

## RESOLUTION

**WHEREAS**, on or about February 9, 2009, the City of Memphis ("City"), Shelby County, TN ("County"), and Bass Pro Shops, Inc. ("Bass Pro") entered into a Development Agreement for the re-use and redevelopment of the Pyramid Arena, in Memphis, Tennessee; and

**WHEREAS**, the Agreement essentially provided for a twelve (12) month period in order for the City, County, and Bass Pro to complete their due diligence and examination of the arena, as well as legal and financial due diligence to determine the feasibility of the redevelopment of the arena by Bass Pro, and to complete the execution of a Lease Agreement, which would commence the construction phase of the project; and

**WHEREAS**, on or about October 8, the City of Memphis acquired the interests held in the Pyramid Agreement by Shelby County, Tennessee, and the Memphis and Shelby County Public Building Authority, and now is the sole owner of the Pyramid Arena and the associated parcels; and

**WHEREAS**, since the execution of the Agreement, the City and Bass Pro have completed numerous interim tasks in the furtherance of completing the development phase of the project, and are currently in the process of completing the remaining structural issues, including the seismic and floodwall analyses, both of which are extremely crucial to the development of the facility; and

**WHEREAS**, it is anticipated that all structural, legal and financial due diligence should be completed on the Pyramid Arena on or before June 30, 2010; and

**WHEREAS**, it is necessary for Bass Pro and the City to modify the existing Development Agreement of February 9, 2009 to reflect the City's acquisition of the County's interest in the Pyramid, and to extend the term of the development period to June 30, 2010; and

**WHEREAS**, it is also necessary to amend the Fiscal Year 2010 HCD Operating Budget to reflect the appropriation and allocation of Bass Pro's monthly fees from January 1, 2010 through June 30, 2010 in the amount of \$210,000.00, to fund the City's contract obligations during the Development Period.

**NOW THEREFORE BE IT RESOLVED**, that the City of Memphis hereby authorizes the extension of the development period for the Pyramid Arena through June 30, 2010 in order to allow for the completion of all due diligence related to the redevelopment of the structure and surrounding areas; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Memphis, that the Fiscal Year 2010 HCD Operating Budget be and is hereby amended by increasing the Pyramid

Redevelopment budget line in the amount of \$210,000.00 and by increasing the amount of revenue from Contract #25189 by \$210,000.00; and

**BE IT FURTHER RESOLVED** that the Division of Housing and Community Development is authorized to expend said funds in furtherance of and in accordance with the terms and conditions set forth in Contract #25189; and

**Revenue**

<b>Pyramid Redevelopment</b>	<b>\$210,000.00</b>
<b>Total</b>	<b>\$210,000.00</b>

**Expense**

<b>Pyramid Redevelopment</b>	<b>\$210,000.00</b>
<b>Total</b>	<b>\$210,000.00</b>

**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF MEMPHIS, TENNESSEE,  
AND  
BASS PRO MEMPHIS DEVELOPMENT COMPANY, LLC**

**FIRST AMENDMENT  
TO  
DEVELOPMENT AGREEMENT**

This First Amendment To Development Agreement (this "Amendment") is dated as of December \_\_\_\_\_, 2009; and entered into by and between **The City of Memphis, Tennessee**, a municipal corporation (the "City"), and **Bass Pro Memphis Development Company, LLC**, a Delaware limited liability company ("Bass Pro"). The City and Bass Pro are each a "Party" and, collectively, are the "Parties".

**RECITALS**

- A. The City and Bass Pro are parties to a Development Agreement dated as of December \_\_\_\_, 2008 (the "Agreement"); and
- B. The City and Bass Pro desire to amend the Agreement as hereinafter provided.

**AGREEMENT**

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to amend the Agreement upon the following terms and conditions:

- 1. The Agreement is amended to provide as follows:

Any and all references herein to the County, the County Commission, the County Chief Executive Officer and all other similar references to the County, its officials, agents, employees or representatives are hereby deleted in their entirety.

- 2. Section 1.1 is amended by deleting such Section in its entirety and inserting in place thereof in substitution therefore the following:

Section 1.1 Owner Entity. The City holds fee or leasehold title to the Pyramid (as hereinafter defined). The City has the power and authority to enter into the definitive agreements, consummate the transactions contemplated hereby and to deliver the Leased Premises (as hereinafter defined) as contemplated hereby. Because the City is a governmental entity, certain procurement policies, procedures and ordinances must be adhered to in connection with any award of contracts, licenses or lease agreements.

- 3. Section 1.4 is amended by deleting the reference therein to "One Auction Avenue", and inserting in place thereof and substitution therefore "A W Willis Avenue".
- 4. Section 1.4 is further amended by deleting the final two sentences of such Section in their entirety and inserting in place thereof as substitution therefore the following:

The land included in the Leased Premises is described on Exhibit "A" hereto.

5. Section 3.2 is amended by deleting all references in such section to “December 31, 2009” and inserting in substitution therefore “June 30, 2010”. All other references in this Agreement to the “Development Period” shall mean the “Development Period” as amended by this amendment to Section 3.2.

6. Article III is amended by adding thereto Section 3.6 which provides as follows:

3.6 Conditions and Requirements in Article III. The City and Bass Pro acknowledge and agree that substantially all of the conditions and requirements set forth in Article III have been satisfied as of December \_\_, 2009. The City and Bass Pro further agree that, to the extent that any requirements and conditions in Article III have not been satisfied as of December \_\_, 2009, the responsible party, prior to the expiration of the Development Period, will take all action which may be required by the Agreement with respect to such conditions and requirements.

7. Section 4.2 is amended by deleting the first sentence of such Section in its entirety and inserting in place thereof and substitution therefore the following:

The Landlord and Bass Pro (the “Lease Parties”) shall, in good faith, negotiate a lease agreement with respect to the Leased Premises (the “Lease”) which encompasses, but is not limited to the intent of the parties as detailed in this Agreement, with a target date of completing and executing the Lease on or before April 1, 2010, and, in no event, later than the expiration of the Development Period.

8. Section 4.2.1 is amended by deleting such Section in its entirety and inserting in place thereof and substitution therefore the following:

(a) Landlord Construction Period: A \_\_\_\_\_ day construction period (the “Landlord Construction Period”) beginning on the first day following the execution and delivery of the Lease (“Landlord Construction Commencement”) and ending \_\_\_\_\_ days after Landlord Construction Commencement (“Landlord Construction Completion”).

(b) Bass Pro Construction Period: A \_\_\_\_\_ day construction period (the “Bass Pro Construction Period”) beginning on the day following the date of Landlord Construction Completion or such earlier date as the parties agree (“Bass Pro Construction Commencement”) and ending \_\_\_ days after Bass Pro Construction Commencement (“Bass Pro Construction Completion”).

(c) The Initial Lease Term: A period of twenty (20) years (the “Initial Lease Term”) commencing (i) the date of the Bass Pro Construction Completion, or (ii) the date on which the Bass Pro Shop Retail Store shall open for commercial sales to the public, whichever of said dates occurs first, subject to any agreed upon black out periods (the “Commencement Date”)

(d) Renewal Option Terms: Seven (7) consecutive renewal periods of five (5) full years each (“Renewal Option Terms”). Bass Pro shall provide notice of its intent to renew the Lease no later that one

hundred and eighty (180) days prior to expiration of the then current term.

9. Section 4.2.2 is amended by adding a new Subsection (a) which provides as follows:

- (a) Landlord Construction Period Rent: Rent during the Landlord Construction Period shall be Zero Dollars (\$0.00). During the Landlord Construction Period, \_\_\_\_\_ shall assume the costs for the maintenance, upkeep, security, commercial general liability insurance and other Bass Pro insurance described in Section 4.2.5 below, and any other operational costs during the Landlord Construction Period.

The Sections originally designated as 4.2.2(a), 4.2.2(b) and 4.2.2(c) are redesignated as Sections 4.2.2(b), 4.2.2(c) and 4.2.2(d), and shall follow Section 4.2.2(a) set forth above.

10. Section 4.2.2(b), as redesignated by the Amendment, is amended by deleting all references to "Construction Period Lease Term" and inserting in place thereof and substitution therefore "Bass Pro Construction Period". All other references in this Agreement to the "Construction Period Lease Term" or "Construction Period" shall mean the "Bass Pro Construction Period".

11. Section 4.2.7, is amended by adding the following sentences after the final sentence of such Section:

The work and obligations which the Landlord and the City agree to complete pursuant to this Section 4.2.7 are described in Exhibit "B" hereto and are herein referred to as the "Landlord Construction Work". Landlord and the City shall complete the Landlord Construction Work on or before the date of the Landlord Construction Completion, as defined in Section 4.2.1(a)

12. Section 6.2 is amended by deleting such section in its entirety and inserting in place thereof and substitution therefore the following:

6.2 Notices. All notices hereunder shall be given in writing and shall be deemed to have been sufficiently given for all purposes when presented personally (to be deemed effective upon presentation), sent by overnight courier (to be deemed effective the business day after deposit with such service), or sent by registered or certified mail (to be effective upon receipt) to any party hereto at the address set forth below or at such other address as either party shall subsequently designate in writing.

If to Bass Pro: Bass Pro Memphis Development Company, LLC  
2500 East Kearney  
Springfield, MO 65898  
Attention: Mr. James A. Hagale

With a copy to: Bass Pro Memphis Development Company, LLC  
2500 East Kearney  
Springfield, MO 65898

Attention: Larry K. Wilcher

If to the City: A.C. Wharton, Jr., Mayor  
City of Memphis  
125 N. Main St.  
Memphis, TN 38103

With a copy to: Robert Lipscomb, Director  
City of Memphis  
Division of Housing and Community Development  
701 North Main Street  
Memphis, TN 38107

And a copy to: Herman Morris  
City Attorney  
City of Memphis  
125 N. Main St., Rm #336  
Memphis, TN 38103

And a copy to: Marcus D. Ward  
Senior Assistant City Attorney  
City of Memphis  
701 North Main Street  
Memphis, TN 38107

**Except as otherwise specifically provided herein, the Agreement shall remain in full force and effect in accordance with its original terms.**

This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of which when taken together shall constitute one and the same instrument. Signatures on this amendment may be by facsimile, and facsimile signatures shall have the same effect as an originally executed signature.

In witness whereof, the parties have executed this Amendment on the date first above written.

**BASS PRO MEMPHIS  
DEVELOPMENT COMPANY, LLC**

By: Bass Pro Outdoor World, LLC,  
Its sole member

By: Bass Pro, Inc., its sole member

By: \_\_\_\_\_  
James A. Hagale  
President

**CITY OF MEMPHIS:**

By: \_\_\_\_\_  
A.C. Wharton, Jr., Mayor

APPROVED BY:

\_\_\_\_\_  
Robert Lipscomb, Director, HCD

\_\_\_\_\_  
Keith L. McGee, Chief Administrative Officer

\_\_\_\_\_  
Herman Morris, City Attorney

\_\_\_\_\_  
Marcus D. Ward  
Senior Assistant City Attorney, HCD

Bass Pro, Inc. joins in this Amendment for the sole purpose of affirming its obligations set forth in the Agreement, as amended by this Amendment.

**Bass Pro, Inc.**

By: \_\_\_\_\_  
James A. Hagale  
President

**EXHIBIT "A"**  
**TO**  
**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**  
**LEASED PREMISES**

**EXHIBIT "B"**  
**TO**  
**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**  
**LANDLORD CONSTRUCTION WORK**