

## REAL ESTATE LEASE

THIS REAL ESTATE LEASE (“Lease”) by and between the City of Fort Wayne, Board of Park Commissioners (“Landlord”) and Johnny Appleseed Festival, Inc., an Indiana nonprofit corporation (“Tenant”) is dated **May 18, 2026**, but shall be effective as of **May 18, 2026** (the “Effective Date”). Landlord and Tenant are collectively referred to herein as the “Parties”.

Landlord, in consideration of the rent and covenants herein contained, leases to Tenant, and Tenant leases from Landlord the certain premises located at 1502 Harry Baals Drive, Fort Wayne, Indiana (the “Premises”), being real estate with existing site improvements commonly known as the Johnny Appleseed Festival Barn (“JAF Barn”) in Allen County, Indiana, as more particularly described on Exhibit “A” attached hereto and incorporated herewith.

## AGREEMENT

### SECTION 1. TERM.

1.01 The term of this Lease shall begin on the Effective Date and shall continue for a period of sixty (60) consecutive months **until May 17, 2031** (the “Initial Term”), at which time the Lease shall expire, provided that Tenant (if not then in default hereunder), shall have the option to extend the Initial Term for Five (5) additional years (the “Extension Term”) upon the terms and conditions contained in this Lease, upon written notice of Tenant’s intention to extend given to Landlord at least one hundred twenty (120) days prior to the expiration of the Initial Term. The Initial Term and the Extension Term are referred to herein as the “Term”. Tenant may terminate this Lease at any time prior to the expiration of the Term upon sixty (60) days written notice to Landlord.

## **SECTION 2. RENT AND MANNER OF PAYMENT.**

2.01 Tenant shall pay no rent to Landlord during the Term. The Parties acknowledge that the execution of this Lease and Tenant's performance of the covenants and obligations contained herein provide Landlord sufficient consideration to lease the Premises to Tenant.

## **SECTION 3. USE OF PREMISES.**

3.01 Tenant shall use the Premises exclusively for the purpose of storing equipment, materials, and accessories used or useful in sponsoring, managing, and operating the Johnny Appleseed Festival on an annual basis during the Term.

3.02 Tenant shall not use, or permit the use of, the Premises for any unlawful purpose or in violation of any law, order, or regulation of any government authority or any restrictive covenant relating to the use or occupancy of the Premises.

3.03 During the Term, Tenant agrees to comply with all applicable federal, state and local environmental laws and regulations, including those relating to air and water pollution control and prevention, and disposal of any and all hazardous waste or substances, and agrees to hold Landlord harmless from any liability under said laws and regulations.

### **3.04 Release and Indemnification.**

- (a) Tenant forever releases and discharges and agrees to indemnify, defend and hold harmless Landlord, its officers, directors, members, representatives, departments and divisions from all claims, suits, actions, damages, liabilities and expenses in connection with loss of

life, bodily or personal injury or property damage arising during the Term from or out of (i) any occurrence, conduct or activity in, on or about the Premises or (ii) the occupancy, management, control or use by Tenant of the Premises or any part thereof, or occasioned wholly or in part by any act or omission of Tenant, its agents, representatives, contractors, employees, servants, invitees or licensees, (whether such claims are asserted by Tenant or a third party), unless such claims arise from the grossly negligent or intentional conduct of Landlord. The within covenants of release and indemnification shall survive the expiration or earlier termination of this Lease, and shall include indemnity against all reasonable costs, expenses (including reasonable attorneys fees) and liabilities incurred in or in connection with any such claim or proceeding brought thereon, the reasonable expense of investigating the same and the defense thereof.

- (b) Tenant shall occupy, manage, control and use the Premises during the Term at its own risk, and forever releases and discharges Landlord, to the full extent permitted by law, from all claims of every kind, personal or bodily injury (including death) or property damage which may occur in, on or about the Premises during the Term.
- (c) Landlord shall not be responsible or liable at any time for any loss or damage to or theft of Tenant's equipment, fixtures or other personal property or of damage to or theft of Tenant's business.

- (d) Landlord shall not be responsible or liable to Tenant or to those claiming by, through or under Tenant for any loss or damage to either the person or property of Tenant that may be occasioned by or through the acts or omissions of any third party or entity in, on or about the Premises during the Term.
- (e) Landlord shall not be responsible for any defect, latent or otherwise, in the JAF Barn or any of the equipment, machinery, utilities, appliances or apparatus therein, nor shall Landlord be responsible or liable for any injury, loss or damage to any person or to any property of Tenant or other person caused by or resulting from bursting, breakage, leakage, running, backing up, seepage, or the overflow of water, sewerage, steam, snow or ice, in, on or about any part of said Premises or for any personal injury (including death) or property damage caused by or resulting from acts of God or the elements.
- (f) In the event Landlord shall be made a party to any litigation commenced by or against Tenant, then Tenant shall (a) indemnify, protect and hold Landlord harmless from and against any and all claims, charges, liabilities and judgments asserted or assessed in connection with such litigation and (b) pay all costs, expenses and reasonable attorneys' fees incurred by or charged to Landlord in connection therewith.

3.06 So long as Tenant is not in default under this Lease, Tenant shall be entitled to peaceably possess, hold and enjoy the Premises during the Term.

3.07 Tenant shall pay, directly to utility companies, all charges for utilities, including but in no way limited to, gas, electricity, refuse, internet, water, and sewer incurred at the Premises during the Term.

3.08 Tenant shall not permit any waste or misuse of the Premises.

3.09 Notwithstanding anything contained herein to the contrary, and for avoidance of doubt, upon expiration or termination of this Lease, or when Tenant abandons, quits or vacates the Premises, whichever shall first occur, Tenant shall be responsible for the removal, at its cost, of all personal property of Tenant located on the Premises, and shall further be responsible for delivering the Premises to Landlord in a broom-clean condition, which shall mean, without limitation, that all personal property of any kind or nature, shall be removed from the Premises.

#### **SECTION 4. TENANT ACCEPTS PREMISES.**

4.01 Tenant has inspected the Premises and is satisfied with its physical condition and Tenant agrees as follows:

- (a) Tenant's acceptance of this Lease, by its signature below, shall be conclusive evidence of Tenant's receipt of the Premises in good order and repair; and
- (b) Tenant acknowledges that neither Landlord nor any of Landlord's agents has made any representation as to the condition or state of repair of the Premises or made any agreements or promises to repair or improve the Premises prior to or following the execution of this Lease.

#### **SECTION 5. REPAIRS AND MAINTENANCE.**

5.01 Tenant agrees, at Tenant's sole expense:

- (a) to keep the Premises in a clean, sightly and healthful condition; and
- (b) to make all repairs which are necessary to maintain the Premises in the same condition as exists on the Effective Date; and
- (c) to maintain, repair and replace all structural portions of the Premises, including (without limitation) foundations, walls, floors, stairways, the roof and the exterior portions thereof, in the same condition as the same exist on the Effective Date; and
- (d) to maintain, repair and replace all electrical, gas, water, central heating, central air conditioning and plumbing equipment and appliances, and any other equipment and appliances located within the Premises in the same condition as the same exist on the Effective Date; and
- (e) to comply with all statutes and ordinances concerning the maintenance and repair of the Premises; and
- (f) to surrender the Premises at the expiration or earlier termination of this Lease in as good repair and condition as existed on the Effective Date, subject to reasonable wear and tear.

5.02 If Tenant fails to perform Tenant's obligations under this Lease, Landlord or Landlord's agents may perform such obligations on behalf of Tenant. In such event, Tenant shall pay Landlord, upon demand, all costs and expenses which Landlord incurred in performing Tenant's obligations.

5.03 Landlord or Landlord's agents shall have the right to enter the Premises (without causing or constituting a termination of this Lease or an interference with Tenant's possession thereof) at all reasonable times for the purposes of showing the Premises to prospective buyers or tenants, examining its condition or use, and/or performing Tenant's obligations pursuant to Subsection 5.01 hereof.

5.04 For avoidance of doubt, and notwithstanding anything contained herein to the contrary, Landlord shall have no obligations to maintain, repair or replace any portion of the Premises during the Term, all of which shall be the responsibility of Tenant.

## **SECTION 6. ALTERATIONS.**

6.01 Without Landlord's prior written consent, Tenant shall make no alteration of or addition to the interior or exterior of the Premises.

6.02 Should Landlord elect to give such written consent, Tenant shall protect, indemnify and save Landlord harmless against:

- (a) any lien for labor or material furnished, or
- (b) any claim which any subcontractor, lessor of equipment, journeyman or laborer may have under law against an owner of real property for services, material or machinery, or
- (c) any liability for personal injury or damage to property associated in any way with any alteration or addition.

6.03 Landlord may also require Tenant to furnish security, insurance, or other assurance as Landlord may reasonably require to protect Landlord against the liens, claims

and liabilities described in Subsection 6.02 hereof, and to assure that the work will be performed in a lawful and workmanlike manner and with proper materials.

6.04 Upon the expiration or earlier termination of this Lease, any alteration or addition made pursuant to this Section 6 shall become Landlord's property and shall remain upon the Premises, all without compensation, allowance or credit to Tenant. However, Tenant may remove any trade fixtures by Tenant which can be removed without damage to the Premises. Tenant shall repair any damage to the Premises caused by Tenant or Tenant's agents in removing any property therefrom.

#### **SECTION 7. DAMAGE.**

7.01 If the Premises are damaged, destroyed or rendered untenable, either wholly or in part, by fire or other casualty ("*Casualty*"), Tenant will immediately notify Landlord in writing upon the occurrence of such Casualty. Landlord may elect either to (i) repair the damage caused by such Casualty as soon as reasonably possible (in which case Landlord shall provide to Tenant Landlord's estimation of the time it will take to repair such damage), and this Lease will remain in full force and effect, or (ii) terminate the Lease as of the date the Casualty occurred. Notwithstanding the foregoing, if the Premises shall be destroyed or damaged by such Casualty to such an extent as it will make the Premises unusable for more than sixty (60) days for the purpose described in Subsection 3.01 above, either Party has the right to terminate this Lease by giving notice of such termination to the other Party within thirty (30) days after the date the casualty occurs. Termination of this Lease shall then be effective as of the date of such casualty.

#### **SECTION 8. DEFAULTS AND REMEDIES.**

**8.01 Defaults by Tenant.** A default by Tenant will have occurred under this Lease if:

- (a) Tenant fails to cure any default under this Lease within thirty (30) days after Landlord has given Tenant notice of the nature of such default;
- (b) Tenant abandons, quits or vacates the Premises;
- (c) any act or omission of Tenant causes the cancellation of the insurance coverage on the Premises; or
- (d) the interest of Tenant under this Lease is ordered sold under execution or other legal process.

**8.02 Remedies of Landlord for Default by Tenant.** If a default by Tenant has occurred under this Lease and is continuing, Landlord has the following remedies:

- (a) The right to reenter and repossess the Premises, and the right to remove all persons and property from the Premises, all in a lawful manner.
- (b) The right to give Tenant notice of Landlord's termination of this Lease as of a date specified in the notice of termination, such date to be not earlier than the date of the notice.
- (c) The right to advance money or make any expenditure to cure any default of Tenant other than default in payment of rent.
- (d) The right to collect from Tenant by any lawful means:
  - (1) any money advanced or expenditures made by Landlord pursuant to Subsection 8.02(c), and

(2) any other amount which Tenant owes Landlord under this Lease.

**8.03 Effect of Exercise of Remedies by Landlord.**

- (a) Upon exercise by Landlord of Landlord's right to reenter and repossess, or to move persons and property from, the Premises or upon termination of this Lease pursuant to Subsection 8.02(a) above, Tenant and each person claiming by or through Tenant shall forthwith quit the Premises and surrender the Premises to Landlord, and Landlord shall be entitled to all remedies at law or in equity to effect this right. Upon reentry, Landlord shall again have possession of the Premises as though this Lease had not been made.
- (b) Upon the date specified in Landlord's notice of intention to terminate this Lease, this Lease shall terminate, and Tenant and any person claiming by or through Tenant shall become a tenant at sufferance.
- (c) Within seven (7) days of Tenant's vacation of the Premises, Tenant shall remove therefrom all of Tenant's personal property. If Tenant fails to so remove, said property shall be deemed abandoned by Tenant and shall become the property of Landlord.

**8.04 Defaults by Landlord.** A default by Landlord will have occurred under this Lease if Landlord fails to cure any default under this Lease within thirty (30) days after Tenant has given Landlord notice of such default to Landlord.

**8.05 Remedies of Tenant for Default by Landlord.** If a default by Landlord has occurred under this Lease and is continuing, Tenant has the right to terminate this Lease as

of a date specified in the notice of termination, such date to be not earlier than the date of the notice.

**8.06 Provisions Applicable to Defaults and Remedies.**

- (a) Failure or omission of either Party to exercise any remedy shall not constitute a waiver, or bar or abridge exercise of a remedy upon any subsequent default.
- (b) No right or remedy of either Party shall be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given by this Lease or now or hereafter existing at law or in equity.
- (c) In addition to any remedies given Landlord by any previous provision of this Lease, Landlord shall be entitled, to the extent permitted by law, to injunctive relief in case of any violation, or attempted or threatened violation, of any of the covenants, agreements or provisions of this Lease.
- (d) Each Party is entitled to recover its reasonable attorney fees, costs and expenses incurred by reason of exercising its remedies under this Lease.
- (e) If Landlord, without fault, is made a party to any litigation commenced by or against Tenant or because of Tenant's acts or omissions, and if Tenant, at Tenant's expense, fails to provide Landlord with legal counsel satisfactory to Landlord, Tenant shall pay all costs and reasonable attorney fees incurred or paid by Landlord in connection with such litigation.

**SECTION 9. Tenant Obligations.**

9.01 **Insurance on JAF Barn.** Tenant shall obtain a full replacement cost property insurance policy, insuring the JAF Barn. Said policy shall be subject to the approval of Landlord and shall be issued by an insurance carrier approved in advance by Landlord. The cost of said insurance shall be paid by Tenant. Landlord shall be named as the loss payee under said policy of insurance. Landlord shall be provided not less than thirty (30) days prior written notice by the insurance carrier prior to cancellation, termination, or change in such insurance.

Tenant shall annually provide Landlord a certificate of insurance evidencing that said insurance is in full force and effect in accordance with the terms thereof and hereof.

9.02 **Other Insurance.** Tenant shall carry general liability insurance on the Premises during the Term, covering Tenant and naming Landlord as an additional named insured, with terms and companies satisfactory to Landlord, for limits of not less than \$1,000,000 for bodily injury, including death, and personal injury for any one (1) occurrence, \$1,000,000 property damage insurance, or a combined single limit of \$2,000,000. Tenant's insurance will include contractual liability coverage recognizing this Lease, products and/or completed operations liability and providing that Landlord and Tenant shall be given a minimum of thirty (30) days' written notice by the insurance carrier prior to cancellation, termination, or change in such insurance.

Tenant shall annually provide Landlord a certificate of insurance evidencing that said insurance is in full force and effect and stating the terms thereof.

Tenant acknowledges that it shall bear the risk of loss for all of the personal property, including trade fixtures, located on the Premises, as well as the risk of loss associated with business interruption due to casualty to the Premises.

9.03 **Taxes.** Beginning on the first day of the Term, in addition to all other amounts set forth in this Lease, Tenant shall pay, prior to delinquency, assessments, other governmental charges, general and special, including assessments for public improvements or benefits, user fees, and other such charges levied upon its leasehold interests and/or upon the Premises and the buildings and other improvements on the Premises (collectively, "**Taxes and Fees**"), if any, and it is the intent of the parties that Tenant shall pay only such Taxes and Fees which are incurred during the Term. Upon request, Tenant shall furnish Landlord with satisfactory evidence that all Taxes are paid and current. If Tenant shall fail to pay any Taxes so required by this Lease, Landlord shall have the right to pay the same upon ten (10) days written notice to Tenant, and Tenant shall reimburse Landlord therefor, including any interest and penalties. In addition, Tenant shall pay, during the Term, all license fees and occupation taxes applicable to the business conducted by Tenant on the Premises, and all taxes on any and all personal property owned by Tenant and located upon the Premises.

9.04 **Operating Expenses.** Beginning on the first day of the Term, Tenant will pay all costs associated with operating, maintaining, managing, protecting, repairing and restoring the Premises ("**Operating Expenses**"). Operating Expenses to be paid by Tenant include, without limitation, landscaping and pavement maintenance, drainage and lighting maintenance, as may from time to time be necessary in Tenant's discretion, painting, caulking, lighting, sanitary control, and removal of snow and ice from the Premises.

**SECTION 10. ACCESS, ENVIRONMENTAL INVESTIGATIONS.** Landlord reserves the right to enter upon the Premises at all reasonable business hours upon reasonable notice to Tenant for the purposes of conducting environmental studies, soil tests, environmental assessments, inspections, and other examinations (collective, the "Investigations") on the

Premises; *provided, however,* Landlord shall not unreasonably interfere with Tenant's operation of the business described in Subsection 3.01 hereof while conducting such Investigations.

**SECTION 11. MISCELLANEOUS.**

11.01 Time is of the essence.

11.02 Tenant shall not assign, mortgage or encumber this Lease, nor sublet or permit the Premises or any part thereof to be used by another person or entity without the prior written consent of Landlord which may be withheld in Landlord's sole discretion.

11.03 A notice to be given under this Lease shall be in writing and either delivered in person or mailed by U.S. certified mail, postage prepaid and return receipt requested. A notice mailed shall be deemed given on the date of postmark.

All notices from Tenant to Landlord required or permitted by any provision of this Lease shall be directed to Landlord as follows:

Landlord: City of Fort Wayne Board of Park Commissioners  
c/o Fort Wayne Parks Department  
705 East State Boulevard  
Fort Wayne, IN 46805  
Attn: Director

All notices from Landlord to Tenant required or permitted hereunder shall be directed as follows:

Johnny Appleseed Festival, Inc.  
Attn: President  
1502 Harry W. Baals Dr.  
Fort Wayne, IN 46805

11.04 This Lease and its terms, covenants, agreements, and provisions shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

11.05 Any change in, or modification or discharge of, this Lease shall be in writing, signed by all persons who at the time are parties to this Lease.

11.06 This Lease and its terms shall be construed under the laws of the State of Indiana. Any legal claim brought by either Party in connection with this Lease shall be heard by a court of applicable jurisdiction located in Allen County, Indiana.

11.07 If any term or provision of this Lease be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the full extent permitted by law.

11.08 WAIVER OF JURY TRIAL. EACH PARTY HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS LEASE. EACH PARTY ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL CONSIDERATION AND INDUCEMENT TO THE EXECUTION OF THIS LEASE, AND CONSTITUTES A KNOWING AND VOLUNTARY WAIVER.

11.09 This Lease may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signature of the Parties hereto be contained on any one counterpart hereof. Additionally, the Parties agree that for purposes of facilitating the execution of this Lease, (a) the signature pages taken from the separate individually executed counterparts of this Lease may be combined to form multiple fully executed counterparts, and (b) a facsimile or emailed transmission shall be deemed to

be an original signature for all purposes. All executed counterparts of this Lease shall be deemed originals, but all such counterparts taken together or collectively, as the case may be, shall constitute one and the same agreement.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the Parties have signed on the date first above written.

**CITY OF FORT WAYNE  
BOARD OF PARK COMMISSIONERS**

\_\_\_\_\_  
**Justin Shurley, President**

\_\_\_\_\_  
**Cory Miller, Vice-President**

\_\_\_\_\_  
**Richard Briley, Commissioner**

\_\_\_\_\_  
**Jenna Jauch, Commissioner**

\_\_\_\_\_  
**Steve McDaniel, Director/Board Secretary**

**JOHNNY APPLESEED FESTIVAL, INC.**

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

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

# Fee Recommendation

May 5, 2026

## **FOR: 2026 Adult and Youth Summer Programs**

Summer programs are held June through August. The programs listed are adult programs and any youth programs added since the summer youth program fees were previously approved.

## **FINANCIAL OBJECTIVE AND JUSTIFICATION STATEMENT**

Financial objectives vary among cost centers or program areas. In general, fees are calculated to cover the direct cost of the program with a pre-determined minimum number of participants and then increased 20% to cover administrative costs. Program fees are recalculated each time they are offered to account for any changes in costs. We also consider price breaks, competition and what the market will bear when establishing program fees.

## **PROJECTED RESULTS / OUTCOME:**

In the summer of 2025, we offered 445 fee-based youth and adult programs and collected \$\$524,034.62 in revenue. This summer we will offer 434 fee-based programs.

We are asking for the Board of Park Commissioners' approval of the Summer Fun Times as presented. In order to be responsive to unforeseen circumstances such as health emergencies, severe weather, etc.) we ask for the Board of Park Commissioners approval for the authority to modify, adjust and add programs (and their associated fees if applicable) with written approval from the Deputy Director or Director.

## **FEES:**

Attached are the proposed fees for programs offered in the Summer Fun Times Brochure.

[2026 Summer Fun Times](#)