



# Heather Gardens

METROPOLITAN DISTRICT

**HEATHER GARDENS METROPOLITAN DISTRICT  
BOARD ACTION**

DATE: JULY 18, 2024

TION NUMBER: 2024-7-18-3

**MOTION: APPROVE COUNTY USE OF CLUBHOUSE LIBRARY**

I move that the HGMD Board of Directors allow Arapahoe County to use the clubhouse library as a Voter Service and Polling Center. Equipment delivery will occur on October 30th and setup will occur on October 31<sup>st</sup>. Delivery and setup will take about an hour each.

Voting will occur on November 1, 2, and 4 from 8 a.m. – 5 p.m.; and on Tues. Nov. 5, 2024 from 7 a.m. – 7 p.m. The equipment will be picked up on November 6<sup>th</sup>.

**ECONOMIC COST TO THE DISTRICT: NONE**  
**APPROPRIATED BY: NA**

Motion by: Daniel Taylor

Second by:

Robin O'Meara

Rationale: HGMD has historically allowed the county to operate a voting center as a civic duty and a benefit for our residents to encourage and accommodate voting.

Debate: \_\_\_\_\_

Secondary Motion to : \_\_\_\_\_

Secondary Motion by: \_\_\_\_\_ Second by: \_\_\_\_\_

**VOTE:**

	Yes	No		Yes	No
Craig Baldwin					
Rita Effler	✓				
Eloise Laubach	✓				
Robin O'Meara	✓				
Daniel Taylor	✓				
Total	4				

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

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

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

**INTERGOVERNMENTAL AGREEMENT WITH  
HEATHER GARDENS METROPOLITAN DISTRICT FOR VSPC USE**

**THIS AGREEMENT** is made this 15th day of August, 2024, by and among the **BOARD OF COUNTY COMMISSIONERS OF ARAPAHOE COUNTY, COLORADO** (the "County), for the use and benefit of the **ELECTIONS DIVISION OF THE CLERK AND RECORDER'S OFFICE**, and **HEATHER GARDENS METROPOLITAN DISTRICT** (the "Jurisdiction"). Collectively the County and the Jurisdiction are referred to as the "Parties."

**WHEREAS**, pursuant to the Colorado Uniform Election Code of 1992, the County conducts election activities throughout Arapahoe County and governmental entities are encouraged to cooperate for the conduct of elections in order to reduce taxpayer expenses; and

**WHEREAS**, the County is statutorily required to operate a certain number of Voter Service and Polling Centers ("VSPC") and to have such VSPCs open for specified dates and times during every election; and

**WHEREAS**, in designating a VSPC, the county clerk and recorder shall take into account the factors described under COLO. REV. STAT. § 1-5-102.9(1)(c)(I), and the use of a public building as a VSPC location shall be given priority over other uses of the building; and

**WHEREAS**, the County and the Jurisdiction have met and discussed the establishing and operation of VSPCs on property owned or controlled by the Jurisdiction; and

**WHEREAS**, the Jurisdiction desires to cooperate with the County for these purposes and such agreements are authorized by State law; and

**NOW, THEREFORE**, for and in consideration of the promises herein contained, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

**VOTER SERVICE AND POLLING CENTERS**

1. **VSPC SITE.** The Jurisdiction grants to the County the use and occupancy of certain areas in the following locations for use as a VSPC. The County will also be allowed to use all improvements and common areas of each location that are made available on a non-exclusive basis for the general use of the public and tenants, their employees, agents and invitees.

A. Heather Gardens Clubhouse Library, 2888 S. Heather Gardens Way, Aurora CO 80014.

2. **ELECTION TERMS AND ACCESS.** The County will have access to and use of the VSPC site each day for the dates and hours listed below. The Parties agree that the VSPC will be open to the public for the days and hours required by the Colorado Uniform Election Code for each election, that the dates and hours stated below may change if required by Colorado law, and they recognize that the VSPC hours of operation may be different than when the building is otherwise open to the public. The public will be allowed access to the VSPC during the required statutory hours of operation, even if the building is otherwise closed to the public.

The Parties may agree to renew and extend this Agreement for use of the VSPC site for other future elections, which renewal(s) shall be indicated in writing and executed by both parties.

**A. 2024 General Election Term (November 5, 2024 Election Day)**

- County access: October 30, 2024 – November 6, 2024, to be accessible by the County 7 a.m. – 9 p.m. each day. Equipment delivery will occur on October 30th and setup will occur on October 31<sup>st</sup>. Delivery and setup will take about an hour each. These dates may vary based on the phased opening of VSPCs.
- VSPC hours of operation: Voting will occur on November 1, 2, and 4 from 8 a.m. – 5 p.m.; and on Tues. Nov. 5, 2024: 7 a.m. – 7 p.m. These dates may vary based on the phased opening of VSPCs. The equipment will be picked up on November 6<sup>th</sup>.

3. **CONSIDERATION.** It is understood and agreed that the consideration provided in this agreement is non-monetary except for the allocation of costs as described herein.

4. **USE.** The County shall use the site as a voter service and polling center to conduct elections. The County shall not commit any waste or damage upon the VSPC site or cause any nuisance thereon. The County shall keep the VSPC site free and clear from all waste resulting from its use or the use of its employees, officers, agents, invitees and visitors of the VSPC. The County agrees it will not unreasonably interfere with the use of the building for other regular operations or uses.

5. **AUTHORITY TO GRANT USE.** The Jurisdiction warrants and represents it is the lawful owner or lessee of the VSPC site and has the authority to grant the use contemplated by this Agreement.

6. **SERVICES FURNISHED BY JURISDICTION.** The Jurisdiction will furnish the building and the VSPC site and any and all services necessary to serve the VSPC, including the following:

- heating or cooling;
- electricity with sufficient power to operate the County's election equipment;
- internet service with sufficient bandwidth to support the County's election equipment through wired connection to the Jurisdiction's publicly available internet service network, and the Jurisdiction's IT staff will work with the County's IT staff to ensure that any special configurations are made to allow open internet communication to support this service;
- telephone outlets currently exiting in the VSPC site;
- light fixtures present in the VSPC site and replacement of fluorescent tubes and light bulbs as required from time to time;
- access to parking facilities;
- removal of ice, snow and debris in the common areas and the parking facility; and
- any other customarily supplied utilities, maintenance, security, and building operation services.

7. **NO ENTRY BY THE JURISDICTION.** To ensure the security of election equipment and ballots transported and stored at the VSPC Site, the Jurisdiction will limit its employees and representatives' entry to the VSPC Site only to times when the VSPC is open and County

employees are present. The County will be responsible to gather trash within the VSPC Site each day and place it outside of the room for collection by the Jurisdiction. The County shall permit representatives of the Jurisdiction to enter into and upon the VSPC Site when the VSPC is closed if personnel are responding to an emergency situation. The Jurisdiction shall promptly notify the County if any such entry occurs.

8. **VSPC SITE ACCESSIBILITY.** The VSPC site shall be maintained during each Election Term by the Jurisdiction in compliance with its building guidelines and the Americans with Disabilities Act ("ADA") concerning building accessibility for physically challenged citizens.

9. **PARKING.** During each Election Term of this Agreement, the Jurisdiction shall make available to the County the use of available parking spaces serving the VSPC site.

10. **SIGNAGE.** The County may install temporary signage in or on the VSPC site and the building where it is located concerning the conduct of the elections during each Election Term. All such signage will be removed at the termination of each Election Term.

11. **ALTERATIONS.** Because the site will be used as a voter service and polling center, the County may need to install additional electrical and/or telephone/internet wiring, cabling, or other hardware as necessary in order to operate and maintain the County's election equipment. Any such alterations will be discussed with the Jurisdiction in advance and require Jurisdiction approval in writing. The Jurisdiction acknowledges that such installation may result in a permanent alteration in and improvement to the VSPC site. Any costs associated with alteration shall be paid by the County. Any alteration work shall be supervised by the Jurisdiction staff to ensure any alterations do not impact Jurisdiction facilities, operation or equipment.

12. **BUILDING CLOSURE.** In the event the Jurisdiction experiences a building closure for reasons including, but not limited to, acts of God, acts of the public enemy, unusually severe weather, fire, floods, epidemics, quarantines, strikes, labor disputes or other similar occurrence (each a "Force Majeure Event"), the VSPC Site will also be closed, unless expressly agreed otherwise by the Parties. The Jurisdiction shall promptly notify the County of a Force Majeure Event and permit the County to enter the VSPC site to remove ballots and election equipment, to the extent election equipment is on site and entry is safe.

13. **SUBSTITUTION OF SPACE.** In the event the VSPC site is not available for use as contemplated by this Agreement for any reason beyond the reasonable control of the Parties including, without limitation, a Force Majeure Event, the Jurisdiction shall promptly notify the County and provide substitute space for use by the County. In the event such substituted space is not available or not acceptable to the County, the subject VSPC site will not be available for use that Election Term.

14. **SURRENDER OF POSSESSION.** The County agrees to surrender possession of the VSPC site to the Jurisdiction at the termination of each Election Term in as good condition and repair as when the County obtained the site, except for any and all alterations or improvements authorized by the Jurisdiction or any damage occurring without the fault of the County or other persons permitted by the County to occupy or enter the VSPC site.

15. **LOSS OR DAMAGE.** The County agrees to promptly remedy any damage to the VSPC site, at its expense, resulting from the County's use of the property under this Agreement and that was caused by the County and/or its employees, officers, agents or invitees. The County shall not be liable or responsible for any loss or damage to the building or VSPC site when such loss

or damage is caused by a Force Majeure Event or damage occurring without the fault of the County or other persons permitted by the County to occupy or enter the VSPC site.

#### MISCELLANEOUS

16. **NOTICES.** Any and all notices required to be given by this Agreement are deemed to have been received and to be effective: (1) three days after they have been mailed by certified mail, return receipt requested; (2) immediately upon hand delivery; or (3) immediately upon receipt of confirmation that an email or fax was received; to the address of a Party as set forth below or to such Party or addresses as may hereafter be designated in writing:

To County:                   Joan Lopez  
                                  Arapahoe County Clerk and Recorder's Office  
                                  Elections Division  
                                  5334 S. Prince St.  
                                  Littleton, Colorado 80120  
                                  Fax: (303) 794-4625  
                                  Email: [jlopez@arapahoegov.com](mailto:jlopez@arapahoegov.com); [elections@arapahoegov.com](mailto:elections@arapahoegov.com)

To Jurisdiction:           Heather Gardens Metropolitan District  
                                  2888 S. Heather Gardens Way  
                                  Aurora, CO 80014  
                                  Email: [management@heathergardensmail.com](mailto:management@heathergardensmail.com)

17. **TERMINATION.** This Agreement may be terminated by either Party at any time by providing written notice to the other of the termination, provided the Jurisdiction shall not terminate the Agreement within 90 days of the start of any Election Term described herein. This 90-day window shall not apply to terminations resulting from the inability to provide substitute premises for a VSPC under the terms of this Agreement.

18. **AMENDMENTS.** This Agreement may be amended only in writing, and following the same formality as the execution of the initial Agreement.

19. **INTEGRATION.** The Parties acknowledge that this Agreement constitutes the sole and entire Agreement between them relating to the subject matter hereof and that no Party is relying upon any oral representation made by another Party or employee, agent or officer of that Party.

20. **CONFLICT OF LAW.** In the event that any provision in this Agreement conflicts with the Colorado Uniform Election Code or other statute, this Agreement shall be modified to conform to such law.

21. **NO WAIVER OF GOVERNMENTAL IMMUNITY.** The Parties understand and agree that both Parties and their officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities, protections or defenses provided by the Colorado Governmental Immunity Act (the "CGIA"), §§ 24-10-101 to 120, C.R.S., or otherwise available to the County or the Jurisdiction. To the extent the CGIA imposes varying obligations or contains different waivers for cities and counties, both the Jurisdiction and the County agree that they will remain liable for

their independent obligations under the CGIA, and neither party shall be the agent of the other or liable for the obligations of the other.

22. **NO THIRD PARTY BENEFICIARIES.** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the County and the Jurisdiction, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

23. **GOVERNING LAW: JURISDICTION AND VENUE.** Unless otherwise agreed in writing, this Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado. Venue for any and all legal actions arising under this Agreement shall lie in the District Court in and for the County of Arapahoe, State of Colorado.

24. **SEVERABILITY.** Should any provision of this Agreement be determined by a court of competent jurisdiction to be unconstitutional or otherwise null and void, it is the intent of the Parties hereto that the remaining provisions of this Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF,** the Parties have caused this Agreement for VSPC Use to be executed by their duly authorized representatives.

HEATHER GARDENS METROPOLITAN DISTRICT

By: *Daniel Taylor*

Name: Daniel Taylor

Title: President, Board of Directors

Date: July 18, 2024 8/15/24

By: *Robin O'Meara*

Name: Robin O'Meara

Title: Secretary, Board of Directors

Date: July 18, 2024 8/15/24

ARAPAHOE COUNTY, COLORADO

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

Name: Joan Lopez

Title: Clerk and Recorder

Date: \_\_\_\_\_