvass board, cancelling the election, if applicable, and certifying election results.
28. The Board hereby authorizes legal counsel to use the District's name and a brief description of the work performed for the District for marketing purposes, including identifying the District in presentations, proposals, and publications, provided that no confidential information about the District is revealed.

**[The remainder of this page is intentionally left blank.]**

Whereupon a motion was made and seconded, and upon a majority vote this Annual Resolution was approved by the Board.

**ADOPTED AND APPROVED THIS 27TH DAY OF JANUARY 2022.**

HEATHER GARDENS METROPOLITAN DISTRICT

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David L. Funk, President

ATTEST:

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William F. Archambault, Secretary/Treasurer

## CERTIFICATION

I, William F. Archambault, Secretary and Treasurer of the Board of the Heather Gardens Metropolitan District, do hereby certify that the annexed and foregoing Resolution is a true copy from the records of the proceedings of the Board of said District, on file with Icenogle Seaver Pogue, P.C., general counsel to the District.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the District, at the City of Aurora, County of Arapahoe, Colorado, this 27th day of January 2022.

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William F. Archambault, Secretary/Treasurer

[SEAL]

**Heather Gardens Metropolitan District  
Board Action  
Date: January 27, 2022**

**Motion: Consider Approval of 2022 Regular Special District Election Resolution**

I move that Heather Gardens Metropolitan District Board of Directors approve the 2022 Regular Special District Election Resolution as presented.

Motion by: David Funk Seconded by: \_\_\_\_\_

Outcome of vote:

For: \_\_\_\_\_ Against: \_\_\_\_\_ Absent/Abstaining: \_\_\_\_\_

\_\_\_ The motion has a majority and is adopted.

\_\_\_ The motion does not have a majority and is not adopted.

\_\_\_\_\_  
David Funk, President  
HGMD Board of Directors

**RESOLUTION OF  
THE BOARD OF DIRECTORS OF  
HEATHER GARDENS METROPOLITAN DISTRICT  
2022 REGULAR SPECIAL DISTRICT ELECTION RESOLUTION**

At a special meeting of the Board of Directors of the Heather Gardens Metropolitan District, City of Aurora, Arapahoe County, Colorado, held at 1:00 P.M., on Thursday, January 27, 2022, held via Zoom/Telephone in the office of the District at Heather Gardens Clubhouse, 2888 South Heather Gardens Way, Aurora, Colorado, at which a quorum was present, the following resolution (the “Resolution”) was adopted:

**WHEREAS**, Heather Gardens Metropolitan District (the “District”) was organized pursuant to the Special District Act, Article 1 of Title 32, C.R.S. (the “Act”), after approval of the eligible electors of the District, by order of the District Court in and for the City of Aurora, Arapahoe County, Colorado, dated April 6, 1983; and

**WHEREAS**, elections may be held pursuant to the Act; the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S. (the “Uniform Code”); and the Colorado Local Government Election Code, Article 13.5 of Title 1, C.R.S. (the “Local Government Election Code”) (the Act, Uniform Code, and Local Government Election Code are collectively referred to herein as the “Election Laws”) for the purpose of 1) electing members of the Board and 2) presenting certain ballot questions to the eligible electors of the District; and

**WHEREAS**, pursuant to § 32-1-305.5(3)(b), C.R.S., the terms of office of members of the Board of Directors for the District (the “Board”) elected in a regular special district election held in 2022 are for three (3) years; and

**WHEREAS**, the Board currently includes three (3) members elected to serve on the Board, two (2) members appointed to fill vacancies on the Board, and zero (0) vacancies; and

**WHEREAS**, the term of office for two (2) members of the Board for the District shall expire after their successors are elected at the next regular election for the District scheduled to be held on the Tuesday succeeding the first Monday of May in accordance with § 1-13.5-111(1), C.R.S.: May 3, 2022; and

**WHEREAS**, the term for one (1) member of the Board for the District, who was appointed to fill a vacancy on the Board and to serve until the next regular election, shall expire after her successor is elected at the election to serve the remaining unexpired portion of the term, which is one year; and

**WHEREAS**, in accordance with the Election Laws, an election must be conducted to elect to the Board of the District two (2) Directors to serve for a term of three years and one (1) Director to serve a term of one year; and

**WHEREAS**, the number of Directors to be elected to the Board of the District may increase following the adoption of this Resolution should a Director's office be deemed vacant in accordance with § 32-1-905, C.R.S. prior to the election; and

**WHEREAS**, pursuant to § 32-1-804(1), C.R.S., the Board shall govern the conduct of the election and shall render all interpretations and make all decisions as to controversies or other matters arising in the conduct of the election; and

**WHEREAS**, §§ 1-1-111(2), 1-13.5-108, and 32-1-804(2), C.R.S. provide that all powers and authority granted to the Board for the conduct of regular and special elections, including making all initial decisions as to controversies or other matters arising in the operation of the Local Government Election Code, may be exercised by a "Designated Election Official" designated by the Board; and

**WHEREAS**, §§ 1-13.5-501(1) & -(1.5), C.R.S., require that, between seventy-five (75) and one hundred (100) days before a regular election, the Designated Election Official shall provide notice of a call for nominations for the election by publication, as defined in § 1-13.5-501(2), C.R.S., and by any one of the following means: mailing the notice to each address at which one or more active registered electors resides; including the notice as a prominent part of an informational mailing sent by the District to the eligible electors of the District; posting the information of the official website of the District; or, if permitted under § 1-13.5-501(1.5)(d), C.R.S., posting the notice in at least three public places within the boundaries of the District and, in addition, in the office of the Clerk and Recorder of Arapahoe County; and

**WHEREAS**, § 1-13.5-1104(2), C.R.S. requires the Designated Election Official to supervise the distributing, handling, and counting of ballots and the survey of returns, and to take the necessary steps to protect the confidentiality of the ballots cast and the integrity of the election; and

**WHEREAS**, § 1-7.5-107(4)(b)(II), C.R.S. specifies that the Designated Election Official shall designate a secure drop-off location that is under his or her supervision, and § 1-5-102(1), C.R.S. requires that the Designated Election Official divide the jurisdiction into as many election precincts as he or she deems expedient for the convenience of eligible electors of the jurisdiction and designate the polling place for each precinct; and

**WHEREAS**, § 1-13.5-1004(1), C.R.S. provides that the Designated Election Official shall keep a list of names of eligible electors who have applied for absentee voters' ballots and those permanent absentee voters placed on the list pursuant to § 1-13.5-1003(2), C.R.S., which list must contain certain other information as set out by statute; and

**WHEREAS**, § 1-13.5-513(1), C.R.S. provides that if the only matter before the electors in an election is the election of persons to office and if, at the close of business day on the sixty-third (63<sup>rd</sup>) day before the election or at any time thereafter, there are not more candidates than offices to be filled at the election, the Designated Election Official shall cancel the election and declare the candidates elected if so instructed by resolution of the governing body; and

**WHEREAS**, § 1-11-103(3), C.R.S. provides that if an election is cancelled pursuant to § 1-13.5-513(1), C.R.S., the District shall file notice and a copy of the resolution of such cancellation with the Colorado Division of Local Government (the “Division”); and

**WHEREAS**, §§ 1-11-103(3) & 32-1-104(1), C.R.S. require the District to certify to the Division the results of any elections held by the District and include the District’s business address, telephone number, and contact person; and

**WHEREAS**, the Board desires to call an election and set forth herein the procedures for conducting such election as authorized by the Election Laws.

**NOW, THEREFORE**, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE HEATHER GARDENS METROPOLITAN DISTRICT THAT:

1. The Board hereby calls a regular election of the eligible electors of the District to be held between the hours of 7:00 A.M. and 7:00 P.M. on the Tuesday succeeding the first Monday of May pursuant to and in accordance with § 1-13.5-111(1), C.R.S., the Election Laws, and other applicable laws (May 3, 2022), for the purpose of electing two (2) Directors to serve a three-year term and one (1) Director to serve a one-year term on the Board (the “Election”), as such numbers may change due to one or more vacancies arising on the Board after the adoption of this Resolution and prior to the Election. The Election shall be conducted as an independent mail ballot election, pursuant to Part 11 of the Local Government Election Code.

2. Pursuant to § 32-1-804(2), C.R.S., the Board hereby names Evelyn Ybarra, Assistant to the Board, as the Designated Election Official for the Election. The Board hereby directs the District’s general counsel to oversee the general conduct of the Election and authorizes the Designated Election Official to take all other action necessary for the proper conduct thereof. The Designated Election Official shall act as the primary contact with the Clerk and Recorder of Arapahoe County, Colorado (the “County”) and shall be primarily responsible for ensuring the proper conduct of the Election, including, but not limited to, distributing, handling, and counting of ballots and the survey of returns, taking the necessary steps to protect the confidentiality of the ballots cast and the integrity of the Election, appointing election judges as necessary, appointing the board of canvassers, arranging for the required notices of the Election and printing of ballots, maintaining a permanent absentee voter list, and directing that all other appropriate actions be accomplished.

3. The Board hereby directs the Designated Election Official to provide notice by publication of a call for nominations for the Election in accordance with the requirements of § 1-13.5-501, C.R.S., which shall include information regarding the director offices to be voted upon at the Election, where a self-nomination and acceptance form or letter may be obtained, the deadline for submitting the self-nomination and acceptance form or letter to the Designated Election Official, and information on obtaining an absentee ballot. The notice shall be published one time in the *Aurora Sentinel*, which is a newspaper of a general circulation in the District, between seventy-five (75) and one hundred (100) days before the Election. The notice shall also be made by (1) mailing the notice, at the lowest cost option, to each address at which one or more active registered electors of the District resides as specified in the registration list provided by the county clerk and recorder

as of the date that is one hundred fifty days prior to the date of the Election (2) including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card, or other notice of election, or other informational mailing sent by the District to the eligible electors of the District (3) posting the information on the official website of the District.

4. The Board deems it expedient for the convenience of the electors that it shall establish a polling place & drop-off location for all regular and special elections of the District. There shall be one (1) polling place & drop-off location for the elections. This polling place & drop-off location shall be used for any regular or special elections to be held in 2022 and in each year thereafter until such polling place & drop-off location is changed by duly adopted resolution of the Board. Such polling place & drop-off location shall be located at 2888 South Heather Gardens Way, Aurora, Colorado 80014. All voters for the District, including handicapped and nonresident voters unless otherwise permitted by law, shall return their ballots to the designated polling place & drop-off location by mail or delivery. All eligible electors may also obtain a replacement ballot from the polling place & drop-off location until 7:00 P.M. on election day in accordance with § 1-13.5-1105(4), C.R.S. A map showing the District's boundaries is on file at the offices of Heather Gardens Management Offices, 2888 South Heather Gardens Way, Aurora, Colorado and is available for examination by all interested persons.

5. Applications for an absentee voter's ballot or for permanent absentee voter status may be filed with the Designated Election Official, 2888 South Heather Gardens Way, Aurora, Colorado, between the hours of 8:00 a.m. and 5:00 p.m., until the close of business on the Tuesday immediately preceding the Election (April 26, 2022).

6. Pursuant to § 1-13.5-303, C.R.S., all candidates must file a self-nomination and acceptance form or letter signed by the candidate and by an eligible elector of the District as a witness to the signature of the candidate with the Designated Election Official no later than 5:00 P.M. on the day that is sixty-seven (67) days prior to the Election (February 25, 2022). Self-nomination and acceptance forms are available at the Designated Election Official's office located at the above address.

7. Pursuant to § 1-13.5-513, C.R.S., the Board hereby authorizes and directs the Designated Election Official to cancel the Election and declare the candidates elected if, at or after the close of business on the sixty-third (63<sup>rd</sup>) day before the Election (March 1, 2022), there are not more candidates for director than offices to be filled, including candidates filing affidavits of intent to be write-in candidates, and so long as the only matter before the electors is the election of persons to office. Under these circumstances, the Board further authorizes and directs the Designated Election Official to provide notice of the cancellation by publication in accordance with § 1-13.5-501, C.R.S. and to post notice of the cancellation at each polling location, the office of the Designated Election Official, the Arapahoe County Clerk and Recorder's Office, and with the Division. The Designated Election Official shall also file notice and a copy of this Resolution authorizing the cancellation of the Election with the Division pursuant to § 1-11-103(3), C.R.S. The Designated Election Official shall also notify the candidates that the Election was canceled and they were elected by acclamation.



8. In accordance with §§ 1-11-103(3) & 32-1-104(1), C.R.S., the District directs the Designated Election Official to notify the Division of the results of any elections held by the District, including the District's business address, telephone number, and contact person within thirty (30) days after the Election (June 2, 2022).

9. The Designated Election Official and the officers, agents, consultants, and employees, if any, of the District are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

10. All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the Board, the Designated Election Official, and the officers, agents, consultants, and employees, if any, of the District, and directed toward holding the Election for the purposes stated herein are hereby ratified, approved, and confirmed.

11. All prior acts, orders, or resolutions, or parts thereof, by the District in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any act, order, or resolution, or part thereof, heretofore repealed.

12. If any section, paragraph, clause, or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

13. The District shall be responsible for the payment of any and all costs associated with the conduct of the Election, including its cancellation, if necessary, and those costs incurred pursuant to the terms and conditions of an election agreement with the County, if any.

14. This Resolution shall take effect on the date and at the time of its adoption.

**[Remainder of page intentionally left blank.]**

Whereupon, a motion was made and seconded, and upon a majority vote, this Resolution was approved by the Board.

**ADOPTED AND APPROVED THIS 27TH DAY OF JANUARY, 2022.**

**HEATHER GARDENS METROPOLITAN  
DISTRICT**

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David L. Funk, President

ATTEST:

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William F. Archambault, Secretary/Treasurer