ORDINANCE NO. 3707
(DEV-2020005450 – Volunteer Plaza)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, APPROVING AND ADOPTING THAT CERTAIN DEVELOPMENT AGREEMENT BETWEEN THE CITY OF HENDERSON AND 205 VOLUNTEER, LLC, CONSISTING OF 3.97 ACRES, MORE OR LESS, GENERALLY LOCATED AT THE NORTHWEST CORNER OF VOLUNTEER BOULEVARD AND RAIDERS WAY, IN THE WEST HENDERSON PLANNING AREA.

WHEREAS, the City of Henderson, a municipal corporation and political subdivision of the State of Nevada (the "City"), is authorized under its Charter and the general laws of the State of Nevada to enact ordinances and enter into agreements to promote and safeguard the health, safety and welfare of its citizens; and

WHEREAS, pursuant to Nevada Revised Statute Chapter 278.0201, the City Council of the City enacted Henderson Municipal Code Section 19.6.10.A providing for the utilization of development agreements to regulate land development within the incorporated boundaries of the City of Henderson; and

WHEREAS, the City and 205 Volunteer, LLC, a Nevada limited liability company ("Developer"), wish to enter into the attached Development Agreement – Volunteer Plaza (the "Development Agreement"), providing for the development of the property described therein (the "Property") in accordance with the above-described statute; and

WHEREAS, Developer has submitted the necessary plans to the City for the development of a commercial and light industrial project; and

WHEREAS, the City and Developer desire to enter into the Development Agreement to set forth their mutual understanding with respect to the orderly development of the Property as an integrated development designed to provide services that will enhance the lives of all those who live, learn, work and play in the city; and

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

SECTION 1. The City Council hereby approves and adopts the Development Agreement, attached hereto as Exhibit 1, consisting of 17 pages. All attachments and exhibits referenced in such document are attached as stated.

SECTION 2. The effective date of approval of this Ordinance shall be the date the Development Agreement is recorded in the Office of the County Recorder, Clark County, Nevada.

SECTION 3. If any section, subsection, sentence, 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.

SECTION 4. 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 July 10, 2020, in the Las Vegas Review-Journal, at which time it will become effective.

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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*.

PASSED, ADOPTED, AND APPROVED THIS 7TH DAY OF JULY, 2020.

Debra March, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on June 16, 2020, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

"COUNCIL AS A WHOLE"

Thereafter on July 7, 2020, said Committee reported favorably on the Ordinance and forwarded it to the Special Meeting with a do-pass recommendation. At the Special Meeting of the Henderson City Council held July 7, 2020, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye:

Debra March, Mayor
Councilmembers:
John F. Marz
Dan K. Shaw
Dan H. Stewart

Those voting nay: None
Those abstaining: None
Those absent: Michelle Romero

Debra March, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk

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*.

APN(s): 191-10-701-009

RECORDED AT THE REQUEST OF,
AND RETURN TO:

CITY OF HENDERSON
ATTN: CITY ATTORNEY'S OFFICE
240 WATER STREET
P.O. BOX 95050, MSC 144
HENDERSON, NV 89009-5050

DEVELOPMENT AGREEMENT
VOLUNTEER PLAZA

THIS DEVELOPMENT AGREEMENT (this "Agreement"), dated as of the date of Council adoption listed on the signature page hereto, is made by and between the City of Henderson, a municipal corporation and political subdivision of the State of Nevada (the "City"), and 205 Volunteer, LLC, a Nevada Limited Liability Company (together with its successors and assigns, "Owner" and, together with the City, the "Parties"). Capitalized terms used herein but not otherwise defined have the meanings ascribed to such terms on Schedule 1.

RECITALS

A. Statutory authorization. The City is authorized, pursuant to NRS §278.0201 through §278.0207, inclusive, and §278.02591 through §278.02598, inclusive (collectively, the "Statute"), and Title 19 of the Code to enter into binding development agreements with Persons having a legal or equitable interest in real property to carry out the plan for infrastructure for the development of such property.

B. West Henderson Public Facilities Needs Assessment. On January 17, 2017, in accordance with the Statute, the City adopted Ordinance No. 3382, the West Henderson Public Facilities Needs Assessment (as now in effect or hereafter amended, the "PFNA"), as the City's analysis of the cost to construct infrastructure for all residential, commercial and industrial projects within that certain real property, generally located in West Henderson, identified in Exhibit A to the PFNA (the "PFNA Area"). In accordance with the PFNA, all parties seeking to develop property within the PFNA Area must enter into a development agreement in order to fund public facilities needed to accommodate the anticipated growth within the PFNA Area. Pursuant to the Statute, in order to enable the City to equitably distribute the costs to develop infrastructure for the PFNA Area, the PFNA establishes a per-unit contribution to be assessed on residential projects and a per-square-foot contribution to be assessed on commercial and/or industrial projects.

C. Ownership Interest. Owner owns that certain real property, consisting of approximately 3.97 acres, more or less, generally located at Volunteer Blvd. and Executive Airport, West of NWC , in Henderson, Nevada, bearing Clark County Assessor's Parcel Number **191-10-701-009** and more particularly described on Exhibit "A" (the "Subject Property"). The Subject Property is located within the boundaries of the PFNA Area.

D. City Authorization, Hearing and Ordinance. The City Council, having given notice as required by applicable laws and regulations, held a public hearing on Owner's request seeking approval of this Agreement and the execution hereof by the City. At the described meeting, the City Council found that (i) this Agreement is consistent with the City's plans, policies and regulations, including, but not limited to, the City Comprehensive Plan, originally adopted by City Council on February 7, 2006 (as amended) and the West Henderson Land Use Plan Update, as adopted by the City Council on December 2, 2014, a copy of which is maintained by the City Clerk, (ii) this Agreement meets the requirements of Title 19 of the Code and the Statute, and (iii) the execution hereof by and on behalf of the City is in the public interest and is lawful in all respects.

E. City Intent. The City desires to enter into this Agreement in conformity with the requirements of the NRS, and as otherwise permitted by applicable laws and regulations, for the purposes of providing public services, enhancing public uses and urban infrastructure, promoting the health, safety and general welfare of the City of Henderson and its inhabitants, minimizing uncertainty in planning and securing orderly development of the Subject Property and the PFNA Area, insuring the maximum efficient utilization of resources within the City of Henderson at the least economic cost to its citizens, and otherwise achieving the goals and purposes for which the Statute and Title 19 of the Code were enacted.

F. Owner Intent. Owner wishes to obtain reasonable assurances that the Subject Property may be developed in accordance with the Statute, such that the cost of constructing the infrastructure necessary for the orderly development of the PFNA Area shall be distributed equitably without disproportionately burdening the Subject Property.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree that the foregoing recitals are true and correct and incorporated herein by this reference, and hereby further agree as follows:

ARTICLE I. DEVELOPMENT OF SUBJECT PROPERTY

Section 1.01 Owner Acknowledgments. Owner acknowledges that there are insufficient public services, including, but not limited to, facilities and infrastructure, existing or planned at this time to support the development of the Subject Property in the PFNA Area. In accordance with the PFNA, in order to develop the Subject Property, Owner is willing to enter into this

Agreement and pay Owner's fair share of the costs to provide such public services. Owner further acknowledges that this Agreement was approved by the City Council and agrees without protest to the requirements, limitations and/or conditions imposed by this Agreement, the Concurrent Approvals and applicable laws and regulations.

Section 1.02 Acknowledgment of Uncertainties. The Parties acknowledge and agree that circumstances beyond the control of either Party, including, but not limited to the unavailability of water or other limited natural resources and/or the regulation of air and/or water quality, could prevent the development of the Subject Property. Owner specifically acknowledges and agrees that water shortages could affect the City's ability to perform its obligations hereunder. Owner further acknowledges and agrees this Agreement does not relieve the Owner from compliance with existing, changed, modified or amended applicable laws and regulations of governmental bodies other than the City. Owner must comply with such applicable laws and regulations regardless of their specific incorporation into this Agreement.

Section 1.03 Reliance on Concurrent Approvals and Applicable Laws and Regulations. Owner will be permitted to carry out and complete the development of the Subject Property in accordance with the uses and densities set forth in the Concurrent Approvals but subject to the terms and conditions of this Agreement and applicable laws and regulations. Nothing in this Agreement shall affect the responsibility of Owner to seek, obtain and comply with the condition of any and all permits and governmental authorizations necessary to develop the Subject Property or any portion thereof. The Subject Property is subject to development requirements of the Code and applicable laws and regulations.

Section 1.04 PFNA Area. The PFNA Contribution will be utilized to support the development of all land within the boundaries of the PFNA Area and not just the development of the Subject Property. Owner agrees to cooperate with the City's efforts to develop infrastructure plans, uses and development standards governing land within the PFNA Area. The Parties agree and acknowledge that the City Council may adopt additional rules and regulations, or amend or modify existing rules and regulations, governing infrastructure plans, allowable uses and development standards within the PFNA Area. Except as otherwise expressly set forth herein, any such rules or regulations for PFNA Area shall not constitute an amendment or modification to this Agreement.

Section 1.05 Term. The term of this Agreement shall commence upon the Effective Date and shall expire on the ten (10) year anniversary of the Effective Date, unless terminated earlier pursuant to the terms hereof or extended as hereinafter provided (together with any applicable extension period, the "Term"). Owner shall have the right to extend the Term for an additional five (5) years upon the satisfaction of the following conditions:

(a) Owner provides written notice of such extension to the City prior to the expiration of the original ten (10) year Term; and

(b) Owner is not in default under this Agreement, and no event shall have occurred that would be a default hereunder subject to the giving of notice or expiration of a cure period; and

(c) Upon the satisfaction of the two foregoing conditions, Owner and the City shall enter into an amendment to this Agreement memorializing the extension of the Term, which shall be recorded in the Official Records.

ARTICLE II. PUBLIC FACILITIES

Section 2.01 Public Facilities Needs Assessment. Pursuant to the PFNA, Owner hereby agrees to pay to the City, as a condition to the development of the Subject Property (i) Two Thousand Three Hundred Fifteen and NO/100 Dollars ($2,315.00) per residential unit, (ii) Eighty-Seven Cents ($0.87) per square foot of retail space, (iii) One and 17/100 Dollar ($1.17) per square foot of commercial/office/civic space, and (iv) Forty-Six Cents ($0.46) per square foot of industrial space, as applicable (the "PFNA Contribution"). The City shall calculate the amount of a PFNA Contribution as of the date of Owner's application for a Building Permit for the Subject Property. City hereby agrees to hold the PFNA Contribution in a separate, non-interest-bearing account to be used solely for public facilities in the PFNA Area in the manner prescribed by the PFNA. Owner agrees that the PFNA Contribution may be increased or decreased from time-to-time during the Term if such increase or decrease is uniformly applied to all development and construction within the PFNA Area on a prospective basis through the PFNA. The City and Owner agree that any such modification to the PFNA Contribution shall apply only with respect to Building Permits not yet issued. In the event the PFNA Contribution is increased, the City shall not be entitled to any additional payment with respect to Building Permits that had already been issued. In the event the PFNA Contribution is decreased, Owner shall not be entitled to any reimbursement with respect to Building Permits that had already been issued.

Section 2.02 Standard Utilities Charges. Owner understands that it shall be responsible for any standard utility charges that ordinarily would be assessed through the plan approval or other standard process to properties situated near the Subject Property, including, but not limited to the St. Rose Sewer Special Refunding charge, the St. Rose Sewer West Special Refunding charge, any Southern Nevada Water Authority ("SNWA") Regional Connection Charge, the Water System Development Charge, the Wastewater System Development Charge, the AB 333 Water Use Reporting Fee, and the West Henderson Phase I Water Backbone Infrastructure Rates, and any other applicable fee charged in accordance with applicable laws and regulations, each as described in Title 14 of the Code, posted on the City Department of Utility's website or as provided in other applicable laws and regulations. Owner acknowledges that applicable rates are subject to change in accordance with applicable laws and regulations and that any refund of SNWA charges is subject to the sole discretion of the SNWA.

Section 2.03 Parks. In addition to the PFNA Contribution, if the Subject Property is developed as a residential development, Owner agrees that it is subject to the Residential Construction Tax, as set forth and defined in NRS §278.4983 and Title 19 of the Code, and Owner agrees to pay the applicable Residential Construction Tax prior to the issuance of the first residential Building Permit on the Subject Property.

ARTICLE III. REVIEW, DEFAULT AND REMEDIES

Section 3.01 Event of Default. If a Party fails to comply with or observe any of the provisions, agreements, conditions, covenants or terms contained in this Agreement for thirty (30) days after written notice of such failure ("Notice of Default") to such Party, or, if such failure cannot be cured within such thirty (30) day period, the defaulting Party does not commence to cure such failure within such thirty (30) day period after receipt of such written notice and diligently complete the cure within sixty (60) days thereafter or such longer reasonable period that may be required, then such failure shall constitute an "Event of Default" hereunder. The Notice of Default shall specify (a) the nature of the alleged default, (b) whether it is curable, and (c) a description of any alleged immediate, irreparable harm that has or may arise due to such alleged default. Action by the City Council shall not be required for the City to declare a default under this Agreement, and a Notice of Default may be delivered by the City Manager or his or her designee. In addition, as to the City, if a cure of an alleged non-compliance requires action by the City Council, then the matter shall be put on the next legally available City Council regular meeting agenda, allowing the City at least ten (10) Business Days after receipt of the Notice of Default to prepare any notice required pursuant to the Nevada Open Meeting Law, as may be amended from time-to-time, and the applicable cure period shall be extended for an additional three (3) Business Days following such meeting.

Section 3.02 Remedies. Upon the occurrence of an Event of Default, subject to the provisions of this Article III, the non-defaulting Party may enforce any of the provisions herein contained and seek all rights and remedies available under this Agreement, at law, or in equity; provided, however, that in no event shall the rights or remedies available to Owner upon an Event of Default on the part of the City include the termination of this Agreement. Without limiting the foregoing, Owner hereby waives any right or remedy it may now or hereafter have at law, in equity or otherwise, to (i) terminate this Agreement, and (ii) claims for monetary damages of any kind or nature whatsoever (including, without limitation, any consequential, special, speculative, exemplary or punitive damages). Owner acknowledges that the City would not have entered into this Agreement if it could be held liable for monetary damages under or with respect to this Agreement or if Owner could terminate this Agreement upon an Event of Default on the part of the City.

Section 3.03 Equitable Relief. No provision of, nor the exercise of any rights under, this Article III shall limit the right of any Party to obtain immediate equitable relief from the court provided for in Section 3.08(b), including, but not limited to, writs of mandamus or prohibition, injunction, set-off, and/or any other pre-judgment or post-judgment provisional action or remedy.

Section 3.04 Performance Bond. Notwithstanding anything herein to the contrary, the provisions of this Article III shall not impair or limit the City's ability to, upon the occurrence and during the continuance of an Event of Default on the part of Owner, collect upon any Performance Bond, or any other security provided by Owner, in accordance with the terms of this Agreement or any other agreement governing any such security between the Owner and the City.

Section 3.05 Withholding of Building Permits. In addition to any other rights and remedies available to the City, upon the occurrence and during the continuance of an Event of Default on the part of Owner, the City may withhold the release of any final maps and/or Building Permits until the failure to comply is resolved to the reasonable satisfaction of the City, and such

withholding shall not be considered a delay by the City hereunder nor shall it result in any liability to the City, whether or not the City has delivered a Notice of Default pursuant to Section 3.01.

Section 3.06 Cumulative Remedies. Except as provided in Section 3.02, each of the rights and remedies of each Party with respect to this Agreement shall be cumulative and not exclusive, and any Party's exercise of one right or remedy shall not be deemed or construed to be an election of remedies or be deemed or construed as a waiver or in such a manner as to preclude such Party from exercising any and all other rights and remedies available to such Party at law, in equity or under this Agreement, from time to time and in any order selected by such Party in the sole and absolute discretion of each.

Section 3.07 Waiver. Any failure or delay in giving a Notice of Default shall not constitute a waiver of any default. Any failure or delay by any Party in asserting any of its rights or remedies in respect of any default or Event of Default shall not operate as a waiver of any default, Event of Default, or any rights or remedies or deprive such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any of its rights or remedies.

Section 3.08 Governing Law; Jurisdiction; Waiver of Jury Trial; Costs. Any controversy, claim, or dispute arising out of or related to this Agreement or the interpretation, performance, or breach hereof, including alleged violations of state or federal statutory or common law rights or duties (a "Dispute"), shall be resolved as follows:

(a) Governing Law. This Agreement and all disputes between the Parties under or related to this Agreement or the facts and circumstances leading to its execution, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws of the State of Nevada, applicable to contracts executed in and to be performed entirely within the State of Nevada, without regard to the conflicts of laws principles thereof.

(b) Jurisdiction. Each of the Parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of Business Court of the Eighth Judicial District Court, sitting in Clark County, Nevada and any appellate court thereof, for resolution of any Dispute and for recognition or enforcement of any judgment relating to such Dispute, and each of the Parties hereby irrevocably and unconditionally (i) agrees not to commence any such action or proceeding with respect to such Dispute except in such courts; (ii) agrees that any claim in respect of any such Dispute may be heard and determined in such courts; (iii) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any such action or proceeding with respect to such Dispute in any such courts; and (iv) waives, to the fullest extent it may legally and effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding with respect to such Dispute in any such courts. Each of the Parties agrees that a final judgment in any such action or proceeding with respect to a Dispute shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other

manner provided by law. Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 6.04. Nothing in this Agreement will affect the right of any party to serve process in any other manner permitted by law.

(c) WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVERS; (ii) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS; (iii) IT MAKES SUCH WAIVERS VOLUNTARILY; AND (iv) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

ARTICLE IV. CONFLICTS; COOPERATION

Section 4.01 Conflicts. In the event of any conflict between this Agreement and applicable state or federal laws and regulations, including, but not limited to, the Statute, the applicable state or federal law or regulation shall control. In the event of any conflict between this Agreement and the Code or any other City laws, rules or regulations in effect as of the Effective Date, the applicable Code provision or City law, rule or regulation shall control; however, other than as provided in Section 6.01 regarding cost-based fees, if a future Code provision or City law, rule or regulation conflicts with any provision of this Agreement, the provisions of this Agreement shall control to the extent permitted by applicable laws and regulations.

Section 4.02 Conflicting State or Federal Rules. In the event that any conflicting state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, to the fullest extent permitted by applicable laws and regulations, this Agreement shall remain in full force and effect as to those provisions not affected, and the conflicting laws or regulations shall not be applied retroactively, and:

(a) Notice and Copies. Either Party, upon learning of any such matter, will provide the other Party with written notice thereof and provide a copy of any such law, regulation or policy or an account of any such action or inaction together with a

statement of how any such matter conflicts with the provisions of this Agreement; and

(b) Modification Conferences. The parties shall, within thirty (30) days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law or regulation, or accommodate any such action or inaction.

Section 4.03 Cooperation in Securing Permits. The City shall use Commercially Reasonable Efforts to cooperate with Owner in securing any City permits, licenses or other authorizations that may be required as a result of any amendment or suspension resulting from actions initiated under this Article IV. Nothing in this Section 4.03 shall be deemed to relieve Owner of any obligation to apply, obtain and pay for any required permits, licenses or other authorizations.

ARTICLE V. INDEMNITY

In addition to any indemnities otherwise provided in this Agreement, Owner agrees to indemnify, hold harmless, protect and defend, with counsel reasonably acceptable to the Person receiving such indemnity, the City and its officers, agents, employees, and representatives (individually and collectively, "Indemnitee") from and against all losses, claims, actions, liens, proceedings, liabilities, damages, costs and/or expenses, including the Indemnitee's reasonable attorneys' fees (collectively or individually, a "Claim") resulting or arising from, directly or indirectly, the death of or injury to any Person or the physical or economic damage to or loss of any property which may arise from the direct or indirect operations of Owner or those of its contractors, subcontractors, agents, employees, or other Persons acting on behalf of the Owner (collectively, "Owner Parties") that relate to or arise from (i) non-compliance with the provisions of this Agreement on the part of Owner or any of the Owner Parties, and/or (ii) any challenges to the validity of this Agreement by any third party. Indemnitee shall give Owner notice of any Claim entitling the Indemnitee to indemnification pursuant to this Agreement. Failure to give such notice shall not, however, in any manner negate or invalidate the obligation to provide such indemnity, except to the extent the Owner is actually prejudiced thereby. The provisions of this Section shall not apply to the extent such Claim is proximately caused by the intentional or negligent act of the Indemnitee. Owner acknowledges and agrees that the City shall under no circumstances be responsible for paying any Owner Party's attorneys' fees or costs. Notwithstanding anything herein to the contrary, the indemnification obligations contained in this Article V shall survive the expiration or earlier termination of this Agreement.

ARTICLE VI. GENERAL PROVISIONS

Section 6.01 Enforcement. Subject to the limitations of NRS Chapter 278, this Agreement is enforceable by either Party in accordance with its terms notwithstanding any change (which, except for this Agreement, would otherwise be applicable) in the Code. Notwithstanding the foregoing, nothing in this Agreement shall prevent the City from increasing "cost-based fees" which are deemed to be administrative fees for issuance of land use approvals, Building Permits,

Section 6.02 Binding Effect; Assignment. This Agreement shall be binding upon and shall inure to the benefit of each Party and each of their respective permitted successors and assigns. Owner shall not assign this Agreement, nor the obligations created hereunder, except in conjunction with the transfer of title of all or a portion of the Subject Property. In the event of a transfer of title of a portion of the Subject Property, this Agreement shall be binding upon Owner's transferee with respect to the portion of the Subject Property transferred, and this Agreement shall continue to be the binding obligation of Owner with respect to the portion of the Subject Property retained by Owner, so that the obligations set forth herein shall at all times apply to the entirety of the Subject Property.

Section 6.03 Relationship of Parties. It is understood that the contractual relationship between the City and Owner is such that Owner is not an agent of the City for any purpose and the City is not an agent of Owner for any purpose. The Parties acknowledge that they will not hold themselves out as an agent, partner or co-venturer of the other and that this Agreement is not intended to, and does not, create an agency, partnership, joint venture or any other type of relationship except the contractual relationships established hereby.

Section 6.04 Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing and delivered in person, mailed by certified mail postage prepaid, return receipt requested, or professional courier service. Notices shall be deemed delivered upon confirmation of delivery or refusal and shall be addressed as follows:

To City:	City of Henderson P.O. Box 95050, MSC 411 240 Water Street Henderson, Nevada 89009-5050 Attention: City Manager
With a copy to:	City of Henderson P.O. Box 95050, MSC 411 240 Water Street Henderson, Nevada 89009-5050 Attention: City Attorney
To Owner:	205 Volunteer, LLC 6725 S Eastern Ave. # 2 Las Vegas, NV 89119 Attention: Abdus Asif

Either Party may change its address by giving notice in writing to the other, and, thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices given in the manner described shall be deemed received upon confirmation of delivery or refusal.

Section 6.05 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties. This Agreement integrates all terms and conditions mentioned herein or

incidental hereto and supersedes all negotiations or previous agreements with respect to all of any part of the subject matter hereof.

Section 6.06 Waivers. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate officers or other authorized representatives of the City and/or Owner, as the case may be.

Section 6.07 Recording; Amendments. Promptly after execution hereof, an executed original of this Agreement shall be recorded in the Official Records. All amendments and modifications hereto must be in writing signed by the appropriate officers or other authorized representatives of the City and Owner in a form suitable for recordation in the Official Records. Subject to Section 6.09, upon completion of the performance of this Agreement, or its earlier revocation or termination, a statement evidencing said completion, revocation or termination may be signed by the appropriate officers or other authorized representatives of the City and Owner and shall be recorded in the Official Records.

Section 6.08 Headings; Exhibits; Cross References. The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits and schedules attached to this Agreement are incorporated herein by the references contained herein. Any term used in an exhibit or schedule attached hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit or schedule. All references in this Agreement to sections, exhibits and schedules shall be to sections, exhibits and schedules to this Agreement, unless otherwise specified.

Section 6.09 Release. Subject to the payment of all fees required to be paid under this Agreement and applicable laws and regulations, each residential lot and each other parcel shown on a recorded subdivision map other than a parcel map or large lot final map within the Subject Property shall be automatically released from the encumbrance of this Agreement without the necessity of executing or recording any instrument of release upon the issuance of a certificate of occupancy or certificate of completion, as applicable, for the Subject Property.

Section 6.10 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any applicable law or regulation, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such terms does not materially impair the Parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall, if possible, amend this Agreement to affect the original intention of the Parties.

Section 6.11 Third-Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the Parties and of their respective permitted successors and assigns and are not for the benefit of any third party, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any third party, except for provisions expressly for the respective benefit of any Person to be indemnified hereunder.

Section 6.12 Unavoidable Delay or Default. Each Party shall be excused from performing any obligation or undertaking provided in this Agreement, except a failure to pay money, in the event, but only so long as, the performance of any such obligation or undertaking is prevented or materially delayed or hindered by insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of terrorism, restrictions imposed or mandated by governmental entities (excluding the City), failure of governmental agencies (other than the City) to perform acts or deeds necessary for the performance of this Agreement, enactment of conflicting state or federal laws or regulations, or similar matters beyond the reasonable control of the Parties (financial ability or such Party's negligence excepted). If written notice of any such delay or hindrance is given to the other Party within thirty (30) days after the commencement thereof, an automatic extension of time, coextensive with the period of such delay or hindrance shall be deemed granted.

Section 6.13 No Party Deemed Drafter. Each of the Parties has had the opportunity to review the terms of this Agreement with its attorney; the Parties have mutually agreed to the terms herein; and the Parties have established such terms through a fair process of negotiations conducted in good faith by both Parties. Therefore, neither Party shall be deemed the drafter of this Agreement. If any term is deemed to be ambiguous, or if any question of intent arises, this Agreement shall be construed as if drafted jointly by the Parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

Section 6.14 Voluntary Agreement. Owner has voluntarily chosen to accept the findings and conclusions and fee schedule contained in the PFNA and the charges described in Article II of this Agreement in lieu of conducting its own public facilities needs assessment. Owner further acknowledges and agrees that it voluntarily, willingly and without protest and duress freely enters into this Agreement and accepts the terms and conditions herein.

Section 6.15 Run with the Land. This Agreement, including all covenants, agreements, rights and obligations created hereby, shall run with the Subject Property, does touch and concern the same, and is intended to and does burden the Subject Property and benefit the City. All covenants, agreements, rights and obligations created hereby shall inure to the benefit of and be binding upon the Parties hereto and their respective permitted successors and assigns, including, without limitation, all subsequent owners of the Subject Property, or any portion thereof, and all Persons claiming under them. Each Person hereafter at any time granted or conveyed an interest in or to any part or portion of the Subject Property shall be deemed to undertake performance and compliance with all the terms, covenants and conditions of this Agreement, and such Persons shall in like manner receive the benefits of the terms, covenants and conditions of this Agreement, to the same extent as if such Persons were the original Parties hereto.

[*Signatures appear on the following pages*]

IN WITNESS WHEREOF, this Agreement has been executed by the Parties to be effective as of the Effective Date.

City Council Ordinance No. _____ Date adopted: _____

CITY OF HENDERSON

By:_____
RICHARD A. DERRICK
City Manager/CEO

ATTEST:

By: _____
SABRINA MERCADANTE, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
NICHOLAS G. VASKOV
City Attorney

_____
CAO
Review

APPROVED AS TO FUNDING:

By: _____
JIM McINTOSH
Chief Financial Officer

STATE OF NEVADA
COUNTY OF CLARK

This instrument was acknowledged before me on the _____ day of _____, 20__ by _____ as _____ of the City of Henderson.

(Seal, if any)

_____
(Signature of Notarial Officer)

OWNER:

205 Volunteer, LLC,
A Nevada Limited Liability Company

By: _____
Name: Abdus Asif
Its: Manager

STATE OF; Nevada
COUNTY OF Clark

This instrument was acknowledged before me on the 27th day of May, 2020 by Abdus Asif as Manager of 205 Volunteer, LLC

(Seal, if any)

_____
(Signature of Notarial Officer)

REGINA MASCORRO
Notary Public, State of Nevada
Appointment No. 17-1676-1
My Appt. Expires Jan 28, 2024

SCHEDULE 1
DEFINITIONS

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings:

"Agreement" has the meaning given such term in the introductory paragraph hereto.

"Building Permit" shall mean an official document or certificate issued by the Building Official (as defined in the Code from time-to-time) authorizing the construction of a residence or commercial building within the Subject Property. This includes standard plan permits, model permits and production permits.

"Business Day" means any day other than a Saturday, Sunday or State of Nevada holiday that the City of Henderson City Hall is open for public access. As of the Effective Date, the City Hall operates on a Monday through Thursday schedule, and Fridays are not Business Days.

"City" has the meaning given such term in the introductory paragraph hereto.

"City Attorney" means the City Attorney of the City of Henderson, State of Nevada.

"City Clerk" means the City Clerk of the City of Henderson, State of Nevada.

"City Council" means the City Council of the City of Henderson, State of Nevada.

"City Manager" means the City Manager of the City of Henderson, State of Nevada.

"Claims" has the meaning given such term in Article V.

"Code" means the City of Henderson Municipal Code, as may be amended from time to time, including all rules, regulations, standards, criteria, manuals and other references adopted therein.

"Commercially Reasonable Efforts" means, in the case of any contingent obligation of the City, that the City will make a good faith effort to accomplish the stated goal, task, project or promised performance, provided such term does not imply a legal obligation to take any specific action if such action would, in the reasoned opinion of the City Council, be imprudent given competing public needs and projects. Upon request, the City shall give written notice to the Owner that it has considered such contingent obligation and the reason for its decision not to perform.

"Concurrent Approvals" means the zoning, land use and map approvals and authorizations, relating to the Subject Property, together with the applicable conditions, as granted by the City through the normal approval process.

"Dispute" has the meaning given such term in Section 3.08.

"Dwelling Unit" has that meaning given to it under the Code.

"Effective Date" means the date, after the ordinance approving this Agreement is adopted by the City Council and becomes effective, that this Agreement is recorded in the Official Records.

"Event of Default" has the meaning given such term in Section 3.01.

"Indemnitee" has the meaning given such term in Article V.

"Notice of Default" has the meaning given such term in Section 3.01.

"NRS" means the Nevada Revised Statutes, as the same may be amended or modified from time-to-time.

"Official Records" means the real property records of the County Recorder of Clark County, Nevada.

"Owner" has the meaning given such term in the introductory paragraph hereto.

"Owner Parties" has the meaning given such term in Article V.

"Parties" has the meaning given such term in the introductory paragraph hereto.

"Performance Bond" means a performance bond from a surety licensed in the State of Nevada and in the form attached to a City-standard Offsite Improvement Agreement, as may be revised by the City from time-to-time, or such other form approved by the City Attorney or his or her designee.

"Person" means any individual or form of business entity.

"PFNA" has the meaning given such term in Recital B.

"PFNA Area" has the meaning given such term in Recital B.

"PFNA Contribution" has the meaning given such term in Section 2.01.

"SNWA" has the meaning given such term in Section 2.02.

"Statute" has the meaning given such term in Recital A.

"Subject Property" has the meaning given such term in Recital C.

"Term" has the meaning given such term in Section 1.05 hereof.

EXHIBIT "A"
SUBJECT PROPERTY

THE NORTH HALF (N ½) OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 10, TOWNSHIP 23 SOUTH, RANGE 61 EAST M.D.M., CLARK COUNTY, NEVADA.

EXCEPTING THEREFROM THAT PORTION OF SAID LAND CONVEYED TO THE CITY OF EHNDERSON, BY GRANT, BARGAIN, SALE DEED RECORDED DECEMBER 30, 2014, AS INSTRUMENT NO. 20141230-0002225, OF OFFICIAL RECORDS.