

**RESOLUTION OF
THE BOARD OF DIRECTORS OF
HEATHER GARDENS METROPOLITAN DISTRICT
2024 SPECIAL DISTRICT RECALL ELECTION RESOLUTION**

At a special meeting of the Board of Directors of the Heather Gardens Metropolitan District, City of Aurora, Arapahoe County, Colorado, held at 6:00 P.M., on Thursday, August 22, 2024, at the Heather Gardens Clubhouse, 2888 S. Heather Gardens Way, Aurora, Colorado, in the auditorium and via video conference at which a quorum was present, the following resolution (the "Resolution") was adopted:

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

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

WHEREAS, pursuant to Section 32-1-305.5(3)(a), C.R.S., the term of office of directors of the District Board of Directors (the "Board") elected in a regular special district election is four (4) years; and

WHEREAS, pursuant to Section 32-1-906 (1), C.R.S., any director elected to the Board for the District, who has actually held office for at least six months, may be recalled from office by the eligible electors of the District; and

WHEREAS, the Board currently includes four (4) directors elected to serve on the Board on May 2, 2023, and who were sworn into office on May 15, 2023, ("2023 Directors"); and

WHEREAS, a recall committee filed petitions for the recall of the 2023 Directors, the sufficiency of which was appealed, which appeal was dismissed on August 1, 2024, by the Arapahoe County District Court; and

WHEREAS, no notice of appeal of the court's dismissal has been filed with the Colorado Court of Appeals; and

WHEREAS, pursuant to Section 32-1-910 (4)(a)(II), the board must fix a date for the recall election within 30 days of the court's order becoming final; and

WHEREAS, the President of the HGMD Board of Directors contacted, the Colorado Secretary of State's Office, the Department of Local Affairs, the Legislative Legal Services

Office, and the Department of Local Governments, none of which could provide guidance as to the date upon which the court's order becomes final; and

WHEREAS, such recall election must be held no less than 75 days nor more than 90 days from the date the election is set pursuant to Section 32-1-910 (4)(a)(III); and

WHEREAS, Section 32-1-910 (4)(b) states that any recall election to be held within 180 days of a regular special district election, must be held as part of the regular special district election; and

WHEREAS, the Colorado Department of Local Governments stated that the purpose of Section 32-1-910 (4)(b) is to prevent the District from paying for two elections within 6 months and pursuant to that statute a recall election must be held no later than November 6, 2024, or such election must be held as part of the regular special district election on May 6, 2025; and

WHEREAS, the HGMD Board of Directors has determined that despite the cost of an additional election, it is in the best interest of the community to expediently resolve the issue of recall, and conduct the recall election on November 6, 2024; and

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

WHEREAS, Sections 1-13.5-501(1) & -(1.5), C.R.S., require that, between seventy-five (75) and one hundred (100) days before a regular election, the DEO shall provide notice of a call for nominations for the election by publication, as defined in Section 1-13.5-501(2), C.R.S., by posting the information on the official website of the District; and posting the notice in at least three public places within the boundaries of the District; and

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

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

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

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

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

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

1. The Board hereby calls an 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 Wednesday, November 6, 2024, to determine whether the 2023 Directors shall be recalled from office.

2. The Election shall be conducted as a mail ballot election in accordance with all relevant provisions of the Code. The DEO shall develop a Plan for conducting the mail ballot Election no later than September 12, 2024, which will be made available to the public. The Board deems it expedient for the convenience of the electors that it shall establish a polling place & drop-off location at the Heather Gardens Clubhouse Lobby, 2888 South Heather Gardens Way, Aurora, Colorado 80014. All voters for the District, including handicapped and nonresident voters, unless otherwise permitted by law, shall return their ballots to the designated polling place & drop-off location by mail or delivery or to the office of the Designated Election Official at 405 Urban St., Suite 310, Lakewood, Colorado 80228.

3. All eligible electors may also obtain a replacement ballot from the polling place & drop-off location until 7:00 P.M. on election day in accordance with Section 1-13.5-1105(4), C.R.S. A map showing the District's boundaries is posted on the HGMD website at www.HGmetroDist.org, and may be obtained from the front desk at the Heather Gardens Clubhouse, 2888 South Heather Gardens Way, Aurora, Colorado 80014, and is available for examination by all interested persons.

4. The Arapahoe County Court appointed AJ Beckman, of Public Alliance LLC as the Designated Election Official (DEO), who is hereby directed and authorized conduct said Election in conformance with and directed to proceed with any action necessary or appropriate to effectuate the provisions of this Resolution and Election laws. Among other matters, the DEO shall publish the call for nominations on or before August 26, 2024; after review, the DEO shall provide notification of the sufficiency or insufficiency of the candidates on or before September 2, 2024; certify the ballot content on or before September 7, 2024; publish its plan for the mail ballot election on or before September 12, 2024; appoint election judges as necessary; arrange for all required notices of election; printing of ballots; the mailing of mail ballots between October 15, 2024, and October 22, 2024; and all other required election functions, and may contract another to perform any or all such services.

5. The Board hereby directs the DEO to provide notice by publication of a call for nominations for the Election in accordance with the requirements of Section 1-13.5-501, C.R.S. on or before August 26, 2024. The notice shall be published in a newspaper of general circulation between seventy-five (75) and one hundred (100) days before the Election. The notice shall also be made by posting the information on the official website of the District, and in a conspicuous place inside the Heather Gardens Clubhouse, 2888 S. Heather Gardens Way, Aurora, Colorado 80014.

6. All candidates must file a self-nomination and acceptance form at the DEO's place of business 405 Urban St., Suite 310, Lakewood, Colorado 80228 or at the Management Office at the Heather Gardens Clubhouse, 2888 S. Heather Gardens Way, Aurora, Colorado 80014, no later than the close of business (4:00 pm) on August 30, 2025.

7. Applications for an absentee voter's ballot or for permanent absentee voter status may be filed with the Designated Election Official, Heather Gardens Clubhouse, 2888 South Heather Gardens Way, Aurora, Colorado 80014, between the hours of 8:00 a.m. and 5:00 p.m., until the close of business on October 29, 2024.

8. In accordance with Sections 1-11-103(3) & 32-1-104(1), C.R.S., the District directs the DEO 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 (December 6, 2024).

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

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

11. 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.

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

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

ADOPTED AND APPROVED this 22nd day August, 2024.

Robin O'Meara, Secretary
HGMD Board of Directors

Daniel Taylor, President
HGMD Board of Directors

**Exhibit A – Resolution for Recall Election
OFFICIAL BALLOT FOR
HEATHER GARDENS METROPOLITAN DISTRICT
RECALL ELECTION
WEDNESDAY, NOVEMBER 6, 2024**

(Facsimile of signature of the designated election official of the district.)

WARNING:

ANY PERSON WHO, BY USE OF FORCE OR OTHER MEANS, UNDULY INFLUENCES AN ELIGIBLE ELECTOR TO VOTE IN ANY PARTICULAR MANNER OR TO REFRAIN FROM VOTING, OR WHO FALSELY MAKES, ALTERS, FORGES, OR COUNTERFEITS ANY MAIL BALLOT BEFORE OR AFTER IT HAS BEEN CAST, OR WHO DESTROYS, DEFACTS, MUTILATES, OR TAMPERS WITH A BALLOT IS SUBJECT, UPON CONVICTION, TO IMPRISONMENT, OR TO A FINE, OR BOTH. **(1-13.5-1105(4)(b), C.R.S.)**.

Refer to the ballot instructions for complete information on voting. Review your ballot. This is a recall election. Vote whether each director listed below of the Heather Gardens Metropolitan Board of Directors should be recalled. To vote, place a cross mark (X) in the box at the right of the ballot question. If you vote yes to recall a director, place a cross mark (X) in the box at the right of the name of the candidate of your choice to replace the director. For a write-in candidate, print the name on blank line.]

Should HGMD Director Craig Baldwin be recalled?

YES

NO

Recall Grounds: Craig Baldwin, as a director of the HGMD Board, has proposed use of funds of the Heather Gardens Foundation for expenses which are the responsibility of HGMD. He has distributed emails disparaging to employees to third-party recipients. Since he took office, the Chief Executive Officer, the Chief Financial Officer, the Security Chief, the Clubhouse Manager, the Maintenance Manager, and the Resident Services Coordinator have resigned. He joined other directors who are subjects of this action in resolving to terminate the management agreement between HGMD and HGA (Heather Gardens Association).

Director's Statement: (300 word statement due before Sept. 8, 2024)

The Director's remaining term is 2 years and 6 months. If the director is recalled, vote for one candidate below to replace him:

Candidate Name

Candidate Name

Should HGMD Director Rita Effler be recalled?

YES

NO

Recall Grounds: Rita Effler, as Treasurer of the Heather Gardens Metropolitan District (HGMD) Board, did not submit for consideration of the Board the paving of the Maintenance Building parking lot, the maintenance of which is the responsibility of the Board, despite several residents testifying in a public meeting that the grounds of the building constitute a safety hazard. She has challenged the accounting practices of the Chief Financial Officer, whose practices have been accepted in 40 years of auditing. Since she took office, the Chief Executive Officer, the Chief Financial Officer, the Security Chief, the Clubhouse Manager, the Maintenance Manager, and the Resident Services Coordinator have resigned. She joined other directors who are subjects of this action in resolving to terminate the management agreement between HGMD and HGA (Heather Gardens Association).

Director's Statement: (300 word statement due before Sept. 8, 2024)

The Director's remaining term is 2 years and 6 months. If the director is recalled, vote for one candidate below to replace her:

Candidate Name

Candidate Name

Should Director Robin O'Meara be recalled? YES NO

Recall Grounds: Robin O'Meara, as Secretary of the Heather Gardens Metropolitan District (HGMD) Board, has stated that some Heather Gardens Association (HGA) employees don't deserve new landscaping equipment because they "can't mow her lawn right." She has initiated and pursued actions to expand the hours (more than doubling them) of the Rendezvous Restaurant. Since she took office, the Chief Executive Officer, the Chief Financial Officer, the Security Chief, the Clubhouse Manager, the Maintenance Manager, and the Resident Services Coordinator have resigned. She joined other directors who are subjects of this action in resolving to terminate the management agreement between HGMD and HGA (Heather Gardens Association).

Director's Statement: (300 word statement due before Sept. 8, 2024)

The Director's remaining term is 6 months. If the director is recalled, vote for one candidate below to replace him:

Candidate Name

Candidate Name

Should Director Daniel Taylor be recalled? YES NO

Recall Grounds: Daniel Taylor, as President of the Heather Gardens Metropolitan District (HGMD) Board, publicly called the Chief Executive Officer and the Chief Financial Officer "insubordinate." He has made accusations of criminal behavior against them. He has made demands of Heather Gardens Association (HGA) and its employees, including removing their equipment from space that is being used, that were not authorized by the HGMD Board. He has demanded that an employee's work hours be expanded beyond the limits of the state labor laws. Since he took office, the Chief Executive Officer, the Chief Financial Officer, the Security Chief, the Clubhouse Manager, the Maintenance Manager, and the Resident Services Coordinator have resigned. He joined other directors who are subjects of this action in resolving to terminate the management agreement between HGMD and HGA (Heather Gardens Association).

Director's Statement: (300 word statement due before Sept. 8, 2024)

The Director's remaining term is 2 years and 6 months. If the director is recalled, vote for one candidate below to replace him:

Candidate Name

Candidate Name