



Heather Gardens

METROPOLITAN DISTRICT

**HEATHER GARDENS METROPOLITAN DISTRICT
BOARD ACTION**

DATE: MARCH 21, 2024

MOTION NUMBER: 2024-3-21-4

APPROVE SOUND SYSTEM TECHNICAL REVIEW

MOTION: Based on the recommendation of the Auditorium Sound System Special Committee and the Clubs and Activities Committee, I move that the Heather Gardens Metropolitan District Board of Directors approve the Technical Review proposal from High Country Low Voltage Company in the amount of \$520.00 to review and troubleshoot the auditorium sound system. This is a budgeted item.

ECONOMIC COST TO THE DISTRICT: \$520.00

APPROPRIATED BY: BUDGETED CAPITAL EXPENDITURE

Motion by: Craig Baldwin

Second by:

Eloise Laubach

RATIONALE: A critical element of the sound system is getting an accurate picture of its condition at this time. High Country will take the following 3 steps in approximately 5 hours.

- 1) Evaluate,
- 2) Troubleshoot, and
- 3) Provide a quote to upgrade.

Debate: _____

Secondary Motion to : _____
Secondary Motion by: _____ Second by: _____

VOTE:

	Yes	No
Craig Baldwin	✓	
Rita Effler	✓	
Eloise Laubach	✓	
Robin O'Meara	✓	
Daniel Taylor	✓	
Total	5	

Yes	No

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 Taylor
Daniel J. Taylor, President
HGMD Board of Directors

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

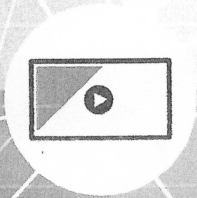
Proposal To:

Heather Gardens Clubs

For:

Heather Gardens - Technical Review (NTE 4hrs)

March 12, 2024



High Country Low Voltage LLC

EVENT SPACE

SCOPE

High Country Low Voltage will review and troubleshoot existing aspects to the current system to better verify end-of-life equipment and develop a findings report to provide status of equipment.

Troubleshooting items:

Speakers -

- Tone existing speakers to verify signal paths.
- Push audio individually to verify speaker health

Inputs/Outputs: Audio

- Verify that mic line and line level cables are in good condition up to patch panel. Re-label panel to match field locations.
- Verify wireless microphone systems are in good condition.
- Test for ground fault loops
- Verify audio zones

Video:

- Video will not be tested as all items will need to be replaced

Once we are able to verify the conditions of the above items, we will be able to provide an accurate quote for additional upgrades. If additional time is needed to review the system, the engineer will request more time and give a report of the additional time that may be needed as well as current findings. Not to Exceed \$520.00 (4 Hours)

AV

IMAGE	QTY	DESCRIPTION
	1	Labor Only HCLV

EVENT SPACE TOTAL

\$520.00

ACCEPTANCE

FINANCIAL

PAYMENT SCHEDULE

Hardware/Software: Net 30 from date of shipment.
Services: Net 30 from date of completion.

EQUIPMENT TOTAL	\$0.00
SHIPPING TOTAL	\$0.00
LABOR TOTAL	\$520.00
TOTAL TAX	\$0.00
PROJECT TOTAL	\$520.00

TERMS

I accept this proposal and hereby authorize High Country Low Voltage LLC to proceed with the installation of the included systems at the facilities of Heather Gardens Clubs constructing at 2888 S. Heather Gardens Way Aurora, CO 80014 as described in the totality of this document. I further authorize High Country Low Voltage LLC to be granted the facility access that will be required to complete this project in a workmanlike and timely manner and for payment to be made to High Country Low Voltage LLC. In keeping with the Terms of Payment listed below.

- 1) General. This proposal is subject to change without notice and is automatically withdrawn on the 30th day following the date of issue if not accepted in writing and a copy of this proposal returned to High Country Low Voltage ("Contractor"). If Customer cancels prior to the start of work, Customer is liable for 15% of the total Agreement price as liquidated damages, because Contractor is unable to accurately measure its damages for the cancellation of the Agreement. By executing this Agreement Customer and Contractor agree that the liquidated damages amount is not a penalty. Contractor reserves the right to withdraw this proposal at any time prior to its acceptance or to cancel this Agreement prior to commencing work if the cost to complete the work varies from the initial standard pricing due to a typographical or mathematical error. As used in this Agreement, (a) the word "or" is not exclusive, (b) the word "including" is always without limitation, (c) "days" means calendar days and (d) singular words include plural and vice versa.
- 2) Access. Customer shall provide Contractor with adequate access to the work site, and the work area adjacent to the structure. Customer shall provide Contractor with access to deliver and/or remove materials and debris. Customer shall provide Contractor with all information necessary to prepare the Notice of Commencement if needed. Customer and/or owner shall hold harmless and indemnify Contractor from all damages, liabilities, attorney's fees and other expenses incurred as a result of Customer and/or Customer's failure to fulfill its obligations under this paragraph.
- 3) Payment Terms. By signing this Agreement, Customer gives Contractor the right to obtain a credit check on the signatory. Contractor reserves the right to require a deposit in excess of 10%. A 3.5% processing fee for credit cards will be assessed. Payments received shall be applied first to interest on all outstanding invoices and then to the principal amount of the oldest outstanding invoices. The total Agreement amount, including the charges for changes/extras outside the scope of work identified herein, shall be payable to Contractor (check selected method of payment):

_____ Deposit of \$0.00 to be made prior to commencement of work with the remainder due within thirty (30) days of completion.

_____ No deposit and an additional 10% of total Agreement Amount to be added and due within thirty (30) days of completion.

Customer agrees to pay interest at the rate of 3% per month on the balance of any and all amounts unpaid within thirty (30) days of completion. No portion of the agreed upon payment may be withheld, back charged or used as a setoff of the agreed upon payment amount without the written consent of Contractor. Customer acknowledges and agrees that it has an independent obligation to pay Contractor. If Customer does not make payment, Contractor shall be entitled to recover from Customer all costs of collection incurred by Contractor, including attorney's fees, costs, and expenses incurred whether or not litigation is initiated. Collection matters may be processed through litigation or arbitration at Contractor's sole discretion. If there is an increase in the price of labor, materials, or fuel surcharge charged to Contractor in excess of five (5%) percent, subsequent to making this Agreement, then the price set forth in this Agreement shall be increased without the need for a written change order or amendment to the Agreement to reflect the price increase and additional direct cost to Contractor. Contractor shall submit written documentation of the increased charges to Customer. As an additional remedy, if the actual cost of any line item increases more than ten (10%) percent subsequent to entering into this Agreement, Contractor, at its sole discretion, may terminate the Agreement for convenience. If Customer fails to pay Contractor in accordance with this Agreement, then Contractor may, at its sole discretion, suspend performance of all work, suspend shipments and/or warranties until full payment is made, and/or terminate this Agreement. If a suspension occurs that is not caused solely by Contractor, the Agreement sum shall be increased by the amount of Contractor's reasonable costs of shut-down delay and start-up. The parties acknowledge and agree that the substitution of materials and price adjustments may be required based on changes in material availability and the cost to obtain and deliver materials to the project between the date of this Agreement and the delivery date. In such event, Contractor and Customer shall work together in good faith to identify substitute materials that are similar in price and quality and that do not cause an increase to the Agreement amount. If Customer selects substitute materials that increase the Agreement amount, then the Agreement will be adjusted to reflect the additional costs incurred by Contractor to purchase and deliver the materials. 4) Site Conditions. Should Contractor discover concealed or unknown conditions in the existing structure that vary from those conditions ordinarily encountered and generally recognized as inherent in the work of the character identified in this Agreement, then the Agreement amount shall be

equitably adjusted upon notice thereof from Contractor to Customer.

5) Restrictions and Requirements. Contractor shall carry worker's compensation, automobile liability, commercial general liability and any other insurance required by law. In the event that state, county, or municipal codes or regulations require work not expressly set forth in this Agreement or that differs materially from that generally recognized as inherent in work of the character provided for in this Agreement, all extra costs for Contractor's labor and materials shall be the sole obligation of Customer. Prior to executing this Agreement, Customer shall notify Contractor in writing of all property and deed restrictions and/or covenants that relate to or restrict the

TERMS AND CONDITIONS

1 CUSTOMER INITIALS _____

improvements contained in this Agreement. Contractor shall not be responsible for work performed that does not comply with or conform to the property restrictions or covenants. Customer shall pay Contractor for all work performed in violation of any covenant or restriction if Customer failed to notify Contractor in writing prior to executing this Agreement. 6) Customer Protection of Property. Customer shall be solely responsible for any damage to curbs, walkways, driveways, structures, septic tanks, HVAC, utility lines, pipes, gutters, landscaping, appurtenances, or other real or personal property at the project location during construction. Contractor shall not be responsible for any damage caused by dust or debris caused by Contractor's work. Customer shall be responsible for damage to lighting fixtures, mirrors, pictures, frames, and other such items not customarily permanently affixed, as these items can fall if not firmly attached to the wall or ceiling. Customer shall secure and protect all personal items in advance of construction and shall protect or remove all wall hangings until the work is complete. Contractor shall not be responsible for lost, stolen, or damaged personal items and wall hangings. Unless otherwise specified, there is no specific completion date for Contractor's work. Contractor will perform the work within a reasonable time and in a workmanlike manner. The cost for testing and abatement of asbestos and lead is the sole responsibility of Customer. As part of the construction process, odors and emissions from construction products may be released and noise may be generated. Customer shall be responsible for indoor air quality during the work and shall hold Contractor harmless, indemnify and defend Contractor from any and all claims, actions, proceedings, and complaints arising out of or relating to fumes, odors, and/or the indoor air quality during Contractor's performance of the work.

7) Choice of Law. Venue and Attorney's Fees. This Agreement shall be governed by the laws of the State of Colorado. Venue of any proceeding arising out of this Agreement shall be Jefferson County, Colorado. The non-prevailing party in any legal or equitable action arising out of or relating to this Agreement including arbitration, administrative, appellate and/or bankruptcy proceedings shall reimburse the prevailing party on demand for all attorney's fees, costs, and expenses incurred by the prevailing party in connection with the action.

8) Arbitration. If a dispute shall arise between Contractor and Customer with respect to any matters or questions arising out of or relating to this Agreement or the breach thereof, such dispute, other than collection matters, shall be decided by arbitration administered by and in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. This Agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any Court having jurisdiction thereof.

9) Jury Trial Waiver. In the event there is litigation over the enforcement of a collection matter or construction lien, the parties KNOWINGLY, VOLUNTARILY, IRREVOCABLY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION ARISING OUT OF OR PERTAINING TO THE AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON OR PARTY RELATED TO THIS AGREEMENT; THIS IRREVOCABLE WAIVER OF THE RIGHT TO A JURY TRIAL BEING A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT

10) Damage Limitation. In no event, whether based on contract, warranty (express or implied), tort, federal or state statute or otherwise arising from or relating to the work and services performed under the Agreement, shall Contractor be liable for special, consequential, punitive, or indirect damages, including loss of use or loss of profits. Contractor and Customer agree to allocate certain risks so that, to the fullest extent permitted by law, Contractor's total aggregate liability to Customer is limited to the dollar amount of the Agreement for any and all injuries, damages, claims, expenses or claim expenses including attorneys' fees arising out of or relating to this Agreement regardless of whether it is based in warranty, tort, contract, strict liability, negligence, errors, omissions, or from any other cause or causes.

11) Warranties. All warranties/guarantees provided by Contractor, if any, shall be deemed null and void if Customer fails to strictly adhere to the payment terms contained in the Agreement. All warranties and guarantees, if any, provided under the Agreement are solely for the original Customer and are non-transferable, unless otherwise agreed to by Customer and Contractor in writing. Any express warranty provided, if any, by Contractor is the sole and exclusive remedy for alleged construction defects, in lieu of all other remedies, implied or statutory. Warranties to be issued upon completion and full payment of this Agreement. If there is a breach in the applicable Manufacturer's warranty according to the stated terms and conditions of the warranty supplied, at that moment, this would simultaneously void Contractor's warranty and all of Contractor's responsibility and liability to correct, supplement, rectify, fix, etc. any and all issue(s) as a result of the breach in the Manufacturer's warranty. 12) Claims. It is Customer's duty to notify Contractor in writing within three (3) days of the occurrence of any claim, defect or deficiency arising out of work, services or materials provided by Contractor under this Agreement ("Occurrence"). Failure of Customer to provide written notice of the Occurrence shall result in Customer waiving all claims that may be brought against Contractor arising out of or relating to the Occurrence, including claims arising in law, equity, contract, warranty (express or implied), tort or federal or state statutory claims.

2 CUSTOMER INITIALS _____

13) Force Majeure Events. Any failure or delay by a party in the performance of its obligations under this Subcontract is not a default or breach of the Subcontract or a ground for termination under this Subcontract to the extent the failure or delay is due to elements of nature Acts of God, acts of war, terrorism,

riots, revolutions, epidemics, pandemics, medical emergencies that have resulted in a local, state, or federal state of emergency, Coronavirus (COVID-19) or similar viruses or illnesses or bacteria requiring quarantine, work stoppage or slowdown in the progress of the work as a result of the ongoing COVID-19 pandemic whether such stoppage or slowdown in the progress of the work is at the direction of a private actor, government entity, or caused by an outbreak related to COVID-19, or any locally, state, or federally declared epidemic or pandemic; strikes, or other factors beyond the reasonable control of a party (each, a "Force Majeure Event"). The party failing or delaying due to a Force Majeure Event agrees to give notice to the other party which describes the Force Majeure Event and includes a good faith estimate as to the impact of the Force Majeure Event upon its responsibilities under this Subcontract, including, but not limited to, any scheduling changes. However, should any failure to perform or delay in performance due to a Force Majeure Event last longer than thirty (30) days, or should three (3) Force Majeure Events apply to the performance of a party during any calendar year, the party not subject to the Force Majeure Event may terminate this Subcontract by notice to the party subject to the Force Majeure Event.

14) Customer Delay. The Parties agree that Contractor should be permitted to execute its work without interruption. If Contractor's work is delayed at any time by any act or neglect of Customer and/or Customer's representatives, employees, agents, guests, or invitees, or any other Contractor employed by Customer, or by any changes ordered in the work, then Contractor shall be reimbursed or paid for all additional costs or damages incurred as a result. This shall include damages related to lost use of equipment caused by the delay.

15) Disclaimer. Contractor disclaims all liability for all claims, disputes, rights, losses, damages, causes of action or controversies ("Claims") pertaining to mildew, algae, fungus, mold, and/or other indoor air allergens ("Mold") including Claims arising out or relating to the detection, removal, disposal, or remediation of Mold, whether those Claims arise in law, equity, contract, warranty, tort, or federal or state statutory claims, and whether those Claims are based on the acts or omissions of Contractor or individuals or entities under Contractor's control. Customer is solely liable and responsible for all damages, whether actual or consequential, caused by Mold and incurred by Customer, Contractor or third parties, and agrees to indemnify and hold harmless Contractor from any and all Claims arising out of or relating to Mold.

16) Pre-Existing Conditions. Customer acknowledges that Contractor may be repairing work that was previously damaged by mold, water, fire, or other conditions ("Pre-Existing Conditions") unrelated to the work performed by

Contractor. Accordingly, Contractor disclaims all liability for all claims, disputes, rights, losses, damages, causes of action, or controversies ("Claims") pertaining to Pre-Existing Conditions, whether those Claims arise in law, equity, contract, warranty, tort, or federal or state statutory claims. Customer is solely liable and responsible for all damages, whether actual or consequential, arising out of or relating to Pre-Existing Conditions.

17) Working Hours. The proposal is based upon the performance of all work during Contractor's regular working hours, excluding weekends and National holidays. Extra charges will be made for overtime and all work performed other than during Contractor's regular working hours if required by Customer.

18) Materials. Contractor is not responsible for defective products if Contractor did not know such products were defective prior to the installation of same. As such, Contractor is not responsible for any costs, damages, claims, etc., associated with any remediation of supposed harm caused by a defective product. A defective product shall not be grounds to withhold payment or reject the work performed by Contractor. 19) Material Shortage. Due to material shortages, Customer may experience delays related to the inability to timely obtain materials for this project. In the event of such a delay, Contractor shall notify Customer, and Customer agrees to provide Contractor with an extension of time for any delay attributable to the inability to obtain materials.

20) Changes. Unless otherwise specified in this Agreement, no Contract Sum, Completion Date, nor Scope of Work adjustment will be binding unless expressly stated in a Change Order executed in writing and signed by both Parties. 21) Construction and Interpretation. Each provision of the Agreement shall be construed as if both parties mutually drafted this Agreement. If a provision of this Agreement (or the application of it) is held by a court or arbitrator to be invalid or unenforceable, that provision will be deemed separable from the remaining provisions of the Agreement, will be reformed/enforced to the extent that it is valid and enforceable, and will not affect the validity or interpretation of the other provisions or the application of that provision to a person or circumstance to which it is valid and enforceable. Headings are for convenience only and do not affect interpretation. This Agreement records the entire agreement of the parties and supersedes any previous or contemporaneous agreement, understanding, or representation, oral or written, by the parties. All documents/exhibits referred to in this Agreement are an integral part of the Agreement and are incorporated by reference. Customer represents that it has read and fully understood the Contract Documents, or has had an opportunity to consult with counsel, prior to executing this Agreement.

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