

BE IT REMEMBERED THE BOARD OF COUNTY COMMISSIONERS met in the Henry County Courthouse Circuit Courtroom, on Wednesday, May 11, 2016, at 6:00 P.M., with the following members present: Ed Yanos, Kim Cronk, Butch Baker, Patricia A. French, Auditor, Scott Hayes and Joel Harvey, County Attorneys.

The meeting was opened with the Pledge to the Flag, followed with silent prayer. Mr. Yanos also asked for a silent moment in remembrance of JoAnn King, county employee who had passed away.

A motion was made by Mr. Baker and seconded by Mr. Cronk to approve the minutes as presented. Motion carried 3-0.

A motion was made by Mr. Baker and seconded by Mr. Cronk to approve the payroll as presented. Motion carried 3-0.

A motion was made by Mr. Cronk and seconded by Mr. Baker to approve the claims as presented. Motion carried 3-0.

A motion was made by Mr. Baker and seconded by Mr. Cronk to accept monthly reports presented by: Henry County Attorney report for April, April Clerk report, Sheriff's Maintenance report, IGMS report for the 3<sup>rd</sup> Qtr. and INTECH April work service report. Motion carried 3-0.

Corey Murphy, EDC Director, was present to open bids for the Pierce Parkway drainage package. Bids opened and presented were from Atlas Excavating in the amount of \$448,408, Reith-Riley, \$763,982 and Milestone in the amount of \$339,500. A motion was made by Mr. Cronk and seconded by Mr. Baker to return to their next meeting with a recommendation. Motion carried 3-0.

Mr. Murphy also wanted authorization to proceed with Milestone Contractors for \$488,100 on the Pierce Parkway Road Construction Project. Mr. Murphy stated the 60 day period would expire before the Commissioners next meeting. Mr. Cronk inquired where the extra \$88,100 was going to come from, since the grant was for only \$400,000. Mr. Murphy stated the RDC would be holding a meeting the next day to discuss the finances for the project. If any extra money was needed it would have to come from the RDC. A motion was made by Mr. Cronk and seconded by Mr. Yanos to authorize Mr. Murphy to proceed. Motion carried 3-0.

A motion was made by Mr. Cronk and seconded by Mr. Baker to accept the Annual report for the Congressional School Fund in the amount of \$21,969.48 and the Common School Fund, amounting to \$1064.44. Motion carried 3-0.

A motion was made by Mr. Cronk and seconded by Mr. Baker to approve Ordinance # 2016-05 (05-11) to vacate a platted road (Drew Boulevard). Motion carried 3-0.

A motion was made by Mr. Baker and seconded by Mr. Cronk to approve Mr. Jeff Ray to send an application letter to LTAP for funding for the Wilbur Wright Trails, Phase 3. Motion carried 3-0.

A motion was made by Mr. Cronk and seconded by Mr. Baker to approve a new ADA & Title VI commitment letter to INDOT. Motion carried 3-0.

Mr. Baker, Commissioner, along with representatives from the YOC, presented a lease agreement between the County and the YOC to lease the former Youth Center facility. Mr. Dickerson, from the YOC, stated they would begin using the facility with a program from young women who are exploited. The lease was for \$2000 a month and would create approximately 28 jobs with 10 jobs part time. Their goal was to be a good citizen of Henry County and their plans were to expand. A motion was made by Mr. Cronk and seconded by Mr. Baker to approve the lease agreement as presented. Motion carried 3-0.

### **LEASE AGREEMENT**

This Lease Agreement is being entered into as of the \_\_\_ day of \_\_\_\_\_, 2016, between the Board of Commissioners of Henry County, Indiana ("Landlord") and the Youth Opportunity Center, Inc. ("Tenant").

The parties mutually agree as follows:

1. **Premises.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord the real estate located at 103 W. County Road, New Castle, Indiana, legally described in Exhibit "A" attached, together with improvements thereon and all rights, privileges, easements and appurtenances belonging to the real estate as described in this Lease ("Premises"), commonly known as the Henry County Youth Center.

2. **Purpose.** Tenant shall use the Premises only for the purpose of housing, caring for and providing treatment and educational needs for juveniles in a non-secure State approved setting.

3. **Other Property.** The lease of the premises includes all equipment, furniture and appliances currently located in the premises.

4. **Term.**

(a) **Original Term.** Tenant shall have and hold the Premises for a term of thirty-six (36) months beginning on August 1, 2016, and ending on July 31, 2019. The lease term may begin earlier upon the Tenant obtaining licensing from the Indiana Department of Child Services. Any holdover by Tenant after the expiration of the term hereof, with or without the consent of Landlord, shall be construed to be a tenancy from month to month, with the terms and obligations of this Lease Agreement to continue to be in full force and effect. Tenant shall have the right of access to the premises immediately upon signing this Lease Agreement, for the purpose of preparing the building for occupancy.

(b) **Inspection Prior to Occupancy.** Landlord and Tenant shall inspect the building prior to full occupancy by Tenant, and Landlord shall be solely responsible for ensuring that all facility structures and equipment, including safety equipment such as smoke detectors, sprinkler heads and fire extinguishers, are in good and proper working order.

(c) **Option.** If Tenant has complied with all of the terms and conditions of this Lease, and is not in default in any respect hereunder, Tenant shall have an option (the "Option") to lease the Premises after the termination of the term for unlimited additional thirty-six (36) month terms upon terms and conditions set forth herein. This option shall be exercised automatically, subject to the right of either party to terminate this Lease under paragraph 6. Below.

5. **Rent.** For the Lease term, Tenant shall pay a monthly rent of Two Thousand Dollars (\$2,000.00) with the first payment due on the first day of each month beginning on \_\_\_\_\_, 20\_\_\_, and continuing on the \_\_\_\_\_ day of each month thereafter until the Lease term ends. If during the final month of the lease the Tenant does not lease the Premises for the entire month, then the monthly rent shall be pro-rated. All rental payments shall be payable to the Landlord at Auditor of Henry County, 101 S. Main Street, New Castle, IN 47362, or at such other place as may from time to time be specified in writing by Landlord.

In the event Landlord seeks to increase the rent during any additional three (3) year term pursuant to the Option provided in Paragraph 4(c) herein, it shall give Tenant notice of such proposed rent increase no less than sixty (60) days in advance of the beginning of the option period.

6. **Early Termination of Lease.** This Lease may be terminated by either party upon written notice at least or One Hundred Twenty (120) days in advance, delivered to the other party at the addresses listed below in paragraph 18.

7. **Use and Maintenance.**

(a) Tenant shall use the Leased Premises in a careful and proper manner in compliance with all applicable statutes, ordinances, rules and regulations. Tenant shall not cause or permit toxic or hazardous substances to be brought on, kept, or used in or about Premises without the prior written consent of Landlord.

(b) Any material improvements and/or alterations to the Premises must be approved in writing by Landlord, which approval shall not be unreasonably withheld. In the event that Tenant adds any fixtures or personal property to the building, the parties will agree in advance of the addition whether such fixtures or personal property will remain on the premises or whether Tenant may take them on surrender of the premises.

(c) Landlord shall promptly maintain in good repair and in a safe and structurally sound condition the mechanical and HVAC systems, roof, foundation, exterior walls, drives, and parking areas. Damage caused by Tenant, Tenant's vendors, or any other contracted service shall be Tenant's responsibility. Tenant will obtain and pay for maintenance agreements for the HVAC systems and the commercial kitchen equipment in the approximate annual cost of Seven Thousand One Hundred Sixty Dollars (\$7,160.00). Tenant will be responsible to perform interior maintenance due to Tenant's occupancy, up to an annual cost of Ten Thousand Three Hundred Forty Dollars (\$10,340.00). Once Tenant has incurred that cost during any calendar year, Landlord will be responsible for any additional interior maintenance. Tenant will also be responsible to obtain and pay for annual safety inspection on the premises.

(d) Except as noted below, Landlord shall be responsible for exterior maintenance of the premises, including but not limited to mowing the grass, maintaining the landscaping, and be responsible for prompt removal of snow and ice from the parking lot and any traveled roadways. Tenant shall be responsible for removal of snow and ice on the sidewalks adjacent to the buildings. Landlord will indemnify Tenant from any and all liability for injuries, damages and/or death occurring as a result of Landlord's failure to properly perform such maintenance, and Tenant will indemnify Landlord from any and all liability for injuries, damages and/or death occurring as a result of Tenant's failure to properly perform such maintenance.

7. **Surrender.** At the end of the term, or on earlier termination of the Tenant's interest in the Premises, Tenant shall surrender possession of the Premises to Landlord in the same condition in which delivered to Tenant, ordinary wear and tear, acts of God, war and insurrection excepted. Tenant may remove any of its items of personal property not affixed to the property, and may remove any fixtures which the parties have agreed may be removed under the procedure set forth in paragraph 7(b) above.

9. **Landlord's Right of Entry.** Landlord or its representatives may enter the Premises at any mutually agreeable time for the purpose of inspecting or maintaining the Premises. However, in the event of emergency, Landlord or its representatives may enter the Premises without consent or agreement. Landlord may, within ninety (90) days of the end of the Lease term, at reasonable times, enter to show the premises to prospective Tenants.

10. **Taxes and Assessments.** Landlord shall pay all real property taxes and assessments that are due and payable against the Premises during the term of this Lease.

11. **Utilities.**

(a) Landlord shall at all times cause to be maintained adequate water, electric, gas, telephone, and sewage connections to the building located on the Premises and electric connections to the lights for the parking area shown on the plans and specifications.

(b) Tenant shall pay for all utilities furnished to the Premises during the term of this Lease. Tenant shall provide and pay for janitorial services for the Premises.

12. **Insurance and Indemnification.** Upon having access to the Premises, Tenant shall, at Tenant's expense, procure and keep in force at all times, insurance insuring the Landlord and Tenant against all liability and expense on account of injury to, or death of a person or persons, or damage to or destruction of property to third persons, caused by any act or omission by the Tenant, Tenant's employees, invitees, and licensees within the Leased Premises. Landlord shall, at Landlord's expense, procure and keep in force at all times during the Lease term, insurance insuring the premises from loss or damage due to fire and other causes. The policies reflecting this insurance coverage shall provide that they may not be canceled without prior notice to Landlord and Tenant. Each party shall promptly deliver to the other party copies of the insurance policies or certificates evidencing the existence of such insurance.

Tenant shall indemnify Landlord from any and all liability, penalties, losses, damages, costs and attorney's

fees arising from any injury or death to any person or any damage resulting from Tenant's occupancy of the Premises, except for any claim arising as a result of Landlord's negligence.

13. **Damage or Destruction.**

(a) In the event of an insured loss, subject to the termination provisions set forth herein, the Landlord shall repair or restore the improvements to as good a condition as existed before such damage or destruction to the extent of the available insurance proceeds. Should either the Landlord or the Tenant provide the other with the opinion of an experienced insurance adjuster that such proceeds will not be sufficient to pay for such repairs or restoration, unless otherwise agreed, either party may terminate this Lease by written notice, in which event all insurance proceeds shall be paid to the Landlord.

(b) In the event the building is destroyed, or damage is so extensive so that restoration or repairs cannot be accomplished within 120 working days, as certified by the opinion of an experienced licensed architect or civil engineer, the Tenant or the Landlord may terminate this Lease by giving the other written notice before restoration is commenced and in this event all insurance proceeds shall be paid to Landlord.

(c) During the period of any such restoration or repairs which permits partial use of the building, the rent shall be equitably adjusted, provided, however, that in the event of destruction, or damage so extensive as to render the demised premises unfit for operational occupancy by Tenant, the rent shall cease until such time as the restoration or repairs has proceeded so that a partial use of the building is practical.

14. **Mutual Waiver of Subrogation Rights.** Landlord and Tenant mutually release each other from any subrogation rights under insurance policies or otherwise and from any claims or liability arising out of loss or damage to Landlord's real estate, or Tenant's property, from fire or other risk for which Landlord and Tenant become entitled to receive insurance proceeds.

15. **Subletting.** Tenant may not sublet the Premises or assign or otherwise transfer any of its rights under this Lease, in whole or in part, without the written consent of Landlord, which consent shall not be unreasonably withheld.

16. **Alterations.** Tenant shall not make or permit any alterations to any part of the Premises without first obtaining the written consent of the Landlord. If alterations are done with the Landlord's consent, it is the Tenant's responsibility to make such alterations in accordance with applicable laws, regulations and building codes.

17. **Rights of Landlord on Default.** If Tenant should fail to perform or observe any of the conditions or provisions of this Lease for fifteen (15) days after notice by Landlord of such breach, Landlord may, at Landlord's option: (a) re-enter and repossess the Premises in accordance with all applicable law; (b) sue for any unpaid rent and any other damages sustained, including reasonable attorney fees; or (c) terminate this Lease. Upon any default by Tenant, Landlord shall have any or all of the above remedies and all other remedies at law or in equity, payable together with reasonable attorney fees, costs of collection and court costs, all of which amounts owing by Tenant shall be paid upon demand. The taking of any or all of the foregoing actions, including termination, shall not in any way relieve Tenant of liability under this Lease for the payment of rent. If Landlord retakes possession of the premises, it shall attempt to re-let the premises as soon as practicable after retaking possession, and shall exercise due diligence in mitigating Landlord's damages. Tenant shall continue to be liable for the rent after credit for amounts received by Landlord in retaking the Premises or in preparing them for re-occupancy. Upon any such default, all rental payments due and to become due for the full term shall accelerate and become immediately due and payable together with reasonable attorney fees. The failure of Landlord to assert any remedy available to it shall not operate as a waiver of the right to exercise such remedy for the same or in any subsequent default.

18. **Rights of Tenant on Default.** If Landlord shall fail to perform or observe any of the conditions or provisions of this Lease for fifteen (15) days after notice by Tenant of such breach, Tenant may, at its option: (a)

require Landlord's specific performance; (b) sue Landlord for damages; or (c) terminate the Lease. Upon any default by Landlord, Tenant shall have any or all of the above remedies and all other remedies at law or in equity, payable together with reasonable attorney fees, costs of collection and court costs, all of which amounts owing by Landlord shall be paid upon demand. The failure of Tenant to assert any remedy available to it shall not operate as a waiver of the right to exercise such remedy for the same or any subsequent default of Landlord.

19. **Notices.** Any notice required or permitted to be made by either party under the terms of this Lease may be given in person or by certified mail, return receipt requested, postage prepaid. Notices to the Landlord shall, unless Landlord otherwise notifies Tenant in writing, be addressed to: Commissioners of Henry County, 101 South Main Street, New Castle, Indiana 47362. Notices to the Tenant shall, unless it otherwise notifies Landlord in writing, be addressed to: Chief Executive Officer, Youth Opportunity Center, 3700 W. Kilgore Avenue, Muncie Indiana 47304.

20. **Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the state of Indiana.

21. **Binding Effect.** This Lease shall inure to the benefit of and be binding upon the parties, their successors and assigns.

22. **Authority.** Landlord and Tenant each hereby represent and warrant that the undersigned are duly authorized to execute this Lease for an on behalf of Landlord and Tenant respectively.

IN WITNESS WHEREOF, the parties have signed this Lease as of the date first above written.

A motion was made by Mr. Cronk and seconded by Mr. Baker to proceed with the application for One Beacon Renewal. Motion carried 3-0.

A motion was made by Mr. Cronk and seconded by Mr. Baker to approve Ascent Underwriting Cyber Pro Renewal (data breach). Motion carried 3-0.

Brenna Gunerson, representing Apex, addressed the Commissioners concerning the Flat Rock Wind Project, stating they had intended to present the Road Agreement to the Commissioners for approval during this meeting, but had been informed of allegations concerning one of their employees, who had been suspended without pay. Apex did not feel it was the right time to present the agreement until they investigate the situation. Mrs. Gunerson stated their company has high ethical standards and does not approve of any unethical behavior. Mr. Cronk, proceeded to comment stating his neighbor had contacted him concerning the situation and he had turned everything over to the Sheriff's department. Mr. Cronk also asked Apex questions concerning the current lawsuits the company had filed against Rush County and farmers in Illinois. Apex attorney, Bob Heriman, answered those questions for Apex.

Mr. Yanos, opened the floor for discussion concerning the Flat Rock Wind Project.

Those in attendance and speaking were as follows: Patsy Conyers, David Herring, Susan Huhn, Teresa Hornaday, Danny Painter, Lori Norris, Sherry Denney, Jeff Marlatt, Martin Toby, Lisa Hillman and Jeremy Bell, Attorney for Straughn Corporation, who wants to be part of the road use agreement with Apex. Concerns voiced were declining property values, revision for setbacks and revoking the current tax abatement for Apex. Concerns were also heard concerning Calpine in the northern part of the County. People had been told Calpine was gone and out of the picture, but some residents said they were still signing contracts with some farmers and holding meetings. Teresa Hornaday presented for public record a recap of over 600 groups around the world concerned about the negative effects of industrial wind turbines. David Herring also presented for public record Wind Energy/Financial Incentives and tort claims Apex currently has against Illinois farmers and Rush County, along with e-mails and text messages between a County resident and an Apex employee.

Mr. Cronk and Mr. Yanos both made comments after public input. Mr. Cronk stating he wanted to form a committee to discuss and learn more concerning the wind turbines and Mr. Yanos stated he was favorable to alternative form of energy.

Mr. Baker stated he had been approached by Stephanie Morgan asking for permission to place a sign advertising for the Farmers Market on Saturdays from 8-12 on each corner around the Courthouse. After some discussion concerning the

Courthouse being used for advertisement, a motion was made by Mr. Cronk and seconded by Mr. Baker to allow the Farmers Market to place signs around the Courthouse. Motion carried 3-0.

A motion was made by Mr. Baker and seconded by Mr. Cronk to adjourn the meeting. Motion carried 3-0.

\_\_\_\_\_  
Ed Yanos, President

\_\_\_\_\_  
Kim Cronk, Vice President

\_\_\_\_\_  
Butch Baker

ATTESTED BY: \_\_\_\_\_  
Patricia A. French, Henry County Auditor