

ORDINANCE NO. 2026-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA, AMENDING CHAPTER 2, “ADMINISTRATION,” ARTICLE VIII, “CONTRACTS AND PURCHASING,” OF THE CODE OF ORDINANCES OF THE CITY OF HOMESTEAD TO CREATE DIVISION 3, “PROCESSING OF PROPOSALS”; CREATING SECTION 2-293, GENERAL PROVISIONS; CREATING SECTION 2-294, QUALIFYING PUBLIC-PRIVATE PARTNERSHIP PROPOSALS; CREATING SECTION 2-295, UNSOLICITED LAND PROPOSALS FOR CITY-OWNED REAL PROPERTY; ESTABLISHING A PROCEDURE FOR THE RECEIPT, SCREENING, EVALUATION, AND NEGOTIATION OF QUALIFYING PUBLIC-PRIVATE PARTNERSHIP PROPOSALS CONSISTENT WITH SECTION 255.065, FLORIDA STATUTES; ESTABLISHING A SEPARATE PROCEDURE FOR THE RECEIPT, SCREENING, EVALUATION, AND NEGOTIATION OF UNSOLICITED PROPOSALS FOR THE SALE, LEASE, GROUND LEASE, REDEVELOPMENT, OR OTHER DISPOSITION OF CITY-OWNED REAL PROPERTY OR INTERESTS THEREIN; CODIFYING APPLICATION FEES FOR EACH CATEGORY OF PROPOSAL, SUBJECT OTHER APPLICABLE LAW GOVERNING THE DISPOSITION OF PROPERTY; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, section 166.021, Florida Statutes, grants municipalities broad home rule authority to exercise any power for municipal purposes except where expressly prohibited or preempted by law; and

WHEREAS, section 255.065, Florida Statutes, authorizes municipalities, as responsible public entities, to receive and evaluate proposals for qualifying public-private partnership projects and to establish fees and procedures relating to such proposals; and

WHEREAS, the City Council finds that the City would benefit from a clear and uniform local procedure governing the receipt, screening, evaluation, and negotiation of unsolicited and solicited proposals for qualifying public-private partnership projects; and

WHEREAS, the City Council further finds that the City would benefit from a separate local procedure governing unsolicited proposals for the sale, lease, ground lease, redevelopment, or other disposition of City-owned real property or interests therein, including a mechanism requiring proposers to bear the City’s reasonable costs of professional and administrative review; and

WHEREAS, the City Council intends that proposals for qualifying public-private partnership projects be processed in accordance with section 255.065, Florida Statutes, while unsolicited land proposals be processed under a distinct local procedure unless the proposal independently qualifies as a qualifying project under applicable law; and

WHEREAS, the City Council further intends that nothing in this ordinance shall be construed to avoid, diminish, or supersede the minimum requirements of section 163.380, Florida Statutes, where applicable to property located in a community redevelopment area; and

WHEREAS, the City Council finds that adoption of this ordinance serves a valid municipal and public purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA:

Section 1. Recitals. That the above stated recitals are hereby adopted and confirmed.

Section 2. Chapter 2 Amended. That Chapter 2, “Administration,” Article VIII, “Contracts and Purchasing,” of the Code of Ordinances of the City of Homestead is hereby amended to create Division 3, “Processing of Proposals,” to read as follows:

DIVISION 3. PROCESSING OF PROPOSALS

Sec. 2-293. General provisions.

(a) Purpose. The purpose of this division is to establish procedures for the receipt, screening, evaluation, and negotiation of certain proposals presented to the City outside the City’s ordinary procurement processes.

(b) Supplemental character. This division is supplemental only. Nothing in this division shall be construed to:

(1) require the City to accept, review, evaluate, rank, negotiate, approve, or award any proposal;

(2) create any vested right, protest right, bidder right, expectancy, development right, contract right, or entitlement in favor of any proposer before approval by the City Council of a definitive written agreement fully executed by authorized City officials;

(3) waive or impair compliance with the City Charter, this Code, section 255.065, Florida Statutes, section 163.380, Florida Statutes, where applicable, or any other requirement of general or special law governing procurement, public property, redevelopment, notice, ethics, public records, public meetings, or land use approvals; or

(4) limit the authority of the City Council to reject any proposal, reject all proposals, discontinue negotiations, require further due diligence, direct a competitive process, or determine that a proposed transaction is not in the public interest.

(c) Separate procedures. Proposals governed by section 2-294 and proposals governed by section 2-295 are separate categories of proposals and shall be processed under the section specifically applicable to that category. The processing of a Property Acquisition Proposal

under section 2-295 shall not be construed to incorporate, invoke, or require the procedures of section 255.065, Florida Statutes, unless the proposal independently constitutes a Qualifying Project subject to that statute.

(d) Definitions. For purposes of this division:

(1) City Manager means the City Manager or the City Manager's designee.

(2) Comprehensive Agreement means the agreement contemplated by section 255.065, Florida Statutes, between the City and a private entity for the development, operation, ownership, financing, or implementation of a Qualifying Project.

(3) Private entity, Qualifying Project, and Responsible Public Entity shall have the meanings assigned by section 255.065, Florida Statutes, as may be amended from time to time.

(4) Property Acquisition Proposal means an unsolicited proposal submitted by a private person or entity seeking to acquire, lease, ground lease, redevelop, obtain development rights in, or otherwise obtain an interest in City-owned real property or interests therein.

(5) Proposal Review Costs means the City's reasonable internal and external costs incurred in receiving, screening, processing, reviewing, evaluating, negotiating, documenting, or presenting a proposal, including legal fees, appraisal fees, planning fees, engineering fees, title review fees, survey review fees, environmental consulting fees, financial advisory fees, market analyses, publication costs, and other professional or technical consulting costs.

(6) Unsolicited Proposal means a proposal initiated by a private person or entity and submitted to the City independent of any formal City solicitation.

(e) Centralized intake. All proposals governed by this division shall be submitted through the Procurement Department, or such other office as may be designated by administrative procedure, with copies to the City Manager and City Attorney.

(f) Administrative completeness. No proposal shall be deemed received for substantive review unless it includes the information required by the applicable section of this division and is accompanied by the required application fee.

(g) Reservation of rights. The City reserves the right, at any time and for any reason deemed sufficient by the City, to reject any proposal, reject all proposals, waive nonmaterial irregularities, request clarifications or revisions, seek competing concepts, negotiate with one or more proposers, discontinue negotiations, or elect not to proceed with any proposed transaction.

(h) No reimbursement. Except as may be expressly provided in a written agreement approved by the City Council, no proposer shall be entitled to reimbursement of proposal preparation costs, design costs, legal costs, consultant costs, lost opportunity costs, or other expenses arising from the City's receipt, review, rejection, or non-selection of a proposal.

(i) Public records and public meetings. Proposals submitted under this division shall be subject to Florida public records and public meetings law, except to the extent a specific exemption applies under section 255.065, Florida Statutes, or other applicable law.

(j) Administrative procedures. The City Manager may establish administrative forms, checklists, submission instructions, and internal review procedures consistent with this division.

Sec. 2-294. Qualifying public-private partnership proposals.

(a) Applicability. This section applies to proposals for Qualifying Projects under section 255.065, Florida Statutes. Subsections (c) and (d) of this section apply only to Unsolicited Proposals.

(b) Governing law. Qualifying public-private partnership proposals shall be reviewed and processed in a manner consistent with section 255.065, Florida Statutes. In the event of conflict between this section and section 255.065, the statute shall control.

(c) Application fee. Each Unsolicited Proposal for a Qualifying Project under section 255.065, Florida Statutes, shall be accompanied at the time of submission by an application fee in the amount of \$25,000.00 (the “P3 Application Fee”). Such fee shall be interpreted and administered in a manner consistent with section 255.065, Florida Statutes, including any requirement that all or part of the fee be returned if the City elects not to evaluate the proposal.

(d) Additional review deposit.

(1) If the P3 Application Fee does not cover the City’s anticipated or actual Proposal Review Costs to evaluate the Unsolicited Proposal, the City Manager may request in writing such additional amounts as are reasonably required to continue the City’s review.

(2) The proposer shall pay the requested additional amount within thirty (30) days after receipt of the City’s written notice.

(3) The City may suspend or discontinue its review of the Unsolicited Proposal if the proposer fails to timely pay the requested additional amount.

(4) Fees and deposits imposed under this section shall be interpreted and administered consistently with section 255.065, Florida Statutes.

(e) Required contents. Unless waived in writing by the City Manager, a proposal governed by this section shall include, at a minimum:

(1) identification of the proposer and all material affiliates, principals, and known team members;

(2) a description of the qualifying project and the proposed transaction structure;

(3) a description of the requested City action, approvals, property interests, incentives, funding participation, or other public contribution;

(4) evidence of qualifications, relevant experience, and financial capacity;

(5) proposed business and financial terms;

(6) a proposed schedule and material milestones;

(7) disclosure of any broker, consultant, lobbyist, or contingent compensation arrangement relating to the proposal; and

(8) any other information reasonably required by the City for review under section 255.065.

(f) Initial screening. After receipt of a facially complete proposal, the City Manager in consultation with staff or consultants as the City Manager deems appropriate, shall conduct an initial screening to determine whether the proposal should be rejected, returned as incomplete, held for future consideration, or advanced for further evaluation.

(g) Evaluation. In determining whether a proposal should advance, the City may consider legal sufficiency, public purpose, operational feasibility, financial feasibility, planning compatibility, qualifications, risk allocation, apparent public benefit, and any other factor relevant to the public interest, consistent with section 255.065.

(h) Available statutory procedures. In processing a qualifying public-private partnership proposal, the City may use any procedure authorized by section 255.065, Florida Statutes, including, as applicable:

(1) publication and receipt of competing proposals; or

(2) the public-interest determination process authorized by statute.

(i) Professional review. If the City elects to evaluate an Unsolicited Proposal for a Qualifying Project involving architecture, engineering, or landscape architecture, the City shall ensure a professional review and evaluation of the design and construction proposed in the manner required by section 255.065, Florida Statutes. The City may retain such advisors as it deems appropriate to perform or assist with such review, at the proposer's expense to the extent permitted by law. The City may also retain financial, technical, or other professional advisors as it deems appropriate in connection with its evaluation of the proposal.

(j) Negotiation authority. Following review of a proposal under this section, the City Council may authorize the City Manager and City Attorney to negotiate a nonbinding term sheet, interim agreement, or proposed comprehensive agreement for later consideration by the City Council. No such authorization shall constitute final approval or bind the City unless and until a final written agreement is approved by the City Council and executed by authorized City officials.

Sec. 2-295. Unsolicited land proposals for City-owned real property.

(a) Applicability. This section applies to the processing of Property Acquisition Proposals relating to the sale, lease, ground lease, redevelopment, disposition, or encumbrance of City-owned real property or interests therein, where the proposal is not being processed by the City as a Qualifying Project under section 255.065, Florida Statutes.

(b) Independent City procedure. Proposals governed by this section shall be processed under this section and under such other applicable provisions of law as may govern the subject property or proposed transaction. This section does not adopt, invoke, or require the procedures

of section 255.065, Florida Statutes, except where a proposal independently qualifies as a Qualifying Project and the City elects to process it accordingly.

(c) Application fee. Each Property Acquisition Proposal shall be accompanied by a nonrefundable application fee which shall be utilized by the City to evaluate the Property Acquisition Proposal (the “Acquisition Review Fee”). The amount of the Application Review Fee shall be based on the proposed price for the acquisition of a City-owned property or property interest therein (the “Acquisition Price”) in accordance with the table below. In the event that a Property Acquisition Proposal contemplates a lease rather than purchase transaction, the Acquisition Price shall be the total amount of the contemplated lease payments.

Acquisition Price	Acquisition Review Fee
Up to \$100,000	\$3,500.00
\$100,000 - \$500,000	\$5,000.00
\$500,000 - \$5,000,000	\$12,500.00
\$5m - \$25m	\$25,000.00
Over \$25 million	\$40,000.00

(d) Additional review deposit.

(1) If the City Manager determines that the application fee is insufficient to cover anticipated or actual costs to review a Property Acquisition Proposal, the City Manager may require the proposer to post an additional review deposit in such amount as the City Manager reasonably determines necessary.

(2) The City may suspend or terminate review of the Property Acquisition Proposal if any required additional review deposit is not timely paid.

(e) Required contents. Unless waived in writing by the City Manager, a proposal governed by this section shall include, at a minimum:

(1) identification of the proposer and all material affiliates, principals, and known team members;

(2) identification of the subject property, including address, folio number if known, and a description of the interest sought;

(3) a description of the proposed transaction structure;

(4) a description of the proposed use or redevelopment concept and any requested City approvals, participation, or concessions;

(5) proposed economic terms, including purchase price, rent, term, extension rights, participation rights, or other economic consideration, as applicable;

(6) evidence of qualifications, relevant experience, and financial capacity;

(7) a proposed development schedule and material milestones as applicable;

(8) disclosure of any broker, consultant, lobbyist, or contingent compensation arrangement relating to the proposal; and

(9) any other information reasonably required by the City for review.

(f) Initial screening. After receipt of a facially complete proposal, the City Manager, in consultation with the City Attorney and such staff or consultants as the City Manager deems appropriate, shall conduct an initial screening to determine whether the Property Acquisition Proposal should be rejected, returned as incomplete, held for future consideration, or advanced for further evaluation.

(g) Evaluation factors. In determining whether a Property Acquisition Proposal should advance, the City may consider, among other things:

(1) legal sufficiency;

(2) consistency with a municipal or public purpose;

(3) operational, physical, planning, and financial feasibility;

(4) the proposer's qualifications, experience, and financial capacity;

(5) the apparent economic value and public benefits offered to the City;

(6) whether the proposal is sufficiently definite to justify further review;

(7) whether the Property Acquisition Proposal would be better advanced through a City-initiated solicitation, public marketing effort, invitation to negotiate, brokered process, or other competitive process; and

(8) any other factor the City deems relevant to the public interest.

(h) Mandatory Appraisal. The City shall conduct an appraisal prior to the disposition through sale or lease of any real property.

(i) Due diligence. The City may expend proposer's Acquisition Review Fee on any aspect of its due diligence, including by not limited to such appraisals, market value analyses, title work, environmental reviews, surveys, planning analyses, engineering reviews, fiscal impact analyses, legal review or other due diligence as the City deems appropriate before making any recommendation to the City Council.

(j) Statutory requirements preserved. If the subject property is located within a community redevelopment area, or is otherwise subject to section 163.380, Florida Statutes, or any other specific statutory disposition procedure, the City shall comply with the minimum requirements of such law, including, where applicable, publication of notice at least thirty (30) days before execution of any contract to sell, lease, or otherwise transfer the property, the invitation of proposals from interested redevelopers or other interested persons, and such other procedures and timeframes as are required by section 163.380, Florida Statutes. This section is supplemental only and shall not be construed to authorize any disposition process inconsistent with section 163.380, Florida Statutes.

(k) Discretionary comparison. The City may, but shall not be required to, direct a public marketing process, invite competing concepts, or seek comparative proposals before negotiating or recommending any proposed disposition of City-owned real property.

(l) Negotiation authority. Following review of a Property Acquisition Proposal under this section, the City Council may authorize the City Manager and City Attorney to negotiate a nonbinding term sheet, interim agreement, or proposed definitive agreement for later consideration by the City Council. No such authorization, and no staff-level review, due diligence, or discussion, shall constitute final approval of the proposal or bind the City unless and until a final written agreement is approved by the City Council and executed by authorized City officials.

(m) No obligation to dispose. The receipt or review of a Property Acquisition Proposal shall not obligate the City to sell, lease, ground lease, encumber, or otherwise dispose of any property, nor to negotiate exclusively with any proposer.

Section 2. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause, phrase, or provision shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 3. Inclusion in the City Code. That it is the intention of the City Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Homestead, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intention, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

Section 4. Conflicts. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

Section 5. Effective Date. That this Ordinance shall become effective immediately upon adoption on second reading.

