



**NOTICE OF HGMD REGULAR BOARD MEETING
December 19, 2024 at 1:00 P.M.**

Pursuant to Section 24-6-402(2)(c), C.R.S., the Board of Directors of the Heather Gardens Metropolitan District hereby gives notice that it will hold a regular meeting at the Heather Gardens Clubhouse in the boardroom and via Zoom videoconference at **1:00 p.m.** on **December 19, 2024**. The meeting will be held for the purpose of conducting the business of the Heather Gardens Metropolitan District. This meeting is open to the public.

Join Zoom Meeting

<https://us06web.zoom.us/j/87241732625>

Meeting ID: 872 4173 2625

Passcode: Not Required

Or Dial-In:+1 346-248-7799

AGENDA

1. Pledge of Allegiance
2. Determine quorum present
3. Call meeting to order
4. Remarks by Acting President
5. Introduction of Board Members
6. Election of Officers by Paper Ballot (New President Chairs the Meeting)
7. Approve Minutes of December 2, 2024 Meeting (if available)
8. Treasurer's Report (if available)
9. Comments by Management (Lary Herkal)
10. Unfinished Business
11. New Business
 - a. Consider the Extension of the Management Agreement for 120 Days
 - b. Consider to Retain Jennifer Ivey as the Attorney for HGMD
 - c. Consider to Retain RubinBrown to complete a Financial Audit for HGMD and provide guidance in moving the HGMD accounting function to the HGA's Accounting Department
 - d. Consider to Pause the Forensic Audit and set a meeting to review the charge, scope, and status of the audit
 - e. Consider to Pause the Contract with CRS to review the charge, scope, and status of the contract
 - f. Consider a Resolution to terminate HGMD's lawsuit against the HGA
12. Discussion: Items to be worked on with HGMD, Management and Attorney:
 - a. Status of bank accounts
 - b. Review current, outstanding, and pending contracts
 - c. Set Executive Session to confer with legal counsel
13. Public Comments Limited to 5 Minutes
14. Motion to Adjourn

The next HGMD regular Board meeting will be held on Thursday, January 16, 2025, at 1:00 P.M.



**HEATHER GARDENS METROPOLITAN DISTRICT
BOARD ACTION**

DATE: DECEMBER 19, 2024

MOTION NUMBER: 2024-12-19-1

**MOTION: CONSIDER THE EXTENSION OF THE MANAGEMENT AGREEMENT
FOR 120 DAYS**

I move that the Heather Gardens Metropolitan District Board of Directors extend the existing Management Agreement between the Heather Gardens Metropolitan District and the Heather Gardens Association and Management for a period of 120 days commencing upon the acceptance of this proposal by the Heather Gardens Association Board of Directors.

ECONOMIC COST/SAVING TO THE DISTRICT: TO BE DETERMINED
TYPE OF EXPENDITURE: OPERATIONS

Motion by: _____ Second by: _____

Rationale: To reestablish efficient, effective, and smooth operations of the management of the Heather Gardens Community and reestablish harmony, civility, and tranquility. To reassure staff and residents that Heather Gardens has a competent and capable management team and board of directors who are willing to work together for the benefit of Heather Gardens.

AMENDMENT: _____

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

Eloise Laubach, Acting President
HGMD Board of Directors



**HEATHER GARDENS METROPOLITAN DISTRICT
BOARD ACTION**

DATE: DECEMBER 19, 2024

MOTION NUMBER: 2024-12-19-2

**MOTION: CONSIDER TO RETAIN JENNIFER IVEY AS THE ATTORNEY FOR
HEATHER GARDENS METROPOLITAN DISTRICT**

I move that the Heather Gardens Metropolitan District Board of Directors reinstate Jennifer Ivey, attorney at law, to represent the District for legal purposes on an as-needed basis. A letter of engagement is attached to this motion.

ECONOMIC COST/SAVING TO THE DISTRICT: TO BE DETERMINED

TYPE OF EXPENDITURE: OPERATIONS

Motion by: _____ Second by: _____

Rationale: Heather Gardens Metropolitan District needs an attorney to ensure we follow all applicable regulations, review our contract, work jointly with the HGA Board, and deal with any other legal issues that may arise.

AMENDMENT: _____

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

Eloise Laubach, Acting President
HGMD Board of Directors



ICENOGLE SEAVER POGUE

March 8, 2024

VIA ELECTRONIC MAIL

Heather Gardens Metropolitan District
c/o Daniel Taylor, President
Daniel.Taylor@HGmetroDist.org

Re: Legal Services Engagement – Heather Gardens Metropolitan District

Board Members:

This letter is to confirm that Icenogle Seaver Pogue, P.C. is engaged by the Heather Gardens Metropolitan District as legal counsel on a limited “on-call” basis consistent with the addendum to legal services engagement letter dated February 1, 2024 which modified the prior legal services engagement letter dated November 10, 2020. I am enclosing herewith a copy of the addendum and the original engagement letter that the addendum modified for your records.

If you have any questions, please feel free to contact us.

Very Truly Yours,

ICENOGLE SEAVER POGUE
A Professional Corporation



Jennifer L. Ivey

Enclosures



ICENOGLE SEAVER POGUE

February 1, 2024

VIA ELECTRONIC MAIL

Heather Gardens Metropolitan District
c/o Daniel Taylor, President
Daniel.Taylor@HGmetroDist.org

Re: Addendum to Legal Services Engagement – Heather Gardens Metropolitan District

Board Members:

ICenogle Seaver Pogue, P.C. (the “Firm”) is submitting this addendum modifying the scope of its legal services engagement with the Heather Gardens Metropolitan District (the “District”) dated November 10, 2020. A truncated scope for the Firm has become necessary based on requests made and direction provided by one or more members of the Board of Directors of the District (the “Board”) which are inconsistent with, and actively undermine, an engagement to provide general counsel legal services.

By way of illustration and not limitation, the Firm has repeatedly been directed not to perform standard general counsel services, including but not limited to, review of meeting materials in advance of Board meetings, and review of agendas and meeting notices for legal compliance in advance of Board meetings. Further the Firm has been directed not to attend unplanned special meetings of the Board and has not been consulted in advance of or in conjunction with preparation of various documents of legal import to the District. Most recently, the Firm has been directed not to attend any meetings of the Board or perform any legal services, unless explicitly requested to do so by the Board.

These various limitations do not allow the Firm to continue the provision of general counsel legal services as those services require meeting legal compliance and attendance.

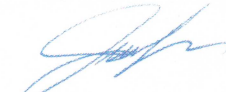
Therefore, and as a result of the foregoing, this addendum amends the existing legal services engagement to recognize that the Firm is unable to continue serving in the capacity of general legal counsel to the District. As of the date of this correspondence, the Firm will no longer provide general legal counsel services. Instead, the Firm will provide solely limited and “on-call” legal services regarding District legal matters as may from time to time be expressly directed by the District in writing and agreed to by the Firm. For the avoidance of doubt, the Firm will no longer perform general legal monitoring, legal compliance or other legal work for the District. Further, and to avoid confusion about “on-call” assignments which may be given to the Firm from time to time, the Firm will only take direction from the Board as a whole or from the President of the Board (or such other person as may be designated as the Firm’s liaison in writing) who represents that the Board as a whole has given direction to the President to engage with the Firm on the topic or issue.

This addendum, together with our engagement letter dated November 10, 2020 and Standard Terms of Engagement attached thereto, are intended to formalize our altered role as "on-call" limited legal counsel. Please confirm your agreement to the new terms of our engagement by signing this letter in the space indicated below, sending us a scanned copy with your signature and retaining the original copy for yourself.

If you have any question regarding these terms, please feel free to contact us.

Very Truly Yours,

ICENOGL SEAVR POGUE
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Jennifer L. Ivey

Enclosures

Accepted by: *Daniel Taylor*
Title: *President Home*
Date: *2-15-2024*



ICENOGL E SEAVER POGUE

November 10, 2020

VIA ELECTRONIC MAIL

Heather Gardens Metropolitan District
c/o David Funk, President
david.funk@HeatherGardensmail.com

Re: Legal Services Engagement – Heather Gardens Metropolitan District

Board Members:

Icenogle Seaver Pogue, P.C. (the “Firm”) is pleased to submit this letter of engagement for general counsel legal services for Heather Gardens Metropolitan District within the City of Aurora (the “District”). Our Standard Terms of Engagement are enclosed with this letter and confirm our understanding of the general terms of representation that our Firm will undertake on behalf of the District.

The services of our Firm are primarily measured and charged on a time basis. You will be invoiced for the services that personnel in our Firm perform for you. Invoices are rendered on a monthly basis and they are due upon receipt. Typically, our services are measured in increments of one-tenth of an hour and applied to our hourly rates. The rates of all billing personnel in our Firm are enclosed. All rates are subject to change January 1 of each year.

In addition to legal fees, the Firm will also bill you for its out-of-pocket costs incurred in handling your legal matters. These include photocopying and delivery charges, filing and recording fees, travel expenses, materials and services obtained from others, and other items for which we advance payment on your behalf. These, too, will be billed on a monthly basis. All unpaid fees and costs are subject to a one percent per month interest charge. The exception to time-measured billing are opinion fees, charged for formal legal opinions on which others may rely, notably bond-related and contract enforceability-related opinions. Such opinion fees vary with the complexity of issues involved and will be subject to your agreement in advance of opinion issuance.

Because our Firm works with property owners and political subdivisions, including municipalities, counties, and cities and counties, we are or may be engaged by others to organize and/or represent districts in the same area as this District. We will not represent those clients in matters adverse to the District or the District in matters adverse to those clients.

Before engagement of a new client, we are required by the Colorado Rules of Professional Conduct (the “Rules”) to evaluate whether there are any ethical constraints to representing a client. In the event we believe a conflict under the Rules materializes at any time, we will notify you and deal with the matter appropriately. Additional information regarding conflicts of interest are set forth in the enclosed Standard Terms of Engagement.

This letter, together with the enclosed Standard Terms of Engagement, are intended to formalize our retention as legal counsel. Please confirm your agreement to the terms of our engagement by signing this letter in the space indicated below, sending us a scanned copy with your signature and retaining the original copy for yourself.

If you have any question regarding these terms, please feel free to contact us.

Very Truly Yours,

ICENOGLA SEAVER POGUE
A Professional Corporation

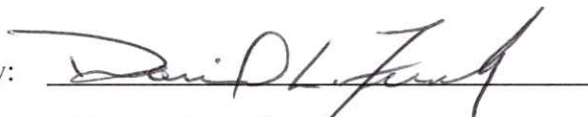


Digitally signed by Jennifer L. Ivey
DN: cn=Jennifer L. Ivey,
o=Icengle Seaver Pogue, P.C., ou,
email=jivey@isp-law.com, c=US
Date: 2020.11.10 10:07:29 -0700

Jennifer L. Ivey

Enclosures

Accepted by:



Title:

President - HGMD

Date:

12-22-2020



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STANDARD TERMS OF ENGAGEMENT

These Standard Terms of Engagement confirm our understanding of the general terms of the representation Icenogle Seaver Pogue, P.C. (the “Firm”) will undertake on behalf its clients. These terms will apply to any matters we agree to undertake unless we and the client agree in writing to a different arrangement. These Standard Terms of Engagement do not constitute an engagement unless accompanied by a letter describing a specific matter for which the Firm has been engaged.

1. Scope of Engagement.

By separate letter we will agree on the exact scope of each engagement, *i.e.*, the specific tasks for which you have hired us. Our representation will be limited to the legal services set out in our written agreement describing the specific scope of each engagement. Our acceptance of an engagement does not involve an undertaking to represent the client or its interests in any other matter. We may agree to limit or expand the scope of our representation from time to time, provided that we confirm any such change in writing.

If you have engaged the Firm to provide legal services in connection with a specific matter, it is possible that after completion of the matter, changes may occur in applicable laws or regulations that could impact your future rights and liabilities. If you separately engage us after completion of the matter to provide additional advice on issues arising from it, the Firm would be pleased to advise you with respect to future legal developments, but will not do so absent a new engagement set forth in a new engagement letter.

At the commencement and during the course of our representation, we may express opinions or beliefs concerning the matter, alternative courses of action, or results that might be anticipated. Any such statement made by any individual lawyer of the Firm is intended to be an expression of opinion only, based on information available to us at the time, and should not be regarded as a promise or guarantee.

2. Staffing.

The attorney or attorneys in charge of each engagement will make staffing decisions with the objective of rendering services to you on the most efficient and cost-effective basis. We, of course, will be happy to discuss staffing with you at any time.

3. Conflicts of Interest.

To avoid conflicts of interest, we maintain a record of past and present clients and persons or entities with an interest adverse to our clients to determine whether a conflict of interest would be created by any new representation. You should tell us now and in the future whether any other



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individuals or business entities are or become involved in our representation of you. Otherwise, we will assume that our listing is complete.

The Firm represents many other companies, individuals, property owners and political subdivisions, including special districts, public highway authorities, regional transportation authorities, municipalities, counties, and cities and counties. As such, it is possible that present or future clients of the Firm will have disputes or transactions with you. Accordingly, to prevent any future misunderstanding and to preserve the Firm's ability to represent you and its other clients, we agree as follows with respect to certain conflicts of interest issues:

a) Unless the Firm has your specific written consent that the Firm may do so, the Firm will not represent another client in a matter which is substantially related to a matter in which the Firm represents you and in which the other client is adverse to you. The Firm understands the term "matter" to refer to transactions, negotiations, proceedings or other representations involving specific parties.

b) In the absence of a conflict as described in subparagraph (a) above, you acknowledge that the Firm will be free to represent any other client either generally or in any matter in which you may have an interest.

c) The effect of subparagraph (b) above is that the Firm may represent another client on any issue or matter in which you might have an interest including, but not limited to, agreements, contracts, easements, special district formation, intergovernmental agreements, dissolutions, consolidations, etc.

The Firm agrees, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instance where, as a result of the Firm's representation of you, we have obtained proprietary or other confidential information of a nonpublic nature that, if known to such other client, could be used in any such other matter by such client to your material disadvantage. You should know that, in similar engagement letters with many of the Firm's other clients, we have asked for similar agreements to preserve our ability to represent you.

4. Affiliates.

Unless we agree otherwise, our representation is only of the client named in our separate engagement letter and not any parent, subsidiary, sister corporation, limited liability company, or partnership or any officer, director, employee, consultant, contractor, manager, member, shareholder, partner, joint venture, or other affiliate (collectively, "Client Affiliates"). While we will be meeting and interacting with Client Affiliates during the course of our representation, we are not acting as legal counsel to any of these persons in their individual capacities in connection



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with the engagement or otherwise. We encourage these individuals to seek separate legal counsel if necessary.

5. Representation Solely By Icenogle Seaver Pogue, P.C.

In some circumstances you may be represented by more than one law firm for a particular matter. With respect to all services performed on your behalf and all legal representation by the Firm, the Firm shall have no duty to supervise or control any other law firms or lawyers.

6. Retention and Disposition of Documents.

The Firm will maintain records related to this engagement in formats and organization that we, in our sole professional judgment, determine are efficient and appropriate for the conduct of this engagement. Following the termination of this engagement we will return to the client any original documents and other property provided to the Firm in connection with this matter upon our receipt of payment of all outstanding fees and costs. The Firm will retain its own file pertaining to this matter. The Firm's file pertaining to the engagement may include, without limitation, firm administrative records, time and expense reports, personnel and staffing materials, credit and accounting records, and internal lawyers' work product such as drafts, notes, internal memoranda, and legal and factual research, including investigative reports, prepared by or for the internal use of lawyers. We reserve the right to destroy or otherwise dispose of documents or other materials retained by us without further notice to you 6-months after the termination of our engagement unless prohibited from doing so by Rules of Professional Conduct.

7. Client Responsibilities.

Our successful representation of you depends, in part, upon your cooperation with us. As such, we expect that you will be candid and cooperative with us, timely respond to our requests for information, provide us with factual information and documents relating to the matters we are handling for you, keep us informed of developments, be available to confer with us, and make decisions as required to assist us in the progress of our representation. Your candor and cooperation are necessary conditions of the attorney-client relationship, the absence of which will entitle the Firm to withdraw as legal counsel.

Because it is important that we be able to contact you at all times in order to consult with you regarding the client's representation, you will promptly inform us of any changes in your contact information including relevant mail and e-mail addresses and phone numbers. Whenever we need your instructions or authorization in order to proceed with legal work on the client's behalf, we will contact you at the latest address and phone number that we have received from you.



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You will be invoiced for the services that personnel in the Firm perform for you. Invoices are rendered on a monthly basis and payment is due upon receipt, unless there is a question about our invoice, in which case we ask that you promptly advise us thereof, so they may be timely addressed. Interest will be charged on any balance that is not paid on a timely basis at the Colorado statutory rate. Additionally, should our fees not be paid on a timely basis, we are entitled to require a retainer, which we will hold in our Colorado Lawyer Trust Account Foundation (COLTAF) Account, or to withdraw from this engagement as discussed in more detail below.

8. Disclaimer of Guarantee.

We use our best efforts in representing clients, but we make no promises or guarantees regarding the outcome of any particular matter. The Firm makes no warranties, guarantees, or representations concerning the successful termination of a favorable outcome of any legal services performed for its clients, legal action that may be filed by or against a client, or of any negotiations or discussions with other parties on a client's behalf.

9. Insurance Coverage.

You may have insurance policies relating to a matter for which you request our assistance. You should notify your insurance carrier as soon as possible if coverage for our fees and costs may be available. We can advise you on the availability of insurance coverage for fees and costs that we incur on your behalf if you expressly request that we do so and forward to us copies of any applicable insurance policies and other relevant documents. You will be primarily responsible for payment of our fees and costs unless we otherwise agree in writing regardless of whether you have insurance coverage.

10. Confidentiality.

Under applicable Rules of Professional Conduct, the Firm is obliged to avoid revealing information acquired as a consequence of the representation of any client. Therefore, if we have such information from another client, we cannot disclose it to you even if that information is relevant to our representation of you.

We preserve the confidences of our clients in accordance with the Rules and Laws of Professional Conduct as adopted and amended in Colorado and, as applicable, the courts of other states in which our lawyers are admitted to practice law. All non-public information that we obtain from you as a consequence of the representation ("Private Information") is protected under these rules. We use Private Information only to provide the legal and related services that you request from us. We do not disclose Private Information to anyone outside of our Firm, except as authorized by you or described below. We maintain physical, electronic, and procedural safeguards that comply with our professional responsibilities. Because we will not disclose Private



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Information in violation of our professional responsibilities, it is unnecessary for us to provide you with an “opt out” opportunity as otherwise authorized by the Gramm-Leach-Bliley Act.

There are certain limits on our duty to keep confidential the information you disclose to us in connection with our representation. These limits may allow or require disclosure of Private Information to, among other things; (1) prevent the commission of certain crimes or frauds or to rectify substantial injury that would otherwise result from certain crimes or frauds; (2) secure legal advice regarding our compliance with the applicable Rules of Professional Conduct; (3) comply with a court order directing disclosure of such information; or (4) comply with a statute or regulation directing disclosure. We do not expect any of these ethical or legal obligations to arise in the course of our representation, but it is important that you understand these limits to the duty of client confidentiality.

11. Audits.

We are at times asked by our clients to provide information to auditors or other financial professionals for the purpose of preparing financial statements. Should you make such an audit request of us, we may bill for our services on the basis of the Firm’s regular hourly rate for the professionals involved. Should you make such an audit request at a time when you are no longer a client of the firm you understand that our responding to the request is an accommodation that we provide for former clients and does not form a new attorney-client relationship.

12. Termination and Withdrawal.

You have the right to discharge us for any reason at any time upon reasonable notice. If you do so, all unpaid fees and costs will be due and payable no later than thirty (30) days after such discharge and you agree that we may use any funds held in Trust on your behalf to pay unpaid invoices.

In the absence of another agreement, our representation of you will automatically end thirty (30) days after we send our last bill for services rendered on the specific matter set forth in the scope of engagement.

We reserve the right to withdraw from representing you for the reasons permitting attorney withdrawal in relevant Rules of Professional Conduct or applicable law. Where required, we will attempt to give you reasonable notice and time to secure other counsel, obtain approval from any court or tribunal that is necessary, and take reasonable steps to minimize any prejudice you may suffer by our withdrawal. In particular, and by way of example, we reserve the right to decline to perform any further services if any account is past due. We will comply with applicable Rules of Professional Conduct in effectuating any such withdrawal. When appropriate, we reserve the right to terminate the representation, for example, and without limitation, if (a) evidence comes to light indicating that positions you wish us to assert lack factual or legal merit; (b) you fail to cooperate



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in the work necessary to the representation; (c) you breach this agreement by failing to pay fees or reimburse costs; or (d) for professional or ethical reasons we cannot or, in our opinion, should not continue to proceed with the representation.

If you affiliate with, acquire, are acquired by, or merge or combine with another company, you will provide us with sufficient notice to permit us to withdraw as your attorneys if we determine that such affiliation, acquisition or merger creates a conflict of interest between any of our clients and the other party to the affiliation, acquisition or merger, or between any of our clients and the resulting entity following the affiliation, acquisition or merger.

If we elect to withdraw, you will take all steps necessary to effectuate our withdrawal and will pay all outstanding fees or costs owed as of the time of withdrawal.

Following the termination of this engagement, we will return to the client any original documents and other property provided to the Firm in connection with this matter upon our receipt of payment of all outstanding fees and costs.

13. Employment Eligibility.

Pursuant to §§ 8-17.5-101, *et seq.*, C.R.S., the definitions in which are hereby incorporated:

A. The Firm hereby certifies to the client that, as of the date of the client's engagement letter, the Firm does not knowingly employ or contract with an illegal alien who will perform work under this engagement and that the Firm will participate in the E-Verify Program administered by the U.S. Department of Homeland Security and the Social Security Administration (the "E-Verify Program") in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this engagement.

B. The Firm shall not:

1. Knowingly employ or contract with an illegal alien to perform work under this engagement; or

2. Enter into a contract with a subcontractor that fails to certify to the Firm that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this engagement.

C. The Firm has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this engagement through participation in the E-Verify Program.



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D. The Firm shall not use the E-Verify Program to undertake pre-employment screening of job applicants while this engagement is being performed.

E. If the Firm obtains actual knowledge that a subcontractor performing work under this engagement knowingly employs or contracts with an illegal alien, the Firm shall:

1. Notify the subcontractor and the client within three (3) days that the Firm has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

2. Terminate the subcontract with the subcontractor if, within three (3) days of receiving the notice required pursuant to subsection I.E.1 hereof, the subcontractor does not stop employing or contracting with the illegal alien; except that the Firm shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

F. The Firm is required to comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to § 8-17.5-102 (5), C.R.S., to ensure that the Firm is complying with this Paragraph.

G. If the Firm violates a provision of this paragraph, the client may terminate the engagement for a breach of the engagement. If the engagement is so terminated, the Firm shall be liable for actual and consequential damages to the client. The client shall notify the Colorado office of the Secretary of State if the Firm violates a provision of this paragraph and the client terminates the engagement.

We look forward to representing you. If you have any questions concerning these Standard Terms of Engagement that arise at any time, or if you ever wish to discuss any matter relating to our legal representation, please do not hesitate to call us.



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2020 BILLING RATES

T. Edward Icenogle	Of Counsel	\$360.00 per hour
Tamara K. Seaver	Shareholder	\$400.00 per hour
Alan D. Pogue	Shareholder	\$420.00 per hour
Deborah A. Early	Shareholder	\$320.00 per hour
Jennifer L. Ivey	Shareholder	\$320.00 per hour
Anna C. Wool	Associate	\$230.00 per hour
Shannon Smith Johnson	Associate	\$230.00 per hour
Alicia J. Corley	Associate	\$230.00 per hour
Karlie R. Ogden	Associate	\$190.00 per hour
Grant N. Simon	Associate	\$190.00 per hour
Jacqueline K. Llinas	Associate	\$190.00 per hour
Stacie L. Pacheco	Paralegal	\$155.00 per hour
Donette B. Hunter	Paralegal	\$155.00 per hour
Leslie H. Larsen	Paralegal	\$155.00 per hour



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2021 BILLING RATES

T. Edward Icenogle	Of Counsel	\$360.00 per hour
Tamara K. Seaver	Shareholder	\$420.00 per hour
Alan D. Pogue	Shareholder	\$420.00 per hour
Deborah A. Early	Shareholder	\$340.00 per hour
Jennifer L. Ivey	Shareholder	\$340.00 per hour
Anna C. Wool	Associate	\$245.00 per hour
Shannon Smith Johnson	Associate	\$245.00 per hour
Alicia J. Corley	Associate	\$240.00 per hour
Karlie R. Ogden	Associate	\$210.00 per hour
Grant N. Simon	Associate	\$200.00 per hour
Jacqueline K. Llinas	Associate	\$200.00 per hour
Stacie L. Pacheco	Paralegal	\$160.00 per hour
Donette B. Hunter	Paralegal	\$160.00 per hour
Megan Liesmaki	Paralegal	\$155.00 per hour



HEATHER GARDENS METROPOLITAN DISTRICT

BOARD ACTION

DATE: DECEMBER 19, 2024

MOTION NUMBER: 2024-12-19-3

MOTION: CONSIDER TO RETAIN RUBINBROWN TO COMPLETE A FINANCIAL AUDIT FOR HGMD AND PROVIDE GUIDANCE IN MOVING THE HGMD ACCOUNTING FUNCTION TO THE HGA'S ACCOUNTING DEPARTMENT

I move that the Heather Gardens Metropolitan District Board of Directors retain the auditing firm of RubinBrown to conduct a financial audit for fiscal years 2023 and 2024 as required by law and other government regulations for Special Districts and provide consulting services as needed to reestablish appropriate and effective financial management for the District.

ECONOMIC COST/SAVING TO THE DISTRICT: TO BE DETERMINED

TYPE OF EXPENDITURE: OPERATIONS

Motion by: _____ Second by: _____

Rationale: Heather Gardens Metropolitan District needs a recognized and reputable auditing firm to ensure we follow all applicable laws and regulations required of Metropolitan Special Districts.

AMENDMENT: _____

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

Eloise Laubach, Acting President
HGMD Board of Directors



1900 16th Street
Suite 1700
Denver, CO 80202

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

CERTIFIED PUBLIC ACCOUNTANTS & BUSINESS CONSULTANTS

December 9, 2024

Board Members
c/o Mr. Lary Herkal, CEO
Heather Gardens Metropolitan District
2888 S Heather Gardens Way
Aurora, Colorado 80014

Dear Members of the Board,

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

Scope of Services

We are pleased to confirm our understanding of the services we are to provide Heather Gardens Metropolitan District for the year ended December 31, 2023. We will audit the financial statements of the business-type activities and the aggregate remaining fund information, including the related notes to the financial statements which collectively comprise the basic financial statements of Heather Gardens Metropolitan District as of and for the year ended December 31, 2023. Accounting standards generally accepted in the United States of America (GAAP) provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement Heather Gardens Metropolitan District's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Heather Gardens Metropolitan District's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

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

- Management's Discussion and Analysis

We have also been engaged to report on supplementary information other than RSI that accompanies Heather Gardens Metropolitan District's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

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

Audit Objective

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditors' report that includes our opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America and to report on the fairness of the supplementary information referred to above when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America (GAAS) will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements.

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

Audit Procedures - General

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

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

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

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

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

Audit Procedures - Internal Control

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

Audit Procedures - Compliance

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

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. You are responsible for making all management decisions and performing all management functions relating to the financial statements and related notes and for accepting full responsibility for such decisions. If you have requested our assistance with the preparation of the financial statements and related notes, you will be required to acknowledge in a written representation letter our assistance with such preparation and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee our assistance with the preparation of your financial statements and related notes (if

applicable) and any other nonattest services we provide; and for evaluating the adequacy and results of those services and accepting responsibility for them.

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

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

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

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

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

information no later than the date the supplementary information is issued with our report thereon.

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

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

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

Engagement Administration, Timing and Fee

Our fee for the Attest Services will be \$36,000 plus out-of-pocket expenses, technology and administrative fees. The fees are based upon anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. **Unexpected circumstances include: account balances not reconciled, trial balances that do not balance, accounting department turnover, and heavy accounting assistance to complete the audit.** If significant additional fees are necessary, we will discuss them with you and agree to a new fee estimate before additional fees are incurred. We will keep you informed of our progress and work closely with you to structure our work to ensure that it is completed in a cost-effective manner.

Engagement Terms

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

Conclusion

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

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

Sincerely,

RubinBrown LLP



Russell White

Partner

Direct Dial Number:303-952-1247

Email: russell.white@rubinbrown.com

Attachment(s):

Exhibit A - RubinBrown LLP Engagement Terms

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

Approved By: _____

Date: _____

Board Member

EXHIBIT A - RUBINBROWN LLP ENGAGEMENT TERMS

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

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

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

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

4. Client's Cooperation, Participation, Representations and Warranties. While RubinBrown may from time to time suggest various options that may be available to Client and further give its professional evaluation of each of these options, Client must make the ultimate decision as to which, if any, of these options to implement. Client shall be solely responsible for applying independent business judgment with respect to RubinBrown's Services (including decisions regarding implementation or other further course(s) of action) and shall be solely and exclusively responsible for such decisions. Client warrants that RubinBrown shall be entitled to rely on all decisions and approvals of Client (and its counsel). Except as specifically provided in the Letter, Client further represents and warrants that RubinBrown shall be entitled to rely on the accuracy and completeness of all information provided by Client and that Client has maintained all books and records provided to

RubinBrown in good order. Client agrees that RubinBrown has no duty to verify the accuracy or completeness of information provided by Client.

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

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

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

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

Except as otherwise specifically provided herein or as required by law, including any applicable open records law, Client shall at no time disclose any of RubinBrown's Services, fees, and other confidential material, including but not limited to internally developed financial models, or RubinBrown's role in the Engagement, to any third party (except to a government agency, to the extent such filing is an agreed objective of the Agreement, or as otherwise legally compelled) without RubinBrown's prior written consent through a release letter or

equivalent in each case. Client's use of RubinBrown's Services hereunder (except for copies of filed tax returns) shall in any event be restricted to the stated purpose, if any, in the Letter and otherwise to Client's internal business use only. Client and RubinBrown each retains the right in any event to use the ideas, concepts, techniques, industry data and know-how used or developed in the course of the Engagement.

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

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

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

9. Subpoenas/Legal Orders for Client's Records and Information. At any time during or after our Engagement, should RubinBrown receive a subpoena or other legal order from a Third Party seeking production of Client's records, documents, or Confidential Information, or testimony relating to RubinBrown's Engagement, RubinBrown will, to the extent permitted by law, notify Client as soon as practicable using the last contact information for Client known to RubinBrown. Upon such notification, should Client wish to take action to protect its records and/or its information from production in compliance with the subpoena, Client agrees to notify RubinBrown of Client's intent to take action to protect its records and/or its information from production within 3 business days after such notice or within 48 hours before the response is due, whichever is shorter and it shall be Client's obligation to take such action in compliance with applicable law, at Client's expense, using counsel of Client's choice. Irrespective of Client's decision regarding what action, if any, it intends to take to protect its records and information, RubinBrown shall have the right to engage its own counsel to assist and advise RubinBrown in coordinating with Client and/or Client's counsel in this regard, and/or in responding to the subpoena. If Client does not provide RubinBrown with notice of its intent to take action to protect its records and/or information, Client is deemed to not be asserting and/or to be waiving any accountant-client privilege and Client

agrees that RubinBrown has the right to produce any and all records RubinBrown deems appropriate in compliance with the subpoena and law. Client shall reimburse RubinBrown, upon receipt of an appropriate invoice, for all of RubinBrown's internal and external costs and expenses in responding to any subpoena for Client's records, and/or providing testimony pursuant to such subpoena, including RubinBrown's reasonable and customary fees for such services, as well as its internal costs (employee time and expenses), external costs (copy services or other vendors), and reasonable attorneys' fees. For the avoidance of doubt, this provision survives any termination or expiration of this Agreement.

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

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

12. External Factors; Standards of Performance. Client acknowledges that the Engagement will involve analysis, judgment and other performance from time to time in a context where the participation of Client or others is necessary, where answers are often uncertain or unverifiable in advance and where facts and available information change with time. Accordingly, evaluation of RubinBrown's performance of its obligations shall be based solely on its substantial conformance with any standards or specifications expressly set forth in the Agreement and all applicable professional standards, any such nonconformance (and applicability) to be clearly and convincingly shown. If there are any changes in the relevant laws, regulations, industry, market conditions or other circumstances, including in the Client's own business practices, RubinBrown has no responsibility to advise Client of any such changes and Client acknowledges the need for it to re-evaluate RubinBrown's preceding Services.

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

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

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

RubinBrown, even if RubinBrown has been advised of the possibility of such claims or damages.

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

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

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

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

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

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

provided Services shall be arbitrated unless the foregoing procedures have first been followed and the mediator fails to settle the claim within thirty (30) days after the mediation process has concluded.

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

23. Covenant Not to Hire or Solicit Employees. Client agrees that during the term of this Agreement, and for a period of one (1) year following the termination or expiration of this Agreement, Client shall not, directly or indirectly, hire, retain or engage, or offer to hire, retain or engage, or solicit for employment or other retention or engagement of services, or otherwise induce to leave RubinBrown, for the benefit of Client, any employee, consultant or contractor who is employed by, engaged by, or contracted with RubinBrown. Upon breach of this section, Client agrees to pay, upon demand, as liquidated damages, and not as a penalty, to RubinBrown, an amount equal to the annualized total gross compensation, as at the time of the breach, of the applicable RubinBrown employee, consultant, or contractor. This provision shall be without prejudice to RubinBrown's right to seek injunctive relief or other legal remedies. Notwithstanding the foregoing, this covenant shall not be applicable to hiring, offering to hire, or otherwise engaging pursuant to a response to a general advertisement by Client.

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

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

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

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

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

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

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

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



HEATHER GARDENS METROPOLITAN DISTRICT

BOARD ACTION

DATE: DECEMBER 19, 2024

MOTION NUMBER: 2024-12-19-4

MOTION: CONSIDER TO PAUSE THE FORENSIC AUDIT AND SET A MEETING TO REVIEW THE CHARGE, SCOPE, AND STATUS OF THE AUDIT

I move that the Heather Gardens Metropolitan District Board of Directors pause the conduct of the current forensic audit until the current Board of Directors has the opportunity to review the foundation, scope, and current status of the work being performed by Eide Bailly Consulting and an opportunity to meet with representatives of the firm to answer questions and concerns regarding the audit.

ECONOMIC COST/SAVING TO THE DISTRICT: TO BE DETERMINED

TYPE OF EXPENDITURE: OPERATIONS

Motion by: _____ Second by: _____

Rationale: Members of the Heather Gardens Metropolitan District Board of Directors need to have an opportunity to scrutinize the reasons for having engaged a forensic auditing firm and to review the work that has been performed, work in progress, and what is expected to be completed.

AMENDMENT: _____

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

Eloise Laubach, Acting President
HGMD Board of Directors



**HEATHER GARDENS METROPOLITAN DISTRICT
BOARD ACTION**

DATE: DECEMBER 19, 2024

MOTION NUMBER: 2024-12-19-5

MOTION: CONSIDER TO PAUSE THE CONTRACT WITH CRS TO REVIEW THE CHARGE, SCOPE, AND STATUS OF THE CONTRACT

I move that the Heather Gardens Metropolitan District Board of Directors pause the conduct of the current work of Community Resource Services of Colorado (CRS) until the current Board of Directors has the opportunity to review the foundation, scope, and current status of the work being and an opportunity to meet with representatives of the firm to answer questions and concerns regarding the services and work being provided.

**ECONOMIC COST/SAVING TO THE DISTRICT: TO BE DETERMINED
TYPE OF EXPENDITURE: OPERATIONS**

Motion by: _____ Second by: _____

Rationale: Current members of the Heather Gardens Metropolitan District Board of Directors need to have an opportunity to scrutinize the reasons for having engaged CRS and to review the work that has been performed, work in progress, and what is expected to be completed.

AMENDMENT: _____

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

Eloise Laubach, Acting President
HGMD Board of Directors



HEATHER GARDENS METROPOLITAN DISTRICT

BOARD ACTION

DATE: DECEMBER 19, 2024

MOTION NUMBER: 2024-12-19-6

MOTION: CONSIDER A RESOLUTION TO TERMINATE HGMD’S LAWSUIT AGAINST THE HGA

I move that the Heather Gardens Metropolitan District Board of Directors meet in Executive Session on January 2, 2025, to consult with HGMD legal counsel to review the current status of the HGMD lawsuit against HGA and discover the appropriate path for terminating the lawsuit in the most cost-effective and expeditious manner possible.

ECONOMIC COST/SAVING TO THE DISTRICT: TO BE DETERMINED

TYPE OF EXPENDITURE: OPERATIONS

Motion by: _____ Second by: _____

Rationale: Residents of Heather Gardens, in the results of the recent recall election, have over the past many months expressed their concern and desire to terminate the HGMD lawsuit against the Heather Gardens Association as soon as possible and restore tranquility and harmony in the community.

AMENDMENT: _____

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

Eloise Laubach, Acting President
HGMD Board of Directors