

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

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

Daniel J. Taylor, President
HGMD Board of Directors

Robin O'Meara, Secretary
HGMD Board of Directors



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HEATHER GARDENS METROPOLITAN DISTRICT CONTRACT

1. **PARTIES.** The Heather Gardens Metropolitan District (hereinafter, “District”) hereby contracts with Heather Gardens Association (hereinafter “Association”) to provide the Association with recreational use of the District properties for its members at no cost, subject to the District’s user fees, rental agreements, product sales, and governing documents, (hereinafter “Recreational Use”). The Association hereby agrees to compensate the District for such use, pursuant to paragraph 4, Compensation, herein.
2. **TERM.** This agreement, effective upon the acceptance and signature by the Association and the District shall commence on January 1, 2025, and shall be in effect through December 31, 2025.
3. **COMPENSATION.** The Association shall pay the recreational fee (hereinafter “Rec Fee”), the amount historically also called the subsidy, defined as the District’s shortfall of revenue over expenses determined by the adopted 2025 budget, except in no circumstance shall the 2025 Rec Fee exceed \$1,921,019 which is the amount of the 2024 Rec Fee as adopted and agreed to by both the District and Association boards of directors.
4. **INDEMNIFICATION.** Subject to the provisions of Section 13-50.5-102(8), C.R.S., to the extent applicable to this contract, the Association shall indemnify, defend and hold harmless the District and each of its directors, employees, agents and consultants (collectively the “Indemnitees”), from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys’ fees), and liabilities of, by or with respect to, third parties (“Any Claims”) to the extent they arise from or may be alleged to arise, directly or indirectly, in whole or in part, from the intentional or negligent acts or omissions of the Association or any of its agents, representatives or employees, or the agents, representatives, or employees of any agent, representative, or employee, in connection with this contract and/or the recreational use provided hereunder, including, without limitation, any claims which cause or allows to continue a condition or event which deprives the Indemnitees, as applicable, of its sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., C.R.S., as amended from time to time. Provided, however, that such Association shall not be liable for any claim, loss, damage, injury, or liability arising out of the negligence, willful acts, or intentional torts of the Indemnitees. The obligations of this paragraph shall survive termination or expiration of this contract.
5. **Resignation or Recall of Directors.** The obligations of this contract shall survive the resignation or recall of any or all directors of the Association or the District’s board of directors.

6. MISCELLANEOUS PROVISIONS.

- a. **Subject to Annual Budget and Appropriation.** The performance of those obligations of the District hereunder requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations. As applicable, the provisions of Section 24-91-103.6, C.R.S. are hereby incorporated by this reference into this contract as though fully set forth herein and shall hereinafter bind the District and the Association accordingly.
- b. **Governmental Immunity.** Nothing in this contract, or in any actions taken by the District pursuant to this contract, shall be deemed a waiver of the District's sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., C.R.S.
- c. **Integration/Modification/Assignment/Termination.** This contract contains the entire agreement between the parties, and no statement, promise or inducement made by either party or the agent of either party that is not contained in this contract shall be valid or binding. This contract may not be modified, amended, or changed.
- d. **Severability/Non-Waiver/Governing Law and Venue.** If any term or provision of this contract is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this contract; provided, however, that if any fundamental term or provision of this contract is invalid, illegal, or unenforceable, the remainder of this contract shall be unenforceable. No waiver of any of the provisions of this contract shall be deemed to constitute a waiver of any other provision of this contract, nor shall such waiver constitute a continuing waiver or waiver of any subsequent default unless otherwise expressly provided herein. This contract shall be governed by and construed in accordance with the laws of the State of Colorado, and venue for any dispute hereunder shall lie in the state courts of the State of Colorado.
- e. **Execution.** This contract may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument. The parties consent to the use of electronic signatures pursuant to the Uniform Electronic Transactions Act, Sections 24-71.3-101, et seq., C.R.S., as amended from time to time.

By signature of its representatives below, each party affirms it has taken all necessary action to authorize said representative to execute this contract, including formal approval by each party's board of directors. Such adopted motions shall be attached and incorporated into this contract by reference.

DISTRICT:

ASSOCIATION:

Signature

By: Daniel Taylor

Title: HGMD President

Date: _____

Signature

By: Larry Davila

Title: HGA President

Date: _____

Signature

By: Robin O'Meara

Title: HGMD Secretary

Date: _____

Signature

By: Sue McBeth

Title: HGA Secretary

Date: _____

Attachments: Motion 2024-8-1-1 2025 Rec Fee Contract; HGA Motion to Accept 2025 Rec Fee Contract