

**Fayetteville Advertising and  
Promotion Commission**

**November 18, 2019**

**2:00 p.m.**

Location: **Fayetteville Town Center, Fayetteville, AR.**

Commissioners: Matthew Petty, Chairman; Katherine Kinney; Todd Martin; Ching Mong; Robert Rhoads; Chrissy Sanderson; Sarah Bunch

**Agenda**

- I. Call to order at 2:00 p.m.
- II. Old Business
  - A. Approval of October 2019 minutes
- III. New Business
  - A. Executive Director's report
    1. HMR Report
    2. Vision Statement Update
    3. Departmental Updates
  - B. Marketing Report
  - C. Vote: Staff recommendation to approve a contract with Edafio as our IT provider. Details in the attached memo
  - D. Presentation from Brannon Pack, Cycling Coordinator on Bicycle Tourism in Fayetteville
- IV. Agenda Additions. Additions to the agenda may be added upon request from a majority of commissioners

# **Fayetteville Advertising and Promotion Commission**

Minutes from September 2019 Meeting

October 17, 2019

Commissioners Present: Matthew Petty, Chair; Robert Rhoads; Ching Mong; Todd Martin

Commissioners Absent: Chrissy Sanderson; Katherine Kinney; Sarah Bunch

Staff Present: Molly Rawn, Chief Executive Officer; Hazel Hernandez, Vice President of Sales and Marketing; Sally Fisher, Finance Director; Amy Stockton, Director of Operations; Tina Archer-Cope, Fayetteville Town Center General Manager

## **I. Call to Order**

- A.** Chairman Matthew Petty called the meeting of the Fayetteville Advertising and Promotion Commission to order on October 17, 2019 at 2:00 p.m. There was a quorum present.

## **II. Old Business**

- A.** Chairman Petty asked for approval of the September 2019 minutes. Commissioner Todd Martin moved to approve the minutes as written. His motion was seconded by Commissioner Robert Rhoads. The motion was approved.

## **III. New Business**

### **A. Executive Director's report updates**

#### **1. HMR and Financial Report**

- a.** September HMR collections total \$318,745 is the A&P's portion. It's up 7.05% from the same time last year. What is being reported on is activity that occurred in August and was collected by the City in September and reported to the Commission in October. September activity is always of particular interest to everyone and is by far the month that we get the most questions about because of the nature of the events that occur in Fayetteville in September. That information will be reported at the November Commission meeting.
- b.** Lodging revenue is down 11% from the same period in 2018. It's interesting because last month lodging revenue was also down by about that same amount. Our best analysis of why lodging revenue is down is because that our prior dues are up so much that we are getting it later.
- c.** Overall, January-September HMR tax collections were up 4.26%.

#### **2. Visitors Center Attendance**

- a.** We have had 1,160 visitors versus the 826 we had for the same number of days open last year. This is really meaningful to us as a staff because when we made the decision to cut the retail drastically, which we did by about 70%, we wondered if people would come in and engage with the Visitors Center and will it still be successful.
- b.** Each month we have been open we have beaten the prior year's visitation numbers.

#### **3. Walker Stone House Lease Update**

- a.** The University of Arkansas, specifically the School of Art, has declined to accept the lease proposed to them last June.

- (1) They were emailed at the beginning of last week to let them know that we would love to hear a yea or nay or counteroffer by November 1. They responded late Friday afternoon stating that they would not be interested in pursuing the lease further. We're not sure why that happened.
  - (2) When they had been using the house on a short-term basis in the past, it had been about \$1,000 per month, which is a loss to us when it comes to our thinking about covering things such as maintenance, utilities and just the cost of them being there. It was never intended to be an amount for a long-term lease.
  - (3) What we offered them, according to Commissioner Sarah Bunch, who is a realtor, and other people we spoke with, seemed like a very below market rate offer for that house.
  - (4) Commissioner Mong noted that the short-term rent we did with them was designed just to have someone in the house for that time, knowing that there are issues that needed to be dealt with.
  - (5) CEO Rawn feels like it was a fair offer, but her understanding is that they have found other space. We also want what is best for that department as well.
  - (6) Commissioner Martin asked if they found other space or what we know about that. CEO Rawn stated that she was told that they found other space and were able to make arrangements for their programming through the end of the current school year. She doesn't know if that means they found space on campus or where it might be.
- b. ArtVentures has reached out and expressed interest in leasing the space.
- (1) They are moving from their current location on the Square. It is our understanding that they must move because the building has been sold. They are looking for a new home and hoping to move fairly quickly.
  - (2) CEO Rawn gave a couple of members of their board a tour of the space and shared with them, just for informational purposes, the lease we had presented to the University, making sure they understand we are not offering them a lease at this time because it is something that needs to be discussed with our Commission, but to let them know that it is what was offered to the U of A.
  - (3) They are interested in furthering that conversation and seeing the house again. CEO Rawn believes it is a great use of her time to visit with their board further and go to one their meetings to pursue that conversation, but she wanted to raise that now to see if the Commission has concerns or thoughts.
  - (4) Commissioner Rhoads said it's better than sitting empty. Commissioner Mong said he thinks it's a good idea and asked if the new owners have said anything about what they plan to do with the building currently housing Art Ventures. CEO Rawn said she has not heard anything official about what might be moving in there, but that it has been said that ArtVentures is definitely having to move out.
  - (5) Commissioner Mong asked if they have a deadline for moving out, but CEO Rawn said that has not been shared with her. She has been told that they want to move quickly.
  - (6) Chairman Petty said he feels it is a good use of Rawn's time as well, at least to get some of the Commission's questions answered. He is optimistic that ArtVentures is an older organization that has a lot of history and that what the new leadership has done has shown it to be more active than in the past. He hopes that they might have some bright ideas about what could happen with the house. He is interested in hearing more about it.

- (7) Commissioner Martin said he has always liked the idea of having somebody who is art oriented could find a permanent home there. If that's a vision they have and we can match up with it, he feels it's a good idea.

**B. Marketing Report – Hazel Hernandez**

1. Our Marketing Review YTD indicates that overall users are up 2%, overall sessions and landing page views are down, but they are slowly coming up. A lot of the reason for the decrease in overall sessions this year is from the huge bump in May of 2018. The landing page views are down due to our doing better targeting and improving our leads. Our online guide requests are up 50%.
2. We are pretty solid right now. We have a Fall Digital Flight going for which we'll see a full report in November, but it includes pre-roll, display and social. It's running in Little Rock, Tulsa, Oklahoma City, Dallas/Ft. Worth, Kansas City and Memphis.
3. Our Online Guide Requests is broken down by flipbook at 43%, pdf at 38% and mail requests at 19%, for total request of 6,681.
4. Site Traffic by Top States
  - a. We expect to see the top five listed because they are states we target, so you'll see Arkansas, Texas, Oklahoma, Missouri and Kansas. It's nice to see Arkansas back because we had pulled out of that market for a little bit.
5. Our Paid Search: consumer/leisure, Town Center and Spanish are all doing well.
6. Our Geo-Fencing is at XNA, Tulsa airports and Northwest Arkansas hotels. We are also running new imagery, as indicated in the next couple of slides that focus on the outdoors, craft beer scene, road cycling, food and pet friendly.
7. CEO Rawn emphasized that we have placed more focus on high quality photos and videos this year, adding new photos each year, and reducing our print media ads and paid ads all together to be able to do more photo and video.
8. Imagery is the last thing we want to cut. We would rather have new photos and video every year.
9. New videos were presented.

**C. Vote: Add Director of Operations Amy Stockton as an authorized signatory to the Experience Fayetteville, Fayetteville Town Center and Clinton House Museum checking accounts at First Security Bank and remove Jordan Garcia from those accounts.**

1. We historically have had two staff personnel plus the Commission Chairperson that are allowed to sign on our checking accounts, allowing for situations when there are checks for more than \$2,000 that need a second signature.
2. Signatories have typically included the Town Center General Manager. Jordan Garcia is on the accounts, but he is no longer employed here.
3. CEO Rawn feels that in Amy's role as Director of Operations, it makes a lot of sense for her to be a backup second signer.
4. Chairman Petty will still remain as a signer on the accounts, but with the goal that he will not be needed to sign checks very often.
5. Commissioner Rhoads made a motion to name Amy Stockton on each of accounts listed and remove the name of Jordan Garcia from the same accounts. Commissioner Martin seconded the motion. The motion passed.

**D. Presentation of Strategic Plan: Mission, Vision, Values**

1. As part of the strategic plan, it is announced that Tina Archer-Cope is the new General Manager at the Fayetteville Town Center. She was previously the Director of Sales and then the Interim General Manager at the Town Center after Jordan Garcia left.
  2. Late last year, we engaged with Milestone Leadership and want to share some of the work we've done.
  3. Strategic planning with Milestone is rooted in getting a Mission, Vision and Values for our organization.
  4. CEO Rawn presented information concerning the mechanisms and comments from the plan process.
  5. The four internal possible vision statements were shown to the Commission for their consideration and feedback and will be presented at our staff meeting tomorrow morning.
- E. CEO Rawn wanted to remind the Commissioners of the invitation to the Johnny Cash exhibit at the Clinton House Museum tonight for a last look before it gets packed up and sent back. She noted that before Angie Albright came on board as Director, to her knowledge, the museum did not have traveling exhibits of the caliber of what she has brought in. She has had multiple programs and some events at the Town Center. She brought in a journalist who was present with Johnny Cash at Folsom Prison for both times he performed there.

IV. Chairman Petty adjourned the meeting at 2:57 p.m.

Respectfully submitted,  
Sally Fisher, Finance Director

**Fayetteville A&P Commission**  
**Income Statement - Consolidated**  
**Month Ending October 30, 2019**

	Actual	Budget	Over/(Under) Budget	Percent of Budget
<b>Revenue</b>				
Hotel, Motel, Restaurant Taxes Revenue	3,070,055.08	3,571,688	(501,632.92)	86%
Rental Revenue	621,920.43	867,500	(245,579.57)	72%
Event Revenue	26,895.51	56,000	(29,104.49)	48%
Clinton House Museum Revenue	15,084.53	28,500	(13,415.47)	53%
Visitor Center Store Revenue	9,845.88	17,500	(7,654.12)	56%
Parking Revenue	26,485.95	28,000	(1,514.05)	95%
Advertising Revenue	17,375.00	25,100	(7,725.00)	69%
Other Revenue	306,841.51	0	306,841.51	-100%
Interest and Investment Revenue	16,224.47	16,700	(475.53)	97%
<b>Total Revenue</b>	<b>4,110,728.36</b>	<b>4,610,988</b>	<b>(500,259.64)</b>	<b>89%</b>
<b>Expenses</b>				
Rental Expenses	90,507.04	74,000	16,507.04	122%
Event Expenses	66,884.56	72,500	(5,615.44)	92%
Clinton House Museum	44,242.69	43,950	292.69	101%
Visitor Center Store	12,836.89	18,500	(5,663.11)	69%
Marketing Expenses	1,074,029.52	1,028,597	45,432.52	104%
Payroll	1,032,036.55	1,437,817	(405,780.45)	72%
Office and Administrative Expenses	721,863.81	851,901	(130,037.19)	85%
Facilities	938,192.75	1,088,620.00	(150,427.25)	86%
<b>Total Expenses</b>	<b>3,980,593.81</b>	<b>4,615,885</b>	<b>(635,291.19)</b>	<b>86%</b>
<b>Net Income/(Loss) Before Other Revenue and Expenses</b>	<b>130,134.55</b>	<b>(4,897)</b>	<b>135,031.55</b>	
<b>Other Revenue</b>				
Unrealized Gain/(Loss) on Investments	3,736.76			
<b>Other Expenses</b>				
Depreciation Expense	119,131.90	0	119,131.90	
<b>Net Income/(Loss)</b>	<b>14,739.41</b>	<b>(4,897)</b>	<b>15,899.65</b>	
<b>Changes to Assets and Capital Improvements</b>				
Major Capital Purchases	0.00	0	0.00	
<b>Net Change</b>	<b>14,739.41</b>		<b>15,899.65</b>	

September Activity

**\$47,571** + **\$265,715**  
Lodging                      Restaurant

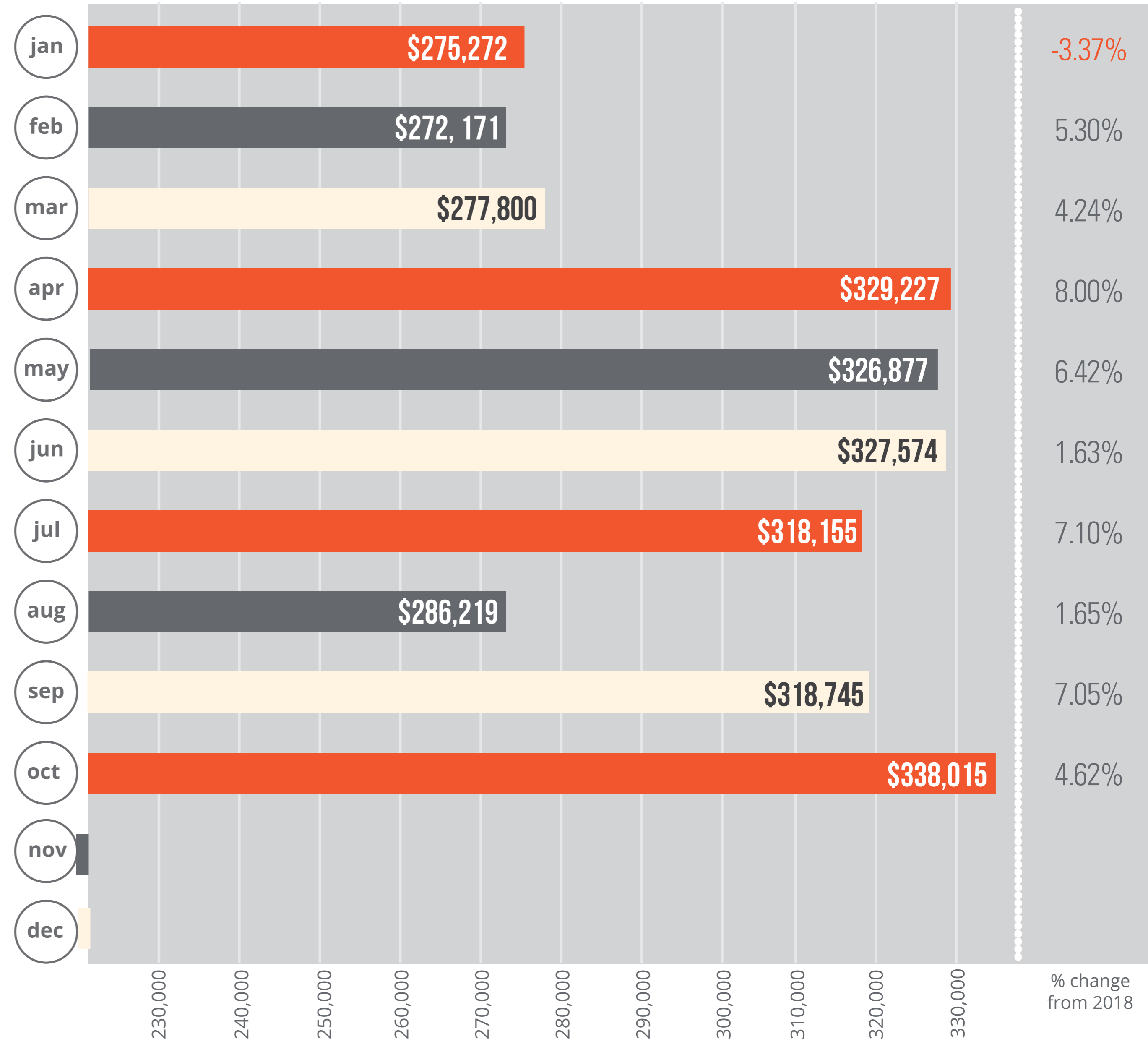
**\$24,729**  
Prior Dues Collected

**\$338,015**  
Total HMR Collected

Previous YTD (Jan-Oct) HMR A&P Tax Collection Totals

2015	2016	2017	2018	2019
\$2,509,831	\$2,712,783	\$2,824,533	\$2,943,604	<b>\$3,070,055</b>
10.64%	8.09%	4.12%	4.22%	<b>4.30%</b>
% change over previous year				

Monthly A&P Tax Collections 2019\*\*



\*\* This represents one half of the total HMR collections. The other half supports the Parks and Recreation department.

# Mission, Vision, Values

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## MISSION

We shape Fayetteville as a welcoming destination through the experiences we cultivate and the stories we share.

## VALUES

### Service

*We make visitor experiences personal while delivering radical hospitality.*

### Collaboration

*We work together to achieve excellence.*

### Exploration

*We develop programs that are bold and new.*

### Engagement

*We seek connections internally and externally.*

### Inclusion

*We respect the unique attributes, characteristics, and perspectives that make people who they are.*

## VISION

*We make Fayetteville a must experience destination.*



## Fayetteville A&P Commission

# Memo

**To:** Fayetteville Advertising and Promotion Commissioners

**From:** Molly Rawn, CEO, Fayetteville Advertising and Promotion Commission

**Date:** November 15, 2019

**Re:** Contract with Edafio Technology Partners for IT Services

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### **Background:**

Fayetteville Advertising and Promotion entered a contract with Edafio Technology Partners in 2015 after receiving multiple bids. That scope of work expired last year, and we have been operating on a month to month basis with Edafio since that time. This is not the most efficient way to operate.

We have multiple projects in various stages of completion including: securing a guest wi-fi network for the Visitors Center, expanding wireless access points at the Town Center, developing a more efficient way for 3 locations to remotely access the server located at the Town Center, and most importantly putting in place the infrastructure required to in order to implement our new FTC building control system purchased early this year.

I asked Edafio to present me with a proposed scope of work similar to that in the past, but one that would allow us regular support calls for a flat monthly fee. I consulted with Keith Macedo, Director of IT Services for the City of Fayetteville. Keith reviewed this scope of work and he and I met together to with Edafio.

### **Recommendation:**

I recommend the commission sign a two-year contract with Edafio Technology Partners as presented in the Scope of Work for the monthly rate \$2,600. I also recommend we include the security awareness program for the additional annual fee of \$4,800 for a total annual impact of \$36,800.

We are currently paying \$2,050 monthly. Due to the nature of our current agreement, we pay for itemized support calls. To date, we have spent \$31,630.48 on IT Services. We do not have the security awareness program.

**MASTER SERVICES AGREEMENT**

This Master Services Agreement (the “Agreement”) is entered into \_\_\_ 2019 (the “Effective Date”) by and between Edafio Technologies, LLC (“Edafio”) and Fayetteville Advertising and Promotion Commission (“Client”). A reference to a “Party” means either Edafio or Client, individually as the context so requires; and “Parties” means Edafio and Client, collectively, and a reference to this Agreement shall mean this Master Services Agreement and all Statements of Work (each, a “SOW”) and all exhibits, schedules and attachments hereto and thereto.

1. **TERM AND TERMINATION.** (A) This Agreement shall commence as of the Effective Date and shall continue in effect thereafter until ninety (90) days after there is no SOW in effect. (B) A SOW shall become effective only when duly signed on behalf of the Parties and shall continue in effect through the earlier of the date the Services have been satisfactorily completed or the date of expiration specified in the SOW. (C) A Party may only terminate a SOW prior to the date of expiration specified in the SOW if the other Party defaults in the performance of any material obligation and fails to cure the default within thirty (30) days after the defaulting Party has received notice of the default from the non-defaulting Party. Notice of termination for any SOW shall not be construed to be notice of termination for any other SOW unless so specifically provided in the notice. (D) Upon the termination of a SOW for any reason whatsoever (including a default by either Party), Edafio will provide such information, cooperation and assistance to Client, as Client may reasonably request, to assure an orderly return or transfer to Client or Client’s designee of all proprietary data (and related records and files) and materials of Client. Client shall pay Edafio for such assistance at the rates set forth in the SOW being terminated, or if no rates are provided in the Statement of Work, at Edafio’s then current rates for such assistance.

2. **SERVICES.** This Agreement sets forth the terms and conditions that will govern the provision of Services to Client as a result of the execution of a SOW by Edafio and Client. Each SOW shall incorporate by reference the provisions of this Master Agreement as though such provisions were set forth in that SOW in their entirety, and shall set forth: a description of the Services to be furnished by Edafio, the fees to be paid by Client for the Services, the term for which the SOW shall be effective and, such additional terms and conditions as may be mutually agreed upon by Edafio and the respective Client. Changes in the Services described in a SOW may be made only by a written amendment to the SOW signed by authorized representatives of the Parties.

3. **FEES AND PAYMENT TERMS.** (A) The fees payable by Client to Edafio shall be designated (or determined based on the rates designated) in the applicable SOW. (B) Edafio will, on a monthly basis, invoice Client for Services rendered and reimbursable expenses incurred in the previous month or other designated billing period. Client agrees that payment is due upon receipt of the invoice. In the event the invoice is not paid by Client within thirty (30) days from the date of the invoice, thereafter the invoiced amount shall bear interest at the maximum rate allowed by Arkansas law, and Edafio may suspend performance of Services if Client fails to make payment within such thirty (30) day period. (C) All charges and fees to be paid by Client to Edafio are exclusive of any applicable withholding, sales, use, value added,

excise, services or other taxes, and Client will pay directly, reimburse or indemnify Edafio for such taxes as well as applicable interest, penalties and other Edafio fees and expenses. (D) Edafio will be reimbursed by Client for all expenses incurred by Edafio in the performance of the Services. For each such item of expense, Edafio will submit substantiating documentation in accordance with Client's policies. All approved business expenses and pass-through charges will be reimbursed at cost (as actually incurred), without mark-up. Client agrees that Edafio may invoice Client, and Client will pay Edafio, for the reasonable value for Services properly performed by Edafio.

4. **CLIENT RESPONSIBILITIES.** (A) In connection with Edafio's provision of the Services, Client shall perform those tasks and fulfill those responsibilities clearly specified as Client responsibilities in the applicable SOW. The SOW may also contain assumptions related to the Services which are identified as assumptions in the applicable SOW. Client understands that Edafio's performance may be dependent on Client's timely and effective performance of Client's responsibilities hereunder and timely decisions and approvals by Client. (B) Client shall supply on-site Edafio personnel with suitable space to Edafio to perform the applicable Services. (C) Client shall, at its cost, obtain all consents necessary from such third party required for Edafio to perform its obligations under the applicable SOW issued hereunder.

5. **REPRESENTATIONS AND WARRANTIES.** (A) Edafio represents and warrants that the Services will be performed in a professional and workmanlike manner. (B) **EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT OR ESTABLISHED BY APPLICABLE LAW AS RIGHTS THAT CANNOT BE WAIVED OR LIMITED BY CONTRACT, EDAFIO DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

6. **CONFIDENTIALITY.** (A) "Confidential Information" means and refers to all tangible or intangible information and materials, in any form or medium, furnished or disclosed to a Party (the "Receiving Party") by the other Party (the "Disclosing Party"), or otherwise obtained, accessed or observed by the Receiving Party from the Disclosing Party, that has been designated or identified as confidential by the Disclosing Party, whether by letter or by an appropriate proprietary stamp or legend, prior to or at the time such information or materials are disclosed by the Disclosing Party to the Receiving Party; that, regardless of the form of disclosure, is apparent to a reasonable person, familiar with a Party's business and the industry in which it operates, that such information or materials are of a confidential or proprietary nature; or, that is non-public, personal, financial or identifying information of an individual, including Client's customers or employees. (B) The Receiving Party will only use or reproduce the Disclosing Party's Confidential Information to the extent necessary to enable the Receiving Party to fulfill its obligations under this Agreement. In addition, the Receiving Party will disclose the Disclosing Party's Confidential Information only to those of the Receiving Party's personnel who have a "need to know" such Confidential Information (and only to the extent necessary) in order to fulfill the purposes contemplated by the Agreement; the Receiving Party will exercise at least the same degree of care with respect to the Disclosing Party's Confidential Information that the Receiving Party exercises to protect its own Confidential Information; and, at a minimum, the Receiving Party will maintain commercially reasonable security measures to safeguard the

Disclosing Party's Confidential Information from unauthorized disclosure, access, use and misappropriation. (C) If the Receiving Party becomes aware of any threatened or actual unauthorized access to, use or disclosure of, or any inability to account for, the Disclosing Party's Confidential Information, the Receiving Party will promptly notify the Disclosing Party thereof and will assist the Disclosing Party with its efforts to terminate such access, to curtail such threatened or actual unauthorized use or disclosure, or to recover such information or materials. The Receiving Party will be liable to the Disclosing Party for any non-compliance by its agents or subcontractors to the same extent it would be liable for non-compliance by its employees. (D) The obligations of confidentiality assumed under this Agreement shall not apply to the extent the Receiving Party can demonstrate, by clear and convincing evidence, that such information: is or has become generally known by persons engaged in the technology services industries, without any breach by the Receiving Party of the provisions of this Agreement or any other applicable agreement between the Parties; was rightfully in the possession of the Receiving Party, without confidentiality restrictions, prior to such Party's receipt pursuant to this Agreement; was rightfully acquired by the Receiving Party from a third party who was entitled to disclose such information, without confidentiality or proprietary restrictions; was independently developed by the Receiving Party without using or referring to the Disclosing Party's Confidential Information; or, is subject to a written agreement pursuant to which the Disclosing Party authorized the Receiving Party to disclose the subject information.

7. **LIMITATION OF LIABILITY.** (A) EDAFIO SHALL NOT BE LIABLE TO CLIENT (OR TO ANY PERSON OR ENTITY CLAIMING THROUGH CLIENT) FOR LOST PROFITS, LOSS OF GOODWILL OR FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT EDAFIO HAS BEEN INFORMED OF, OR OTHERWISE MIGHT HAVE ANTICIPATED, THE POSSIBILITY OF SUCH DAMAGES. (B) EDAFIO'S LIABILITY FOR ANY LIABILITIES, LOSSES, COSTS, DAMAGES AND EXPENSES IN ASSOCIATION WITH ANY CLAIM OR ACTION RELATED TO, IN CONNECTION WITH, OR ARISING UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL BE LIMITED TO CLIENT'S DIRECT DAMAGES ACTUALLY INCURRED, WHICH UNDER NO CIRCUMSTANCES WILL EXCEED THE AMOUNT PAID BY CLIENT TO EDAFIO UNDER THE STATEMENT OF WORK PURSUANT TO WHICH SUCH CLAIM OF ACTION ARISES DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE WHICH SUCH CLAIM AROSE. (C) No action, whether based on any written contract claim, product liability claim or tort claim, including any action based on negligence, or any other legal theory arising out of the performance of this Agreement, may be brought by either Party more than two (2) years after the Party knew or should have known of the breach or damage (whichever is first), except that an action for non-payment may be brought within two (2) years of the date of the last payment.

8. **NOTICES.** All written notices required to be given under the terms of this Agreement shall be addressed to the respective parties hereto as follows:

To Edafio: Edafio Technologies, LLC  
ATTN: President  
5400 Northshore Drive  
North Little Rock, Arkansas 72118

With copy to: Sam Baxter  
Baxter, Jewell & Dobson, PA  
1 Information Way Suite 210  
Little Rock, Arkansas 72202

To Client: Fayetteville Advertising and Promotion Commission  
Molly Rawn  
21 S Block Ave  
Suite 100  
Fayetteville, AR 72701-6499

Such notices shall be sent either by first class, certified return-receipt-requested mail, postage prepaid, by overnight express mail service with a national express mail service (i.e., Federal Express, UPS, etc.), or via hand-delivery with a signed receipt evidencing delivery of such notice. Any Party may change their address for notice by giving written notice of such change in the manner set forth in this Section 8.

9. MISCELLANEOUS. (A) Any controversy or claim arising out of, or relating to, this Agreement, or any breach thereof, which is not resolved by the Parties shall be settled by arbitration in the City of Little Rock, Arkansas, in accordance with the rules then existing of the American Arbitration Association, and judgment upon the award rendered may be entered in any court having jurisdiction thereof. (B) A Party will be excused from a delay in performing, or a failure to perform, its obligations under this Agreement to the extent such delay or failure is caused, directly or indirectly, by flood; earthquake; fire; explosion; element of nature or act of God; or any other cause beyond the reasonable control of such Party. (C) Neither Party may assign this Agreement nor any of its rights or interests hereunder, nor delegate any obligation to be performed hereunder, without the prior written consent of the other Party; provided that Edafio may assign this Agreement upon the sale of all or substantially all of its assets. Any attempted assignment or delegation in contravention of this Section shall be null and void, and of no force or effect. This Agreement shall be binding upon, and shall inure to the benefit of, the legal successors and permitted assigns of the Parties. (D) If any provisions of this Agreement are held to be invalid, illegal or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way. (E) This Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas. (F) The Parties further agree that this Agreement, together with all SOW's, constitutes the complete agreement of the Parties with respect to the subject matter hereof, and that it supersedes and merges all prior proposals, understandings and agreements, whether oral or written, between the Parties with respect to the subject matter hereof. (G) The waiver by either Party of any term or condition of this Agreement shall not be deemed to constitute a continuing waiver thereof nor of any further or additional right that such Party may hold under this Agreement. (H) Any

provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration of this Agreement shall survive any termination or expiration of this Agreement and continue in full force and effect. (I) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute the same document. To facilitate the execution of this Agreement, the Parties agree that the facsimile or other electronic signature of a Party shall be sufficient to bind that party to this Agreement with the original signature to be provided as promptly as possible following execution. (J) Edafio will perform all Services as an independent contractor. (K) Client agrees that it shall not, during the term of this Agreement and for a period of one (1) year following termination of this Agreement (and all Statements of Work between Edafio and Client), directly or indirectly, on behalf of Client or on behalf of, or in conjunction with any person, partnership, corporation or other entity solicit, induce, entice, or hire, or attempt to hire or employ any employee of Edafio. In the event Client breaches this provision, Client agrees that the actual damages sustained by Edafio will be impractical and extremely difficult to fix and as liquidated damages (and not as a penalty) Client shall pay to Edafio within thirty (30) days after demand by Edafio, an amount equal to the greater of (i) \$50,000 or (ii) one hundred percent (100%) of the annual base salary of any such Edafio employee.

10. SOW. IN the absence of a Statement of Work or provisions in a Statement of Work set forth the charges for Services, Edafio’s standard hourly rates then in effect shall apply to such Services.

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WITNESS WHEREOF, the Parties hereto, through their duly authorized officers, have executed this Master Professional Services Agreement as of the Commencement Date designated above.

<b>EDAFIO:</b>	<b>CLIENT:</b>
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

# Edafio Technology Partners

## OneTeam Core Care SOW

Statement of Work #:	19410112019001
Effective Date:	12/01/2019

THIS STATEMENT OF WORK (SOW) is entered as of the Effective Date designated above, by and between Edafio Technologies, LLC d/b/a Edafio Technology Partners (Edafio) and Fayetteville Advertising and Promotion Commission (Client). Edafio and Client (collectively referred to as the Parties) hereto acknowledge that they are entering into this SOW pursuant to the provisions of Master Services Agreement #1016190001 dated \_\_\_\_\_ between Parties. The Parties further acknowledge and agree that the provisions of the Master Services Agreement shall apply to this SOW as though such provisions were set forth herein in their entirety. If any terms and conditions of the Master Services Agreement and the SOW conflict, then the terms and conditions of the SOW will apply.

### Term

This SOW shall begin on the date set forth above and shall end on the last day of the month, which is two (2) years after Effective Date. Thereafter, this SOW shall automatically renew on a year-to-year basis, in one-year increments, until terminated at the end of any such renewal by written notice from one Party to the other, which written notice must be provided at least sixty (60) days in advance of the end of the then current term.

### Edafio will provide the following Managed IT Services:

1. Remote and onsite remediation & support for environment defined in Client Assumptions Appendix
2. User support (i.e., Helpdesk), via Edafio's Network Operations Center (NOC).
  - a. Helpdesk available via phone: 501-221-4100 option 1 or email: helpdesk@edafio.com
  - b. Helpdesk staffed with a team of engineers during the hours 6:00 AM to 6:00 PM Central Time, Monday through Friday with the exception of Holidays (New Year's Day, Labor Day, Memorial Day, 4<sup>th</sup> of July, Thanksgiving Thursday & Friday, and Christmas).
  - c. Helpdesk will escalate tickets to level 2 support for resolution when needed
  - d. After-Hours support is provided by on call support staff for priority or business critical incidents
  - e. When required for incident resolution, onsite support will be scheduled.
3. Assist Client's specified 3rd party partners (e.g. ISP, Managed Print Provider, Software Vendor/Manufacturers, etc.) in the resolution of issues.
4. Patch Management for Microsoft Windows Server Operating Systems, Microsoft Windows Desktop Operating Systems, VMware vSphere, VMware vCenter, and Microsoft Hyper-V. Patch management will only be provided for the above software systems that are within the software manufacturers support lifecycle.
5. Third-Party software patching for a defined set of user focused applications as defined in Appendix A. The list of Client's third party applications available for patching will be reviewed and agreed to by Edafio and Client in the on-boarding process, with such agreement to be promptly documented thereafter in writing by Edafio.

6. Network device (e.g., Switches, Wireless Access Points, etc.) administration/configuration and monitoring for device connectivity. Monitoring will be limited by the capabilities of the network device itself and/or its visibility to Edafio's monitoring platforms.
7. Compute and storage device (e.g., Servers, SANs, Virtualization Hosts) administration and monitoring. Computer and storage device(s) monitoring is currently provided by ConnectWise Automate. Edafio may change to a different monitoring tool upon not less than 30 days' notice to Client.
8. Firewall administration/configuration and monitoring of Edafio approved Next Generation Firewalls from Cisco and CheckPoint with dedicated firewall managers. Monitoring will be limited by the capabilities of the firewall device itself and/or its visibility to Edafio's monitoring platforms.
9. Monitor up or down status of Internet connectivity.
10. Tracking client software license and hardware warranty support agreement information and periodically providing updates to Client. This is limited in scope to Edafio's monitoring tool's capability, and the information provided by Client.
11. Administration/configuration of Microsoft centralized authentication platforms (Active Directory) and Microsoft messaging platforms (Exchange and Exchange online). This includes client requested additions/modifications/deletions of accounts, group policies, as well as performance tuning, HW/SW recommendations, and backups.
12. Backup system administration/configuration, monitoring, and testing as follows:
  - a. Backup system administration is limited to Edafio approved backup solutions which currently include VEEAM, Datto, Backup Exec, and Edafio Cloud Backup.
  - b. Monitoring of backup health (e.g., Failed Backups, Unresponsive jobs, and time-period review and/or reports). Monitoring is limited to backup solutions that will integrate and/or report to Edafio's monitoring and management systems.
  - c. Backup testing is defined as a semi-annual procedure to ensure the integrity and availability of the data and or system(s). The procedure will include restoration of a sample of data or launching a selected system to a non-production status.
  - d. Edafio will notify Client in the event of a failed backup or failed backup test restore.
13. Endpoint Security (e.g., Antivirus, Antimalware) administration/configuration and monitoring for Microsoft Window Servers and Microsoft Windows Workstations. Administration is limited to Edafio approved security solutions and monitoring is dependent upon the ability of the security solution to integrate with Edafio's monitoring and management systems.
14. Annual IT Strategic Review. This review consists of planning, budgeting, and reviewing the current IT landscape versus industry standards with Edafio Engineer and Account Manager.
15. Edafio will provide Client advance notice of any intent to change the Account Manager or Primary Engineer assigned to the Client.

### **Edafio will provide the following Security Awareness Program (SAP):**

1. Testing – Edafio will perform the following testing items at the defined interval:
  - a. Simulated Phishing Attack – performed monthly
  - b. Email Exposure Check – performed monthly
  - c. Domain Doppelganger Report – performed annually
  - d. Mail Filtering Test – performed annually
  - e. Domain Spoof Test – performed one (1) time during onboarding



2. Training – Edafio shall deliver training modules via email or make available via web portal. The training modules include the following:
  - a. Corrective Training for users engaging in phish prone activities
  - b. Tailored training, not to exceed four (4) modules per year. Training modules may include
    1. General security training
    2. Compliance specific training (e.g., HIPAA, PCI, GDPR, FERC)
    3. Industry or job function specific security training
  - c. Training modules may be provided as SCORM File Exports to be used within client’s Learning Management System (LMS) and managed by client designee.
3. Awareness – Edafio will deliver awareness newsletters related to current scams, phishing attacks, threats, and general security on both a weekly and monthly basis to all participants.
  - a. Edafio may provide an onsite Security Awareness presentation once per year. This onsite presentation will take the place of one Quarterly Success Consult and will be focused on Security and/or HIPAA topics chosen by Edafio.
4. Consultation – Edafio shall provide consultation and Security Awareness Program management to understand the human attack surface of the client organization, learn what users might be more vulnerable to a phishing attack, and evaluate the effectiveness of the security awareness training program over time. Reports may include Organization Risk Score, Phish-prone Percentage, User Report Cards, and Training Coverage. Reporting and consultation may be delivered via the following avenues:
  - a. Monthly Touch Base (remote) – This touch base is focused on updating key reports and previewing scheduled activities. It may be conducted via phone or web-meeting.
  - b. Quarterly Success Consult (onsite) – This consult is focused on reviewing the effectiveness of the security awareness program and identifying opportunities to improve the program or better integrate it within the client’s organization. It may be conducted onsite or via web-meeting.

**Client acknowledges that the Managed Security Services are designed to utilize industry-accepted tools, processes and procedures to identify threats and vulnerabilities, with the goal of reducing IT securities issues, which the Client may face. Such Services do not ensure that security incidents will not be occur or adversely impact Client.**

## **Out of Scope Services:**

**The following services are not within the scope of Managed IT Services or Managed Security Services and, therefore, are out of scope. If such services (Out of Scope Services) are provided by Edafio, such Out of Scope Services will be subject to additional charges as provided herein:**

1. Onsite installation, alteration, addition, cleaning, refinishing, replacement, and repair services of computer equipment or hardware, including equipment and hardware purchased from Edafio as requested by Client, and Edafio performs any of the foregoing excluded services, the fees for such services will be determined as Out of Scope Services in the SOW. Edafio will invoice Client separately for such services and Edafio will invoice Client for any applicable withholding, sales, use, value added, excise, services or other taxes applicable to such services.
2. Edafio may determine that any hardware not under warranty or a hardware support agreement is no longer supportable. Upon notice from Edafio, Client shall replace the hardware with hardware which subject to an active warranty and support agreement. If Client fails to replace the hardware, Edafio shall not be obligated to provide continued support, however, any support provided by Edafio will be Out of Scope Services.
3. Resources provided by Edafio to resolve issues on systems that are outside of software manufacturers supported lifecycle will be Out of Scope.
4. Significant changes to internet services such as changing Internet Service Provider (ISP) or fundamentally changing the connection method with an existing provider are Out of Scope.
5. Copier and Printer repair are Out of Scope; provided that Edafio will assist with printer connectivity issues.
6. Any other service not specifically provided for as a Managed IT Service or Managed Security Service will be Out of Scope.
7. Any resources provided by Edafio for Out of Scope services will be invoiced based on the hourly rates in Appendix D: Edafio Rates.

## **Client Responsibilities:**

**Edafio's provision of the Managed IT Services and the Managed Security Services are subject to Client performing the responsibilities set forth herein. Edafio may rely on any information provided by Client in the fulfillment by Client of the Client responsibilities.**

1. Client will provide a primary contact for technical needs, including escalation of problems.
2. Client will provide a primary contact for invoice submittals.
3. Client will, at Client's expense, purchase current license and support agreements for all Client provided software and hardware warranty and support agreements on all required infrastructure.
4. Client will inform Edafio of newly purchased third party software and work with Edafio to evaluate if a Change Control is necessary.
5. Client will inform Edafio of any changes or additions to infrastructure, servers, third party interfaces, cloud environments and work with Edafio to evaluate if a Change Control is necessary.
6. Client will notify Edafio when employees are added, terminated or resign so that login accounts and e-mail accounts can be managed.

7. Client will work with Edafio to implement appropriate industry password policies.
8. Client will work with Edafio to schedule timely meetings and staff training as appropriate.
9. Client will work with Edafio to create planned routine maintenance windows for updating infrastructure components.
10. Client is responsible for providing IP addresses in scope for the services. Client affirms ownership and or administrative rights of IP addresses provided to Edafio for the engagement.
11. Client will provide (and update as changes are made) information specified in Appendix A: Client Assumptions and Appendix B: Client’s Backup Solution.
12. Edafio’s Security Awareness Program (SAP), as defined above, is only supported on the following email platforms: Microsoft Exchange, Microsoft 365, or Google Apps for Business/Education/Non-profit. The Security Awareness program will be delivered on a best-effort basis for all other business class email platforms. Public email providers, (e.g., Gmail, Yahoo, Outlook.com, Live, Hotmail etc...), are not supported.
  - a. Client will provide an email address and mailbox for Edafio’s use for testing and reporting purposes.
  - b. Client understands that Edafio’s best practice regarding phishing templates is to randomize templates from a configured pool. Previews of specific phishing campaigns are not recommended or possible.
  - c. Client will designate contact(s) to participate in monthly and quarterly meetings.

## Fee Schedule:

Monthly IT Services Fee	\$2,100
Security Awareness Program (Monthly Fixed Fee in addition to Monthly IT Services Fee)	\$440
Monthly Datto Backup	\$500
<b>Total Monthly Services Fee</b>	<b>\$3,040</b>
Initial Onboarding Fee (1 time – Client runbook, IT diagrams, Inventory of systems+ software + credentials)	\$0
Travel & Expenses	Client will be charged actual travel expenses outside the LR/NLR and NWA areas incurred for approved travel (e.g. mileage, travel time hourly rate, hotel, and travel per diem)

- Fees and Expenses for Services rendered by Edafio pursuant to this SOW shall be invoiced to Client and payable monthly plus any applicable taxes. Payment is due upon receipt of invoice.
- Each year after the SOW Effective Date, all Edafio rates and services fees will be increased by 3%, unless changed by Edafio and Client in an amendment to this Statement of Work or a new agreement.

## Change Control:

- In the event there are changes to Client's service requests, hardware, software and environments or backup solutions, Client and Edafio will follow the change control process outlined in *Appendix A: Change Control Procedure*.

**IN WITNESS WHEREOF**, the Parties hereto, through their duly authorized officers, have executed this SOW to the Master Services Agreement as of the Effective Date designated above.

### Client

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### Edafio Technology Partners

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix A: Client Assumptions

Date Prepared: 10/10/2019

Assumption	Quantity
Number of servers – includes virtual, physical, and virtual hosts	5
Client locations <ol style="list-style-type: none"> <li>1. Experience Fayetteville</li> <li>2. Fayetteville Town Center</li> <li>3. Fayetteville Town Center Offices</li> <li>4. Clinton House Museum</li> </ol>	
Number of employees with computers	20
List of Internal and external IP addresses	FTC Internal: 172.16.1.0/24 FTC External: 184.179.96.141  CHM Internal: 172.16.10.0/24 CHM External: 174.71.129.188  FVB Internal: 192.168.1.0/24 FVB External: 70.163.39.139
Key business applications and third party vendor assumptions: <ol style="list-style-type: none"> <li>1. Microsoft Office 365</li> <li>2. QuickBooks</li> <li>3. EMS</li> <li>4. IDSS</li> </ol>	
Client's 3 <sup>rd</sup> party partners: <ol style="list-style-type: none"> <li>1. Cox</li> </ol>	
Other:	

Client agrees to work cooperatively with Edafio to update this Appendix from time to time to reflect changes in these assumptions.

## Appendix B: Client's Backup Solution

Date Prepared: 10/10/2019

1. Initial setup and migration services	n/a
2. Size of local storage	Datto Siris 3 Business 2000 – 2TB (2x@TB(RAID1))
3. Size of Cloud storage	1 yr. cloud retention
4. Frequency of full back-ups	There was an initial full backup when the device was setup and now it is incremental backups.
5. Frequency of snapshot back-ups	Every 60 min.
6. Frequency of test restores and remediation	Quarterly
7. Daily monitoring of pass/fail	Yes
8. Network Capacity/Requirement for Off-site Backup	Client's current network meets requirement

Client agrees to work cooperatively with Edafio to update this Appendix from time to time to reflect changes in Client's backup solution.

## Appendix C: Change Control Procedure

All requests outside of the scope of this SOW shall be addressed using the Change Management and Control Process. Edafio and Client are responsible for administering and managing this change control process.

### Definition of Change

1. A change is defined as any modification, clarification, addition or deletion to the services described in the Statement of Work, as may be modified by any prior change. A Change Request will be the vehicle for communicating change. Change Request will identify any new deliverables, as well as any applicable charges.

### Change Management Process

The following describes the process to follow when a change to the SOW is required.

1. Both Client and Edafio may request a change to this SOW through a Change Request. The Change Request must describe the change, the rationale for the change, and the effect the change.
2. In the event Edafio requests a change and Client refuses such Change Request and thereafter an event(s) occurs which has an adverse impact of any kind on Client which reasonably could or would have been minimized or prevented has the Change Request been accepted and implemented, Client acknowledges that Edafio shall not responsible for any such adverse impact on Client from any such event(s) and any recovery efforts or resources provided by Edafio shall be Out of Scope Services
3. A written *Change Management Form* must be signed by both parties to authorize implementation of the change and potential associated fees.

## Change Management Form

Request Title: \_\_\_\_\_

Request Number: \_\_\_\_\_

Requestor: \_\_\_\_\_

Date Prepared: \_\_\_\_\_

### Detailed Description of Proposed Change

### Justification for Proposed Change

### Estimated Cost for Proposed Change

### Disposition

Client Representative	Edafio Representative
Accepted: _____ Rejected: _____	Accepted: _____ Rejected: _____
Signature:	Signature:
Name, Title:	Name, Title:
Date:	Date:



## **Appendix D: Edafio Rates - 2019**

- Consulting Architect: \$220/hour
- Consulting Engineer: \$185/hour
- Cybersecurity Security Consultant: \$175/hour
- Senior Network or Systems Engineer: \$175/hour
- Project Managers: \$160/hour
- Healthcare Consultant: \$150/hour
- Engineer: \$155/hour
- Help Desk Engineer: \$130/hour
- Travel Time: \$70/hour

## **Appendix E: Disclosures**

### **Edafio External Provider Disclosure**

Edafio does not transfer data provided by Customers or provide access to Customer systems to external parties (contractors, vendors, or service providers) unless those external parties provide the data the equivalent level of protection that Edafio provides. To ensure the external parties provide the appropriate level of protection, Edafio conducts regular due diligence in accordance with internal policy and standards.

As a regular course of business Edafio may engage the following types of vendors: Backup Software, Ticketing Software, Manufacturer Hardware Support, Cloud Provider, Security Monitoring, System Monitoring, and Operating System Support. If Edafio engages any external parties that may have access to Customer data or systems outside of those listed above the Customer designated contact will be made aware of the engagement and level of data access prior to the external party being granted access.

### **Edafio Data Residency Disclosure**

As a company operating strictly within the United States and recognizing that overseas data residency for sensitive data may increase the risks and vulnerabilities to the information or present special considerations with respect to enforceability of privacy and security protections over the data, Edafio will only use Delivery Centers located inside the United States.

## Appendix F: Service Level Objectives

- Four-hour ticket response Service Level Objective (Engineer assigned and evaluation begins during business hours)
- Critical or urgent issues (system down, no work around) one-hour or less including outside of business hours