MEMORANDM

To: *Local Planning Agency "LPA" / Mayor and Members of the City Council*

From: Derrick Cook, MBA, AICP, Deputy Director, Planning and Zoning

Date: November 18, 2026 [LPA and City Council First Reading]

Re: Code Text Amendment – Covenant in Lieu of Unity of Title (PH2026-101)

Purpose and Scope

Homestead Midtown Holdings, LLC and MG Homestead LLC (collectively, the "Applicant") request an amendment to Chapter 25, Article VI, Section 25-144, "Unity of Title; Covenant in Lieu of Unity of Title Process," and Chapter 30, Section 30-44, "Plat Required," of the City Code of Ordinances (the "City Code"). The amendment would expand the City's existing Covenant in Lieu of Unity of Title process beyond the Homestead Park of Commerce to specified business, industrial, mixed-use, and rapid-transit development districts. It would also clarify that parcels created under the expanded process are not treated as a subdivision for transfer of ownership or building-development purposes when they remain part of a single approved development site.

The request is a targeted extension of the regulatory framework adopted through Ordinance No. 2026-05-15. It does not create a new land use, increase density or intensity, approve site-specific development, or eliminate the requirement for coordinated development under an approved site plan.

Background

On May 20, 2026, the Mayor and City Council adopted Ordinance No. 2026-05-15, which amended Chapter 25 of the City Code to establish a Unity of Title or Covenant in Lieu process for the Homestead Park of Commerce ("HPOC") within the Villages of Homestead Development of Regional Impact. The ordinance addressed developments containing multiple buildings or bays on a single approved site that may later be conveyed into separate ownership.

The adopted framework was intended to prevent separate ownership from creating nonconformities, access conflicts, parking deficiencies, operational inconsistencies, or artificial non-use variances. It preserves the approved site plan and shared infrastructure through recorded documents governing access, parking, utilities, common areas, construction, operation, and maintenance. The Applicant proposes to make this same mechanism available in other districts where integrated commercial, industrial, mixed-use,

and transit-oriented developments commonly include multiple buildings, outparcels, uses, or ownership interests.

Proposed Amendments

The proposed ordinance would make the following principal changes:

- **Section 25-144 applicability.** Expand the Unity of Title or Covenant in Lieu process to development sites within the B-1A, B-1, B-2, B-3, I-1, I-2, and I-3 districts; the Business Mixed Use, Neighborhood Mixed Use, and Technology Mixed Use districts; and the Rapid Transit Development Overlay District. HPOC within the Villages of Homestead DRI would remain covered.
- **Building-permit documentation.** Continue to require applications involving multiple buildings or multiple ownerships on a single development site to be accompanied by either a unity of title or a declaration of restrictive covenants approved for legal form and sufficiency by the City Attorney.
- **Section 30-44 clarification.** Provide that the division of land into two or more lots or parcels pursuant to Section 25-144 is not deemed a subdivision for transfer of ownership or building-development purposes when the parcels remain associated with a single development site in one of the identified districts.

Regulatory Safeguards Retained

The amendment broadens the geographic and zoning applicability of the existing process but does not materially change its substantive safeguards. A declaration of restrictive covenants would continue to run with the land, bind successors and other parties having an interest in the property, and require development in substantial accordance with the approved site plan.

The existing framework would continue to require, as applicable:

- **Approved site plan.** Substantial compliance with the approved site plan, including each phase of a phased development.
- **Modification controls.** Owner consent and approval by the Planning and Zoning Director for qualifying modifications, with an opportunity to seek City Council review when approval is withheld.
- **Easement and operating agreement.** Recorded provisions addressing cross-access, parking, pedestrian circulation, utilities, construction, structural improvements, rights-of-way, curb cuts, and maintenance of shared facilities before portions of the site are conveyed into separate ownership.
- **Continuing duration.** A 30-year term with automatic successive 10-year extensions unless released in writing upon the required demonstration and finding.
- **Enforcement.** Enforcement by an action at law or in equity, including costs and reasonable attorney's fees to the prevailing party.

The Director may waive individual easement-and-operating provisions that are not applicable to a particular site. Non-use variances created solely by separate ownership may also be waived as provided in Section 25-144. Each unity of title, declaration, and related instrument remains subject to review by the City Attorney for legal form and sufficiency.

Planning Analysis

Commercial, industrial, mixed-use, and transit-oriented projects are often approved as integrated developments even when individual buildings or out-parcels may ultimately have different owners. The proposed amendment balances ownership and financing flexibility with the need for the property to continue operating as one coordinated development. Recorded covenants and easement agreements would preserve shared circulation, parking, utilities, emergency access, pedestrian connections, stormwater systems, common facilities, and maintenance responsibilities.

The conforming amendment to Section 30-44 is necessary so that the zoning and platting provisions operate consistently. Its exception is limited to parcels created under Section 25-144 as part of one development site and is not a general exemption from subdivision or platting requirements. The amendment changes only the ownership and documentation mechanism; it does not alter permitted uses, dimensional standards, density, intensity, site-plan review, or any other development requirement.

Conclusion and Recommendation

The proposed amendment extends an existing regulatory tool to districts where multi-building, multi-parcel, and mixed-ownership developments are reasonably anticipated. It preserves unified site operation and the City's legal and administrative review while providing flexibility for the ownership and conveyance of individual portions of an approved development. Staff finds that the request is consistent with the purpose of the City's land development regulations and supports orderly, coordinated development.

Staff recommends approval of the proposed ordinance amending Sections 25-144 and 30-44 of the City Code on first reading, subject to final review and approval by the City Attorney as to legal form and sufficiency.

EXHIBITS

1. Proposed Ordinance Chapter 25
2. Proposed Ordinance Chapter 30
3. Letter of Intent