ORDINANCE NO. 3705
( Neighborhood Improvement District - Pecos Robindale )

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, CONCERNING THE PECOS ROBINDALE NEIGHBORHOOD IMPROVEMENT DISTRICT, PROVIDING FOR PAYMENT OF THE PROJECT MAINTENANCE AND ADMINISTRATIVE EXPENSES ESTIMATED TO BE INCURRED IN FISCAL YEAR 2021, AND ASSESSING SUCH MAINTENANCE AND RELATED ADMINISTRATIVE EXPENSES AGAINST THOSE PROPERTIES IN THE DISTRICT.

WHEREAS, pursuant to the requisite proceedings set forth in Chapter 271 of the Nevada Revised Statues (Local Improvements), the City Council of the City of Henderson ("City Council") created the Pecos Robindale Neighborhood Improvement District ("District") and approved a project to improve and maintain the perimeter landscaping around the District ("Project"); and

WHEREAS, the City Council determined that the cost and expense of the Project shall be defrayed by special assessments levied against the benefited lots, tracts and parcels of property within the District and, accordingly, levied assessments for the Project improvements by Ordinance No. 3535 on October 16, 2018, and for Project maintenance by Ordinance No. 3616 on August 20, 2019; and

WHEREAS, the Project will require continuing maintenance of the landscaping in the District, including regular irrigation and maintenance services, as well as continued administrative services for the District; and

WHEREAS, pursuant to NRS 271.377, the Director of the City’s Department of Public Works ("City Engineer") prepared an estimate of the expenditures required in Fiscal Year 2021 for maintenance and administration of the District, and a proposed assessment roll, which set forth the amounts proposed to be assessed against each tract in the District for such maintenance and associated administrative expenses, and which was filed with the City Clerk on April 23, 2020 ("FY 2021 Assessment Roll"); and

WHEREAS, pursuant to NRS 271.377 and NRS 271.380, the City Council held a properly noticed public hearing on June 2, 2020, to hear all complaints, protests, and objections regarding the FY 2021 Assessment Roll and the proposed assessments, which totaled $21,040.50; and

WHEREAS, at the public hearing, the City Council voted to confirm the assessments specified in the FY 2021 Assessment Roll; and

WHEREAS, by resolution, the City Council confirmed the FY 2021 Assessment Roll pursuant to NRS 271.377, 271.385 and 271.390; and
WHEREAS, the City Council has determined and does hereby declare that the total maintenance and administrative costs and expenses estimated to be incurred in and to be assessed for, Fiscal Year 2021 upon the benefited lots, tracts and parcels of land in the District, including all necessary incidentals that either have been or will be incurred in connection with such maintenance in Fiscal Year 2021, is $21,040.50; and

WHEREAS, the City Council has determined and does hereby declare that the assessments do not exceed the benefits to the property assessed nor that portion of the total cost and expense of the maintenance and administrative expenses payable from assessments; and

WHEREAS, the City Council has determined, and does hereby declare, that the City shall pay the costs and expenses of the Project maintenance and administration as set forth herein with funds derived from the levy of assessments; and

WHEREAS, it is incumbent upon the City Council to establish the dates when said assessments shall become due and penalties shall become payable after any delinquency.

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. This ordinance shall be known as, and may be cited by, the short title Pecos Robindale Neighborhood Improvement District FY 2021 Maintenance Assessment Ordinance (the “FY 2021 Maintenance Assessment Ordinance”).

SECTION 2. All actions, proceedings, matters and things heretofore taken, had and done by the City and its officers not inconsistent with the provisions of this FY 2021 Maintenance Assessment Ordinance concerning the preparation of the FY 2021 Assessment Roll, and the validation and confirmation of the FY 2021 Assessment Roll and the assessments therein, are hereby ratified, approved and confirmed.

SECTION 3. For the purpose of paying the costs and expenses of the Project, the amounts and assessments shown on the FY 2021 Assessment Roll are hereby levied and assessed against the lots, tracts and parcels of land in the District, being all those specially benefited by the Project maintenance and related administration and described in the FY 2021 Assessment Roll.

Editor’s Note: Pursuant to City Charter Section 2.090(3), language to be omitted is red and enclosed in [brackets], and language proposed to be added is in blue italics and underlined.
SECTION 4. The assessments shall be due and payable at the City of Henderson Cashier, 240 South Water Street, Henderson, Nevada, within 30 days after this FY 2021 Maintenance Assessment Ordinance becomes effective, without interest and without demand, provided that all or any part of such assessments may, at the election of the owner, be paid in an installment, as hereinafter provided. Failure to pay the whole assessment within said period of 30 days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in installment the amount of the assessment then unpaid. In case of such election to pay in installment, the unpaid Project maintenance and administration cost assessment shall be payable in one (1) annual installment of principal until paid in full, without interest, payable on December 1, 2020. Failure to pay the installment when due may cause the whole amount of the unpaid principal to become due and payable immediately, at the option of the City, the exercise of said option to be indicated by the commencement of foreclosure proceedings by the City, and the whole amount of the unpaid principal shall, after such delinquency, whether the City's option is or is not exercised, bear penalty interest at the rate of two (2) percent (or at any higher rate authorized by statute or any lower rate, which may be zero percent, for such period as determined by the City's Chief Financial Officer) per month (not prorated for any portion of the month) until paid or collected upon a sale or transfer of the subject lot or parcel. At any time prior to the date of the sale the owner may pay the amount of all delinquent installments originally becoming due on or before the date of said payment and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any property assessed and not in default as to any installment or payment may at any time pay the whole or any portion of the unpaid principal.

SECTION 5. The amounts assessed shall be a lien upon the owner's lots, tracts and parcels of land from the effective date of this FY 2021 Maintenance Assessment Ordinance until paid, pursuant to NRS 271.420. The lien shall be co-equal with the latest lien thereon to secure the payment of general taxes and prior and superior to all other liens, claims, encumbrances and titles (other than the liens of assessments and general taxes). The sale of any such lot, tract or parcel of land, for general or other taxes, shall not relieve such lot, tract or parcel of land from such assessment or the lien therefor. Such amounts shall continue to be a lien upon the lots, tracts and parcels of land assessed until paid in full (including all principal, penalties and collection costs and interest thereon).

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SECTION 6. Should any lot, tract or parcel of land within the District be divided after the effective date of this FY 2021 Maintenance Assessment Ordinance and before the collection of all the assessment installments, or if any property in the District makes a request to do so, the City may apportion, combine or reapportion the uncollected amounts upon the several parts of land so divided or combined in accordance with the provisions of NRS 271.425. The report of such an apportionment, combination or reapportionment, when approved, shall be conclusive on all the parties, and all assessments thereafter made upon the tracts shall thereafter be according to the subdivision. The report, when approved, shall be recorded in the office of the County Recorder of Clark County, Nevada, together with a statement that the current status of any of the assessments may be obtained from the City's Chief Financial Officer. Neither the failure to record the report, nor any defect in the report as recorded, shall affect the validity of the assessments, the lien for payment thereof, or any priority of that lien.

SECTION 7. In case any lot, tract or parcel of land so assessed is delinquent in the payment of the assessment or any installment of principal or interest, the City Council shall forthwith cause the owner of such delinquent property, if known, to be immediately notified in writing of such delinquency, by first-class mail, postage prepaid, addressed to the addressee's last known address. If such delinquency is not paid within 10 days after such notice was given by deposit in the United States mail, and the City Council has exercised its option to cause the whole amount of the unpaid principal to become due and payable, then said assessment may be enforced by the City's Chief Financial Officer as provided in NRS 271.545 to NRS 271.630. Nothing herein shall be construed as preventing the City, at the direction of the City Council, from collecting any assessment by filing an action in Clark County District Court in the name of the City Council, or from taking any other collection action authorized by law. The FY 2021 Assessment Roll and the certified copy of this FY 2021 Maintenance Assessment Ordinance shall be prima facie evidence of the regularity of the proceedings in making the assessment and of the right to recover judgment therefor.

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SECTION 8. The City Clerk is hereby directed to deliver to the City’s Chief Financial Officer a copy of the FY 2021 Assessment Roll containing a description of the lots, tracts and parcels of land being assessed, with the amount of the assessment levied upon each and the name and address of the owner or owners against whom the assessment was made. The FY 2021 Assessment Roll is to be recorded in the office of the Clark County Recorder together with the statement that the current payment status of any assessment may be obtained from the City’s Chief Financial Officer. The City’s Chief Financial Officer is additionally authorized to collect the several sums so assessed as a tax upon the tracts to which they were assessed.

SECTION 9. In accordance with NRS 271.405(7), the City Clerk, Chief Financial Officer, or his or her designee, shall give notice of the levy of the assessments pursuant to this FY 2021 Maintenance Assessment Ordinance and of the 30-day period to make payment following the effective date of this ordinance. Such notice shall be by publication in the Las Vegas Review-Journal, a newspaper of general circulation in the City, and such notice shall be published at least once a week, for three consecutive publications, by three weekly insertions, the first such publication to be at least 15 days prior to the end of the 30-day period, stating that said assessments have been levied and are due and payable and the last day for their payment. It shall not be necessary that the notice be published the same day of the week, but not less than 14 days shall intervene between the first publication and the last publication. Service by publication shall be verified by the affidavit of the publisher, or his or her designee, and filed with the City Clerk. In accordance with NRS 271.390(2), the City Clerk, Chief Financial Officer, or his or her designee, shall also give written notice of the levying of the assessments by mailing a copy of such notice, postage prepaid, first class mail, at least 20 days prior to the end of said 30-day period, to the owner or owners of all property upon which the assessment was levied at his or her last known address. Proof of such mailing shall be made by the affidavit of the person completing such mailing, and such proof shall be filed with the City Clerk. Proof of the publication and proof of the mailing by affidavit shall be maintained in the permanent records of the office of the City Clerk until all special assessments have been paid in full, or until any claim is barred by an appropriate statute of limitations. The City Council hereby determines that the manner of giving notice herein provided by publication and by mail is reasonably calculated to inform the property owners in the District of the levy of the assessments. The affidavit of mailing shall be prima facie evidence of the mailing of notice in accordance with the requirements of NRS 271.390(2).

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Ordinance No. 3705
Neighborhood Improvement District - Pecos Robindale

SECTION 10. The notice provided for in NRS 271.390(2) and NRS 271.405(7) and in Section 10 of this FY 2021 Maintenance Assessment Ordinance shall be in substantially the following form:

(Form of Notice)

NOTICE TO PROPERTY OWNERS OF THE LEVY OF ASSESSMENTS FOR LANDSCAPE MAINTENANCE AND RELATED ADMINISTRATIVE EXPENSES FOR THE PECOS ROBINDALE NEIGHBORHOOD IMPROVEMENT DISTRICT IN FISCAL YEAR 2021

NOTICE IS HEREBY GIVEN to the owners of all property upon which an assessment has been levied, and other interested persons, that the FY 2021 Maintenance Assessment Ordinance (the “Ordinance”) was duly passed, adopted, signed and approved by the City Council of the City of Henderson on June __, 2020. The Ordinance levied and assessed what has been determined to be the estimated cost and expense of the approved landscape maintenance and administrative expenses against the lots, tracts and parcels of land specially benefited by the maintenance of the perimeter landscaping of what is commonly designated as the “Pecos Robindale Neighborhood Improvement District,” (said lots, tracts, and parcels of land being more specifically described in the assessment roll designated in the Ordinance).

Assessments are due and payable at the City of Henderson Cashier, 240 South Water Street, Henderson, Nevada, on or before July __, 2020, being 30 days after the effective date of the Ordinance, without interest and without demand, provided that all, or any part of such assessments may, at the election of the owner, be paid in an installment, without interest as and to the extent hereinafter provided. Failure to pay the whole assessment within the 30-day period will be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay the unpaid assessment in an installment. In case of such election to pay in an installment, the unpaid assessments for project maintenance and administrative costs shall be payable in one (1) annual installment of principal until paid in full, without interest, on December 1, 2020. Failure to pay any assessment installment when due may cause the whole of the unpaid principal of such assessment to become due and payable immediately at the City’s option, and the whole amount of the unpaid principal will, after such delinquency, whether the City’s option is or is not exercised, bear penalty interest at the rate of two percent (2%) (or at any higher rate authorized by statute, or any lower rate, which may be zero percent, for such period as determined by the City’s Chief Financial Officer) per month (not prorated for any portion of the month) until the day of sale or until paid. At any time prior to the date of the sale, the owner may pay the amount of all delinquent installments originally becoming due on or before the date of payment, and all penalty interest accrued, and will thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any property not in default as to any assessment installment or payment may, at any time, pay the whole or any portion of the unpaid principal.

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Pursuant to NRS 271.395, within the 15 days immediately following the effective date of the Ordinance, any person who has filed a complaint, protest or objection in writing and in the manner required by NRS 271.380 shall have the right to commence an action or suit in any court of competent jurisdiction to correct or set aside the determination. Thereafter all actions or suits attacking the regularity, validity and correctness of the proceedings, of the assessment roll, of each assessment contained therein, and of the amount of the assessments levied on each tract, including, without limiting the generality of the foregoing, the defense of confiscation, shall be perpetually barred.

The amounts assessed as aforesaid constitute a lien upon said lots, tracts and parcels of land from the effective date of the Ordinance, which lien shall be co-equal with the latest lien thereon to secure the payment of general taxes and prior and superior to all other liens, claims, encumbrances and titles (other than the liens of assessments and general taxes). The sale of any such lot, tract or parcel of land for general taxes shall not relieve such lot, tract or parcel of land from such assessment or the lien therefor.

By order of the City Council of City of Henderson, Nevada, and dated this ____________, 2020.

Sabrina Mercadante, MMC
City Clerk

(End of Form of Notice)

SECTION 11. The officers of the City are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including but not limited to the preparation of all necessary documents, legal proceedings, the recording of the FY 2021 Assessment Roll, and other items necessary or desirable for the completion of the levy of assessments for the District.

SECTION 12. If any section, subsection, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.

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SECTION 13. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 14. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Las Vegas Review-Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance (Initial Publication). Following adoption by the City Council, this Ordinance shall be published by title together with the names of the Council members voting for or against passage (Final Publication). This Ordinance is scheduled for Final Publication on June 19, 2020, in the Las Vegas Review-Journal, at which time it will become effective.

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Ordinance No. 3705
Neighborhood Improvement District - Pecos Robindale


Debra March, Mayor

ATTEST:
Stacey Brownfield, MMC, Asst City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on June 2, 2020, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

"COUNCIL AS A WHOLE"

Thereafter on June 16, 2020, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held June 16, 2020, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye:
Debra March, Mayor
Councilmembers:
Michelle Romero
Dan K. Shaw
Dan H. Stewart

Those voting nay: None
Those abstaining: None
Those absent: John F. Marz

Debra March, Mayor

ATTEST:
Stacey Brownfield, MMC, Asst City Clerk

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