

ORDINANCE NO. 10-26AN ORDINANCE ESTABLISHING ACCOUNTABILITY AND DISCLOSURE  
STANDARDS FOR THIRD PARTY INTERMEDIARIES IN CITY  
TRANSACTIONS

**WHEREAS**, the City of Fort Smith routinely engages in the purchase, sale, lease, financing, and construction of public assets using taxpayer funds; and

**WHEREAS**, the Board of Directors has a fiduciary duty to ensure that such transactions are conducted with transparency, integrity, and full disclosure; and

**WHEREAS**, recent transactions have revealed deficiencies in the disclosure, accuracy, and accountability of certain third parties who participated in City transactions without a clear contractual role; and

**WHEREAS**, the City desires to establish clear standards governing any third party that acts as a broker, intermediary, or advisor in a City transaction in order to protect the public interest.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:**

**SECTION 1:** Purpose. In order to protect taxpayers and ensure that City decisions are based on accurate and complete information, this Ordinance is enacted to establish disclosure requirements, standards of conduct, and remedies applicable to any third party, as defined below, who act as a broker, intermediary, or advisor in a City Transaction.

**SECTION 2:** Definitions. For purposes of this Ordinance, the following definitions shall apply:

A. "City Employee" means a person who is directly employed by the City, receives wages or salary through the City of Fort Smith payroll system, and is subject to the City's personnel policies and supervision.

B. "Third Party Intermediary" means any person or entity that is not a City Employee and:

(1) directly or indirectly with respect to a City Transaction:

- (a) negotiates or facilitates a purchase, sale, lease, financing, or construction contract;
- (b) presents or transmits pricing, cost estimates, proposals, or vendor information to the City;
- (c) represents itself as acting in the City's interest or on behalf of the City; or
- (d) receives or expects compensation from any party (collectively a "Third Party Intermediary Involved City Transaction"); and,

(2) is not a party to a contract or agreement with the City relative to the Third Party Intermediary Involved City Transaction.

For avoidance of doubt, the term “Third Party Intermediary” includes contractors, operators, management companies, consultants, advisors, brokers, and agents, regardless of whether such party performs services for or manages City facilities.

“Third Party Intermediary” shall not be construed to include the City Attorney or any attorney within the office of the City Attorney.

C. “City Transaction” means any contract, agreement or proposed agreement involving the expenditure, obligation, or transfer of City funds or assets.

**SECTION 3: Disclosure Requirements.** A Third Party Intermediary shall provide a written disclosure to the City prior to Board approval of the Third Party Intermediary Involved City Transaction, which shall include:

A. The nature of the Third Party Intermediary’s role, including whether acting as broker, agent, advisor, or independent contractor in the Third Party Intermediary Involved City Transaction;

B. Any financial interest of the Third Party Intermediary in the Third Party Intermediary Involved City Transaction;

C. Any compensation received or expected by the Third Party Intermediary from any party related to the Third Party Intermediary Involved City Transaction;

D. Any relationship between the Third Party Intermediary and the vendor, manufacturer, contractor, or financier involved in the Third Party Intermediary Involved City Transaction; and,

E. Whether any pricing, cost estimates, and timelines presented by the Third Party Intermediary are binding or estimated, and the basis for such figures.

Failure to provide a complete and accurate disclosure shall constitute a violation of this ordinance.

**SECTION 4: Certification of Accuracy.** Any pricing, cost estimates, financial projections, delivery terms, or material representations submitted to the City by a Third Party Intermediary relative to a Third Party Intermediary Involved City Transaction shall be accompanied by a signed certification stating that:

A. The information is accurate to the best of the Third Party Intermediary’s knowledge;

B. No material facts have been omitted; and,

C. The Third Party Intermediary is not knowingly providing misleading information to the City.

**SECTION 5: Duty of Good Faith and Fair Dealing.** With respect to any Third Party Intermediary Involved City Transaction, the Third Party Intermediary shall owe the City a duty of good faith, fair dealing, and honest disclosure with respect to all material aspects of the transaction.

**SECTION 6: Remedies and Enforcement.** In the event of a violation of this ordinance, the City may, in addition to any other remedies available under state law:

A. Seek reimbursement or damages for losses incurred relative to the Third Party Intermediary Involved City Transaction due to misrepresentation or nondisclosure of the Third Party Intermediary;

B. Disqualify the Third Party Intermediary from participating in any City Transaction for a period not to exceed five years;

C. Refer the matter to the City Attorney for civil action or refer the matter to other appropriate authorities for investigation; and,

D. Impose administrative sanctions, if any, permitted by law.

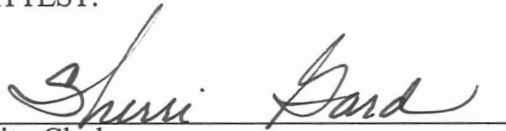
**SECTION 7:** Integration with Procurement. No Third Party Intermediary Involved City Transaction shall be approved unless compliance with this ordinance has been certified by the City Attorney and the Director of Procurement or their designees.

**SECTION 8:** Severability. If any provision of this ordinance is held invalid, such invalidity shall not affect the remaining provisions.

**SECTION 9:** Emergency Clause. In order to ensure there is transparency in the disclosure, accuracy, and accountability of Third Party Intermediary Involved City Transactions, the Board of Directors determines that there is an immediate need for the effectiveness of the provisions of this Ordinance; therefore, an emergency is declared to exist and this Ordinance shall be in full force and effect as of the date of its passage.

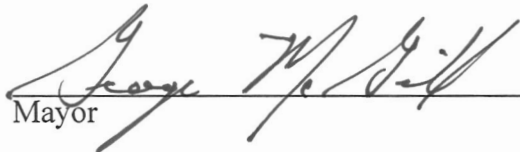
PASSED AND APPROVED THIS 17<sup>th</sup> DAY OF February, 2026.

ATTEST:



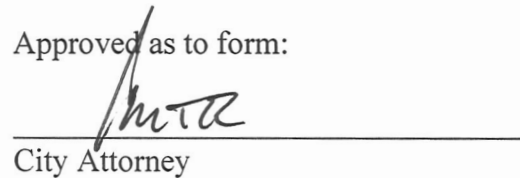
City Clerk

APPROVED:



Mayor

Approved as to form:



City Attorney