



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: John Hinzman, Community Development Director
Date: March 18, 2024
Item: Authorize Signature: Lease Agreement – 213 Ramsey Street – Melanie Brewer

Council Action Requested:

Authorize Signature of the attached Lease Agreement between the City of Hastings and Melanie Brewer. A simple majority is necessary for actions.

Background:

The City would lease space at 213 Ramsey Street between April 1st and May 30, 2024 to Ms. Brewer to host and conduct estate sales. The City would collect \$700 per month in rent which would include utilities.

Financial Impact:

Collection of rent would defray carrying costs for the building. Site activity would better protect a City asset

Advisory Commission Discussion:

N/A

Council Committee Discussion:

N/A

Attachments:

- Lease Agreement

LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made and entered into this _____ day of _____, 2024 (the “Effective Date”), by and between the City of Hastings, a Minnesota municipal corporation (the “Landlord”), and Melanie Brewer dba Method Organization Co., a sole proprietor (the “Tenant”). Landlord and Tenant may be referred to collectively herein as the “parties” or each a “party”.

ARTICLE 1 PREMISES

Landlord, for and in consideration of the rents, covenants and conditions hereinafter contained to be performed and observed by Tenant, does hereby demise and lease to Tenant the real estate legally described on Exhibit A attached hereto (the “Real Estate”), addressed as 213 Ramsey Street, Hastings, Minnesota, including the improvements located therein, and including any existing fixtures and any appurtenant parking areas, driveways and landscaped areas (collectively, the “Improvements”) (the Real Estate and Improvements are collectively referred to herein as the “Premises”).

ARTICLE 2 TERM

Tenant shall have and hold the Premises April 1, 2024 (the “Commencement Date”) and terminating on May 30, 2024 (the “Term”), unless extended by the parties in writing. This Lease is terminable at will by Tenant upon 10 days’ advance written notice to Landlord. From the effective date of the termination by Tenant, any proceeds from subtenants will be retained by Landlord.

ARTICLE 3 BASE RENT

As consideration for this Lease, Tenant shall pay to Landlord base rent in the amount of \$700.00 per month, due and payable on the 1st day of each month.

ARTICLE 4 ADDITIONAL RENT

All amounts which Tenant is required to pay under the terms and provisions of this Lease, other than Base Rent in Article 3, including but not limited to the amounts payable by Tenant pursuant to Articles 11 and 12 shall be considered as “Additional Rent”.

**ARTICLE 5
USE OF PREMISES**

The Premises shall be used by Tenant for the purpose of hosting and conducting estate sales. Tenant agrees not to commit a nuisance in or upon the Premises so as to substantially interfere with the comfort and safety of others.

**ARTICLE 6
TENANT'S ACCEPTANCE OF THE PREMISES/CONDITION**

Landlord will not be obligated to construct or install any improvements in or to the Premises. Landlord makes no representation, covenant or warranty of any kind, character or nature concerning the Premises or otherwise. Tenant accepts the Premises in "as-is", "where-is", and "with all faults" condition.

**ARTICLE 7
FIXTURES, FURNITURE, AND EQUIPMENT**

Landlord agrees that all trade fixtures, furniture, equipment, or other personal property of whatever kind and nature kept or installed on the Premises by Tenant shall not become the property of the Landlord or a part of the realty no matter how affixed to the Premises and may be removed by Tenant, on or before the termination of this Lease.

**ARTICLE 8
ALTERATIONS, TITLE TO AND REMOVAL OF IMPROVEMENTS**

Except for non-structural alterations or improvements that in the aggregate do not exceed \$5,000.00, Tenant may not without Landlord's prior written consent, remodel or make any alterations to the Premises.

Tenant shall have no authority to create or place any lien or encumbrance of any kind whatsoever upon or in any manner to bind the interest of the Landlord in the Premises, and Tenant covenants and agrees promptly to pay all sums legally due and payable by it on account of any labor performed on the Premises upon which any lien is or could be asserted.

**ARTICLE 9
REPAIRS, MAINTENANCE AND SIGNAGE**

Tenant shall, at all times during the Term, at its own cost and expense, keep and maintain the Premises. If the improvements on the Premises are damaged or destroyed, Tenant may at its sole option and expense repair and restore the improvements or Tenant may terminate the Lease and vacate the Premises.

Tenant shall be permitted to maintain signage on the Premises during the Term of the Lease. Tenant shall maintain all signage at its sole cost and expense. Landlord shall approve such signage before its installation.

ARTICLE 10
REAL ESTATE TAXES AND SPECIAL ASSESSMENTS

Landlord shall be responsible for the payment of all real estate taxes and current and future installments of special assessments covering the Premises during the Term.

ARTICLE 11
UTILITIES

During the Term Landlord agrees that it shall pay all costs for water, sewer, gas and electric, heating and cooling, garbage and any other utilities used, or consumed upon or in connection with the Premises, as and when the charges for the same shall become due and payable. If Tenant becomes a holdover tenant, Tenant shall be responsible for such costs during the holdover term.

ARTICLE 12
INSURANCE

Tenant hereby covenants and agrees that it shall at all times during the Term obtain and maintain and keep in force and effect, at a minimum, a comprehensive general liability insurance policy with a combined limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence; and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate, against claims for personal injury, death or property damage occurring in, on or about the Premises. Landlord shall be named as an additional insured. Any deductible amount shall be paid by Tenant.

All policies of insurance maintained in accordance with this Article 12 shall be subject to and governed by the following:

- a. All policies of insurance and the form thereof shall be standard policies of the insurer.
- b. Tenant shall deliver a certificate of insurance to the Landlord upon execution of this Lease Agreement and renewal certificates shall be delivered not less than ten (10) days prior to the expiration of any then current policy.
- c. All policies of insurance provided for in Article 12 shall be issued in a form reasonably acceptable to Landlord by sound and reputable insurance companies and qualified to do business in the state in which the Improvements are located.

ARTICLE 13
INDEMNIFICATION

Tenant hereby agrees to indemnify, defend and save Landlord and Landlord's elected officials, officers, staff, employees, agents and representatives (collectively, "Landlord Indemnified Parties") harmless from all claims, actions, judgments, suits, losses, fines, penalties, demands, costs and expenses and liability whatsoever, including reasonable attorneys' fees, expert fees and court costs ("Tenant Indemnified Claims") on account of (i) any damage or liability

occasioned in whole or in part by any use or occupancy of the Premises or by any act or omission of Tenant or any of Tenant's agents, employees, subtenants, assignees, licensees, contractors or invitees (collectively, "Tenant Parties"); or (ii) the use of the Premises by Tenant or any Tenant Parties and conduct of Tenant's business by Tenant or any Tenant Parties, or any other activity, work or thing done, permitted or suffered by Tenant or any Tenant Parties, in or about the Premises. In case any action or proceeding is brought against Landlord or any Landlord Indemnified Parties solely by reason of any such Tenant Indemnified Claims, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel approved in writing by Landlord and Landlord's insurance carrier, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant shall not be liable for damage or injury occasioned by the negligence or fault of Landlord or its agents, contractors or employees. Tenant's indemnification obligation under this Article 13 shall survive the expiration or earlier termination of this Lease.

Landlord hereby agrees to indemnify, defend and save Tenant and Tenant's officers, trustees, directors, partners, beneficiaries, ground lessors, joint venturers, members, stockholders or other principals or representatives (and their respective successors or assigned) (collectively, "Tenant Indemnified Parties") harmless from all claims, actions, judgments, suits, losses, fines, penalties, demands, costs and expenses and liability whatsoever, including reasonable attorneys' fees, expert fees and court costs ("Landlord Indemnified Claims") on account of any act or omission of Landlord or any of Landlord's agents or employees (collectively, "Landlord Parties"). In case any action or proceeding is brought against Tenant or any Tenant Indemnified Parties solely by reason of any such Landlord Indemnified Claims, Landlord, upon notice from Tenant, shall defend the same at Landlord's expense by counsel reasonably acceptable to Landlord. Landlord shall not be liable for damage or injury occasioned by the negligence or fault of Tenant or its agents, contractors, employees, or invitees. Landlord's indemnification obligation under this Article 13 shall survive the expiration or earlier termination of this Lease.

ARTICLE 14 MECHANIC'S LIENS

Tenant shall not suffer or permit any mechanic's liens to be filed against the Premises or any part thereof by reason of work, labor, services, or materials supplied or claimed to have been supplied to Tenant or anyone holding (or claiming to hold) the Premises or any part thereof through or under Tenant. If any such mechanic's liens or notice of lien shall at any time be filed against the Premises on account of an alleged debt of Tenant or any notice of lien by a party engaged by Tenant or Tenant's contractor or materialmen to work on the Premises, Tenant shall cause the same to be discharged of record by payment, deposit, bond, order of court of competent jurisdiction or otherwise within forty-five (45) days after the date of filing the same, or in the event such party disputes the validity of such lien, such party may deposit 110% of the amount claimed by the lien holder in escrow with a title insurance company, and/or the other party, or as prescribed by law as security against foreclosure of the lien. If Tenant fails to discharge such mechanic's lien within such period, then, in addition to any other right or remedy of Landlord hereunder, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit in court or by giving security or in such other manner as is or may be prescribed by law. Any amount paid by Landlord for any of the aforesaid purposes, and all reasonable legal and other expenses of such party, including reasonable

attorneys' fees, in procuring the discharge of such lien, with all necessary disbursements in connection therewith, with interest thereon at the rate of five percent (5%) per annum from the date of payment shall be repaid by Tenant on demand. Any such amount owed by Tenant to Landlord shall become immediately due and payable by Tenant as Additional Rent with the next succeeding installment of monthly Base Rent which shall become due after such demand. Nothing herein contained shall imply any consent or agreement on the part of Landlord to subject Landlord's estate to liability under any mechanic's lien law.

ARTICLE 15 ASSIGNMENT AND SUBLETTING

Tenant shall not sell, assign, mortgage, pledge, or in any manner transfer this Lease or any real estate or interest thereunder.

ARTICLE 16 DEFAULT AND REMEDIES

- a. If Tenant shall fail to promptly keep and perform any other obligations of this Lease, strictly in accordance with the terms of this Lease, and shall continue in default for a period of thirty (30) days after written notice thereof by Landlord of default and demand of performance (and Tenant is not diligently proceeding to cure a non-monetary default), then and in any such event and as often as any such event shall occur; and upon such default Landlord may declare the Term ended, and enter into said Premises with process of law and expel Tenant or any person occupying the same in or upon said Premises; such reentry shall not work a forfeiture of the rents to be paid nor affect the covenants to be performed by Tenant.
- b. If Landlord shall fail to promptly keep and perform any other obligations of this Lease, strictly in accordance with the terms of this Lease, and shall continue in default for a period of thirty (30) days after written notice thereof by Tenant of default and demand of performance (and Landlord is not diligently proceeding to cure a non-monetary default), then and in any such event and as often as any such event shall occur; and upon such default Tenant may declare the Term ended, and Landlord shall be obligated to any balance due pursuant to the terms stated in Article 2.

ARTICLE 17 COMPLIANCE WITH LAWS

Tenant shall, at Tenant's sole cost and expense, comply with all federal, state, and local laws and regulations which may be applicable to the Premises. Tenant will observe and comply with the requirements of all policies of public liability, fire and all other policies of insurance at any time in force with respect to the Premises and the personal property therein.

Tenant shall secure and maintain all appropriate licenses and permits required from all federal, state, and local governments, if any, needed to operate its business on the Premises so long as the Lease is in effect.

**ARTICLE 18
AMENDMENTS**

No waivers, alterations or modifications of this Lease or any agreements in connection therewith shall be valid unless in writing duly executed by both Landlord and Tenant herein.

**ARTICLE 19
RECORDING**

This Lease shall not be recorded.

**ARTICLE 20
SURRENDER OF PREMISES**

Tenant shall, after the last day of the Term or upon any earlier termination, surrender and yield the Premises to Landlord.

**ARTICLE 21
SERVICE OF NOTICE**

Every notice, approval, consent or other communication authorized or required by this Lease shall not be effective unless the same shall be in writing and sent postage prepaid by United States registered or certified mail, return receipt requested, as follows:

If to Landlord at: City of Hastings
 Attn: John Hinzman
 101 – 4th Street East
 Hastings, MN 55033

If to Tenant at: Melanie F. Brewer
 550 7th St W
 Hastings, MN 55033

or to such other address as either party may designate by notice given from time to time in accordance with this Article 21. Any notice given in accordance with the provisions of this Article 21 shall be deemed to have been given as of the date occurring two (2) days after such notice shall have been placed for mailing with the United States Postal Service. The amounts payable by Tenant to Landlord hereunder shall be paid to the address designated by Landlord from time to time.

**ARTICLE 22
HOLDING OVER**

In the event Tenant continues to occupy the Premises after the last day of the Term or any extension hereby created, Tenant shall pay all actual damages sustained by Landlord as a result of

any such holdover.

ARTICLE 23 CAPTIONS

The captions appearing 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 Articles of this Lease or in any way affect this Lease.

ARTICLE 24 INVALIDITY OF PROVISIONS

If any term, covenant, condition or provision of this Lease or the application thereof, to any person or circumstance shall, at any time, or to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE 25 LANDLORD'S ACCESS TO PREMISES

Landlord shall have reasonable rights of access to the Premises after reasonable notice and during normal business hours for the purpose of inspecting the condition thereof from time to time throughout the Term of this Lease. Landlord shall also have reasonable rights of access to the Premises after reasonable notice for the purpose of surveying, geotechnical testing or other investigation in preparation for the construction of any future project for which Landlord purchased the Premises. In the event of an emergency, Landlord shall have the immediate right to access the Premises, without prior notice to Tenant.

ARTICLE 26 ENTIRE AGREEMENT

This Lease entered into between Landlord and Tenant as to the Premises supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the Premises and it contains all of the covenants, agreements and other obligations between the parties in respect to said Premises.

ARTICLE 27 LIABILITY OF LANDLORD

Tenant's elected officials, officers, staff, employees, agents and representatives will have absolutely no personal liability with respect to any provision of this Lease or any obligation or liability arising from this Lease.

**ARTICLE 28
GOVERNING LAW; VENUE**

This Lease will be governed by and construed according to the laws of the State of Minnesota. Any actions or proceedings arising under this Lease, in connection with the Premises will be venued in state or federal courts located in Dakota County, Minnesota, to the exclusion of all other venues. Tenant hereby expressly consents to the exercise of personal jurisdiction over Tenant by such courts.

**ARTICLE 29
AUTHORITY**

Landlord and Tenant hereby represent and warrant that each individual executing this Lease on behalf of said entity is duly authorized to execute and deliver this Lease on behalf of said entity and that this Lease is binding upon said entity in accordance with its terms.

**ARTICLE 30
BROKERS**

Each party warrants to the other that it has had no dealings with any broker or agent in connection with this Lease. Notwithstanding the foregoing, each party shall hold harmless the other party from all damages resulting from any claims that may be asserted against the other party by any broker, finder, or other person, with whom the other party has or purportedly has dealt.

**ARTICLE 31
TIME OF THE ESSENCE**

With respect to all acts of the Tenant and Landlord required under or pursuant to this Lease, time is of the essence.

**ARTICLE 32
COUNTERPARTS**

This Lease may be executed in counterparts, each of which shall be deemed an original, but which taken together shall constitute one and the same instrument. Electronic or facsimile signatures shall be deemed sufficient to create a binding obligation hereunder and shall have the same force and effect as an original signature of such party.

**ARTICLE 33
HAZARDOUS MATERIALS**

Tenant shall not keep or have in or on the Premises any article or thing which is deemed "hazardous" or "extra hazardous" by any responsible insurance company or under federal, state or local law, rule, regulation, code or ordinance except in compliance with all requirements of applicable law. To the extent caused by Tenant or its employees, agents, or invitees, Tenant shall

indemnify and save harmless Landlord against all liabilities, damages, claims, fines, penalties, costs and other expenses, including, reasonable attorneys' fees, which may be imposed upon, incurred by, or asserted against Landlord by reason of any use or condition of the Premises or any part thereof, including, without limitation, liability resulting from the use, storage, generation, or release of any "hazardous substance," "hazardous waste," "pollutant" or "contaminant" (as such terms may be now or hereafter defined under any applicable federal, state, or local statute, ordinance, or regulation, collectively referred to as "Hazardous Material").

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IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year first above written.

**LANDLORD:
CITY OF HSATINGS**

By: _____
Mary Fasbender
Its Mayor

By: _____
Kelly Murtaugh
Its City Clerk

TENANT:
MELANIE BREWER DBA METHOD ORGANIZATION CO.

By: _____
Melanie F. Brewer
Sole Proprietor

**EXHIBIT A
LEGAL DESCRIPTION**

Real property located in Dakota County Minnesota legally described as follows:

Lot 6 except the South 70 feet thereof and an undivided 1/2 interest in Lot 5, except the South 100 feet thereof, all in Block 15, Town of Hastings, according to the recorded plat thereof