

**Fayetteville Advertising and Promotion
Commission**

July 16, 2018 2:00 p.m.

Location: Experience Fayetteville, 21 S Block Ave, Fayetteville, AR.

Commissioners: Matthew Petty, Chairman; Matt Behrend; Adella Gray; Ching Mong;
Robert Rhoads; Chrissy Sanderson; Todd Martin

Staff: Molly Rawn, Executive Director

Agenda

- I. Call to order at 2:00 p.m.
- II. Old Business
 - A. Approval of June 2018 minutes
- III. New Business
 - A. Executive Director's Report. A report of activity across all units, and upcoming activity of note. Includes the HMR report. Included in agenda packet.
 - B. Marketing update- Hazel Hernandez, Director of Marketing and Communications.
 - C. Vote: Contract for Walker Stone House renovation. The Executive Director recommends awarding the renovation contract to Ellingson Contracting for \$153,912. Memo included in agenda packet.
 - D. Vote: Proposed changes to by-laws. This is been discussed at multiple meetings. Proposed changes in the agenda packet.
- IV. Agenda Additions. *Additions to the agenda may be added upon request from a majority of commissioners*

Fayetteville Advertising and Promotion Commission

Minutes from June 2018 Meeting

June 18, 2018

Commissioners Present: Matthew Petty, Chair; Matt Behrend; Adella Gray; Robert Rhoads; Ching Mong; Chrissy Sanderson

Staff Present: Molly Rawn, Sally Fisher, Hazel Hernandez, Jordan Garcia

Presenters: Jeannie Hulen, associate dean of fine arts, Fulbright College, University of Arkansas.

I. Call to Order

Chairman Matthew Petty called the meeting of the Fayetteville Advertising and Promotion Commission to order on June 18, 2018, at 2:00 p.m.

II. Old Business

- A. Chairman Petty asked for approval of the April 2018 minutes. Commissioner Robert Rhoads moved to accept the minutes with a correction to item III. G., changing “city’s” to “cities.” His motion was seconded by Commissioner Adella Gray. The motion was approved.

III. New Business

A. Executive Director’s Report

1. Regarding item 10 under “Experience Fayetteville and A&P Commission,” Rawn asked to speak at the upcoming Fayetteville City Council meeting in her official capacity as the executive director, giving support; no commissioner objected.
2. Regarding item 1 under “Fayetteville Town Center,” a discussion was held about air-conditioning units. In May, Rawn had to make an emergency purchase due to two units, RU6 and RU7 being out of capacity entirely.
3. Rawn pointed out that May HMR collections (April tourism numbers) were down 3.7 percent from April 2017. She said event changes could have had an impact on tourism, but was hesitant to attribute a specific cause for the decrease. Overall collections are up 3.55 percent, and the commission had budgeted for 2 percent growth.
4. Regarding the monthly financial report, Rawn said the commission could expect to see a more high-level financial overview with broader categories and narratives in July.

B. Jeannie Hulen, associate dean of fine arts with the University of Arkansas Fulbright College

1. Hulen spoke to the commission about the School of Art’s use of the Walker Stone House in March and May, including exhibitions and events, and expressed gratitude for being able to utilize the space while the school’s permanent building is being constructed.

2. Hulen spoke about the program's vision of creating "arts entrepreneurship," in which student art projects are collaborative efforts with local businesses.
3. Hulen requested for the school to be able to continue using the Walker Stone House. Rawn pointed out the construction/renovation timeline on is the largest unknown factor at this time but that the relationship has been mutually beneficial to the school and Experience Fayetteville.
4. Commissioner Matt Behrend and Rawn commented on the energy and activity as of late at the Walker Stone House. Rawn said the partnership has been a great example of connecting the Historic Downtown Square and Dickson Street for foot traffic.

C. Marketing Update

1. Hazel Hernandez, director of marketing and communications, gave a marketing report including data from May showing digital marketing efforts in key targeted states in the region and online Visitors Guides requests from the same targeted states.
2. Hernandez reviewed completed and ongoing marketing efforts, including Pandora spots played in Dallas-Fort Worth. Charlie Gocio, account executive for the Sells Agency, played the ad for the commission at the request of Commissioner Ching Mong.

CI. Vote: Contract for Fayetteville Town Center Renovation

1. Executive Director Rawn recommended awarding the Town Center renovation contract to DC Sparks for \$95,278.90.
2. Rawn said DC Sparks was the low bidder, and asked for permission to sign on behalf of the commission.
3. Commissioner Rhoads asked if Vincent Chadick, attorney for the commission, had reviewed the contract. Rawn said she would ask Chadick to review, and Chairman Petty stated the contract meets AIA requirements, which is standard for all architectural contracting. Rhoads stated a legal review should still occur.
4. Chairman Petty made a motion to approve the contract with DC Sparks, pending any "red flags" found by Chadick. Commissioner Rhoads seconded. The motion was approved unanimously.

CII. Agenda Additions and Announcements

1. Executive Director Rawn announced an upcoming event at the Clinton House Museum, Bloom, which would be held June 28 in the First Ladies Garden.
2. Rawn also said she would be traveling over the next month for vacation and work, but she can be reached via email or cell phone.

3. Commission Attorney Vincent Chadick presented and distributed copies of the proposed by-laws with the commission's recommended changes incorporated and underlined. He asked the commission to review and formally approve during next month's commission meeting.

Chairman Petty adjourned the meeting at 2:36 p.m.

Respectfully submitted,
Sally Fisher, Finance Director
Experience Fayetteville

**Fayetteville A&P
Commission**

Memo

To: Fayetteville Advertising and Promotion Commissioners

From: Molly Rawn, Executive Director, Fayetteville Advertising and Promotion Commission

Date: July 11, 2018

Re: Selection of Ellingson Contracting as general contractor for Walker Stone House renovation

Recommendation: After reviewing the certified Bid Tab provided by Aaron Ruby of Revival Architecture, I recommend the commission award the contract for Walker Stone House renovation to Ellingson Contracting and authorize me to enter into a standard form of agreement (agreement AIA document A105) with Ellingson.

The amount of the contract is \$153,912.

Budget: The funds were previously approved in the 2018 annual budget.



AIA[®] Document A105[™] – 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the 10th day of July
in the year 2018
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)
Fayetteville Advertising & Promotion Commission
21 S. Block Ave, Suite 100
Fayetteville, AR 72701

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

and the Contractor:
(Name, legal status, address and other information)
Ellingson Contracting
PO Box 7202
Siloam Springs, AR 72761

for the following Project:
(Name, location and detailed description)
Renovations to the Historic Walker Stone House
207 W. Center St., Fayetteville, AR

The Architect:
(Name, legal status, address and other information)
Revival Architecture, Inc.
PO Box 400
Scott, AR 72142

The Owner and Contractor agree as follows.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Architect, dated May 24, 2018, and enumerated as follows:

Drawings:

Number	Title	Date
T-1	Title Sheet	5/24/18
AS-1	Arch. Site Plan & Dtls.	5/24/18
A-1, A-2, A-3, A-4	Demo & Finish Plans/Elev	5/24/18
M-1.1	HVAC Plans	5/24/18
P-1.1	Plumbing Plans/ Riser	5/24/18
E-1.1	Electrical Plans/ Riser	5/24/18

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Specifications:

Section	Title	Pages
Reference Table of Contents of S		

.3 addenda prepared by the Architect as follows:

Number	Date	Pages
1	June 14, 2018	7 pages, including sig in sheet

.4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement;
and

.5 other documents, if any, identified as follows:

Walker Stone House VE Cost Savings Log dated July 3, 2018 as marked up by Revival Arch. on July 10, 2018.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

Unless otherwise set forth below, the date of commencement shall be the date of this Agreement.

(Insert the date of commencement if other than the date of this Agreement.)

Date of Commencement to be established in the written Notice to Proceed

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:

(Check the appropriate box and complete the necessary information.)



Not later than
the date of commencement.

(100) calendar days from



By the following date:

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

One hundred fifty three thousand and five hundred thirty five dollars.

(\$ 153,912.00)

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§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:
(Itemize the Contract Sum among the major portions of the Work.)

Portion of the Work	Value
To be provided by the Contractor in Schedule of Values	

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:
(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Accept Deduct Alt #1 (omit water cooler) for revised deduct of \$1,604.00.

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:
(Identify each allowance.)

Item	Price
A. Contingency	\$4,000.00
B. Door Hardware Repair	\$1,500.00
C. Light Fixtures	\$2,000.00

§ 3.5 Unit prices, if any, are as follows:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
none		

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor’s Applications for Payment certified by the Architect, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

(Insert below timing for payments and provisions for withholding retainage, if any.)

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.
(Insert rate of interest agreed upon, if any.)

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ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than one million (\$ 1,000,000.00) each occurrence, two million (\$2,000,000.00) general aggregate, and two million (\$ 2,000,000.00) aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than one million (\$ 1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than one hundred thousand (\$ 100,000.00) each accident, one hundred thousand (\$ 100,000.00) each employee, and five hundred thousand (\$ 500,000.00) policy limit.

~~§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.~~

§ 5.1.7 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits
Reference Section 00 73 00	
Supplementary Conditions	

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.

(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Architect may withhold or nullify a Certificate for Payment in whole or in part, to the

extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Architect.

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work.

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 8.5 Warranty

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

§ 8.7 Permits, Fees and Notices

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.

§ 8.12 Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

ARTICLE 9 ARCHITECT

§ 9.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from the Contract Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.

§ 10.2 The Architect may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

§ 12.3 Certificates for Payment

The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold

certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.4 Progress Payments

§ 12.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.5 Substantial Completion

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect and the Architect will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete, the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.3 Termination by the Owner for Convenience

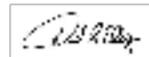
The Owner may, at any time, terminate the Contract for the Owner’s convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

This Agreement entered into as of the day and year first written above.

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)



Digitally signed by David R. Ellingson
Reason: I am approving the contract
Contract No. 0324340319
Date: 2018.07.19 16:16:52 -0700

OWNER *(Signature)*

Molly Rawn, Director, Fayetteville A&P

(Printed name and title)

CONTRACTOR *(Signature)*

David Ellingson

(Printed name and title)

LICENSE NO.: **0324340319**

JURISDICTION: **Arkansas**

Init.



Walker Stone House
Estimate 1 VE
 July 3, 2018

Cost Savings Log

Target Cost				\$150,000			
Project Amount				\$185,844			
Approved value engineering				-\$0 \$31,932			
Adjusted Budget with approved value engineering				-\$185,844 \$153,912 <small>Variance \$35,844</small>			
#	DIV	Description	Current Status	Approved	Deducts	Adds	Comments
1	01 58 13	Remove Custom Sign		✓	\$1,000		
2	05 52 00	Remove Ground Level Railings (not at ramp)		✓	\$4,094		
3	08 14 00	Use standard Panel Doors in lieu of Rail & Stile		✓	\$5,985		HD Builders Choice 36" x 80" 6 Panel Solid core Unfinished
4	00 73 16	Remove Builders Risk Policy		✓	\$5,164		
5	26 00 00	Remove Exterior Light		✓	\$1,772		\$900 from electrician. Remainder concrete scope.
6	06 10 53	Remove scope at back elevated deck and stairs			\$8,900		
7	32 14 00	Reduce Exterior Front Paver Scope (Not Ramp Area)		✓	\$1,645		
8	09 29 00	Revised Deductive Alternate for Drinking Fountain		✓	\$1,604		
9	09 29 00	Remove Plaster Refinishing (repair cracks, etc...)		✓	\$1,621		
10	01 74 23	Owner Performs Final Clean		✓	\$1,517		
11	10 28 13	Owner Furnished and Installed Toilet Accessories		✓	\$1,581		
12	08 14 00	Leave Existing Screen and Omit Install of Doors		✓	\$1,646		
13	01 74 13	Reduce Progressive Cleaning		✓	\$377		
14	01 00 00	Reduced Duration (Based on above Credits)		✓	\$4,305		
					\$0	-\$41,209	\$0
Total approved VE Items (Deducts)					\$0	\$31,932	

7.10.18 *[Signature]*

**Fayetteville, Arkansas Advertising and Promotion Commission
By-Laws**

I. Creation and Membership of Commission

Section 1. Creation of the Commission. The Fayetteville Advertising and Promotion Commission, hereafter referred to as “the Commission,” has been created by and in accordance with provisions of Acts of Arkansas 185 of 1995, 123 of 1969, and 58 of 1970, codified as Arkansas Code Annotated §26-75-605 *et seq.*, (“the Statute”); and City Ordinance No. 2310 (passed and approved March 1, 1977), which formally established the Commission.

Section 2. Purpose of the Commission. To operate in accordance with all applicable laws, including without limitation the Statute and City Ordinance No. 2310, in using proceeds of the City of Fayetteville’s hotel, motel, and restaurant tax (“HMR tax”) to advertise and promote the City of Fayetteville and its environs and for any other lawful, appropriate purposes.

Section 3. Membership of the Commission. The membership of the Commission will be composed in accordance with the Statute, and unless preempted by conflicting provisions of the Statute, the seven (7) members will include:

- i. Four (4) members that shall be owners or managers of businesses in the tourism industry, at least three of whom shall be owners or managers of hotels, motels, or restaurants and shall serve for staggered terms of four (4) years;
- ii. Two (2) members that shall be members of the governing body of the City of Fayetteville, selected by the governing body, and shall serve at the will of the governing body; and,
- iii. One (1) member that shall be from the public at large and shall serve for a term of four (4) years.

Section 4. Officers of the Commission. At the first meeting of each year, the Commission will elect one of its members as its Chair whose term will be for one (1) year. The Chair can be elected for succeeding terms.

Section 5. Vacancies on the Commission. A vacancy in any of the tourism industry positions or in the at-large position shall be filled by appointment of the Commission with the approval of the governing body of the City of Fayetteville. A vacancy may result from the expiration of a regular term or be declared by the Chair if at any time a Commissioner resigns, dies, or is absent from three (3) consecutive meetings without just cause.

II. Duties of the Commission

Section 1. Essential Function. The Commission is the body that determines the use of the City of Fayetteville’s advertising and promotion fund resulting from the HMR tax.

Section 2. Hiring of Staff. The Commission will be responsible for the hiring, supervision,

and continued employment of an Executive Director. The Commission delegates to the Executive Director all authority and responsibility necessary to properly administer the business of the Commission and its agencies, within policies set by the Commission and subject to its review, including financial policies specifically addressing spending and budgeting activities.

Section 3. Regular Meetings. The Commission will meet regularly at a consistent time and place, notice of which shall be published. The time and place of meetings are subject to change at the discretion of the Chair, upon published notice.

Section 4. Special meetings. Special meetings of the Commission may be called, for any purpose, by the Chair or any three members of the Commission at such times deemed necessary, provided:

- i. Advance notice, and corresponding agenda, of every special meeting of the Commission shall be distributed for each Commissioner not less than three (3) days before such meeting; and,
- ii. No business shall be transacted in special meetings, other than business referred to in the agenda.

Section 5. Quorum. No formal business shall be conducted without a quorum of the Commission, defined as a majority of the Commissioners.

Section 6. Proxy. No Commissioner may vote by proxy.

Section 7. Budget. The Commission will annually approve a budget for the operation of the Commission and its agencies.

Section 8. Open and Responsive Operations. The Commission is committed to openness in its operations and to encouraging public participation, transparency, and accountability. The Commission will adopt as necessary appropriate policies to foster understanding of the purposes and requirements of the Arkansas Freedom of Information Act among the Commission, staff, and the public.

III. Reporting

Section 1. Meeting Schedule. The Commission's meeting schedule will be published and accessible to the public.

Section 2. Meeting Agendas. The agenda and supporting documents for meetings of the Commission will be distributed no later than three (3) business days before the scheduled meeting.

Section 3. Tax Summaries. The consolidated HMR tax report summaries will be published and accessible to the public.

IV. Financial Policies and Conflicts of Interest

Section 1. Financial Policies. Through its Executive Director, the Commission will develop financial policies, including policies specifically addressing spending and budgeting activities, implement financial procedures in accordance with those policies, and ensure the practices of the Commission and its agencies are carried out in accordance with those policies.

Section 2. Conflict of Interest. No Commissioner may participate in, vote on, influence, or attempt to influence an official decision of the Commission, unless the pecuniary interest that may accrue to the Commissioner is incidental to their vocation or accrues to the Commissioner to no greater extent than the pecuniary interest could be foreseen to accrue to all other members of the vocation.

V. Amendment of the By-Laws

Amendments. Amendments to these By-Laws shall be proposed in writing at a regular meeting of the Commission and voted on at a subsequent meeting. Amendments to these By-Laws shall be effective only with an affirmative vote of 2/3 of the membership of the Commission. If the proposed, written amendment has been distributed to all Commissioners, a special meeting for the purpose of voting on the proposed amendment can be called after ten (10) days following distribution to the Commissioners of the proposed amendment.

Effective ____ of _____, 20__.