

Fayetteville Advertising and

Promotion Commission

February 27th, 2023

Location: Fayetteville Town Center, 15 W. Mountain Street

Commissioners: Todd Martin, Chair, Tourism & Hospitality Representative
Katherine Kinney, Tourism & Hospitality Representative
Chrissy Sanderson, Tourism & Hospitality Representative
Elvis Moya, Tourism & Hospitality Representative
Andrew Prysby, Commissioner at-large
Sarah Bunch, City Council Representative
Sonia Harvey, City Council Representative

Staff: Molly Rawn, CEO

Agenda

- I. Call to order at 2:00 p.m.
- II. Old Business
 - A. Review and approval of February 6th minutes.
- III. New Business
 - A. CEO Report. An executive overview of the previous month
 - B. Financial Report. Jennifer Walker, Vice President of Finance
 - C. Marketing Report. Molly Rawn, CEO.
 - D. Vote. Sells Agency Contract Extension. *The contract with Sells Agency, FA&P's advertising agency of record, has lapsed. The CEO is seeking authority to extend the contract the original contract for a term of one year beginning January 1, 2023 and concluding December 31, 2023. Contract attached.*
 - E. Vote. Fayetteville Town Center lease. *The existing FTC lease has expired and both parties have reached agreement on a new lease. Proposed lease and memo attached.*
 - F. Vote. Folk School of Fayetteville lease. *Approval of lease with Folk School Fayetteville for Walker Stone House. Proposed lease attached.*
 - G. Additions to the agenda may be added upon request from a majority of the commissioners.
- IV. Adjourn

Fayetteville Advertising and Promotion Commission

Minutes February 6, 2022

Fayetteville Town Center

Commissioners Present: Chair Todd Martin, Tourism & Hospitality Representative
Elvis Moya, Tourism & Hospitality Representative

Andrew Prysby, Commissioner at-large

Sarah Bunch, City Council Representative

Chrissy Sanderson, Tourism & Hospitality Representative

Sonia Harvey, City Council Representative

Katherine Kinney, Tourism & Hospitality Representative * virtual

Commissioners Absent:

Staff: Molly Rawn, CEO; Jennifer Walker, VP of Finance; Sarah King, VP of Marketing & Communications

I. Chair Martin called the meeting to order at 2:01 pm.

II. Old Business

A. Chair Martin asked commissioners to review the November minutes and asked if there were any additions or revisions. Hearing none, he stated that the minutes stood approved.

III. New Business

A. Vote. Appointment of a commission chairperson.

Chair Martin noted that he was interested in being considered and that if he was re-appointed, he would not seek to be re-appointed in 2024. Discussion ensued about other commissioners' possible interest, and this led to Commissioner Bunch nominated Chair Martin to serve as chair and was seconded by Commissioner Moya. Chair Martin called for a vote and it was approved unanimously.

B. CEO's Report. Molly Rawn, CEO

Rawn began explaining that the presentation on the screen was a truncated report and that the full report was included in the Agenda Packet. She then welcomed Commissioner Sonia Harvey to her first A&P Commission meeting. Commissioner Harvey is a City Council member who was appointed to fill the seat vacated by former City Council member Mark Kinion.

We will have an open commission seat with Commissioner Kinney's current appointment ending March 31. Applications for this tourism and hospitality seat are available on the city of Fayetteville's website. Commissioner Kinney is eligible to re-apply and applications must be submitted by Friday, February 24th. If interviews are needed, we will conduct those before the March A&P Commission meeting and vote to make our recommendation and send that to city council.

We do not have an update on the lease for the town center but expect an update for the February 27th meeting. We have additional information about the Walker Stone House in an upcoming agenda item but want to note here that we are relocating the sculpture on the Walker Stone House lawn to Mt Sequoyah's art campus and we will be funding the cost of the transport.

On the Sales side, Rawn wanted to note Arkansas State Press Association Conference and the American Society of Landscape Architects Summit, both of these are new conferences that we are excited to be working with. On the cycling front, we are hosting the re-scheduled Bicycle Boot Camp this coming Wednesday February 8th and we believe it is at full capacity but let us know if you know of someone who was wanting to attend. Chair Martin added that his experience with his restaurant group attending this training was exceptional and very worthwhile.

Rawn spoke about the Visitors Center with a small increase in attendance and a large increase in revenue with holiday shopping. Three Ale Trail Passports were redeemed.

In Community Engagement, Rawn noted that Vanny, our Mobile Visitors Center, would be in the Mardi Gras parade coming up on Saturday, February 18th. We've also started to reach out to potential sponsors for both First Thursday and also Lights of the Ozarks. Please reach out to either Molly or Chloe Bell if you know of businesses that have expressed interest in being a sponsor.

The town center does not have yet have an updated lease, expect one soon. The team has taken advantage of what is typically a slow time to do upgrades and needed maintenance and cleaning. Tyler Wilson and his team also attended the first meeting of the solar array project for the possibility of the town center's inclusion in this project.

Rawn referenced HRM data that she's compared to 2019 and mentioned that occupancy was down in December but was also down in 2019. Our ADR, Average Daily Rate, was up 10% compared to 2021 and up 6% compared to 2019. Our YTD Average Daily Rate grew 19% compared to 2021. Discussion ensued concerning ADR and RevPar comparisons and Rawn stated she would follow up with Commissioner Kinney on possible ways to compare this information. A bottom line take away that Rawn gave is that our HMR is up 17% from 2021 and 4% from 2019.

C. Financial Report. Jennifer Walker, VP of Finance

December financials are in your packet and you'll note that we are at 115% of revenue for 2022 and 94% for expenditures – this is excellent news. HMR tax collections came in at 4.7 million for the year and 12% above projected budget amount. Net operating income for the year is approximately a million dollars. Please note that these are unaudited, early numbers for 2022. Our audit numbers will be available in mid-year after our audit is complete. Rawn took a moment to appreciate General Manager Tyler Wilson and his team at the town center as they exceeded their revised budget numbers and maintained a good control of expenses. Walker added that Cash and Investments came in at 4.7 million dollars.

D. Marketing Report. Sarah King, VP of Marketing and Communications and Mike

Sells.

King reviewed the marketing report, including showing the new pictures taken of Lights of the Ozarks. She previewed Restaurant Week which is February 19-25th and mentioned she thinks it's been more than a decade since Fayetteville has promoted a Restaurant week. We are doing a multi-prong marketing campaign including print, radio and lots of social. We are opening with a brunch bike valet at Dooms Day coffee on Sunday and a separate proclamation by Mayor Jordan.

King also spoke about a recent influencer who was in town from Oklahoma City and that we plan to bring in 2 more influencers this year to focus on a multitude of themes such as dual sport motorcycling, cycling and families.

Mike Sells presented some social media and website statistics including an increase in mobile vs desktop viewing. We also saw that the website audience is getting younger. He also spoke about the calendar of events page and the growth it has seen. While the calendar is widely used by our local community, it is also visited extensively by visitors. He also showed the time that visitors are spending on the Visitors Guide flipbook; with the average visit being more than 20 minutes, it shows this is a well-used digital tool. After showing these statistics, Commissioner Moya asked how we could use our website to highlight and promote different months such as Women Empowerment month, Hispanic Heritage month and more. Rawn said this could be a discussion item at the next marketing meeting with Sells.

E. Downtown Initiatives Update. Kelly Rich, Director of Downtown Initiatives

Kelly Rich spoke about her first 60 days and that her focus has been hosting several meetings with various stakeholders including downtown partners, city departments and more. She mentioned she needed to connect with the commissioners as well. She's also been in touch with other area downtown organizations to meet their leadership, find out their structure and specific goals. She's working with the current leadership of the Downtown Fayetteville Coalition as they work to re-build the coalition and determine how they want it to be structured.

F. Vote. Fayetteville Town Center Capital Purchase.

Rawn presented a quote from Mity Lite for \$48,079.26 to replace the tables available to venue rentals. She requested to make a modification to the recommendation to include a 10% contingency if needed for any changes in the quote. Commissioners asked questions about warranties and a plan for the existing tables. Commissioner Bunch made a motion that they approve the Mity Lite estimate for \$48,079.26 from Mity Lite for new tables with a 10% contingency if needed and it was seconded by Commissioner Sanderson. It was approved unanimously.

G. Vote. Fayetteville Town Center Capital Purchase.

Rawn asked General Manager Tyler Wilson to talk about the request for a new stage purchase. He said that it has reached the end of its life and that with the new carpet install, more damage will occur to the carpet if we continue to use it. Finally,

the current stage is not ADA compliant and this new stage will be. With no more questions, Chair Martin asked for a motion. Commissioner Harvey made a motion to accept the quote of \$27,731.02 from State Right for a new stage with a 10% contingency if needed and Commissioner Prysby seconded it. It was approved unanimously.

H. Walker Stone House – a Space for Music.

Rawn began by talking about attending the Music City Forum and how it was a relatable concept to Fayetteville as cities the same size were in attendance. She then spoke about the concept of Walker Stone House serving as a space for music. Our musical ecosystem needs a supportive space to keep it vibrant and give it resources. Rawn discussed the proposed plan which would include the Folk School of Fayetteville using the Walker Stone House space to see how it can best support the music community. Rawn mentioned the first year could be spent doing workshops and more with the partners the Folk School is currently working with. The second year the Folk School of Fayetteville could host small-scale programs such as house concerts, music lessons and multi-day events. At the conclusion of the second year, both Experience Fayetteville and the Folk School would discuss what the future could look like.

Rawn is asking the commission to authorize the CEO to develop a 2-year lease agreement to bring back to the commission for a vote and to also make a financial investment of \$30,000 to Folk School of Fayetteville to be distributed as follows, \$15,000 upon executive of the lease and \$15,000 following a presentation from Folk School to the A&P Commission and submitting an operating plan.

Commissioner Sanderson asked what the \$15,000 could cover and Rawn mentioned marketing materials, hiring contractors, other startup costs. Commissioner Sanderson also asked if there would be additional costs that the building would need and Rawn said yes, but that depending on the lease, that would determine who would cover the costs that were brought up. Commissioner Bunch mentioned that she has received an email from someone who was not in favor of this plan and the person mentioned the valuable antiques that conveyed in the sale to the A&P and Rawn said that any valuable antiques were not stored at the Walker Stone House. It was also noted that the second floor was not ADA and Rawn said it was her intent to work with our attorney to create a lease that acknowledged that and that the second floor would not be used for public activities.

Commissioner Harvey asked if the house's historic status would be in jeopardy with a use like this and Rawn spoke and asked guest Maylon Rice to also speak to this and it was decided that it would not be in jeopardy. Chair Martin spoke and said he thought it fit our mission of supporting the arts and the Folk School had a good track record. Maylon Rice spoke on behalf of himself. He is not in support of this proposal as he is in support of us working with a consultant to determine best use of this house. He also asked questions concerning who would pay utilities other items.

Rawn said she thinks this opportunity with the Folk School is an example of good timing. Chair Martin said he sees this as incubating Folk School and they've shown a good track record of 13 years in Fayetteville and we have an opportunity to partner with an organization who is grounded in tourism. Commissioner Bunch also spoke in favor of this potential partnership based on her knowledge of what Bryan and Bernice Hembree, the owners of the Folk School, have been involved in the past. She also

noted that the lease would be a valuable instrument to help define what the commission would be responsible for. Commissioner Harvey also spoke in favor of it and the possible educational opportunities for our community. She also said she wanted to make sure the space would be taken care and appreciated Maylon Rice's thoughts and concern about the historical status and needs the house would have.

Commissioner Moya said there are some things that need to be clearly defined such as utilities, repairs, and more. Commissioner Sanderson said that she is in favor of this program and understands that we will define many of these items in the lease.

Rawn asked if the commission was generally in favor of this program to ascertain if she should focus time towards the work of developing a lease and the commissioners stated they are in favor. Commissioner Harvey asked if the floor was structurally safe for something like a small house party that may include up to 30 people. Rawn said an architecture had looked at the floor at one point for another matter and did not have any concerns at that time.

Commissioner Harvey moved that we approve the recommendation concerning the lease and the funding as stated and this was seconded by Commissioner Sanderson. Martin read the recommendation back to the commission and asked if there was any further questions. Hearing none, it was voted on and passed unanimously.

Before adjourning, Rawn mentioned that it was her intent to have the February commission meeting on February 27th as originally scheduled. Chair Martin reminded commissioners to turn in their financial reporting. Rawn followed up on Commissioner Moya's request to see a list of newly opened restaurants and she said she would have that for the meeting later this month.

H. Adjourn

Chair Martin requested a motion to adjourn with Commissioner Sanderson making the motion and Commissioner Prysby seconding it. The motion passed unanimously, and the meeting was adjourned at 3:38 p.m.

Minutes submitted by Amy Stockton, Director of Operations, Experience Fayetteville

Fayetteville Advertising and Promotion Commission
CEO Updates
February 2023

Commission

- Applications for Tourism and Hospitality position update

What to expect in the coming months:

- March: One tourism industry commissioner position open for appointment. This position is specifically to be filled by someone who is an owner or manager of a hotel, motel or restaurant. Katherine Kinney currently holds this position and is eligible for re-appointment.

Walker Stone House

- Proposed lease for Folk School of Fayetteville included in meeting agenda packet.

Experience Fayetteville Sales

- EF Sales Teams has currently given out or allocated 80% of our 2023 meetings budget and 100% of our groups budget as of February.
- Julie Pennington secured an agreement with a tour operator for 6 groups to come to Fayetteville for this year's Broadway series at Walton Arts Center
- EF Sales Team will be attending the Arkansas Governor's Conference on Tourism and leading the State Sales Meetup on Wednesday March 1st which includes Sales teams from across the state. This quarterly meeting began from Tina Archer Cope's work to better connect with the state sales professionals across all other DMO's. Topics to discuss include planned tradeshows, new policies, and market recovery.
- Tina Archer-Cope has been recognized as one of 6 Emerging Tourism Stars for 2023 and will be attending the e-tourism summit in Los Vegas to accept this recognition and speak on a panel sharing her career insight.

Cycling

- To kick-off Fayetteville Restaurant Week, Experience Fayetteville partnered with Doomsday Coffee and Roasterie for a "Bike to Brunch" activation on Sunday, February 19th, 2023.
 - To encourage participation, the Experience Fayetteville team hosted a complimentary bike valet.
 - Close to 2-dozen cyclists valeted their bicycles throughout the activation.

Visitor Center Sales and Attendance for January

- VC saw 264 visitors in January 2023 (**only opened 11 days in January due to Covid and Ice/sleet storm**)
 - 81% decrease from December 2022 (1,425)
- VC had \$966.00 in sales in January 2023

- 86% decrease from December 2022 (\$7,278.02)

January – visitors from Spain, Puerto Rico, Germany, Winnipeg, Canada and Alberta, Canada

Ale Trail Passport Completions in January:

3 – Fayetteville

3 – Bella Vista, West Plains, MO and Chicago, IL

Saturday visitors count: (Winter Hours 10am – 2pm) *Farmer's Market*

January 7th – 33

January 14th – 52

January 21st & 28th Closed

Community Engagement

- We are preparing First Thursday vendor applications to launch online in late February to early March.
- We are sourcing equipment to relocate Deer vs Deer sculpture from the lawn of Walker Stone House to Mount Sequoyah.

Fayetteville Town Center

- Fayetteville Town Center has held 9 events since our meeting earlier this month.
- FTC was able to resume their concert partnership with Georges for our first concert event since the COVID closures. This event had an attendance of 2000 people and was well recognized on social media channels.

HMR and Lodging Info

- Occupancy January 2023: 50.9%. This represents a 9.7% increase over January 2022.
- ADR (Average Daily Rate) January 2023 is up 1% over January 2022
- January lodging collections are down 36% from the prior month but show a 12% increase over January 2022.
- January restaurant collections were up 2% over the prior month and show a 6% increase from January 2022.
- Comparing January 2023 to January 2022, we see an 8% increase in HMR tax collections

EXPERIENCE **FAYETTEVILLE**

January Collection
(December Activity)

\$35,647 + \$315,388

Lodging

Restaurant

\$30,645

Prior Dues Collected

\$381,681

Total HMR Collected

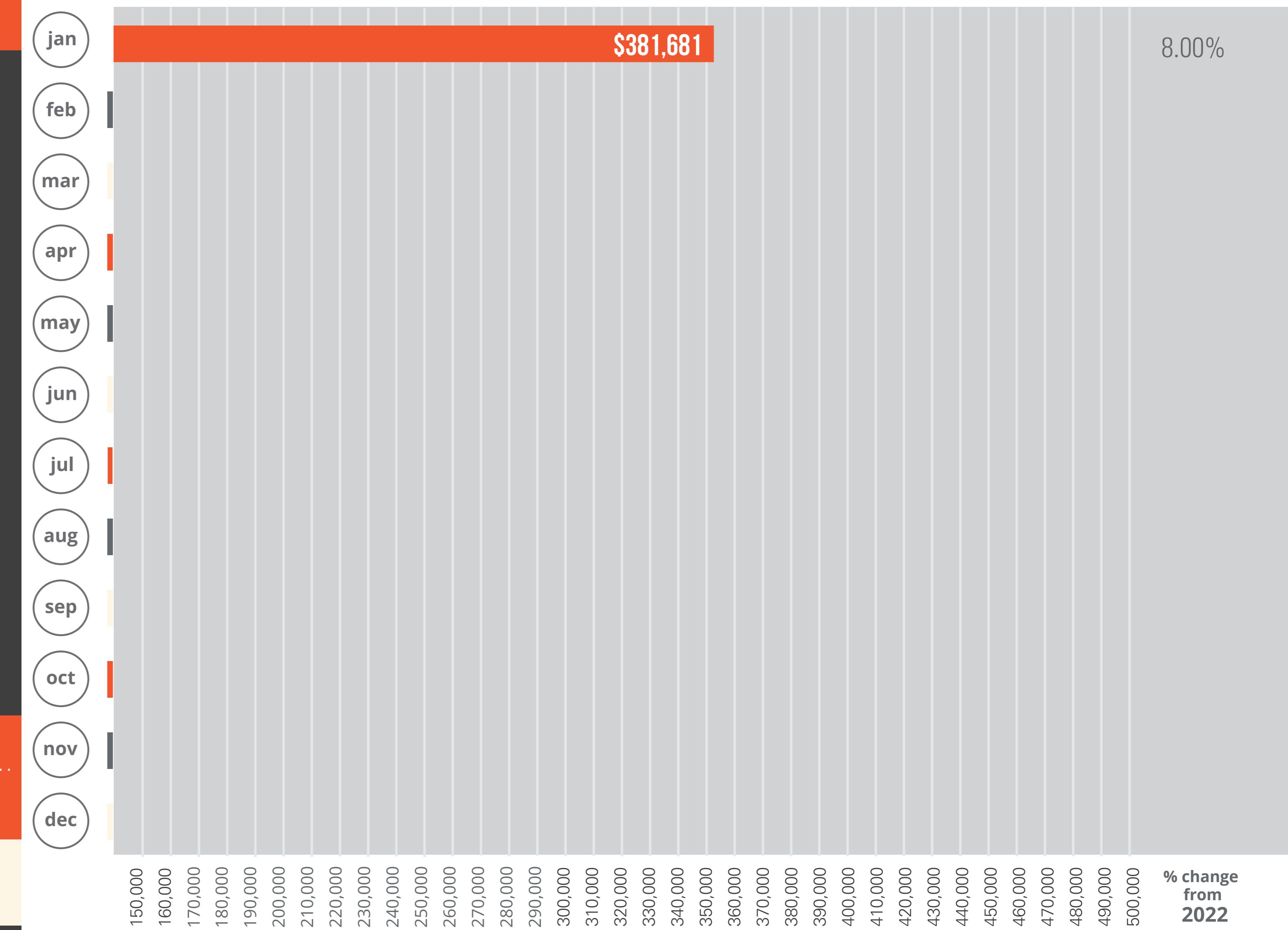
Previous YTD (Jan) HMR A&P Tax Collection Totals

2019	2020	2021	2022	2023
\$275,272	\$293,628	\$ 263,665	\$353,407	\$381,681

-3.37% 6.67% -10.20% 34.04% **8.00%**

% change over previous year

Monthly A&P Tax Collections 2023**



Memo



To: Molly Rawn, CEO, Experience Fayetteville
Fayetteville Advertising & Promotion Commissioners

From: Jennifer Walker, VP Finance, Experience Fayetteville

Date: February 15, 2023

Re: Financial Statements – January 2022

This packet contains Experience Fayetteville Financial Statements for the month ended January 31, 2023. The following reports are included in the packet:

- Summary P&L Financials for month ended January 31, 2023
- Balance Sheet for month ended January 31, 2023

Target Budget January – 8%

- Revenue target 8% of budget or higher by the end of January 2023.
Expenditures target 8% or lower at January 2023.

Total Revenue YTD: \$384,773 or 7%; We are 1% below target.

Tax Receipts - \$381,681 (under budget by less than 1% ytd)

Town Center - \$ 47 (under budget by 8% ytd)

Other - \$3,045

Total Operating Expenditure YTD: \$278,516 or 5%; this is 3% under budget.

EF Main - \$226,458

Town Center - \$52,058

HMR tax – YTD January Collections (December activity) are below seasonally adjusted budget expectations by 9%.

Operating Net Income is \$57,472 year to date.

Fayetteville A and P Commission
Statement of Budget, Revenue and Expense
Year-to-Date @ January 31, 2023

CONSOLIDATED				
Year-to-Date				
	Actual	Budget	Over/(Under) Budget	% of Budget
Revenue				
Hotel, Motel, Restaurant Taxes Revenue	381,681	4,960,000	(4,578,319)	7.7%
Rental Revenue	-	485,500	(485,500)	0.0%
Event Revenue	36	51,472	(51,436)	0.1%
Visitor Center Store Revenue	966	53,700	(52,734)	1.8%
Parking Revenue	-	26,000	(26,000)	0.0%
Advertising Revenue	-	3,500	(3,500)	0.0%
Grant/Other Revenue	-	83,000	(83,000)	0.0%
Interest and Investment Revenue	2,090	7,550	(5,460)	27.7%
Total Revenue	384,773	5,670,722	(5,285,949)	6.8%
Expenses				
Operating Expenses				
Rental Expenses	-	208,000	(208,000)	0.0%
Event Expenses	443	135,250	(134,807)	0.3%
Visitor Center & Museum Store	1,329	41,200	(39,871)	3.2%
Personnel	111,971	1,933,886	(1,821,915)	5.8%
Sales & Marketing	51,878	1,363,565	(1,311,687)	3.8%
Office and Administrative	51,399	785,821	(734,422)	6.5%
Bond Payments	58,150	700,000	(641,850)	8.3%
Contribution to Capital Reserves	-	100,000	(100,000)	0.0%
Other grants	3,345	203,000	(199,655)	1.6%
Total Operating Expenses	278,516	5,470,722	(5,192,206)	5.1%
Net Operating Income/(Loss)	106,257	200,000	(93,743)	0.0%
Other Income				
Unrealized Gain/(Loss) on Investments	(8,958)			0.0%
Other Expenses				
FFE & Improvements	23,942	638,000	(614,058)	3.8%
Depreciation Expense	15,851			0.0%
Cost of Goods Sold	33			0.0%
Net Income/(Loss) (without CX Grants)	57,472	(438,000)	504,431	-13.1%

Fayetteville A and P Commission
Statement of Budget, Revenue and Expense
Year-to-Date @ January 31, 2023

Experience Fayetteville				
Year-to-Date				
	Actual	Budget	Over/(Under) Budget	% of Budget
Revenue				
Hotel, Motel, Restaurant Taxes Revenue	381,681	4,960,000	(4,578,319)	7.7%
Rental and Event Revenue	-	43,972	(43,972)	0.0%
Visitor Center Store Revenue	966	53,700	(52,734)	1.8%
Advertising Revenue	-	3,500	(3,500)	0.0%
Grant & Other Revenue	-	83,000	(83,000)	0.0%
Interest and Investment Revenue	2,079	7,500	(5,421)	27.7%
Total Revenue	384,726	5,151,672	(4,766,946)	7.5%
Expenses				
Operating Expenses				
Event Expenses	-	105,250	(105,250)	0.0%
Visitor Center & Museum Store	1,329	41,200	(39,871)	3.2%
Personnel	84,583	1,420,296	(1,335,713)	6.0%
Sales & Marketing	51,678	1,273,044	(1,221,366)	4.1%
Office and Administrative	27,372	457,862	(430,490)	6.0%
Bond Payments	58,150	700,000	(641,850)	8.3%
Contribution to Capital Reserve	-	100,000	(100,000)	0.0%
Other Grants	3,345	203,000	(199,655)	1.6%
Total Operating Expenses	226,458	4,300,652	(4,074,194)	5.3%
Net Income/(Loss) Before Other Revenue and Expenses	158,268	851,020	(692,752)	18.6%
Other Income				
Unrealized Gain/(Loss) on Investments	(8,958)	-	(8,958)	0.0%
Other Expenses				
FFE & Improvements	3,000	262,000	(259,000)	1.1%
Depreciation Expense	8,537			
Cost of Goods Sold	33			
Net Income/(Loss)	137,740	589,020	(442,322)	23.4%

Fayetteville A and P Commission
Statement of Budget, Revenue and Expense
Year-to-Date @ January 31, 2023

Town Center				
Year-to-Date				
	Actual	Budget	Over/(Under) Budget	% of Budget
Revenue				
Rental Revenue	-	485,500	(485,500)	0.0%
Event Revenue	36	7,500	(7,464)	0.5%
Parking Revenue	-	26,000	(26,000)	0.0%
Interest and Investment Revenue	11	50	(39)	22.6%
Total Revenue	47	519,050	(519,003)	0.0%
Expenses				
Operating Expenses				
Rental Expenses	-	208,000	(208,000)	0.0%
Event Expenses	443	30,000	(29,557)	1.5%
Personnel	27,389	513,590	(486,201)	5.3%
Sales & Marketing	200	90,521	(90,321)	0.2%
Office and Administrative	24,026	327,959	(303,933)	7.3%
Total Operating Expenses	52,058	1,170,070	(1,118,012)	4.4%
Net Income/(Loss) Before Other Revenue and Expenses	(52,011)	(651,020)	599,009	8.0%
Other Expenses				
FFE & Improvements	20,942	376,000	(355,058)	94.4%
Depreciation Expense	7,314			
Net Income/(Loss)	(80,267)	(1,027,020)	946,753	7.8%

Fayetteville A&P Commission

Balance Sheet

As of January 31, 2023

ASSETS

Current Assets	
Cash	3,504,551
Investments	1,219,254
Accounts Receivable	377,426
Prepaid Expenses	30,421
Deposits	28,617
Inventory Asset	27,705
Total Current Assets	5,187,974
 Other Assets	
Capital Assets	
Furniture & Fixtures	121,169
Equipment	723,463
EF/CVB Building	940,410
EF/CVB Land	198,621
Building Additions	1,142,641
Walker-Stone House	1,167,218
Vehicles	122,860
Construction in Progress	69,064
Accumulated Depreciation	(1,542,220)
Total Other Assets	2,943,225
TOTAL ASSETS	8,131,199
 LIABILITIES AND EQUITY	
Current Liabilities	
Accounts Payable	89,176
Unearned Revenue	104,507
Total Liabilities	193,683
 Equity	
Unreserved Fund Balance	5,400,299
Operating Reserve	1,000,000
Capital Reserve	1,100,000
Temporarily Restricted Funds	382,431
Net Revenue	
Gain/(Loss) on Investments	8,958
Net Revenue without Cyclocross	45,387
Net Revenue for Cyclocross	440
	54,786
Total Equity	7,937,516
TOTAL LIABILITIES AND EQUITY	8,131,199

FEBRUARY 2023 MARKETING REPORT



• • • • •



RAZORBACK ATHLETIC WEBSITE

Users: 951

New Users: 939

Sessions: 1052

.....

Experience Fayetteville logo and link went live
on arkansasrazorbacks.com on January 16.

From 1/16-2/15 it was the #1 referral source,
top user city for this traffic was Dallas followed
by Little Rock, then Fayetteville.

RAZORBACK ATHLETIC WEBSITE

arkansasrazorbacks.com

SPORTS TICKETS DEPARTMENT FANS FACILITIES NIL

DONATE TEAM SHOP HOGS+ FAYETTEVILLE

CELEBRATING
BLACK
HISTORY
MONTH

GREATNESS STARTS HERE
OFFICIAL TRUCK OF THE ARKANSAS RAZORBACKS

BUILT FORD TOUGH

MOST POPULAR

- How to Listen to Razorback Baseball
- Download the Razorback App
- Renew Season Tickets
- Baseball Schedule
- MBB Schedule

☰ MENU

FAYETTEVILLE

Renew FB Tickets App Download MBB Schedule Ba

Medical City CHOICE VARIABLE

Wegner Named SEC Player of the Week

Arkansas outfielder Jared Wegner has been named the SEC Player of the Week.

RAZORBACK DAILY WITH Q AND Z

Anthony Bla... Feb 20 · The Razorba...

Follow

What can we help you with?

FAYETTEVILLE RESTAURANT WEEK

PURCHASED MEDIA:

Digital Display

- Washington, Benton, Madison, Sebastian, Franklin and Crawford Counties

Social

- Facebook & Instagram
- NWA Daily
- Fayetteville Flyer

Print

- Madison County Record
- Carroll County News

Outdoor

- Outdoor Board on I-49

Radio

- KQIS & KKIX/KIGL radio plus call in contests
- KUAF & KRMW (Radio Jon & Deek) Radio

PR Efforts

- Mayor Proclamation at Slim Chicken's
- Ozarks at Large interview with Chef Kian Lam Kho
- KNWA morning shows Kelly Rich interview

FAYETTEVILLE RESTAURANT WEEK



MAYOR PROCLAMATION

Sponsored by Experience Fayetteville

Kick Off Fayetteville Restaurant Week With Sunday Brunch



Experience Fayetteville

Fayetteville Restaurant Week kicks off this Sunday with more than 50 restaurants offering specials and freebies. Here are our top picks for Sunday Brunch!

- **Morning ride:** Bike to Brunch at [Doomsday Coffee and Roasterie](#), where Experience Fayetteville will have complimentary bike valet and priority parking for cyclists from 10a-2p. If you don't fill up there, peddle over to Fossil Cove to find more great brunch specials at Margaret's Food Truck.
- **Dad bod:** Nomad's Trailside will offer \$8 Dad Bods, normally \$16! House-made waffle topped with hash browns, bacon crumbles, sausage, two free-range fried eggs, and organic maple syrup. Or if you're on the go, mention [Fayetteville Restaurant Week](#) at either Fayetteville Whataburger for a free Breakfast on a Bun, Breakfast Taquito, or Honey Butter Chicken Biscuit!

Find more information and view participating restaurants [HERE](#).

NWA DAILY POST

FAYETTEVILLE RESTAURANT WEEK

NEWSPAPER



SOCIAL

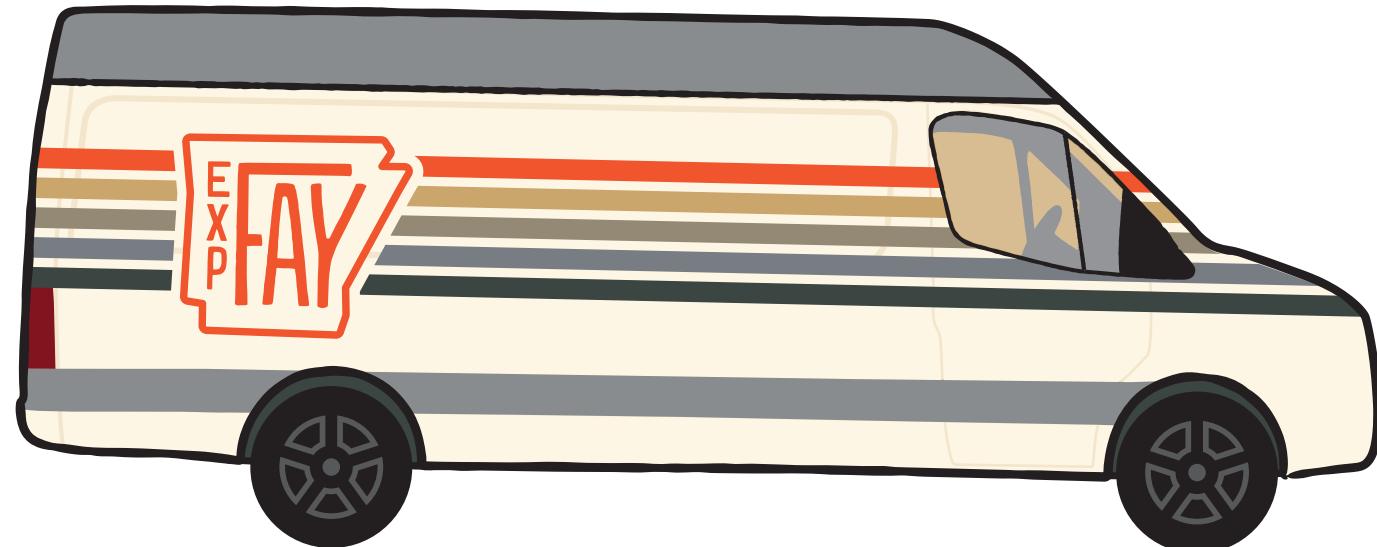
A Facebook-style post from "Experience Fayetteville". It features a sponsored ad for Fayetteville Restaurant Week with the text "Bring your appetite to Fayetteville Restaurant Week Feb. 19-25. Discover limited-time specials from your favorite spots!". Below it is a larger image of the restaurant week logo with the tagline "Flavor is Served". The post includes a link to "EXPERIENCEFAYETTEVILLE.COM Fayetteville Restaurant Week" and "Learn more" buttons, along with social sharing options.

DISPLAY



VANNY'S WINTER APPEARANCES

- **LOTO**
- **Frost Fest**
- **Buffalo Headwaters Challenge**
- **Mardi Gras Parade**
- **Governor's Conference On Tourism**



FROST FEST

AGENCY OF RECORD AGREEMENT
SELLS AGENCY & FAYETTEVILLE ADVERTISING & PROMOTION COMMISSION

January 1, 2018

This Contract confirms that the Fayetteville Advertising & Promotion Commission, hereinafter referred to as Client, has retained Sells Agency, Inc., hereinafter referred to as Agency, as their *Agency of Record* beginning on January 1, 2018. This is a two-year agreement ending on December 31, 2019, with the option for future renewals at each party's discretion.

1. Agency of Record

As your Agency of Record partner, the Agency has been retained to execute and/or oversee the research, planning, creative production and execution on advertising and marketing projects needed to promote the Client and as directed by the Client. Under this agreement, the Agency has authority to purchase media and outside services on Client's behalf, as well as receive standard agency compensation.

2. Summary of Services

- a) Become familiar with Client objectives, philosophies, products, services and markets, as well as overall corporate goals, strategies and tactics.
- b) Recommend and execute additional research projects as needed.
- c) Help define and develop marketing objectives, if needed. Create communications plans and estimates based on those objectives.
- d) Provide all creative, production and media services to develop advertisements, broadcast material, media advertising plans, direct mail, brochures, and other projects as required by the plan, and as agreed to by the Client. Arrange for outside purchases such as photography, printing, illustration, etc., as needed.
- e) Provide continuous account service and consultation to ensure proper completion of projects.
- f) Coordinate all projects, providing budget information and maintaining good relations with media representatives on the Client's behalf.
- g) Bring to the Client's attention any special media opportunities.
- h) Provide regular contact reports on all meeting decisions, regular financial and project status reports.
- i) Provide public relations counsel on matters concerning the Client and as directed by the Client.

3. Standards of Quality

The Client agrees to work with the Agency toward a common goal of creating professional advertising projects that maintain a high level of quality. To ensure this, the Client agrees to the following:

- a) The Agency will handle the planning and creative work on advertising projects, as well as the coordination, execution and assessment as



MARKETING CLARITY

401 W Capitol Ave, St. 400
Little Rock, AR 72201
501.666.8926

112 W Center, St. 503
Fayetteville, AR 72701
479.695.1760

www.sellsagency.com

directed by the client. This includes media placement, vendor purchases and billing.

The agency will be made aware of projects that are related to the advertising plan and are handled by the client's internal staff, including any project that originated at the Agency.

- b) The Agency may be invited to review and provide creative direction on projects that are related to the advertising plan and are handled by the client's internal staff, including any project that originated at the Agency.

4. Approval and Estimates for Work Performed

The Agency will submit all advertising plans and campaigns, copy, layouts, artwork, storyboards, scripts, and media schedules to the Client for approval, along with written estimates when requested. No advertising or outside services will be contracted for the Client unless previously authorized by the Client. The Client may request changes or cancellations, or stop any work in progress, provided they are within the agency's contractual obligations. Where changes or cancellations are requested on previously approved work, the Client will reimburse the Agency for unrecoverable charges or expenses.

5. Commissions and Markups

The Agency will receive a standard agency commission of 15% of the gross total amount on all media purchased on behalf of the Client as well as outside production expenses like printing, photography, videography, etc.

6. Account Management, Creative, Project Management and Consulting Fees

The Agency will bill hourly fees in a flat retainer every month in the amount of \$13,125 (\$157,500 total). The Agency will capture staff time in 15-minute increments and will track the total value of time spent by Agency personnel at standard agency rates included in Addendum 1 (Standard Agency Fee Schedule). These standard agency rates will be locked in for Client through the two-year term of this agreement. If an additional term option is executed, Agency may propose new rates, at that time.

Agency services to be covered by the retainer include, but are not limited to, the following:

- Graphic design
- Art direction
- Preparation and delivery of final art elements
- Copywriting
- Creative direction
- Project management
- Account management
- Media planning & buying
- Marketing counsel
- Advertising development
- Collateral development
- Public relations program development & deployment



- Digital advertising campaign development
- Preparation of on-going reporting
- Photography library management

This proposal does not include fee services related to:

- Visitor's Guide design, development and printing
- Visitor's Guide advertising sales activities
- In-house video production services
- In-house photography services
- Website development, updates and maintenance
- Search engine optimization
- Social media content marketing/management

The Agency will not bill Client for time spent by agency personnel in planning, buying, reconciling and billing for commissionable media.

The Agency will not bill Client for travel time or expenses in providing on-going account management and reporting duties, including travel for commission meetings or other marketing, public relations and service meetings. With prior approval from Client, the Agency may bill travel expenses for photo shoots, video shoots or other project-oriented duties in the course of producing advertising, marketing and public relations programs.

7. Billing Structure and Process

Billing will be sent monthly and within 2 weeks of receiving each month's invoice, the Client will receive a spreadsheet showing the actual number of hours worked and the total dollar value – at the contracted rates – of time spent toward the retainer. This will insure that all parties are aware of the status of utilization of hours on an on-going basis.

At the end of the year, if the value of time spent is less than 90% of total retainer amount (under \$141,750), the agency will refund the Commission any amount below 90%. If the value of time spent exceeds 110% of the total retainer (\$173,250), the Commission will pay the agency any amount exceeding 110%. If the value of time spent is within +/-10% of the annual retainer, it will be considered acceptable.

8. Exclusivity

The Agency agrees to offer an exclusive relationship to the Client, meaning that we will not work with other companies offering competing services or products without prior permission from the Client. This exclusivity clause will remain in effect as long as this contract is in place.

9. Ownership, Custody and Control of Property

The Client will own all rights to hard copy versions of advertising projects that have been invoiced and paid for. This includes camera-ready output, negative film, reels and press plates, where applicable. Electronic files,



MARKETING CLARITY

401 W Capitol Ave, St. 400
Little Rock, AR 72201
501.666.8926

112 W Center, St. 503
Fayetteville, AR 72701
479.695.1760

www.sellsagency.com

including photography and video, of Client projects are also owned by the Client, but will remain in the Agency's custody for a minimum of two (2) years. Electronic files will be supplied by the Agency upon request by Client.

10. Confidentiality

The Agency shall maintain the confidentiality of all information designated by the Client as being secret or confidential.

11. Invoicing and Terms

The Agency will invoice the Client on, or around the 10th of each month, with an amount due and payable within 30 days. Interest at prevailing rates may be charged on accounts past due more than 60 days.

12. Liability/Indemnification

- a) We agree to exercise our best judgment in the preparation and placement of all advertising and publicity for the Client, with a view to avoiding claims, suits or proceedings being made or instituted against the Client or the Agency. It is mutually agreed, however, that the Client will indemnify the Agency against any loss the Agency may incur as the result of any claims, suits or proceedings made or brought against the Agency based upon any advertising or publicity that the Agency prepared for the Client and that the Client approved before its publication or broadcast.
- b) The Client will also indemnify the Agency against any loss the Agency may sustain as a result of any avoiding claim, suit or proceeding made or brought against the Agency based upon any advertising element (i.e., photographs, artwork, etc.) that is furnished by the Client and that allegedly violates the personal or property rights of any person if the Client approves in writing the use of said advertising element before its publication or broadcast.
- c) The Agency shall not be held liable for failure of media or suppliers to meet their obligations.
- d) The Agency shall not be liable for delay, or omission, or error, in any advertisement in the absence of willful fault or neglect.
- e) Nothing in this agreement shall be deemed to require the Agency to undertake any campaign or prepare any advertising or publicity that in the Agency's judgment is misleading, libelous, unlawful, indecent, or otherwise prejudicial to the Agency or the Client's interest.

13. Lower Rates

If more space or time than contracted for is used, the Agency shall refund to the Client any excess that may have been paid the Agency in accordance with such refunds made to the Agency by the media.

14. Miscellaneous/Out-of-Pocket Expenses



MARKETING CLARITY

401 W Capitol Ave, St. 400
Little Rock, AR 72201
501.666.8926

112 W Center, St. 503
Fayetteville, AR 72701
479.695.1760

www.sellsagency.com

Client agrees to pay mailing, shipping, telephone, telegram, and publication charges on its behalf.

Should the Agency be called upon to perform any services not listed above and on which a commission is not allowed, the Agency will reach an agreement in advance with the Client regarding the fee to be charged.

15. Examination of Records

The Agency agrees that the Client upon request may, during normal working hours, examine those records and files of the Agency, which pertain specifically to the Client's advertising.

16. Care of Client's Property

The Agency will take every reasonable precaution to safeguard any and all of the Client's property entrusted to Agency custody and control.

17. Termination

This Agency of Record contract shall continue for 24 months or until terminated by either party giving sixty (60) days advance notice in writing, assuming that all invoices for completed work and/or work in progress at the time of termination are paid in full. In the event of termination, the Client will be responsible for expenses and charges approved prior to termination, including media ordered and production ordered.

Please sign two (2) copies of this Agency of Record Contract. Return one copy to the Agency as soon as possible and retain the other for your files.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment this ____ day of December, 2017.

THE SELLS AGENCY, INC.

By: _____
Mike Sells, Chief Executive Officer

Date: _____

THE FAYETTEVILLE ADVERTISING AND PROMOTION COMMISSION

By: _____
Molly Rawn, Executive Director

Date: _____



MARKETING CLARITY

401 W Capitol Ave, St. 400
Little Rock, AR 72201
501.666.8926

112 W Center, St. 503
Fayetteville, AR 72701
479.695.1760

www.sellsagency.com

ADDENDUM 1

2020 Billing Rates

Description	Hourly Rate
Administrative Support	\$ 50
Art Concept/Direction	\$ 115
Billable Media Planning	\$ 90
Broadcast Coordination	\$ 90
Broadcast Production	\$ 110
Content Marketing	\$ 95
Copywriting	\$ 115
Creative Development	\$ 105
Creative Direction/Supervision	\$ 120
Creative Support	\$ 65
Interactive Design	\$ 110
Mechanical Art	\$ 90
Non Profit Public Relations	\$ 53
Photo Shoot Art Direction	\$ 115
Photo Shoot Coordination	\$ 95
Photo/Image Edit	\$ 110
Photography - In house	\$ 110
Photoshoot Support	\$ 90
Print Production	\$ 75
Project Coordination	\$ 75
Project Management	\$ 95
Project Management Support	\$ 65
Project Supervision	\$ 110
Project Supervision - Principals	\$ 125
Proofing	\$ 75
Public Relations	\$ 105
Public Relations - Principals	\$ 125
Public Relations Support	\$ 65
Research - billable	\$ 65
Revisions	\$ 110
Search Marketing	\$ 65
Social Media Coordination	\$ 75
Social Media Marketing	\$ 95
Video Editing	\$ 95
Video Pre-Production	\$ 95
Video Support	\$ 85
Videography	\$ 110
Web Development/Updates	\$ 100



MARKETING CLARITY

401 W Capitol Ave, St. 400
Little Rock, AR 72201
501.666.8926

112 W Center, St. 503
Fayetteville, AR 72701
479.695.1760

www.sellsagency.com

**ADDENDUM TO JAN. 1, 2018 CONTRACT
CONTRACT EXTENSION**

**AGENCY OF RECORD AGREEMENT ADDENDUM
SELLS AGENCY & FAYETTEVILLE ADVERTISING & PROMOTION COMMISSION**

January 1, 2023

This addendum to the Agency of Record Agreement dated January 1, 2018 confirms that both parties, Sells Agency and the Fayetteville Advertising & Promotion Commission, agree to invoke the option of renewing the original contract for a term of one year beginning on January 1, 2023 and concluding on December 31, 2023.

Agency billing rates, will remain unchanged. The monthly retainer amount was revised and approved by Molly Rawn and Mike Sells in December 2021 to \$14,583.00. This revised monthly retainer amount will continue from January 1, 2023 through December 31, 2023 with the approval of this addendum.

Please sign two (2) copies of this Addendum and return one copy to the Agency as soon as possible and retain the other for your files.

In WITNESS WHEREOF, the parties hereto have executed this Amendment this 6th day of February 2023.

THE SELLS AGENCY, INC.

By: 

Date: February 6, 2023

Mike Sells, Chief Executive Officer

THE FAYETTEVILLE ADVERTISING AND PROMOTION COMMISSION

By: _____
Molly Rawn, Executive Director

Date: _____



MARKETING CLARITY

401 W Capitol Ave, St. 400
Little Rock, AR 72201
501.666.8926

112 W Center, St. 503
Fayetteville, AR 72701
479.695.1760

www.sellsagency.com

Memo



To: Fayetteville Advertising & Promotion Commissioners
From: Molly Rawn CEO, Experience Fayetteville; Tyler Wilson, Vice President, Operations
Date: February 22, 2023
Re: Fayetteville Town Center, Lease

Background

Fayetteville Town Center, located at 15 West Mountain Street, was constructed through a bond initiative using A&P funds and is owned by the City of Fayetteville and leased to the A&P Commission for operation as a convention center. Additionally, the parking deck to the south of the building is leased separately. The original leases for both the Town Center building and its deck have both expired.

Both the city and the A&P recognize the positive impact of the Town Center and wish the relationship to continue. The Commission does not pay rent and is responsible for all utilities and upkeep of the facility. The new lease is a continuation of the existing arrangement, but has been modified in the following ways:

- Combining the lease for the parking deck and the Town Center facility into a single lease agreement
- Shifting the responsibility for preplacement and upgrading of major building systems, including but not limited to roof and HVAC units, to the city while keeping the responsibility for ongoing maintenance the responsibility of the commission
- Clarifying the lease terms regarding duration and renewal

Recommendation:

The A&P Commission authorizes the CEO to sign the lease with the City of Fayetteville. Once the lease is signed by the CEO, it will go to the City Council for approval and then to the mayor for signature.

Budgetary Impact:

None

LEASE AGREEMENT

This Lease Agreement ("Lease Agreement") is by and between the CITY OF FAYETTEVILLE, ARKANSAS ("Fayetteville" or "City"), and the FAYETTEVILLE ADVERTISING AND PROMOTION COMMISSION {which is a governmental agency established by Ordinance No. 2310 of the City of Fayetteville pursuant to A.C.A, §26-75-605} ("A&P Commission" or the "Commission") who jointly state and agree that:

1. WHEREAS, Fayetteville is a duly organized and existing municipality, a city of the first class, under the laws of the State of Arkansas with full and lawful power and authority to enter into this Lease Agreement; and
2. WHEREAS, the A&P Commission is authorized under the laws of the State of Arkansas to enter into this Lease Agreement and to perform all covenants and obligations on its part and to be performed under and pursuant to this Lease Agreement; and
3. WHEREAS, Fayetteville owns the Fayetteville Town Center as a multi-purpose civic center for meetings, conventions, exhibitions, entertainment events, related uses, and parking (the "Town Center"); and
4. WHEREAS, Fayetteville and the A&P Commission entered into a Lease Agreement dated September 15, 1998, but the original term of that 22-year lease has now ended; and
5. WHEREAS, Fayetteville and A&P Commission entered into an agreement and two amendments to that agreement for the operation of the parking deck at the Town Center, but that twice amended agreement's term has now ended; and
6. WHEREAS, A&P Commission is willing and able to continue successfully operating and managing the Town Center and its parking deck for the purpose of fulfilling their statutory purpose of advertising and promoting the City and for maintaining and operating a convention center and/or

tourist promotion facility for the City; and

7. WHEREAS, Fayetteville is willing to continue leasing the Town Center and its parking deck to the A&P Commission and believes it is in the best interests of the citizens of Fayetteville, Arkansas for the A&P Commission to manage the Town Center on behalf of the City pursuant to the terms and for the consideration herein stated.

NOW, THEREFORE, for the valuable consideration of the mutual benefits, commitments, and covenants herein contained, the City of Fayetteville and the Advertising and Promotion Commission agree as follows:

ARTICLE I

DEFINITIONS

SECTION 101. In addition to the words and terms elsewhere defined in this Lease Agreement, the following words and terms as used in this Lease Agreement shall have the following meanings unless the context clearly indicates a different meaning or intent:

"Full Insurable Value" means such value as shall be determined from time to time at the request of Fayetteville or the A&P Commission but not more than once in every forty-eight (48) months by one of the insurers selected by Fayetteville.

"Leased Premises" means the lands, buildings, improvements, and facilities covered by the Lease Agreement and defined in Section 201 hereof.

ARTICLE II

DEMISING CLAUSES, DURATION OF LEASE TERM, AND CONSIDERATION

SECTION 201. For and in consideration of the covenants, promises, and agreements required, referred to, or contained herein on the part of the A&P Commission to be

fulfilled, kept, and performed, the City of Fayetteville, as owner and landlord, agrees to and does hereby lease to the A&P Commission, and the A&P Commission, as tenant, agrees to, and does hereby lease the Fayetteville Town Center, subject to the terms, conditions and provisions of this Lease Agreement. The following are hereinafter referred to as the "Leased Premises":

- (a) The lands situation in Washington County, Arkansas, described in Exhibit A attached hereto;
- (b) The buildings, structures, and other improvements now or at any time hereafter erected and installed on these lands; and
- (c) All accretions, easements, rights of way and appurtenances belonging to these lands and/or the improvements described in (a) and (b) above.

TO HAVE AND TO HOLD possession of the Leased Premises unto the A&P Commission for the term of this Lease Agreement as hereafter set forth.

Section 202. The Term of this Lease Agreement shall commence upon the date that both of the proper representatives of the City and the A&P Commission have with proper authority signed this Lease Agreement and shall run for a period of ten (10) years ("Term").

Section 203. Each party shall notify the other party at least six (6) months prior to the end of the Term this Lease of its intent to renew or end this Lease Agreement. If both parties fail to provide such notice, the City and Commission agree that this Lease Agreement shall not terminate at the end of the term, but shall renew for successive six (6) month periods until proper notice has been provided.

Section 204. The Advertising and Promotion Commission covenants, as partial consideration for this Lease Agreement, to properly manage and maintain the Leased Premises and to pay all expenses, liabilities, obligations and other payments of whatever nature which the A&P Commission has agreed to pay or assume under the provisions of this Lease Agreement.

Within three months after the end of the A&P Commission's fiscal year, the Commission shall deliver to the Mayor's Office a short review of the previous year's operation, revenues and expenditures by the Commission related to the Premises (Town Center and Parking Deck) which shall include any known or projected expenses for the needed repair or replacement of major building components or systems that the City of Fayetteville may be responsible to fund or partially fund in the coming year.

ARTICLE III

INSURANCE

Section 301.

A. At all times during the term, Fayetteville shall at Fayetteville's sole cost and expense keep the Leased Premises and the furniture, fixtures and equipment insured:

- (1) Against the perils of fire and the hazards ordinarily included under broad form extended coverage endorsements in amounts not less than 90% of the full insurable value thereof within the terms of applicable policies.
- (2) If there are boiler or pressure vessels, from boiler or pressure vessel explosion in an amount customarily carried in the case of similar industrial operations.

B. At all times during the term, the A&P Commission shall at the Commission's sole cost or expense maintain or cause to be maintained:

- (1) General Public Liability insurance against claims for bodily injury or death occurring upon, in or about the Leased Premises, with such insurance to afford protection to the limits of not less than \$1,000,000 in respect of bodily injury or death to any one person and to the limit of not less than \$2,000,000 in respect to any one accident; and
- (2) Property damage insurance against claims for damage to property occurring upon, in or about the Leased Premises with such insurance to afford protection to the limit of not less than \$50,000 in respect of damages to the property of any one owner.

C. The insurance required by § 301 shall be maintained in full force and effect at all times during the term of this Lease Agreement;

D. Copies or certificates of the insurance provided for by this Article or elsewhere in this Lease Agreement shall be delivered to the parties. And, in the case of expiring policies throughout the term, copies or certificates of any new or renewal policies shall be promptly delivered to the parties.

E. All insurance required by this Section 301 shall be placed with insurance companies qualified to do business in the State of Arkansas. Appropriate provisions shall be inserted in each insurance policy making each policy noncancelable without at least ten (10) days prior written notice to Fayetteville and A&P Commission.

ARTICLE IV

REPAIRS AND MAINTENANCE OF LEASED PREMISES AND ALTERATIONS

Section 401.

A. The A&P Commission had been responsible during the initial 22 year Lease Agreement of September, 1998 to “promptly at no cost and expense to Lessor (City) make or cause to be made all necessary repairs, interior or exterior, structural and non-structural, foreseen as well as unforeseen to such improvements (the Town Center).” The City of Fayetteville shall now assume through this Lease Agreement a large portion of those duties and costs by becoming responsible during this lease Term for the replacement or refurbishing of the following systems of the Town Center after the end of the life cycle of each system:

- (1) Heating and air conditioning system
- (2) Roof
- (3) Exterior walls
- (4) Interior and exterior plumbing
- (5) Electrical systems

- (6) Fire sprinkler systems
- (7) Fire alarm system
- (8) Elevators
- (9) Parking deck
- (10) Paved sidewalks and ramps
- (11) Town Center plaza

B. The City shall determine and notify the Commission of the life cycle of each such system listed above and is not required to repair, replace or refurbish any system which has not achieved its expected life cycle date nor if any defect, damage, or needed repair to a system is due to the A&P Commission's neglect, failure to properly and timely maintain and service the system, or because of any negligence by the A&P Commission or its agents, invitees, or customers. Fayetteville will present to the A&P Commission the expected life cycle for each of the systems and may require specific, regular preventive maintenance for any system to be accomplished and certified to by the A&P Commission. Fayetteville may inspect at its discretion such maintenance logs and reports during normal business hours of the Fayetteville Town Center.

C. The A&P Commission shall throughout the term, at no cost to the City, satisfactorily maintain or cause to be maintained all the systems which the City may need to repair, refurbish or replace at the end of life cycle for such system established by the City of Fayetteville pursuant to this Lease Agreement. The A&P Commission shall document all such maintenance and minor repair of these systems and allow Fayetteville to inspect those maintenance records upon request. The City may inspect any or all of these systems with reasonable notice to the A&P Commission and may require additional, better, or more frequent preventive maintenance by the A&P Commission if a system appears to need increased maintenance, has apparently suffered insufficient preventive maintenance in the past, or is in danger of not reaching its expected life cycle before repair, refurbishment or replacement is necessary. Any such uncured or unresolved

problems may relieve the City from some or all of its responsibilities to repair, refurbish or replace such system.

D. The A&P Commission shall, at no cost to the City, be responsible for maintenance and upkeep of the Town Center, Parking Deck, Plaza and other premises beyond the systems specified in Section 401 A. The A&P Commission shall also be responsible for the proper maintenance and repair of all fixtures in the kitchen and bathrooms, all lighting and furniture and as well as all carpeting, flooring, rugs and other floor coverings.

Section 402. The A&P Commission shall have the right from time to time to make additions, alterations, and changes in or to the improvements constituting part of the Leased Premises and shall have the right to construct new improvements with the prior written approval of the City of Fayetteville. Such approval shall not be unreasonably withheld. In the event the A&P Commission makes any additions, alterations, and changes in or to the improvements constituting part of the Leased Premises as authorized by this Section, the A&P Commission shall be under no obligation at the expiration of the term to restore the Leased Premises to their original condition prior to such additions, alterations, or changes.

Section 403. All structural improvements and alterations, which are permanent in nature, made on the Leased Premises by or on behalf of A&P Commission shall immediately upon completion thereof be and become the property of Fayetteville without payment therefor by Fayetteville but subject to this Lease Agreement. All machinery and equipment, trade fixtures, movable partitions, furniture, and furnishings and other property purchased and installed on the Leased Premises at the expense of A&P Commission, including but not limited to lighting systems, audio visual equipment, freezers, and desks, shall remain the property of the A&P Commission.

Any and all built-in equipment and built-in furniture shall be and remain the property of the City of Fayetteville at the end of the Lease Agreement's Term.

Section 404. The A&P Commission agrees to timely and completely pay or cause to be paid all charges for water, gas, sewer, electricity, light, heat or power, telephone or other service used, rendered or supplied to or for the A&P Commission upon or in connection with the Leased Premises throughout the Term of this Lease Agreement.

ARTICLE V

USE OF LEASED PREMISES - COMPLIANCE WITH ORDERS. ETC.

Section 501. Subject to the following provisions of this Section, Fayetteville and the A&P Commission agree that the A&P Commission shall use the Leased Premises for a multi-purpose civic center for meetings and conventions, exhibitions, entertainment events and related uses and related parking facilities. The A&P Commission shall promptly comply with all valid statutes, laws, and requirements of all federal, state, local, and other governments or governmental authorities now or hereafter applicable to the Leased Premises. The A&P Commission shall during the term comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease Agreement.

Section 502. The A&P Commission covenants that it will operate the Town Center in a prudent and financially responsible manner, and will fix, charge, and collect reasonable rates, fees, and charges for the use of the Town Center and for services performed by the A&P Commission in connection therewith.

Section 503. The A&P Commission covenants that it will at all times operate the Town Center as a convention center within the requirements of the Advertising and Promotion Commission Act (Ark. Code Ann. § 26-75-601 et. seq.) so that Fayetteville will qualify under the

provisions of the City-County Tourist Meeting and Entertainment Facilities Assistance Law (Ark. Code Ann. § 14-171-210 et. seq.) for turnback funds.

Section 504. The A&P Commission agrees that all its records, reports, accounts, writings, and documents are and shall be covered by the Freedom of Information Act (Ark. Code Ann. § 25-19-101 et. seq.) and shall be open for inspection and copying at all times as set forth in that Act.

Section 505. The A&P Commission agrees to present annual reports to Fayetteville and its City Council near the anniversary date of this agreement. This report will include documentation on how and whether the Town Center has been managed to accomplish the following goals: (1) generate increased tourism for Fayetteville; (2) remain financially viable with all debts and obligations paid timely; (3) serve the Fayetteville community by its use for local non-profit groups and other community events such as dances, dinners, receptions, and other meetings. If the City Council determines the A&P Commission has failed to properly accomplish any of the three stated goals, the A&P Commission shall be given written notice of such failure. A special review to determine if corrective action taken by the A&P Commission has resolved any failure will be conducted after six months. If the City Council then determines the problem has been resolved to its satisfaction, the report process will continue as stated above. If the City Council determines the failure has not been satisfactorily resolved, the City Council can allow additional time to the A&P Commission to resolve the problem, or the City Council may declare the A&P Commission to be in default and Fayetteville may re-enter and take possession of the Leased Premises as provided in Section 1102.

Section 506. Maintenance records are to be kept and presented to City of Fayetteville Facilities Management Division annually. An annual audit of the systems will be

performed by the Facilities Management Director or assigned personnel to ensure proper maintenance is being done. In the event deficiencies are found, Fayetteville may require the A&P Commission to perform immediate repairs, increased preventive maintenance, or take other actions to correct the deficiencies. See §401 C. for additional requirements and consequences for unresolved problems.

Section 507. At the request of either Fayetteville or the A&P Commission, but not more frequently than once every other year, a meeting may be called for the purpose of proposing amendments to this agreement. The staff of Fayetteville and the A&P Commission agree to be present at such meeting to negotiate concerning any proposed amendments.

ARTICLE VI

PARKING DECK

Section 601. Fayetteville agrees to operate the parking deck at the Town Center (the “Deck”), during the Term of this Lease Agreement and any extension thereof. The City shall:

- A. Collect the revenues generated from the parking system in the Deck and transfer said revenues to the designated personnel at the Commission. The City shall enforce the Deck consistent with other city-managed parking facilities and will retain all revenues resulting from enforcement of the parking in the Deck.
- B. Facilitate the purchase of parking permits for the Deck and maintenance associated customer accounts.
- C. Coordinate with designated personnel of the Commission regarding parking needs for events taking place at the Town Center.
- D. Provide to the designated personnel of the Commission on a regular basis an accounting of all revenues received.
- E. Provide routine maintenance on the parking system of the Deck provided that any costs and expenses incurred for vendor-provided equipment maintenance shall be borne by the Commission. Additionally, all costs and expenses incurred for the purchase of equipment and supplies for the operation of the Deck shall be borne by the Commission, provided that such purchases have the prior

approval of a designated representative of the Commission in keeping with the City's overall parking masterplan.

- F. Take calls and complaints concerning the Deck.
- G. Provide a minimum of eight (8) hours of general cleaning services per week in the following areas:
 - 1. All levels of the parking deck;
 - 2. Plaza contracted parking lot (below);
 - 3. Alleyway running between East Avenue and Block Avenue;
 - 4. Town Center Plaza area (above);
 - 5. As used in this Lease Agreement, general cleaning services include sweeping, blowing, vacuuming, spot washing of soft drinks, mud, or other spills, and the emptying of trash containers into the Town Center dumpster. All other cleaning and maintenance of the aforementioned areas, included any cleaning needs resulting from events taking place at the Town Center, shall be the responsibility of the Commission.

Section 602. In exchange for the services listed in Section 601 herein, the Commission agrees to provide fifty-five (55) parking spaces on the deck to be used by employees of the City, provided that:

- A. The City agrees to abide by the same rules that apply to the other customers leasing spaces on the deck.
- B. The City agrees to allocate parking only to City employees.
- C. The City shall expend its best efforts to discourage nighttime parking, as the Town Center frequently holds nighttime events.
- D. The City shall encourage employees to park towards the west end of the deck, leaving spaces closest to the elevators open for Town Center customer parking.

Section 603. Except as provided in Section 602 herein, The Commission shall manage the parking deck in a prudent and financially responsible manner, and will fix and charge reasonable rates, fees and charges for the use of the parking deck. The Commission shall be

responsible for all collection actions associated with delinquent accounts, provided that the City shall be responsible for informing the Commission of such accounts in a timely manner.

Section 604. Neither party may assign any of its rights or obligations under this Article VI without the express written consent of the other. A waiver by either party of any of the terms or conditions of this Article VI herein shall be limited to that particular instance and shall not be construed as a general waiver of any other breaches by either party.

ARTICLE VII

FAYETTEVILLE MAY PERFORM A&P COMMISSION'S OBLIGATIONS

Section 701. If the A&P Commission shall fail to keep or perform any of its obligations as provided in this Lease Agreement in respect to (a) maintenance of insurance; (b) repairs and maintenance of the Leased Premises; (c) compliance with legal or insurance requirements; or (d) making of any other payment or performance of any other obligations, then Fayetteville may (but shall not be obligated to), upon the continuance of such failure on the A&P Commission's part for thirty (30) days after written notice to the A&P Commission, and without waiving or releasing the A&P Commission from any obligation, and as an additional but not exclusive remedy, make any such payment or perform any such obligation (not under circumstances where such payment or performance would defeat any rights, herein specifically given to the A&P Commission, to withhold such performance or to contest such obligation to the extent herein provided), and all sums so paid by Fayetteville and all necessary incidental costs and expenses incurred by Fayetteville shall be paid to Fayetteville on demand.

ARTICLE VIII

INSPECTION OF LEASED PREMISES

Section 801. The A&P Commission shall permit Fayetteville or its authorized representatives to enter the Leased Premises at all reasonable times during usual business hours for the purpose of general inspection or for inspection of the performance of any maintenance, repairs, or construction work done by the A&P Commission, and records thereof.

ARTICLE IX

DAMAGE AND DESTRUCTION

Section 901.

A. The A&P Commission covenants and agrees that in the event of damage to or destruction of the Leased Premises, or any part thereof, by fire or other casualty, the A&P Commission shall immediately notify Fayetteville. If the Leased Premises sustains "Major Damage or Destruction," (as hereafter defined) either party may terminate this Lease Agreement by giving written notice to the other party within 45 days after the date of the casualty. If the damage does not constitute Major Damage or Destruction, the parties shall use the insurance proceeds to restore, repair, rebuild or replace the Leased Premises as nearly as possible to the condition they were in immediately prior to such damage or destruction.

B. The term "Major Damage or Destruction" means any damage or injury to or destruction of the Leased Premises or any part thereof (whether or not resulting from an insured peril) such that the Leased Premises cannot reasonably be restored to their condition immediately preceding such damage, injury or destruction within a period of ninety (90) working days, or which would prevent the A&P Commission from carrying on its operations therein for at least ninety (90) working days or if the restoration cost would so exceed the total amount of insurance or other

proceeds that repair, restoration, or reconstruction would not be feasible nor desirable as determined by the Fayetteville City Council.

C. All insurance money paid on account of such Major Damage or Destruction shall be paid to the City of Fayetteville and applied only to the payment of the cost of the restoration, repairs, replacements, or rebuilding, including expenditures made for temporary repairs or for the protection of property pending the completion of permanent restoration, repairs, replacements, or rebuilding or to prevent interference with the business operated thereon unless the insurance funds are insufficient to accomplish full restoration, repair, replacement, rebuilding, and the other necessary expenses. If the insurance money is insufficient for those purposes, it shall be paid to the City of Fayetteville to be used preferably for a capital expenditure similar to the Town Center to be determined by the City Council to be in the best interests of Fayetteville.

ARTICLE X

ASSIGNMENT

Section 1001. The A&P Commission may not assign this Lease Agreement or sublet the Leased premises or part thereof for a period longer than sixty (60) days without the prior written consent of Fayetteville. No assignment or subletting and no dealings or transactions between Fayetteville and any or assignee shall relieve the A&P Commission of any of its obligations under this Lease Agreement. The A&P Commission shall remain as fully bound as though no assignment or subletting had been made, and performance by any assignee or sublessee of the A&P Commission shall be considered as performance by the Advertising & Promotion Commission.

ARTICLE XI

DEFAULT PROVISIONS

Section 1101. The following shall be "Events of Default" under this Lease Agreement and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Lease Agreement, any one or more of the following events: failure by the A&P Commission to observe and perform any covenant, condition or agreement on its part to be observed or performed, (1) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, given to the A&P Commission by Fayetteville unless the Fayetteville shall agree in writing to an extension of such time prior to its expiration or (2) for such longer period as may be reasonably necessary to remedy such default provided that the A&P Commission is proceeding with reasonable diligence to remedy the same.

Section 1102. Whenever any Event of Default shall happen and then be continuing, Fayetteville may take any or all of the following remedial steps:

- (1) Fayetteville may re-enter and take possession of the Leased Premises without terminating this Lease Agreement and sublease the Leased Premises.
- (2) Fayetteville may terminate the Lease Agreement and exclude the A&P Commission from possession of the Leased Premises.
- (3) Fayetteville shall have access to and inspect, examine and make copies of the books and records relating to the Leased Premises.
- (4) Fayetteville may take whatever legal action may appear necessary or desirable to collect any rent of the Town Center and any other amounts payable to the A&P Commission hereunder, then due and thereafter to become due, and/or to enforce performance and observance of any obligation, agreement or covenant of the A&P Commission under this Lease Agreement.

Section 1103. No remedy herein conferred upon or reserved to the Fayetteville is intended to be exclusive of any other available remedy or remedies, but each and every such

remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement as now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right or power may be exercised from time to time as often as may be deemed expedient.

ARTICLE XII

NOTICES

Section 1201. All notices, demands and requests which may or are required to be given by either party to the other shall be in writing, and each shall be deemed to have been properly given when served personally on an executive officer of the party to whom such notice is to be given, or when sent postage prepaid by certified mail by deposit thereof in a duly constituted United States Post Office or branch thereof located in one of the present states of the United States of America in a sealed envelope addressed as follows:

If intended for A&P Commission:

CEO
Advertising and Promotion Commission
City of Fayetteville, Arkansas
21 South Block Avenue Suite 100
Fayetteville, AR 72701

If intended for Fayetteville:

Mayor
City Administration Building
113 W. Mountain Street
Fayetteville, AR 72701

Any party may change the address and the name of addressee to which subsequent notices are to be sent by notice to the other parties given as aforesaid.

ARTICLE XIII

GENERAL

Section 1301. This Lease Agreement shall be construed and enforced in accordance with the laws of the State of Arkansas. Proper venue and jurisdiction is Fayetteville, Washington County, Arkansas.

Section 1302. If any provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be determined to be invalid or unenforceable, the remainder of this Lease Agreement and the application of its provisions to persons or circumstances other than those as to which it has been determined to be invalid or unenforceable, shall not be affected thereby, and each provision of this Lease Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

Section 1303. The provisions of this Lease Agreement shall bind and inure to the benefit of the parties hereto and their respective successors.

Section 1304. This Lease Agreement constitutes the entire agreement between these parties relating to the Leased Premises described herein and recites the entire consideration given and accepted by the parties. No representations not expressed herein have been made by either party or their agents. No representative of either party shall have any authority to bind the party allegedly represented concerning any modifications, additions, amendments or changes to this Lease Agreement.

Section 1305. Nothing in this Lease Agreement shall be construed to waive the sovereign immunity of the State of Arkansas or any entity thereof and nothing herein shall be

construed to waive the statutory tort immunity of the City of Fayetteville and any potential immunity of the Fayetteville Advertising and Promotion Commission.

IN WITNESS WHEREOF, Mayor Jordan having been properly authorized to execute this Lease Agreement by City Council Resolution and CEO Molly Rawn having been properly authorized by resolution of the Fayetteville Advertising and Promotion Commission do hereby sign their names to express Fayetteville's and the Fayetteville Advertising and Promotion Commission's full approval and acceptance of this Lease Agreement and all of its promises, covenants, and requirements therein contained. This Lease Agreement may be signed in counterparts which shall be considered originals.

**FAYETTEVILLE ADVERTISING &
PROMOTION COMMISSION**

Molly Rawn, CEO

Date

WITNESS:

Printed Name & Title

CITY OF FAYETTEVILLE, ARKANSAS

Lioneld Jordan, Mayor

Date

ATTEST:

Kara Paxton, City Clerk Treasurer

EXHIBIT A

To the LEASE AGREEMENT by and between the CITY OF FAYETTEVILLE, ARKANSAS
and the FAYETTEVILLE ADVERTISING AND PROMOTION COMMISSION:

The following described land situated in the County of Washington, State of Arkansas, to-wit:

Lot Numbered Eight (8), the north seven (7) feet of equal and uniform width of Lot Numbered Nine (9), Lots Numbered Twelve (12), Thirteen (13), Fourteen (14) and Fifteen (15), including the interest in any vacated alley associated with each lot or partial lot, all in Block Numbered Thirty (30) in the Town (now City) of Fayetteville, as designated upon the original plat of said town filed In the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

Also any and all interest in "partnership" or common "walls" which were previously conveyed to the Grantor. Said walls and buildings are no longer in existence.

LEASE AGREEMENT

This Lease Agreement (the “**Agreement**”) is entered into effective the ____ day of February, 2023 by and between **FAYETTEVILLE ADVERTISING AND PROMOTION COMMISSION**, a governmental agency established by Ordinance No. 2310 of the City of Fayetteville pursuant to Arkansas law (Ark. Code Ann. § 26-75-605) (“A&P Commission”), and **FOLK SCHOOL OF FAYETTEVILLE, INC.**, an Arkansas nonprofit corporation (“Folk School”) (collectively, “the Parties”).

WHEREAS, the Parties hereby acknowledge and agree that A&P Commission is the fee simple absolute owner of the real property and any and all improvements situated upon the Premises, as herein defined; and

WHEREAS, Folk School acknowledges and agrees that it lacks any ownership or equity interest of any nature in the Premises, as herein defined, but desires to enter into this Agreement for the limited purpose of leasing the Premises subject to the terms and conditions herein set forth; and

WHEREAS, A&P Commission desires to lease the Premises, as herein defined, for the limited purposes herein set forth;

NOW, THEREFORE, in consideration of the mutual promises and covenants of the Parties contained herein, and other good and valuable consideration, A&P Commission hereby leases and demises to Folk School the real property and improvements (“the Premises”) located at 207 West Center Street in the City of Fayetteville, Washington County, Arkansas, also known as the Walker-Stone House, and being more particularly described as follows:

PART OF BLOCK 25 IN THE ORIGINAL PLAT OF THE TOWN (NOW CITY) OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS BEGINNING AT A POINT 100 FEET WEST OF THE NORTHEAST CORNER OF BLOCK 25, THENCE SOUTH 102 FEET, THENCE WEST 154 FEET TO A POINT 3 FEET NORTH OF THE EAST END OF A STONE RETAINING WALL, THENCE SOUTH 3 FEET TO THE EAST END OF SAID RETAINING WALL, THENCE WEST WITH THE TOP OF SAID RETAINING WALL, 71.9 FEET, MORE OR LESS, TO THE WEST BOUNDARY OF BLOCK 25, THENCE NORTH 105 FEET, MORE OR LESS TO THE NORTHWEST CORNER OF BLOCK 25, THENCE EAST 225.9 FEET TO THE POINT OF BEGINNING.

as designated upon the Revised Plat of Said Addition or Subdivision filed and recorded in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

TO HAVE AND TO HOLD the same unto Folk School and unto its permitted successors and assigns, together with all privileges and appurtenances thereunto belonging, for the duration and under the conditions hereinafter set forth:

1. DURATION. The duration of this Agreement shall be for 24 months beginning the 1st day of March, 2023, and ending the 28th day of February, 2025 ("the Duration").

2. RENT. As rental for the Premises, Folk School shall pay to A&P Commission rental in the amount one dollar annually.

3. UTILITIES AND REFUSE REMOVAL. Folk School shall be responsible for both the procurement and payment of all utilities including, but not limited to, water, sewer, electricity, gas, internet, telecommunications, and other data services, and for all charges connected with removal of refuse from the Premises.

During the first calendar year of the Duration, utility charges for water, sewer, trash, electricity, and gas, shall be subject to reimbursement by A&P Commission to Folk School, in an amount not to exceed \$8,000.00. Such reimbursement shall be paid on a monthly basis unless otherwise agreed to by the Parties.

A&P Commission does not warrant that any service will be free from interruptions caused by circumstances beyond the reasonable control of A&P Commission. No such interruption of service shall be deemed an eviction or disturbance of Folk School's use and possession of the Premises or any part thereof or render A&P Commission liable to Folk School for damages, by abatement of rent or otherwise, or relieve Folk School from performance of Folk School's obligations under this Agreement. Folk School hereby waives and releases all claims against A&P Commission for damages for interruption or stoppage of service.

4. LAWN/GROUNDS CARE AND MAINTENANCE. A&P Commission shall be responsible for providing for regular lawn/grounds care and maintenance, including landscaping and mowing.

5. TERMITE POLICY AND SECURITY. A&P Commission shall be responsible for procurement and payment of an annual termite inspection and for any security systems installed on the premises.

6. ALTERATIONS/IMPROVEMENTS. Folk School may not make any changes, alterations, additions or major repairs to the Premises, including any existing or future structures, including existing artistic pieces, unless all plans and specifications for such changes, alterations, additions or major repairs have been approved by A&P Commission or its agent and by any agency of the State of Arkansas required by law to review or approve such projects. Furthermore, such projects shall be performed by persons, companies or agencies which are properly trained and licensed to perform such repairs and maintenance, and which are approved in advance by A&P Commission's facilities management department, provided that such approval will not be unreasonably withheld. A&P Commission, its officers, officials, employees, and agents, may inspect any such project to ensure that plans and specifications are followed, and that the construction,

repairs or renovation meets the requirements of state law and applicable codes, and may require changes to be made in order to comply with the plans, specifications, state law or applicable codes.

A&P Commission may make or contract for improvements at the request of Folk School. Should such improvements be made during the Duration, the cost of such improvements to A&P Commission will be at Folk School's cost, to be paid within thirty (30) days of receipt of the charge, unless otherwise agreed to in writing by A&P Commission.

7. ORDINARY REPAIRS AND MAINTENANCE. Folk School agrees to maintain the Premises and any improvements thereto in good repair, ordinary wear and tear excepted. Folk School shall, at its costs and expense, repair and replace any damage or injury done to the Premises, or any part thereof, caused by Folk School or its agents, employees, invitees, or visitors, provided that such repairs and maintenance shall be performed by persons, companies or agencies which are properly trained and licensed to perform such repairs and maintenance, and which are approved in advance by A&P Commission's facilities management department, provided that such approval will not be unreasonably withheld. All such repairs and maintenance shall meet all applicable code and any other requirements. Should Folk School fail to make such repairs or replacements within thirty (30) days of occurrence of such damage or injury, A&P Commission may, at its option, make such repairs and replacements and Folk School shall pay the cost thereof to A&P Commission upon demand.

A&P Commission may inspect the Premises at any time upon adequate notice and without any interruption of Folk School's use of Premises, including the house and all leasehold improvements, and may, if necessary, designate necessary maintenance and repairs to be made by Folk School. If Folk School fails or refuses to make the designated maintenance or repairs, or if Folk School requests that A&P Commission perform the designated maintenance or repairs, A&P Commission may do so. Any maintenance or repairs performed by A&P Commission under this Section may, at A&P Commission's sole discretion, be charged to Folk School, to be paid within thirty (30) days of receipt of the charge.

8. MAJOR REPAIRS. A&P Commission shall be responsible for any costs associated with major structural improvements, system failure, or improvements necessary to resolve life safety issues. Such responsibility shall include the heating and air conditioning system, roof, exterior walls, exterior plumbing, foundation, structural components of the Premises, and pavement that becomes defective or damaged at any time during the Duration due to ordinary wear and tear and not due to the negligence of Folk School or Folk School's agents or invitees. Upon notice from Folk School, A&P Commission will promptly cause repairs to be made and restore the defective portions to good condition.

9. PROPERTY INSURANCE. The Premises shall be included on A&P Commission's fire and casualty insurance policy, and the premium charges shall be paid by A&P Commission. Folk School shall be responsible for renter's insurance coverage on Folk School's personal property and equipment and Folk School acknowledges and agrees that A&P Commission shall not be responsible and shall hold A&P Commission harmless for any loss or damage to Folk School's personal property for any reason.

10. DESTRUCTION BY FIRE OR OTHER CASUALTY. If at any time the Premises, or the building which forms the principal component of the Premises, should be totally or partially destroyed by fire or other major casualty events covered by insurance and for which insurance proceeds are paid, then the Agreement shall terminate immediately subject to the Folk School' right to assess the amount of damage and the amount of any remaining usable space and then to continue with the Agreement with rental payments, if any, abated in accordance with reduced square footage and inconvenience of the loss of any portion of the Premises.

11. LIABILITY INSURANCE. Folk School shall indemnify and hold A&P Commission, its officers, officials and employees harmless from any and all liability for loss, injury or damage to persons (including, but not limited to death) or property arising out of or in connection with the Premises, any improvements thereto, or any activities of Folk School, its officials, employees, invitees, members or guests. Folk School shall maintain a comprehensive general liability insurance policy insuring against such a loss, injury or damage in the minimum amount of One Million Dollars (\$1,000,000) per person or occurrence, Two Million Dollars (\$2,000,000) aggregate. Proof of such liability insurance coverage shall be given to A&P Commission at the beginning of the Duration and again upon request at any time during the Duration, and the policy shall name A&P Commission as an additional insured as its interest may appear. Any such policy shall provide that it shall not be subject to cancellation without first furnishing A&P Commission fifteen (15) days prior written notice. If Folk School fails to comply with this obligation or if such coverage is terminated or cancelled for any reason, A&P Commission shall have the right to secure such coverage and Folk School shall fully reimburse A&P Commission for any premiums or cost incurred by A&P Commission for such coverage.

12. TAXES, LICENSES, FEES AND ASSESSMENTS. A&P Commission shall pay applicable ad valorem taxes, if any, and assessments on the real property and improvements comprising the Premises. However, Folk School shall pay any sales or use taxes arising from its use of the Premises and shall indemnify and hold A&P Commission harmless against any claims for such taxes. Likewise, Folk School will secure and pay for all licenses, permits, and fees pertaining to its use of the Premises.

13. LAWFUL USES. The Premises and all improvements thereto will be used by Folk School only for the following purposes: the first floor of the Premises' Walker-Stone House will be used by Folk School only for purposes of offices, lessons, exhibit space, performance and practice space, and events and programs related to the mission of Folk School; the second floor of the Walker-Stone House will be used solely for office and storage purposes by the Folk School, with no public access permitted. Folk School will comply with all federal, state, and local laws, statutes, ordinances, regulations and legal requirements governing the use of the Premises and the activities conducted thereon, including but not limited to the policies of A&P Commission, noise ordinances, and rules applicable to buildings listed on the National Register of Historic Places. Folk School will not permit or suffer the Premises to be used for any illegal purposes, to create a nuisance, or to create dangerous conditions affecting other

persons or property.

14. RIGHT OF ENTRY. A&P Commission, its officers, officials, employees or agents shall have the right to enter the Premises at any time upon notification to Folk School and without interrupting Folk School' use of the Premises, for the purpose of inspecting the Premises and determining compliance with laws, statutes, ordinances, regulations and legal requirements, including policies of A&P Commission or to ensure the preservation of the Premises in good condition in the event of Folk School' failure to perform any obligation of this Agreement.

15. PROHIBITION AGAINST CREATION OF LIEN. Folk School shall have no authority, express or implied, to create any lien, charge, or encumbrance upon the Premises or upon the improvements thereon, for any reason whatsoever.

16. ASSIGNMENT OR SUBLEASING RESTRICTED. This Agreement and any rights granted herein shall not be assigned without the prior written consent of A&P Commission. Folk School shall not be entitled to sublease the Premises or any portion thereof without the prior written consent of A&P Commission.

17. DELIVERY AT END OF LEASE. Upon the expiration of the Duration of this Agreement or any extension thereof, possession of the Premises, including any improvements thereto, shall be delivered to A&P Commission free of all persons, goods and things not properly belonging to A&P Commission and in the same condition as the Premises existed at the commencement of this Agreement or upon subsequent completion of any new construction, reconstruction, renovation or repair to any improvements to the Premises, excepting destruction or damage by fire, storm or other casualty and/or ordinary deterioration and reasonable wear and tear, and no demand for such delivery shall be necessary.

All fixtures not integral to the building, furniture and equipment installed by Folk School or acquired by Folk School independent of this Agreement shall remain Folk School' property and may be removed by Folk School at the expiration of this Agreement; provided, however, Folk School shall restore the Premises and repair any damage thereto caused by such removal.

18. A&P COMMISSION'S LIEN. As security for payment of its obligations under this Agreement and any other debt owed to A&P Commission, Folk School hereby grants A&P Commission a security interest in all property of Folk School, including furniture, furnishings and fixtures of Folk School which may, at any time during the Duration of this Agreement, be in, about or upon the Premises. Folk School agrees to execute all documents necessary to perfect A&P Commission's security interests.

19. DEFAULT. Folk School shall be in default under the provisions of this Agreement upon the happening of the following events or conditions and, in the case of the events and conditions set forth in subparagraphs (a) and (b) below, the failure to cure same within ten (10) days after written notification by A&P Commission to Folk School of such default: (a) Failure to pay the rental fees or charges as provided herein at the time, in the amount, and in the manner set forth, or within ten (10) days after the date the same becomes due; (b) Failure to keep or perform any of the covenants on the part of Folk School herein to be kept or performed; (c) Should Folk

School become insolvent, or become bankrupt, either voluntarily or involuntarily, or make any assignment for the benefit of creditors, or if a receiver be appointed for the benefit of Folk School' creditors, or if a receiver be appointed for Folk School to take charge of and manage Folk School' affairs.

20. REMEDIES IN THE EVENT OF DEFAULT. In the event of a default by Folk School during the Duration hereof, the A&P Commission may, at A&P Commission's option, declare this Agreement thereupon terminated, and A&P Commission shall have the right immediately to enter upon and take possession of the Premises, and to evict and expel Folk School and any or all of Folk School' property, belongings, and effects there from, without thereby being guilty of any matter of trespass, in addition to any other remedies of A&P Commission either at law or in equity. Folk School waives any right to legal process in such an event. No delay in or failure to exercise any of the options herein granted to A&P Commission by reason of a default shall be a waiver thereof, and the waiver on any occasion of default shall not be deemed a waiver of A&P Commission's right to exercise its remedies by reason of the same or similar default at any later occasion.

21. HOLDING OVER NOT PERMITTED. Upon the expiration or termination of this Agreement, Folk School shall have no right to hold over. Moreover, Folk School waives any right to receive legal process to eject Folk School.

22. WASTE. Folk School agrees not to commit or to permit any waste to the Premises and any improvements thereto.

23. SPACE HEATERS. Space heaters are prohibited from use on the Premises. Use of a space heater by Folk School or any of Folk School's agents or invitees shall be an event of default under this Agreement.

24. NOTICES. All notices required to be given under this Agreement shall be given in writing by a form of delivery requiring a receipt to the Parties at the following addresses or at such other addresses as the Parties might hereafter designate in writing:

A&P COMMISSION: **ADVERTISING AND PROMOTION COMMISSION
OF THE CITY OF FAYETTEVILLE, ARKANSAS**
21 South Block Avenue, Suite 100
Fayetteville, Arkansas 72701
Attn: CEO

FOLK SCHOOL: **FOLK SCHOOL OF FAYETTEVILLE, INC.**

Attn: _____

25. NO WAIVER OF BREACH. The failure of A&P Commission to insist upon the strict and literal performance of any covenant or condition herein, or to

exercise any option retained or granted by reason of a default or breach by Folk School, or to avail itself of any of the terms or conditions of this Agreement, shall not constitute a waiver of A&P Commission's right thereafter to insist upon and enforce full performance of this Agreement.

26. INDEPENDENT PARTIES. This Agreement shall not be construed to create a partnership, agency relationship or any other relationship between the Parties other than that of independent parties.

27. PARTIES BOUND. All covenants, conditions, agreements and undertakings contained herein shall inure to the benefit and be binding upon the Parties.

28. APPLICABLE LAW. This Agreement shall be governed by and construed under the laws of the State of Arkansas, without regard to its choice of law principles.

29. ENTIRE AGREEMENT. This Agreement expresses the entire agreement of the Parties and may only be amended in writing signed by the Parties hereto or their duly authorized agents. This Agreement is a final agreement and supersedes any prior negotiations, representations, statements, promises, or other discussions, express or implied, between or behalf of the Parties concerning the subject matter of this Agreement.

30. INDEPENDENT JUDGMENT. The Parties represent and warrant to one another that this Agreement is entered into based on each party's independent analysis, with the advice of counsel, of the acts and legal principles relevant to the terms and conditions of this Agreement.

31. MUTUAL DRAFTING. This Agreement has been drafted mutually by the Parties with the assistance of their respective counsel or representatives. Accordingly, the rule of construction that ambiguity is construed against the drafting party shall have no application in any dispute over the interpretation of this Agreement.

32. SECTION HEADINGS. In the case of any conflict between a section heading set forth in this Agreement and the terms of this Agreement, the latter shall prevail, the former being for ease of reference only. The recitals set forth at the beginning of this Agreement, however, shall be given full weight and construed as substantive provisions of this Agreement.

33. COUNTERPARTS: This Agreement may be executed and delivered at different times and in any number of originals or counterparts and by each party on a separate counterpart, each of which shall be deemed an original but all of which together shall constitute only one agreement, notwithstanding all the Parties shall not have signed the same counterpart.

[Signature Page to Follow]

IN WITNESS WHEREOF, the above named parties have executed this instrument on the Effective Date set forth above.

FOLK SCHOOL

FOLK SCHOOL OF FAYETTEVILLE, INC.,
an Arkansas nonprofit corporation

By: _____
Name: _____
Title: _____

A&P COMMISSION

**FAYETTEVILLE ADVERTISING AND
PROMOTION COMMISSION**

By: _____
Molly Rawn, Chief Executive Officer