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RESOLUTION NO. 2017- 33

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A LICENSE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND T E P M, INC. FOR THE USE OF THE EXTERIOR WALL OF THE BUILDING LOCATED AT 135 NE 1ST AVENUE FOR THE PAINTING OF A MURAL ENTITLED, "OLD TOWN"; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That a License Agreement between the City of Pompano Beach and T E P M, Inc. for the use of the building located at 135 NE 1st Avenue, Pompano Beach, FL, for the painting of a mural on the exterior wall, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and T E P M, Inc.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 25th day of October, 2016.



LAMAR FISHER, MAYOR

ATTEST:



ASCELETA HAMMOND, CITY CLERK

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LICENSE AGREEMENT FOR THE OLD TOWN MURAL

THIS LICENSE AGREEMENT is entered into by and between the City of Pompano Beach, a municipal corporation ("City") and T E P M, Inc., a Florida corporation (Owner), and is made as of October 28, 2016. In consideration of the mutual agreements contained herein, the parties hereto agree as follows:

1. Recitals. This License Agreement is made with respect to the following facts and for the following purposes, which each of the parties hereto acknowledge as true and correct:

A. T E P M, Inc. is the owner of the property located at 135 NE 1 Avenue, Pompano Beach, Florida 33060.

B. The City, through its hired Artist, Carlos Gonzalez, would like to paint a mural known as "Old Town" upon the exterior wall of the building owned by T E P M, Inc., located at 135 N.E. 1 Avenue Street, Pompano Beach, Florida 33060.

C. T E P M, Inc., is willing to grant this License to City in consideration of and recognition of the receipt of the improvement to the property and the sum of Ten Dollars (\$10.00) which is hereby acknowledged.

D. The City and T E P M, Inc., desire to enter into this License Agreement to provide the terms and conditions upon which the City shall use the building as described below.

2. Right to Use the Building to Paint the Old Town Mural.

T E P M, Inc. hereby grants a revocable license to City to use the back of the above described building, which he is the legal owner of, to paint the Old Town Mural.

3. Term of License to use the Building.

A. Duration. The Term of this Agreement shall commence on October 20, 2016 and shall continue in duration for a period of at least seven (7) years.

B. Right to Terminate Agreement. The City may terminate this Agreement for any reason by providing a sixty (60) day written notice of termination to the other party at the addresses provided for in Section 8, herein.

4. Responsibilities of the City. The City shall coordinate with the Artist to paint the Old Town Mural as depicted in Exhibit "A" attached hereto. The City will paint the exterior wall white prior to the Artist painting.

5. Responsibilities of T E P M, Inc.

A. T E P M, Inc. shall grant the City access to his property in order for the City to prime the exterior wall prior to the Artist rendition of the Old Town Mural.

B. T E P M, Inc. shall thereafter grant the Artist access to his property to paint the Old Town Mural.

C. T E P M, Inc. shall keep the Mural on the building for a period of at least seven (7) years regardless if ownership changes before the expiration of seven (7) years. Said condition shall be included in writing in any future purchase and sales agreement.

6. Representations. City represents and warrants to T E P M, Inc., that it holds all such rights and interests as required to permit City to enter into this Agreement and it is duly authorized to enter into this Agreement.

T E P M, Inc., through its President, Thomas R. McMahon, Jr., warrants and represents to City that (i) it is the legal owner of the referenced property; (ii) has the lawful right to allow said Mural to be painted on the property and therefore duly authorized to enter into this Agreement; (iii) it hereby agrees to indemnify City and undertake to hold harmless against any action, claims, suits, losses, damages, or expenses brought against or incurred by City based on any third party claims that may occur as a result of painting the Old Town Mural on said property.

7. Notice. Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal services, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by written notice to the other party:

City: CITY OF POMPANO BEACH
100 West Atlantic Boulevard
Pompano Beach, Florida 33060
Attention: Laura Atria

Facility: T E P M, Inc.,
Attn: Thomas McMahon, Jr. President
31 N.E.1st Street
Pompano Beach, Florida 33060

8. Interpretation. Each party had the full opportunity to participate in the drafting of this Agreement and, therefore, the Agreement shall not be interpreted against any party on the ground that the party drafted the Agreement or caused it to be prepared.

9. Authority to Enter Into Agreement. Each person signing below personally warrants and represents to T E P M, Inc., that the City has approved this License, intends to be bound by its terms and that they are duly authorized to execute this License Agreement on behalf of the City.

10. Entire Agreement. This Agreement and any documents attached hereto or mentioned herein, contain all of the Agreements of the parties regarding the Subject Property, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose.

11. Independent Contractor. The relationship of the parties created by this Agreement shall be that of independent contractor. Nothing contained in this Agreement shall be construed or interpreted as creating a relationship of joint ventures, partners, principal and agent or employer and employee under any circumstances. Neither party shall have the power to obligate or bind the other party.

12. Amendments. No provision of this Agreement may be amended except by the written agreement of both parties.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement as of the date first above written.

"CITY":

Witnesses:

CITY OF POMPANO BEACH

Landra M. Moraway

By: 
LAMAR FISHER, MAYOR

Shelly R. Bartholomew

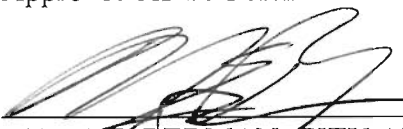
By: 
DENNIS BEACH, CITY MANAGER

Attest:


ASCELETA HAMMOND, CITY CLERK

(SEAL)

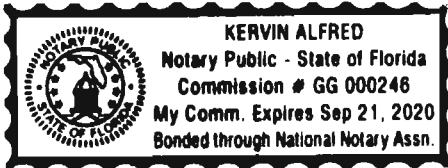
Approved As To Form:


MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instruments were acknowledged before me this 28th day of October, 2016 by **LAMAR FISHER**, as Mayor, **DENNIS BEACH** as City Manager and **ASCELETA HAMMOND**, as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:



NOTARY PUBLIC, STATE OF FLORIDA

Kervin Alfred

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"OWNER":

Witnesses:

T E P M, INC., a Florida corporation

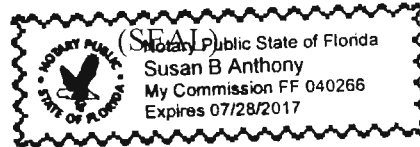
Matthew R. Edge

By:

Thomas R. McMahon, Jr.

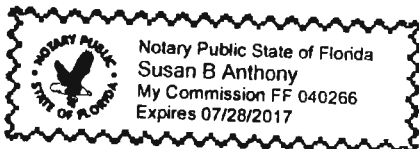
THOMAS R. MCMAHON, Jr.

STATE OF FLORIDA
COUNTY OF BROWARD



The foregoing instrument was acknowledged before me this 23 day of SEPTEMBER, 2016 by THOMAS R. MCMAHON, Jr. as President of T E P M, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me or who has produced Fl. Lic (type of identification) as identification.

NOTARY'S SEAL:



NOTARY PUBLIC, STATE OF FLORIDA

SUSAN B. ANTHONY

Name of Acknowledger Typed, Printed or Stamped

040266

Commission Number

TAL
9/12/16
L:agr/dev-srvs/2016-1181

Exhibit A

