

RESOLUTION NO. R83-8

A RESOLUTION APPROVING THE PETITION FOR THE
ORGANIZATION OF THE PROPOSED HEATHER GARDENS
METROPOLITAN DISTRICT

WHEREAS, pursuant to the "Control Act", being Title 32, Article 1, Part 2, C.R.S. 1973, as amended, a Petition to the District Court requesting the organization of a Metropolitan District, in which the area to be included within the proposed Metropolitan District is located exclusively within the boundaries of any existing municipality, must be approved by resolution by the governing body of that municipality; and

WHEREAS, the proponents of the proposed Heather Gardens Metropolitan District intend to initiate legal proceedings relating to the organization of said district pursuant to Title 32, Article 1, Part 3, C.R.S. 1973, as amended; and

WHEREAS, the boundaries of the proposed Heather Gardens Metropolitan District are entirely within the boundaries of the City of Aurora; and

WHEREAS, the City Council has considered the Petition, and all other documents and testimony presented to the City Council; and

WHEREAS, such petition has the intent that the proposed District will acquire the following assets, being certain real and personal property within the contiguous boundaries of the District, from Environmental Developers, Inc. (EDI) free and clear of all encumbrances:

A. The Land. All of EDI's right, title and interest in all lands comprising the Heather Gardens Complex, specifically excluding therefrom those certain lands originally reserved for two (2) remaining buildings to be built by EDI within the Heather Garden Complex presently known as the "Seville"; those certain lands originally reserved for buildings within the Heather Gardens Complex presently known as the "Renaissance" the Land and Model Building/ Business Office Building located on 23,808 square feet of land (.5485 acres) more or less, in the Northeast corner of Lot 1, Block 1, Heather Gardens Filing No. 1 and lands comprising no less than 11,475 square feet (.2634 acres) in Lot 1, Block 1, Heather Gardens Filing No. 1 reserved for the construction of the proposed twenty-four (24) parking-unit underground parking

garage with twenty (20) on-grade parking units directly above together with easements for the right of ingress and egress from South Heather Gardens Way;

B. The Buildings. All of EDI's right, title and interest in and to all buildings located on The Land, together with identical interests in and to the property and rights incident thereto;

C. Personal Property and Improvements. All of EDI's right, title and interest in all personal property, fixtures, and improvements now on The Land, appurtenant thereto or used or obtained in connection therewith, including, but not limited to, all applicable equipment and furnishings included in The Buildings, the equipment used to maintain the roads and grounds, golf course, security, business office, community center and restaurant, any unsold garages and nonexclusive right to use the Heather Gardens logo and name;

and

WHEREAS, such petition has the intent to include the following provisions:

A. All improvement plans of the District shall be subject to the review and approval of the City of Aurora;

B. The District shall obtain all necessary permits, and pay all prescribed fees, associated with any and all improvements to be made;

C. All improvements constructed by the District shall be designed, constructed, and warranted in accordance with the standards, specifications, and Utility Contracts of the City of Aurora;

D. The proposed District shall be allowed to own, operate, and maintain land within the District, for so long as the existence of the District is necessary to retire the initial capital obligation. Upon debt retirement, the District shall terminate, and any assets of the District and maintenance responsibilities shall be shifted to Heather Gardens, a homeowners association or its successors or assigns or comparable entity as approved by the City of Aurora;

E. The District shall maintain its property according to the standards of the City of Aurora;

F. The City of Aurora shall be the sole provider of public services to the subject property, including water and sanitation services, fire and police protection, street maintenance, zoning and code enforcement, and all other services as the City may provide to the residents of the City of Aurora;

G. Adequate notice and disclosure shall be provided to the initial and subsequent purchasers and users of the properties within the proposed District regarding the existence, operations, and costs of the District;

H. The City of Aurora shall not incur any expense in the formation or operation of the proposed District or its retirement of capital obligations;

I. The District shall be structured to ensure that the City Council of the City of Aurora has the option to exercise control over the operations of the District when organized, as permitted by law;

J. After all indebtedness of the District has been paid, or provision for payment duly made, the District shall be dissolved pursuant to 32-1-701, et seq., C.R.S. 1973, as amended, and the Board of Directors shall agree to pursue such dissolution at no expense to the City;

K. The District, when organized, shall not exceed its boundaries or have its powers altered in any way without the prior approval of the City Council of the City of Aurora;

L. The District, when organized, will agree to pay annually to the City and any presently existing or future school districts that have or will have legal authority to assess the properties contained within the District in lieu of taxes the money that would have been paid in taxes on the real and personal property to be acquired by the District when such assessments are computed and presented to the District in a certified form by the taxing body.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

That the City Council of the City of Aurora does hereby determine the petition for the organization of the Heather

Gardens Metropolitan District shall be approved.

BE IT FURTHER RESOLVED:

That a certified copy of this Resolution be filed in the records of the City of Aurora, and recorded in the office of the County Clerk and Recorder of Arapahoe County, Colorado and given to the petitioners of the proposed District for the purpose of filing in the District Court in and for Arapahoe County.

RESOLVED AND PASSED this 17th day of January, A.D., 1983.

Dennis Champine
DENNIS CHAMPINE, Mayor

ATTEST:

Gail C. Johnston
GAIL C. JOHNSTON, Deputy City Clerk

APPROVED AS TO FORM: *[Signature]*

APPROVED FOR COUNCIL ACTION: *[Signature]*

STATE OF COLORADO)
COUNTIES OF ARAPAHOE & ADAMS) SS
CITY OF AURORA)
: = <u>1-25-83</u>	
Certified to be a true and correct copy of the original as filed.	
<u><i>G.C. Johnston</i></u>	
Deputy City Clerk	