

**RESOLUTION OF
THE BOARD OF DIRECTORS OF
HEATHER GARDENS METROPOLITAN DISTRICT
2020 REGULAR SPECIAL DISTRICT ELECTION RESOLUTION**

At a regular meeting of the Board of Directors of the Heather Gardens Metropolitan District, Arapahoe County, Colorado, held at 1:00 P.M., on Thursday, January 16, 2020 at the Heather Gardens Clubhouse, 2888 South Heather Gardens Way, Aurora, Colorado, at which a quorum was present, the following resolution (the “Resolution”) was adopted:

WHEREAS, the 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 Arapahoe County, Colorado, dated April 16, 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 Code”) (the Act, Uniform Code, and Local Government 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 Section 32-1-305.5(3)(b), the terms of office of members of the Board of Directors for the District (the “Board”) elected in regular special district elections held in 2020 and 2022 are for three (3) years; and

WHEREAS, the Board of the District 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 three (3) 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. or May 5, 2020; 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 his successor is elected at the election to serve the remaining unexpired portion of the term, which is two years; and

WHEREAS, in accordance with the provisions of the Election Laws, the election must be conducted to elect to the Board of the District three (3) Directors to serve for a term of three years and one (1) Director to serve a term of two years; and

WHEREAS, the number of Directors to be elected to the Board of the District may increase should a Director’s office be deemed vacant in accordance with § 32-1-905, C.R.S.; 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 may be exercised by a “Designated Election Official” designated by the Board; and

WHEREAS, § 1-13.5-504(3), C.R.S. requires designated election officials of local governments with overlapping boundaries that hold elections the same day by polling place to meet, confer, and thereafter, if practical, to hold such elections in a manner that permits an elector in an overlapping area to vote in all of such elections at one polling place; and

WHEREAS, §1-13.5-504(2), C.R.S. requires the governing body of each local government, or designated election official if authorized by the governing body, to divide the local government into as many election precincts for local government election as it deems expedient for the convenience of the electors of the local government and to designate the location and address for each polling place at which elections are to be held; 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 voters who have applied to have a permanent absentee voter status, 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 (63rd) 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 board; and

WHEREAS, §§ 1-11-103(3) & 32-1-104(1), C.R.S. require the District to certify to the Colorado Division of Local Government (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 the election and set forth herein the procedures for conducting the 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 5, 2020), for the purpose of electing three (3) Directors to serve a three-year term and one (1) Director to serve a two-year term on the Board, as such numbers may change due

to one or more vacancies arising on the Board after the approval of this Resolution. Such election shall be conducted as polling place election.

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 directs the Designated Election Official to contract the local governments whose boundaries overlap with the District's boundaries and determine whether any overlapping local governments will hold elections the same day, and if so, to confer with those local governments, and if practicable, to hold the election in a manner that permits an elector in the overlapping area to vote in the election at one polling place.

4. The Board deems it expedient for the convenience of the electors that it shall establish a polling place for all regular and special elections of the District. Unless otherwise determined by the Designated Election Official, there shall be one (1) polling place for the elections, which polling place shall be used for any regular or special elections to be held in 2020 and in each year thereafter until such polling place is changed by duly adopted resolution of the Board or as the Designated Election Official deems it necessary after conferring with overlapping local governments as required in Section 1-13.5-504(3), C.R.S. or as otherwise permitted or required by the Election Laws. Such polling place shall be located at 2888 South Heather Gardens Way, Aurora, Colorado. All voters for the District, including handicapped and nonresident voters, shall obtain and cast their ballots at the designated polling place. A map showing the District's boundaries is on file at the 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 28, 2020).

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 special 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 28, 2020). 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 (63rd) day before the election (March 3, 2020), 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 place, 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 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), 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 4, 2020).

9. The Designated Election Official and the officers, agents and employees 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 and employees 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.

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

ADOPTED AND APPROVED THIS 16TH DAY OF JANUARY 2020.

**HEATHER GARDENS METROPOLITAN
DISTRICT**

Craig Baldwin
CRAIG BALDWIN, President

ATTEST:

William Archambault
William Archambault, Secretary / **TREASURER**