



Board of Public Works and Safety

Agenda Item

Cover Sheet

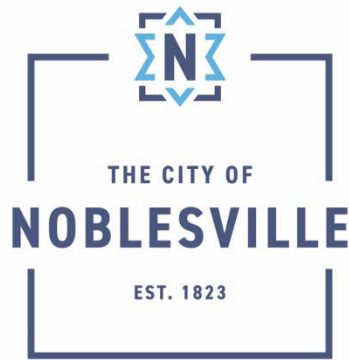
MEETING DATE: February 11, 2025

- ☐ Consent Agenda Item
- ☒ New Item for Discussion
- ☐ Previously Discussed Item
- ☐ Miscellaneous

ITEM #: 7

INITIATED BY: Aaron Head

- ☒ Information Attached
- ☐ Bring Paperwork from Previous Meeting
- ☐ Verbal
- ☐ No Paperwork at Time of Packets



TO: BOARD OF PUBLIC WORKS AND SAFETY
FROM: AARON HEAD, COMMUNITY ENGAGEMENT MANAGER
SUBJECT: COMMERCIAL LEASE AGREEMENT WITH NOBLEMADE
DATE: FEBRUARY 05, 2025

Attached is the commercial lease agreement with NobleMade for the property located at 839 Conner Street.

If you have any questions prior to the meeting on February 11th, please feel free to contact me at 317-776-6324 or at ahead@noblesville.in.gov

Attachments:

1. Lease Agreement
2. Certificate of Insurance

COMMERCIAL LEASE
839 Conner Street, Noblesville, Indiana 46060

This lease agreement, executed in duplicate, made and entered into as of the 1st day of January, 2025, by and between the City of Noblesville (hereinafter called the “City”), whose address for the purpose of this lease is 16 S. 10th Street, Noblesville, Indiana 46060, and NobleMade, an Indiana nonprofit corporation organized for educational and charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code (hereinafter called the “Tenant”), whose address for the purpose of this lease is 839 Conner Street, Noblesville, Indiana 46060.

WITNESSETH:

Article I
Leased Premises

Section 1.01. Premises. The City hereby leases to Tenant, subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease, and Tenant hereby accepts from the City the first floor retail space of the building situated on the real estate more commonly known as 839 Conner Street, Noblesville, Indiana (the “Leased Premises”), as well as an access easement from the first floor of the street entrance of 839 Conner Street (the “Building”) to, and including, the stairs to the Leased Premises. Tenant acknowledges that the Leased Premises cannot be locked or secured to prohibit access from the first floor of the Building and the outside access from the first floor to the Building may be open to the public at times when the Building is not staffed by the Tenant or the City. Therefore, the Tenant agrees to obtain renter’s insurance for its personal property and releases the City, its employees, agents and assigns from any and all liability arising from the damage or loss of any Tenant personal property or possessions which may occur upon the Leased Premises.

Article II
Terms

Section 2.01. Initial Term. The “Initial Term” of this lease shall begin on January 1, 2025 and shall extend through December 31, 2025.

Section 2.02. Lease Term. The Term referred to in this Lease as the “Lease Term” is hereby defined to mean a period of twelve (12) consecutive months.

Section 2.03. Holding Over. If the Tenant shall remain in possession of the Leased Premises after the expiration of the Lease Term or any extended term of this Lease, except pursuant to an exercise of an option to extend, such possession shall be as a month-to-month tenant. During such month-to-month tenancy, the provisions of this Lease shall be applicable.

Section 2.04. Tenant Termination. Notwithstanding any provision to the contrary, the City acknowledges Tenant is a non-for-profit organization dependent on other funding and therefore, Tenant shall have the right to terminate the Lease Agreement at any time because of financial constraints, by giving the City written notice of termination at least ninety (90) days in advance.

Section 2.05. Renewal of Term. Tenant is hereby granted the right to renew and extend the Lease Term, per the terms stated herein, by giving the City written notice at lease ninety (90) days prior to expiration of Lease Terms.

Article III

Rent

Section 3.01. Rental. During the Lease Term, Tenant will pay City One Dollar (\$1.00) per calendar year (hereinafter referred to as "Rental"), as rent for the Leased Premises. During the Lease Term, Tenant shall also pay any excise, sales or privilege tax, if any, imposed by any government authority on account of this Lease or the Rental paid hereunder, provided that Tenant shall have no obligation with respect to any income tax imposed on the receipt of the Rental.

Section 3.02. No Relief. All payments due from Tenant hereunder shall be without relief from valuation and appraisal laws, but with attorney fees and cost of collection, if necessary, to enforce the terms of this Lease.

Article IV

Occupancy and Use

Section 4.01. Occupancy. Tenant may occupy the Leased Premises to be used for tenant's permitted not for profit purposes and for such other purposes as may be incidental thereto, and for no other purpose without the prior written consent of City, which consent shall not be unreasonably withheld or delayed.

Section 4.02. Use of Premises. Tenant shall use the Leased Premises for no unlawful purpose or act; shall not commit waste to the Leased Premises; shall comply with and obey all applicable laws, regulations and orders of any government authority or agency and all reasonable directions of the City, including such building rules and regulations as may be adopted from time to time by the City on reasonable notice to Tenant, all of which shall be deemed a part of this Lease; shall not do or permit anything to be done in or about the Leased Premises which will increase the rate of fire insurance upon the building

Section 4.03. Utilities. Electricity is furnished and paid for by third party and is not responsibility of tenant or City. The Tenant shall also pay its costs for telephone and internet service. The Tenant is responsible for removal of their own trash and recycling from the Leased Premises. The City shall be responsible for remaining utilities, including but not limited to gas, water, and sanitary costs for the Leased Premises and Building.

Section 4.04. Rights Reserved to the City. The City shall have the following rights exercisable without notice, except as specified below, and without effecting an eviction or disturbance of Tenant's use or possession or giving rise to any claim for off-set or abatement of

rent, provided that the exercise of such rights of the City does not materially interfere with Tenant's access to, or use and enjoyment of, the Leased Premises.

1. To decorate, remodel, repair, alter or otherwise prepare the Leased Premises for re-occupancy during the last three (3) months of the term hereof, if during or prior to such time Tenant vacates the Leased Premises, or at any time after Tenant abandons the Leased Premises; and
2. To enter the Leased Premises after reasonable notice to Tenant to make inspections, repairs, alterations, or additions in or to the Leased Premises, or to exhibit the Leased Premises to prospective tenants, purchasers or others, at reasonable hours and at any time in the event of an emergency, and to perform any reasonable acts related to the safety, protection, preservation, re-letting, sale or improvement of the Leased Premises.

Section 4.05. Improvements. Tenant shall have the right to make reasonable remodeling alterations upon written consent of the City. The City retains the right of possession to the fixtures and additions which are affixed to the Leased Premises and which are affixed during the period of this Lease if they are not capable of being removed without damage to the Leased Premises.

Section 4.06. Maintenance and Repairs. Tenant shall maintain, make all repairs made necessary by general and normal wear and tear, and keep clean at its expense, the interior of the Leased Premises including interior walls, and windows.. The City shall be responsible for the Building's foundations, landscaping, exterior walls, roof, for maintenance and cleaning of public restrooms on the first floor, and for snow and/or ice removal on the sidewalks and entries serving the Building. If Tenant becomes aware of an item needing maintenance or repair, Tenant shall notify the City within two (2) business days. Tenant shall be responsible for repairs and replacement of all damaged windows and doors in the Leased Premises caused by the Tenant's employees or invitees. If Tenant fails to make the required repairs or fails to maintain the Leased Premises, then the City may authorize the repairs or maintenance at Tenant's expense, payable within ninety (90) days of billing to the Tenant.

Section 4.07. Signage. Tenant shall have the right to hang reasonable and appropriate signage connected to the Building as approved by the City. Tenant shall be responsible for maintenance and repair to the sign thereon.

Article V

Liens

Tenant shall keep the Leased Premises free from any liens, including but not limited to mechanic's liens, arising from any act or failure to act on the part of Tenant. If Tenant fails to do so, the City shall have the right, but not the obligation, to pay the amount of such lien to cause its release and such amount shall be considered additional Rental to be paid to the City by Tenant on demand with interest at ten percent (10%) per year from the date the lien is attached. In the event such lien is not released, the Tenant shall indemnify the City for all costs incurred in the removal of said lien including costs and attorney's fees.

Article VI
Indemnification, Insurance and Taxes

Section 6.01. Waiver of Claims by Tenant. Except in the event of the willful act or gross negligence of the City or the City's agents, representatives or employees, the City and its agents and employees shall have no liability to Tenant for any injury or damages to Tenant, its agents or employees or any property of Tenant. With said exceptions, Tenant waives all claims of recovery from the City and agrees that all fire insurance which may be carried by Tenant with respect to property located in the Leased Premises shall be endorsed with a clause waiving rights of subrogation against the City.

Section 6.02. Indemnification of the City. Tenant covenants to indemnify and save the City, its agents and employees, harmless from and against any and all liability, damages, expenses, fees, penalties, actions, causes of action, suits, costs, claims or judgments arising from injury during the Lease Term to any persons or property in or about the Leased Premises caused by the Tenant, its agents, employees, or invitees.

Section 6.03. Tenant Liable for Repairs. Tenant shall be liable to the City for the cost of repairing any damage to the Leased Premises or to the Building caused by the act, omission, or negligence of Tenant, its agents, employees or invitees to the extent such damage is not insured or insurable by Tenant under standard fire insurance policies containing customary deductible provisions.

Section 6.04. Insurance. Tenant shall procure and keep in effect during the Lease Term public liability and property damage insurance with respect to the Leased Premises and Tenant's use and occupancy thereof protecting the City and Tenant from all causes, including their own negligence, naming the City as an additional named insured and having minimum limits of liability of \$1,000,000 per occurrence as to public liability, and not less than \$500,000 as to property damage. All such policies shall contain a clause that the insurer will not cancel or change the insurance without first giving the City and Tenant ninety (90) days prior written notice. Tenant shall deliver to the City a copy of the policy or a certificate of insurance maintained by Tenant. If Tenant fails to procure such insurance, the City may at its option procure the same for Tenant and the cost thereof shall be paid to the City by Tenant as additional Rental within ninety (90) days of billing.

Section 6.05. Taxes. Tenant shall pay all taxes upon its merchandise, trade fixtures, equipment and personal property, in or used in connection with the business operated out of said Leased Premises.

Article VII
Default

The occurrence of any one or more of the following events constitutes a default ("Default") by Tenant under this Lease:

1. Failure by Tenant to pay, within ninety (90) days after written notice thereof from the City to Tenant, any other moneys due and payable from Tenant to the City under this Lease;
2. Failure by Tenant to cure forthwith, promptly after receipt of written notice from the City, any hazardous condition which Tenant has created in violation of law or of this Lease;
3. Failure by Tenant to observe or perform any other covenant, agreement, condition or provision of this Lease to be observed or performed by Tenant if such failure continues for ninety (90) days after written notice to Tenant by the City, unless the nonobservance or performance is of a nature that it cannot be corrected in ninety (90) days and Tenant has commenced observance or performance and is pursuing it with diligence;
4. The leasehold interest is seized or attached by legal process, or the filing or creating of a lien in respect to such leasehold interest which Tenant does not discharge in ninety (90) days;
5. Tenant vacates or abandons the Leased Premises;
6. Tenant becomes insolvent or bankrupt or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for Tenant or for the major part of its property;
7. A trustee or receiver is appointed for Tenant or for the major part of its property and is not discharged within ninety (90) days after such appointment; and
8. Any proceedings for relief from any bankruptcy law, or similar law for the relief of debtors, are instituted by or against Tenant, and if instituted against Tenant, are allowed against it or are consented to by it, or are not dismissed within ninety (90) days after such institution.

Article VIII

City's Remedies Upon Default

Section 8.01. Remedies. If a Default occurs, the City shall have the rights and remedies hereinafter set forth, which shall be distinct, separate and cumulative and shall not operate to exclude or deprive the City of any other rights or remedy allowed by law:

1. The City may terminate this Lease by giving to Tenant notice of the City's intention to do so, in which event the Lease Term shall end, and all right, title and interest of Tenant hereunder shall expire on the date stated in such notice;
2. The City may terminate the right of Tenant to possession of the Leased Premises without terminating this Lease by giving notice to Tenant that Tenant's right of possession shall end on the date stated in such notice, whereupon the right of Tenant to possession of the Leased Premises, or any part thereof, shall cease on the date stated in such notice, subject to the City's obligation to mitigate damages, as provided in Section 8.03; and
3. The City may enforce the provisions of this Lease and may enforce and protect the rights of the City hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Tenant under any of the provisions of this Lease and all costs and expenses incurred by City in the enforcement of its rights and remedies.

Section 8.02. Surrender. If the City exercises either of the remedies provided for in subparagraphs 1 and 2 of Section 8.01, Tenant shall surrender possession and vacate the Leased Premises within ten (10) days and deliver possession thereof to the City, and the City may then or at any time thereafter re-enter and take complete and peaceful possession of the Leased Premises, with or without process of law, full and complete license to do so being hereby granted to the City, and the City may remove all occupants and property there from, using such force as may be necessary, without being deemed in any manner guilty of trespass, eviction or forcible entry and detainer and without relinquishing the City's right to rental or any other rights given to the City hereunder or by operation of law.

Section 8.03. Termination of Possession. If the City terminates the right of Tenant to possession of the Leased Premises without terminating this Lease, as provided in Section 8.01.2, such termination of possession shall not release Tenant, in whole or in part, from Tenant's obligation to pay Rental and other amounts due hereunder for the full Lease Term. In addition, the City shall have the right, from time to time, to recover from Tenant, and Tenant shall remain liable for, all additional Rental and any other sums thereafter accruing as they become due under this Lease during the period from the date of such notice of termination of possession to the stated end of the Lease Term. In any such case, the City shall be obligated to mitigate its damages by actively seeking to re-let the Leased Premises or part thereof for the account of Tenant for such Rental, for such time (which may be for a term extending beyond the Lease Term) and upon such terms as the City in its reasonable discretion shall determine. Also in such case the City may make reasonable repairs, alterations and additions in or to the Leased Premises and redecorate the same to the extent deemed by City necessary or desirable and in connection therewith change the locks to the Leased Premises, and Tenant shall upon demand pay the cost thereof, together with the City's reasonable expenses of re-letting. The City may collect the rents from any such re-letting and apply the same first to the payment of the expenses or re-entry, redecoration, repairs, and alterations and the expenses of re-lettings and second to the payment of Rental herein provided to be paid by Tenant, and any excess or residue shall operate

only as an offsetting credit against the amount of Rental as the same thereafter becomes due and payable hereunder, but the use of such offsetting credit to reduce the amount of Rental due the City, if any, shall not be deemed to give Tenant any right, title or interest in or to such excess or residue and any such excess or residue shall belong to the City solely; provided that in no event shall Tenant be entitled to a credit on its indebtedness to the City, in excess of the aggregate sum which would have been paid by Tenant for the period which the credit to Tenant is being determined, had no Default occurred. No such re-entry or repossession, repairs, alterations and additions, or re-letting shall be construed as an eviction or ouster of Tenant or as an election on the City's part to terminate this Lease unless a written notice of such intention be given to Tenant or shall operate to release Tenant in whole or in part from any of Tenant's obligations hereunder; and the City may, at any time and from time to time, sue and recover judgment for any deficiencies remaining after the application of the proceeds of such re-letting.

Section 8.04. Termination of Lease. If this Lease is terminated by the City as provided for and by subparagraph 1 of Section 8.01, the City shall be entitled to recover from Tenant all the fixed dollar amounts of Rentals accrued and unpaid for the period up to and including such termination date, as well as all other additional sums payable by Tenant, or for which Tenant is liable or in respect of which Tenant has agreed to indemnify the City under any of the provisions of this Lease, which may be then owing and unpaid, and all costs expenses, including reasonable attorney's fees incurred by the City in the enforcement of its rights and remedies.

Section 8.05. Property. All property of Tenant removed from the Leased Premises by the City pursuant to any provisions of this Lease or of law may be handled, removed or stored by the City at the cost and expense of Tenant, and the City shall in no event be responsible for the value, preservation, or safekeeping thereof. All property not removed from the Leased Premises or retaken from storage by Tenant within ninety (90) days after the end of the Lease Term, however terminated, shall be conclusively deemed to have been conveyed by Tenant to the City as by bill of sale without further payment or credit by the City to Tenant.

Article IX

Damage by Fire

Section 9.01. Fire or Casualty. If fifty percent (50%) or more of the Building is damaged or made untenable by fire or other casualty, cause, condition or thing whatsoever ("Casualty"), and the City elects not to restore it, then either the City or Tenant may by notice to the other given within ninety (90) days after the date of such Casualty ("Casualty Date"), terminate this Lease. Such termination shall become effective as of the Casualty Date if the Leased Premises are untenable, otherwise as of a date ninety (90) days following the service of such notice of Lease termination. Unless the Lease is terminated as hereinabove provided, the City shall restore all damaged portions of the Building at the City's expense with reasonable promptness except for Tenant Improvements, which shall be restored at the expense of Tenant. If all the Building is untenable but this Lease is not terminated, all rent shall abate from the Casualty Date until the Leased Premises are substantially restored and reasonably accessible for occupancy by Tenant. In all cases, due allowance shall be made for reasonable delay caused by adjustment of insurance loss, strikes, labor difficulties or any cause beyond the City's reasonable control. The City shall have no duty to repair, restore or replace Tenant Improvements, including, but not limited to wall and floor coverings, light fixtures, built-in cabinets and book

shelves, and other improvements originally installed by or for the Tenant. Notwithstanding anything to the contrary in this Section 9.01, Tenant shall not have the right to terminate this Lease, and Rental shall in no event abate if the Casualty was caused by the act or neglect of Tenant, its employees, agents or invitees.

Article X

Surrender of Premises

At the end of the Lease Term, Tenant shall peaceably deliver up to the City possession of the Leased Premises, together with all improvements or additions upon or belonging to the same, by whomsoever made, in the same conditions as received, or first installed, ordinary wear and tear, condemnation, and damage by Casualty excepted. Upon the termination of this Lease, Tenant shall, at Tenant's sole cost, remove all counters, trade fixtures, office furniture and equipment installed by Tenant, unless otherwise agreed to in writing by the City. Tenant shall also repair any damage caused by such removal. Property not so removed shall be deemed abandoned at the termination of the Lease Term by Tenant and title thereto shall thereupon pass to the City, subject to provisions of Section 8.05. Tenant shall indemnify the City against any loss or liability resulting from delay by Tenant in so surrendering the Leased Premises, including without limitation, any reasonable claims made by any succeeding tenant founded on such delay.

Article XI

Waiver

The waiver by the City of any term, covenant, or condition herein shall be in writing, and a waiver in one instance shall not be deemed to be a waiver of such term, covenant or condition in the future, or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of payment of rent to other performance hereunder by the City shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, regardless of the City's knowledge of such preceding breach at the time or acceptance or payment of such Rental or other performance unless the City shall specifically state so in writing.

Article XII

Notices

All notices and demands which may or are required to be given by either party to the other hereunder shall be in writing and shall be sent by United States certified or registered mail, postage prepaid, addressed to Tenant or the City at the addresses listed below, or such other person or to such other place as either party may from time to time designate in writing to the other. Tenant also agrees to mail a copy of any notice to, or demand of, the City to any first mortgagee of the City's interest in the Leased Premises whose name and address for notice has been given to Tenant and to afford such mortgagee a reasonable opportunity to cure any default of the City hereunder at its option.

Article XIII

Quiet Enjoyment

The City covenants that Tenant, upon paying the Rental and performing each and every covenant and agreement hereof, shall peacefully and quietly hold, occupy and enjoy the Leased Premises throughout the term hereof, without molestation or hindrance of any person claiming or holding under or through the City.

Article XIV **Miscellaneous Provisions**

Section 14.01. Governing Law. This Lease shall be governed by the laws of the State of Indiana, and by all applicable Municipal Ordinances, Resolutions, Rules, Regulations, or Codes of Noblesville. Suit, if any, shall be brought in the State of Indiana, County of Hamilton.

Section 14.02. Captions and Section Numbers. The captions, article numbers and section numbers in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of this Lease or in any way affect this Lease.

Section 14.03. Partial Invalidity. If any clause or provision of this Lease shall be invalid or unenforceable, the remainder of this Lease shall be valid and enforceable.

Section 14.04. Limitation of City's Liability. The term "the City" as used in this Lease, as far as covenants or agreements on the part of the City are concerned, shall be limited to mean and include only the owner or owners of the City's interest in this Lease at the time in question, and in the event of any transfer of such interest, except a transfer by way of security, the City herein named (and in the case of any subsequent transfer, the then transferor) shall be automatically freed and relieved from all liability regarding the performance of any covenants or agreements on the part of the City. Tenant shall look solely to the Leased Premises as the sole asset for the payment and satisfaction of all obligations and liabilities hereunder of the City or any subsequent owner of the Leased Premises.

Section 14.05. Air and Light. This Lease does not grant or guarantee Tenant a continuance of light and air over any property adjoining the Leased Premises.

Section 14.06. Construction. Whenever a word appears herein in its singular form, such word shall include the plural; and the masculine gender shall include the feminine and neutral genders.

Section 14.07. Writing Controls. The City has not made any statement, promise or agreement or taken upon itself any engagement whatsoever verbally or in writing that conflicts with the terms of this Lease or in any way modifies, varies, alters, enlarges or invalidates any of the provisions of this Lease, and no obligation of the City shall be implied in addition to the obligation herein stated, except as provided in any addenda attached hereto.

Section 14.08. Successors and Assigns. Except as herein limited, this Lease shall be binding upon and inure to the benefits of the parties hereto and their respective successors and assigns.

Section 14.09. Addenda. All riders and addenda attached to this Lease and signed or initialed by the City and Tenant are made a part hereof and incorporated herein by reference.

Section 14.10. No Option. Submission of this Lease for examination or signature by Tenant does not constitute a reservation of or option for the premises. This instrument becomes effective as a Lease only upon the execution and delivery by both the City and Tenant.

IN WITNESS WHEREOF, the parties hereto, have executed this Lease effective the 1st day of January, 2025.

“CITY”



Christopher Jensen
Mayor of the City of Noblesville, Indiana
16 S. 10th Street
Noblesville, IN 46060

“TENANT”

NobleMade

By: 

Printed: Ailithir McGill

Title: Executive Director

Address: 107 S. 8th St,
NoblesvilleIN, 46060

All of which is approved by the Board of Public Works and Safety of the City of Noblesville this _____ day of _____ 2025.

JACK MARTIN, PRESIDENT

JOHN DITSLEAR, MEMBER

LAURIE DYER, MEMBER

ROBERT J. ELMER, MEMBER

RICK L. TAYLOR, MEMBER

ATTEST:

EVELYN L. LEES, CLERK
CITY OF NOBLESVILLE, INDIANA