

# POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY

Meeting Date: October 20, 2015

Agenda Item 1

**REQUESTED CRA BOARD ACTION:**

Resolution(s)     Consideration     Approval     Other

SHORT TITLE OR MOTION: A RESOLUTION OF THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY, APPROVING AND AUTHORIZING THE PROPER OFFICIALS TO EXECUTE A SECOND AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY AND T E P M, INC. FOR PROPERTY LOCATED AT 165 NE 1<sup>ST</sup> AVENUE AND 201 NE 1<sup>ST</sup> AVENUE; PROVIDING AN EFFECTIVE DATE.

**Summary of Purpose and Why:**

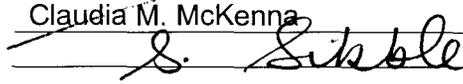
Approval of Second Amendment to Lease Agreement between the Pompano Beach Community Redevelopment Agency (CRA) and T E P M, Inc. related to the properties leased by the CRA located at 165 NE 1st Avenue and 201 NE 1st Avenue. This amendment is presented to address sections in the Lease Agreement affected by the CRA's planned improvements to the property located at 201 NE 1st Avenue for a future public parking lot. The Second Amendment provides for increased rent payment, use of premises details, clarification of maintenance responsibilities after improvements and insurance requirements related to CRA improvements of 201 NE 1st Avenue parcel.

**QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:**

- (1) Origin of request for this action: Lessor and CRA
- (2) Primary staff contact: Adriane Esteban Ext. 7841
- (3) Expiration of contract, if applicable: No Change in Lease Term
- (4) Fiscal impact and source of funding: Additional \$2,294 for FY 16 and increase per Lease Agreement in subsequent years; FY16 150-1910-539.44-10 Rentals & Leases

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	AUTHORIZED SIGNATURE OR ATTACHED MEMO NUMBER

- CRA Executive Director
- CRA Attorney
- Finance Director

  
Claudia M. McKenna  


**ACTION PREVIOUSLY TAKEN BY CRA BOARD:**

Resolution Results:	Consideration Results:	Other Results:

# CRA

POMPANO BEACH

P. O. Drawer 1300  
Pompano Beach, FL 33060

Phone: (954) 786-5535  
Fax: (954) 786-7836

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## MEMORANDUM

**To:** Pompano Beach CRA Board

**From:** Adriane Esteban, Project Manager

**Date:** October 20, 2015

**Subject:** Second Amendment to Lease Agreement for 165 NE 1<sup>st</sup> Ave. and 201 NE 1<sup>st</sup> Ave.

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### **I. Agenda Item**

Approval of Second Amendment to Lease Agreement between the Pompano Beach Community Redevelopment Agency (CRA) and T E P M, Inc. related to the properties leased by the CRA located at 165 NE 1<sup>st</sup> Avenue and 201 NE 1<sup>st</sup> Avenue. This amendment is presented to address sections of the Lease Agreement affected by the CRA's planned improvements to the property located at 201 NE 1<sup>st</sup> Avenue for a future public parking lot. The Second Amendment provides for increased rent payment, use of premises details, clarification of maintenance responsibilities after improvements, and additional insurance requirements related to CRA improvements of 201 NE 1<sup>st</sup> Avenue parcel.

### **II. Recommendation**

Staff recommends approval of this agenda item.

### **III. Background**

The Pompano Beach CRA Board approved the Lease Agreement between the CRA and T E P M, Inc. for the properties located at 165 NE 1<sup>st</sup> Avenue and 201 NE 1<sup>st</sup> Avenue in July 2012. The CRA Board also approved an amendment to the Lease Agreement in October 2014, related to dumpster, grease trap and sewer line improvements on the 165 NE 1<sup>st</sup> Avenue parcel. Since that time, the Downtown Pompano Streetscape project has progressed and it became necessary to find additional opportunities for public parking. In April 2015, the CRA Board approved a work authorization for design and construction of a parking lot to be located at 201 NE 1st Avenue. At that time, the Lessor of the property, T E P M, Inc., and CRA staff began dialogue about the planned improvements and recognized the need to amend the terms in the Lease Agreement.

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The Second Amendment to the Lease Agreement with T E P M, Inc. addresses various sections affected by the improvements to 201 NE 1<sup>st</sup> Avenue. Since the improvements to the property will generate an enhanced benefit, the rent will increase from \$0.11/SF in the base year of the lease to \$0.25/SF starting in the lease term beginning October 1, 2015. For similar reason, the CRA will also become responsible for any increase in taxes as a direct result of improvements. This amendment also specifies terms for Use of Premises, only permitting vehicles to access adjoining properties after written access agreement is executed. In addition, the amendment identifies a process for removing improvements upon lease termination and the CRA's maintenance obligations after the improvements are installed. Lastly, the CRA insurance requirements are more clearly defined.

The approval of the Second Amendment will allow CRA staff to move forward with creating additional public parking opportunities so that Downtown Pompano can ultimately become a thriving arts and entertainment district.

RESOLUTION NO. \_\_\_\_\_

**POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY**

**A RESOLUTION OF THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY, APPROVING AND AUTHORIZING THE PROPER OFFICIALS TO EXECUTE A SECOND AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY AND T E P M, INC., FOR PROPERTY LOCATED AT 165 NE 1<sup>ST</sup> AVENUE AND 201 NE 1<sup>ST</sup> AVENUE; PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY THAT:**

**SECTION 1.** The Second Amendment to the Lease Agreement between the Pompano Beach Community Redevelopment Agency and T E P M, Inc. for the property located at 165 NE 1<sup>st</sup> Avenue and 201 NE 1<sup>st</sup> Avenue, a copy of which is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

**SECTION 2.** The proper officials are hereby authorized to execute said Second Amendment to the Lease Agreement between the Pompano Beach Community Redevelopment Agency and T E P M, Inc.

**SECTION 3.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
**LAMAR FISHER, CHAIRPERSON**

**ATTEST:**

\_\_\_\_\_  
**MARGARET GALLAGHER, SECRETARY**

## SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (Second Amendment) is made this \_\_\_ day of September, 2015, between TEPM, INC., whose address is 31 NE 1<sup>st</sup> St., Pompano Beach, Fl., 33060 (Landlord), and Pompano Beach Community Redevelopment Agency, whose address is 100 W. Atlantic Blvd., Room 276, Pompano Beach, Fl. 33060 (Tenant).

WHEREAS, the parties entered into the Lease Agreement on July 26, 2012 for property located at: 165 NE 1<sup>st</sup> Avenue, Pompano Beach FL 33060 (Parcel 1) and 201 NE 1<sup>st</sup> Avenue, Pompano Beach FL 33060 (Parcel 2); and

WHEREAS, the parties entered into the First Amendment to Lease Agreement on October 24, 2014 amending Paragraphs 2.1, Parking, 2.2, Grease Trap and Sewer Lines, and 2.3, Dumpster; and

WHEREAS, the parties desire to further amend the Lease Agreement as to Paragraphs 4.2 (Rent, Parcel 2), Paragraph 6 (Taxes and Assessments), Paragraph 8 (Use of Premises), Paragraph 9 (Improvements), Paragraph 10 (Landlord's Maintenance Obligations), and Paragraph 13, Insurance.

NOW, THEREFORE, the parties agree as follows:

1. Each "WHEREAS" clause set forth above is true and correct and incorporated in this Second Amendment by reference.

2. The Lease Agreement and First Amendment to Lease Agreement shall remain in full force and effect, except as specifically amended by this Second Amendment.

3. Paragraph 4.2 is amended to read as follows:

4.2 **Parcel 2.** The rent for Parcel 2 is \$2,300.00 per year. Commencing on October 1, 2015, the rent for Parcel 2 is \$4,807.00 per year, subject to annual increases as described in Paragraph 4.3.2.

4. Paragraph 6 is amended to read as follows:

6. **Taxes and Assessments.** Landlord shall be responsible for all municipal, county, and state taxes and assessments which may be assessed against the Premises during the Term of this Lease. Tenant will be responsible for any taxes levied against the personal property and trade fixtures of Tenant located in and about the Premises. Landlord's responsibility for property taxes will be based upon the property value assessed for tax year 2015. During the remaining term of the Lease, Tenant will be responsible for payment

of the difference in the amount of property taxes based upon any increase in property value over the 2015 assessed value for Parcel 1 and Parcel 2 as a direct result of improvements to both parcels made by Tenant, including but not limited to: paving, striping, exterior lighting and landscaping.

5. Paragraph 8 is amended to read as follows:

8. **Use of Premises.** Although Tenant intends to use Parcel 1 for the operation of a commercial kitchen and related uses, and Parcel 2 for a parking lot, community garden or retail farming establishment, Tenant shall have the right to use the Premises for any use permitted by applicable federal, state, county, or city statutes, laws, ordinances, resolutions, orders, rules or regulations (“Applicable Laws”).

Tenant may only permit vehicles entering onto Parcel 2 to access adjoining property owned by parties other than Landlord, after such other owner has executed a written access agreement granting access to such other owner’s property from Parcel 2. Such access agreement will be on a form approved by Landlord, executed by Landlord, Tenant and the adjoining property owner, and recorded in the public records of Broward County, Florida.

Tenant has no authority or interest in the Premises that would allow it to grant any other party a right to access, use or easement over Landlord’s property unless agreed to in writing by Landlord. Tenant will not commit or permit any waste or damage to the Premises, and will not carry on any activity that constitutes a nuisance or violates any Applicable Laws.

6. Paragraph 9 is amended to add Paragraph 9.3 to read as follows:

9.3. **Parcel 2 Improvements.** Tenant agrees that upon termination of the Lease, that it will remove any improvements made to Parcel 2 requested by Landlord to be removed, and to repair any damage caused by such removal by returning any such areas to their original condition or as close thereto as possible.

7. Paragraph 10 is amended to read as follows:

10. **Landlord’s Maintenance Obligation.** Landlord agrees to maintain the structural portion of the Premises, as well as the exterior portions of the Premises, including the foundation, outer walls, conduits, roof, windows, doors, plate glass, paved surfaces, lawn and landscaping. Upon completion of the Tenant’s

improvements on Parcel 1 and the paving of the Parcel 2 vacant land, Landlord shall have no further responsibility for maintenance of paved surfaces, landscaping and lawn. Tenant shall maintain all of its improvements to both Parcels.

8. Paragraph 13 is amended to read as follows:

13. **Insurance.** Landlord shall carry General Commercial Liability Insurance and casualty insurance for the Premises.; ~~Tenant shall carry Commercial General Liability Insurance.~~

Tenant represents that it is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and agrees to furnish the Landlord upon request, with written verification of liability protection in accordance with State of Florida's laws. Without waiving any of the protections and provisions allowed by Florida Statutes, the Tenant has elected to purchase \$1,000,000 excess liability coverage, and agrees that Landlord shall be furnished with a certificate of insurance listing the Landlord as a certificate holder. If the Tenant subcontracts any work as part of this lease, the Tenant shall ensure that each subcontractor names Landlord as an additional insured under the subcontractor's general liability insurance policy.

SIGNATURE BLOCKS ON FOLLOWING PAGES

Witnesses:

Robert Litt

Print Name: Robert L.H

Christine King

Print Name: Christine King

Landlord:

TEPM, INC., a Florida Corporation

By: Thomas Mullan

Print Name: Thomas Mullan

Title: Pres

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of October, 2015, by Thomas Mullan as President of TEPM, INC., a Florida Corporation, (who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification).

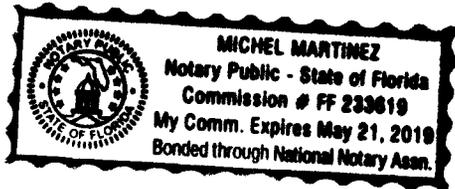
MW

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

Michel Martinez

(Name of Acknowledger Typed, Printed or Stamped)



FF 233619

Commission Number

RECEIVED  
MAY 25 1968  
STATE OF TEXAS  
OFFICE OF THE ATTORNEY GENERAL  
AUSTIN, TEXAS

Signed, Sealed and Witnessed  
In the Presence of:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**Tenant:**

**POMPANO BEACH COMMUNITY  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Lamar Fisher, Chairman

**ATTEST:**

\_\_\_\_\_  
Margaret Gallagher, Secretary

**EXECUTIVE DIRECTOR:**

Redevelopment Management Associates, LLC  
a Florida limited liability company

By: MetroStrategies, Inc., a Florida corporation  
a managing member

By: \_\_\_\_\_  
Kim Briesemeister, President

and

By: \_\_\_\_\_  
Christopher J. Brown  
a managing member

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by LAMAR FISHER as Chairman of the Pompano Beach Community Redevelopment Agency, who is personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by MARGARET GALLAGHER, Secretary of the Pompano Beach Community Redevelopment Agency, who is personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Kim Briesemeister, President of MetroStrategies, Inc., as Managing Member of Redevelopment Management Associates, LLC on behalf of the limited liability company. She is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Christopher J. Brown, as Managing Member of Redevelopment Management Associates, LLC, on behalf of the limited liability company. He is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

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