DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF MEMPHIS, TENNESSEE,
SHELBY COUNTY, TENNESSEE

AND

BASS PRO MEMPHIS DEVELOPMENT COMPANY, LLC

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is dated as of _____, 2008, and entered into by and among The City of Memphis, Tennessee, a municipal corporation (the "City") and Shelby County, Tennessee, a public body corporate and politic (the "County"), which together hold title to the Pyramid Arena (the "Pyramid") through their Public Building Authority, and Bass Pro Memphis Development Company, LLC, a Delaware limited liability company ("Bass Pro"). The City, County and Bass Pro are each a "Party" and, collectively, are the "Parties."

RECITALS

The City and County hereby recite the following:

WHEREAS, the Pyramid Reuse Committee was empanelled in 2004 to determine the highest and best use for the Pyramid; and

WHEREAS, in response to its Request for Proposals, the Committee received and reviewed in excess of fifty proposals for the reuse of the Pyramid; and

WHEREAS, the City retained the services of RKG Associates, Inc. and Bartram & Cochran (Economic Planning and Real Estate Consultants) to prepare an initial adaptive reuse analysis for the Memphis Pyramid; and

WHEREAS, in April 2005, the Pyramid Reuse Committee ("Reuse Committee") provided said consultants with five possible scenarios to consider in their analysis, and the consultants reviewed the reuse scenarios and listened to the proposal presentations; and

WHEREAS, in June 2005, the consultants submitted their "Initial Adaptive Reuse Analysis of the Pyramid Arena in Memphis, Tennessee," which concluded that quantifying economic/fiscal benefits was the recommended approach to determining the preferred reuse option, and the analysis also concluded that since the economic benefits to the City and County increased significantly under the Destination/ Lifestyle Center model, the City and County should give priority to pursuing this type of reuse strategy; and

WHEREAS, based upon the recommendations of the Reuse Committee, and its determination that Bass Pro Shops is a highly qualified entity in the Destination / Lifestyle Center industry, the City and County entered into negotiations with the Bass Pro Shops for the redevelopment of the Pyramid; and

The Parties hereby recite the following:

WHEREAS, on June 27, 2007, the City and County entered into a Non-Binding Letter of Intent with Bass Pro (the "Letter of Intent") which provided for a due diligence period through January 31, 2008; and

WHEREAS, in keeping with the Letter of Intent, Bass Pro devoted substantial internal resources and undertook a preliminary design of the project, and Bass Pro hired various consultants to study various aspects of the Pyramid and the contemplated project, one result of which were projections of the cost to construct the project contemplated by the Letter of Intent; and

WHEREAS, the cost of the project determined by the consultants was significantly higher than the cost contemplated by the Letter of Intent, and certain other circumstances were revealed through due diligence that required further planning; and

WHEREAS, the City and County have determined that Bass Pro is committed to pursue the redevelopment of the Pyramid and has committed to the completion of this undertaking, pending due diligence review including, but not limited to, the structural feasibility of the facility, as well as the overall financial feasibility of the redevelopment project, both to Bass Pro, and the City and County; and

WHEREAS, in light of the foregoing, and as a result of the due diligence efforts initiated by Bass Pro, the Parties have agreed to commit to the pursuit of the redevelopment of the Pyramid, but acknowledge that it is necessary to revise the plans for the project, identify partners and other resources to help with the development of the project, and work on various contingencies and other concerns, in order to assess the feasibility and viability of the project prior to entering into any agreement for the construction of improvements, or lease of the facilities by Bass Pro; and

WHEREAS, it is anticipated by the parties that Bass Pro will endeavor to provide enhanced amenities for the purposes of promoting outdoor sportsmanship, and encouraging conservation of wildlife and other natural resources; and

WHEREAS, it is the intention of the City and County to utilize federal and state sources to finance their incentives to the project. Such sources may include, but are not limited to, Brownfields Economic Development Initiative Grant and New Market Tax Credits. In addition, it is the intention of the City and County to explore the use of tax increment financing through the establishment of a Pyramid TIF District and a Pyramid Tourism Development Zone, and in that connection, sufficient resources must be established, approved and dedicated to that effort by the City and County, as well as the appropriate federal and state agencies prior to the construction of improvements, or lease of the facilities by Bass Pro; and

WHEREAS, the Parties are committed to advancing to the development stages of the project, and are entering into this Agreement in order to provide (among other things) for a planning phase and a permitting phase, together constituting the Development Period, as defined in Section 3.2 of this Development Agreement ; and

WHEREAS, the Development Period shall consist of certain project milestones which have been established by the parties; and

WHEREAS, in further recognition of the cooperative spirit between the Parties, and to further demonstrate its commitment to the project and desire to explore ways to create a viable project, Bass Pro has agreed to, provide a monthly fee of **Thirty Five Thousand Dollars ("$35,000.00")**, during the development period, which payments represent a share of the economic burden to the City and County of operating the Pyramid during the Development Period and to receive, in consideration therefore, a right of exclusivity in favor of Bass Pro, in conjunction with the rights and privileges as set forth in Section 3.4 of this Agreement.

AGREEMENT

The Parties agree as follows:

ARTICLE I.

GENERAL TERMS

1.1. **Owner Entities.** The City and County hold title to the Pyramid (as hereafter defined) through the Public Building Authority. The City and County have the power and authority to enter into, or to direct the Public Building Authority to enter into the definitive documents, consummate the transactions contemplated hereby and to deliver the Leased Premises as contemplated hereby. As governmental entities, certain procurement policies, procedures and ordinances must be adhered to in connection with any award of contract, license or lease agreement(s). The agreements and obligations of the City and County herein are joint and several.

1.2. **Landlord Entity.** It is contemplated that a Memphis Special Purpose Entity (the "Landlord") will be created and wholly owned by the City and County to serve as the master tenant, and enter into the Lease (as defined below) and serve as Landlord thereunder.

1.3. **Bass Pro**. It is Bass Pro's current intention to actively pursue the potential re-use of the Pyramid, as set forth herein. Certain corporate and other approvals are necessary prerequisites to any definitive agreement, and such approvals are made the sole discretion of Bass Pro.

1.4. **Leased Premises**. The premises to be leased are the complex commonly known as the Memphis Pyramid and its surrounding real property located at One Auction Avenue, Memphis, TN 38105 (the "Leased Premises," "Pyramid," "Memphis Pyramid," or "Facility"). The Facility consists of the Pyramid structure of 265,740 sq. ft. (more or less) excluding the perimeter walkways; and 324,900 sq. ft. including them, and parking consisting of 1,868 standard parking spaces plus

an additional 60 handicapped spaces. The land included in the Leased Premises includes 30.73 acres around the perimeter of the Pyramid; 4.23 acres of added parking land leased from the State of Tennessee; and an additional 4.77 acres of parking land across the railroad tracks along Front Street. Additionally, there is a perpetual access easement in favor of the City of Memphis from Lonestar Industries, Inc.

ARTICLE II.

REPRESENTATIONS AND COVENANTS

2.1 **Representations and Covenants of the City and County.** The City and County individually represent and covenant as of the date of this Agreement that: (a) it is duly organized and validly existing under the laws of the State of Tennessee; (b) to its knowledge each is not in violation of or in conflict with any provisions of the laws of the State of Tennessee or its charter which would impair its ability to carry out its obligations under this Agreement (c) it is empowered to enter into the transactions contemplated by this Agreement; (d) this Agreement has by proper action been fully authorized, executed and delivered by the City and County and all steps necessary have been taken to constitute this Agreement as a valid and binding obligation of the City and County; and (e) to its knowledge there is no litigation or proceeding pending or threatened against the City and County or any other entity affecting in any manner whatsoever the right of the City and County to execute this Agreement or to otherwise comply with its obligations contained in this Agreement.

2.2 **Representations and Covenants of Bass Pro.** Bass Pro represents and covenants as of the date of this Agreement that: (a) it is duly organized as a limited liability company under the laws of the State of Delaware and qualified and authorized to conduct business in the State of Tennessee; (b) it has or shall obtain full power and authority to execute, deliver and perform this Agreement, as well as all instruments given by Bass Pro to evidence and to enter into and carry out the transactions contemplated herein, and any such execution, delivery and performance shall upon such event not be in contravention of applicable federal, state or local law, Bass Pro's Articles of Organization, or any indenture, agreement, mortgage, lease, judicial decree, court order or undertaking of any other instrument to which Bass Pro is a party or by which it is bound; (c) this Agreement has by proper action been fully authorized, executed and delivered by Bass Pro and all steps necessary have been taken to constitute this Agreement as a valid and binding obligation of Bass Pro; (d) it (Bass Pro) has or will obtain all federal, state and local governmental approvals and reviews as required by law to obtain with respect to the redevelopment of the Pyramid, as contemplated by this Agreement (e) to its knowledge there is no litigation or proceeding pending or threatened against Bass Pro affecting in any way whatsoever the right of the Bass Pro to execute this Agreement or comply with its obligations hereunder; (f) Bass Pro is not willing or able to go forward with the redevelopment of the Memphis

Pyramid without the assistance to be provided by the City and County pursuant to this Agreement; and (g) Bass Pro shall cause Bass Pro, Inc. to join into this Agreement for the sole purpose of guaranteeing the obligations of Bass Pro under Section 3.2.10, 3.3 and 5.4.

ARTICLE III.

THE PROJECT AND DEVELOPMENT PERIOD

3.1. **Project Description.** Generally, the project under consideration involves Bass Pro leasing the Memphis Pyramid and making extensive improvements to the Facility, including retrofitting the existing facility and new construction (the "Improvements"). It is also contemplated that the project would include certain partner developments (the "Partner Developments"), which could include, but are not limited to, in addition to retail, one or more of the following components: a hotel, aquarium, restaurants, traveling exhibits, conference space, additional retail, museum and boat showroom. The "Project Costs" shall include all hard and soft costs associated with the development of the Leased Premises, including, without limitation, the improvements, all development by Bass Pro, the Partner Developments (whether developed directly by Bass Pro or by one or more third parties), and all common and supporting areas and amenities.

The total Project Cost was anticipated to be approximately Seventy Five Million Dollars ($75,000,000). The anticipated costs, however, as revealed by the due diligence investigation and the consultants hired by Bass Pro would be significantly higher. One of the purposes of the Development Period is for Bass Pro to have the opportunity to endeavor to revise the project in a manner that is economically viable. The actual Project Costs shall be funded, in part, by a Landlord Contribution from the City and County of Thirty Million Dollars ($30,000,000). With the increased cost of the project, the City's and County's financial involvement will be more highly leveraged than originally anticipated.

3.2. **Development Period**. Beginning on _____, and ending on_____, or such earlier date as this Agreement may be terminated pursuant hereto (the "Development Period"), Bass Pro shall continue to conduct due diligence and feasibility studies of the Facility and the project, and pursue permitting and other conditions. The initial phase shall be the Planning Phase, which shall begin on _____and end on_____. The final phase shall be the Permitting Phase, which shall begin on _____and end on _____.

3.2.1 **Obligations of Bass Pro during the Planning Phase**. During the initial phase of the Development Period, Bass Pro shall work to complete the design and scope of the project, and assess the feasibility and economic viability of the project as re-designed (the "Planning Phase"). During the Planning Phase, it is anticipated that Bass Pro shall undertake the following, in addition to all other actions which Bass Pro deems necessary or desirable:

a) Continue to explore and develop design concepts, including but not limited to structural, mechanical, electrical and plumbing plans and the exterior design of the project;

b) Continue to work to identify necessary or desirable easement and other rights over other properties; and

c) Identify the desired highway, signage and other traffic related improvements;

d) Engage consultants to complete such additional studies and analysis as Bass Pro shall deem desirable;

e) Pursue such additional cost and financial analyses at it shall deem necessary or desirable to assess the economic viability of the project;

f) Continue to work to identify appropriate operational partners for the Partner Developments, and conduct such discussions and negotiations with such partners as Bass Pro shall deem appropriate; and

g) Review and consider proposals by the City and County with respect to Bass Pro's participation in the use of New Markets Tax Credits in the financing structure for the project.

3.2.2 **Obligations of Bass Pro during the Permitting Phase**. Upon completion of the Planning Phase, Bass Pro shall give notice to the City and County if Bass Pro has (1) developed a plan for the project that it believes to be feasible and economically viable, or (2) Bass Pro shall give notice to the City and County that it believes it cannot develop a plan for the project that it believes to be feasible and economically viable. At such time, if any, as a feasible and viable plan is completed, Bass Pro shall make an initial presentation to the City and County, which shall include, but not be limited to, the Project Scope and Proposed Project Budget. Contingent upon City and County approval, the permitting phase of the Development Period (the "Permitting Phase") shall commence. All approvals required from the City and County shall not be unreasonably withheld or delayed. During the Permitting Phase, it is anticipated that Bass Pro shall undertake the following, in addition to all other actions which Bass Pro deems necessary or desirable:

a) Work with the City's Fire Department, Memphis Light, Gas and Water Division or other City departments regarding issues arising out of the closing of any alleys or other actions necessary for the development of the project;

b) The Parties shall work together on matters involving life safety, code compliance, planning, security, parking, perimeter usage, signage, ADA compliance and procuring governmental approvals;

c) Explore specific terms for obtaining any necessary waivers which may impact the construction of the project;

d) Work with the City and County by and through its Center City Commission, and Department of Construction Code Enforcement respectively, to obtain the rights for all signage and permitting required such that Bass Pro, in its judgment, has adequate signage (including without limitation highway and road signage) for the promotion of its operations so as to enhance its marketing potential in the Mid-South region. The Parties, additionally, shall work together to promote the City through including the name "Memphis" on certain agreed Pyramid skin/facade signage;

e) Based on working plans, undertake to identify and apply for necessary or desirable approvals, permits, waivers and accommodations; and

f) Work with the City's Office of Contract Compliance in its efforts to encourage and enable local minority firms to compete for construction contracts and sub-contracts in order to establish a thirty percent (30%) minimum participation goal with respect to those eligible jobs, trades and skills provided by City and County ordinance(s).

It is understood that permitting and other activities contemplated for the Permitting Phase can be conducted during the Planning Phase, and the activities contemplated for the Planning Phase can continue to be conducted during the Permitting Phase, including without limitation revisions to the design and scope of the project.

3.2.3 **Bass Pro's Development Period Milestones.** During the Development Period, Bass Pro shall meet the following quarterly milestone schedule:

a) Before the last day of the first quarter following the commencement of the Development Period:

(i) Complete all due diligence studies and develop the conceptual plan for the project, which shall include but not be limited to: structural, mechanical, electrical, plumbing, design and environmental studies.

(ii) Provide a detailed quantitative statement of probable cost(s) for the project.

(iii) Provide a detailed timeline of deliverables through design, construction, and occupancy under a standard Critical Path Method.

(iv) Provide a funding approach to the project outlining intended funding sources for the project.

b) Before the last day of the second quarter following the commencement of the Development Period:

(i) Provide initial project presentation to the City and County in order to obtain necessary approvals.

c) Before the last day of the third quarter following the commencement of the Development Period:

(i) Complete process for obtaining any necessary waivers, permits, approvals or accommodations for the proposed development.

d) Before the last day of the fourth quarter following the commencement of the Development Period:

(i) Complete preliminary financing package.

(ii) Complete design schematics.

(iii) Provide final project presentation to the City and County in order to obtain necessary approvals.

(iv) Negotiate the Lease and Improvement Agreements with the City and County in good faith.

3.2.4 **Conditions Precedent to Bass Pro's Obligations.** Bass Pro's obligations pursuant to this Agreement are expressly contingent upon:

a) Bass Pro's ability to obtain suitable financing.

b) Bass Pro's ability to obtain acceptable Development Partners.

c) Bass Pro's ability to timely obtain all desired or required permits, licenses, approvals, waivers, commitments and similar governmental consents for the Project to Bass Pro's satisfaction.

d) The City and County satisfying those necessary obligations as set forth in this Agreement.

Bass Pro's ability to satisfy conditions contained in subsections (a), (b), and (c) of this Section 3.2.4 is limited to Bass Pro's use of commercially reasonable efforts.

3.2.5. **Obligations of City and County During Development Period**. During the Development Period, each of the City and County shall undertake the following:

a) Complete title search and review of the Pyramid and the surrounding site as well as those parcels of land which may be beneficial to the success of the project;

b) The City and County and Landlord shall cooperate, assist and work with Bass Pro in all phases of Bass Pro's investigation and planning, and shall timely provide such information and materials in the City's, County's or Landlord's possession, and access to the City, County and Landlord, and their employees and consultants, as shall be requested;

c) Conduct financial feasibility analyses in order to determine the most cost efficient manner in which the City and County can meet their obligations to the project, including without limitation the Landlord Contribution;

d) Complete the appropriate reviews and analyses to determine the appropriate financing of any of the City's and County's financial obligations, including the reduction of any municipal or county debt on the Pyramid, and the Landlord Contribution;

e) Form legal entities necessary to complete the activities relative to the redevelopment of the Memphis Pyramid. Such entities shall include, but not be limited to, those business organizations necessary for the conveyance of any interest in the Memphis Pyramid and surrounding parcels or financial structuring;

f) Assist Bass Pro in resolving any issues with the City of Memphis, Division of Fire Services, the Memphis Light, Gas and Water Division and any other relevant division of City and County government concerning those actions arising out of the closing of any alleys or any other actions necessary for the development of the project;

g) The Parties shall work together on matters involving life safety, code compliance, planning, security, parking, perimeter usage, signage, ADA compliance and procuring governmental approvals, and to that end, the City has engaged the services of an architectural/engineering firm to identify all code and seismic issues, in an effort to reduce the risks identified thereby;

h) Work with Bass Pro to obtain the rights for all signage and permitting required such that Bass Pro, in its judgment, has

adequate signage (including without limitation highway and road signage) for the promotion of its operations so as to enhance its marketing potential in the Mid-South region. The parties, additionally, shall work together to promote the City through including the name "Memphis" on certain agreed Pyramid skin/facade signage. The City and County, to the extent permitted by law, shall work with Bass Pro to obtain all necessary approvals, waivers, or other entitlements to enable Bass Pro to be entitled to 50-60 foot signage on all sides of the Facility, and the City and County shall use their best efforts to accommodate the needs of the Bass Pro in road signage and way finding signage, however, no signage will be erected until the execution of a definitive lease agreement by the parties.

i) Use their best efforts to assist Bass Pro in working with all divisions of government in connection with permitting, plan review and procurement of approvals necessary or incidental to the Lease and the redevelopment of the Pyramid;

j) Assist Bass Pro in obtaining all Federal, State and local reviews and approvals;

k) Assist Bass Pro in obtaining necessary or desirable waivers; and

l) Continue to provide adequate staff resources for its involvement as described in the text of this Agreement:

3.2.6 **City's and County's Development Period Milestones.** During the Development Period, the City and County shall meet the following quarterly milestone schedule:

a) Before the last day of the first quarter following the commencement of the Development Period:

(i) Complete the title review of the Pyramid, the financial analysis relative to the City and County debt and other financial obligations and the formation of all necessary legal entities.

(ii) Complete application for NMTC.

(iii) Seek State legislative approval for Tourism Development Zone (TDZ).

(iv) Hire consultant to perform Tax Increment Financing (TIF) study.

b) Before the last day of the second quarter following the commencement of the Development Period:

(i) Review initial project presentation by Bass Pro and, if deemed acceptable, approve project.

(ii) Commence process to establish TDZ.

c) Before the last day of the third quarter following the commencement of the Development Period:

(i) Assist Bass Pro in completing process for obtaining any necessary waivers, permits, approvals or accommodations for the proposed development.

(ii) Obtain determination letter from IRS on the 501 (c) (3) for the Landlord Entity

(iii) Obtain Council approval on TDZ.

(iv) Receive preliminary bond package on TDZ.

(v) Receive determination on receipt of NMTC.

(vi) Receive TIF study and begin approval process.

d) Before the last day of the fourth quarter following the commencement of the Development Period:

(i) Complete preliminary financing package and release of all public obligations.

(ii) Review final project presentation to the City and County and, if deemed acceptable, approve project.

(iii) Negotiate in good faith, the Lease and Improvement Agreement.

3.2.7 **Conditions Precedent to City and County's Obligations.** The City and County shall not be obligated to perform its obligations under this Agreement unless at the time of any performance by the City and County all the following conditions prevail:

(a) There shall exist no condition, event or act which would constitute an Event of Default by Bass Pro under this Agreement which has not been cured; and

(b) No representations and warranties of the Bass Pro set forth herein are untrue in such a materially adverse respect that it reasonably endangers the Bass Pro's performance hereunder.

3.2.8. **Access to Pyramid**. During the Development Period, upon reasonable notice, the City and County shall afford Bass Pro and its employees, agents, contractors, consultants and representatives access to the Pyramid at such times as Bass Pro shall request for the purpose of continuing Bass Pro's due diligence and planning (including without limitation, soil, engineering, environmental and other tests), and to undertake such studies and inspections as Bass Pro may deem necessary and desirable; provided, however, that (i) Bass Pro shall provide the City and County with prior written notice of any entry on to the Pyramid; (ii) Bass Pro shall, at its sole cost and expense, promptly repair any damage to the Pyramid arising from or caused by its entry on to the Pyramid and restore the Pyramid to substantially the same condition as existed prior to such entry; and (iii) the City and County shall have the right to accompany Bass Pro while on the Pyramid site. The obligation of Section 3.2.8(ii) shall survive termination of this Agreement.

3.2.9 **Documents and Reports** All documents and reports prepared by or for Bass Pro shall remain the exclusive property of Bass Pro. City and County expressly disclaim any interest therein.

3.2.10 **Indemnification.** Bass Pro shall indemnify, defend, and hold harmless the City, the County and any of their affiliates or related entities from any loss, injury, damage, or costs resulting from the acts or omissions of Bass Pro, its employees, agents, contractors, consultants or representatives in connection with this Agreement.

3.2.11 **Insurance**. Prior to such entry upon the Pyramid, Bass Pro shall provide to the City of Memphis' Purchasing Agent, and the City of Memphis Manager of the Department of Risk Management evidence of the following insurance policies, to the extent they apply, with respect to itself or its agents: (a) commercial general liability with minimum limits of $2,000,000 bodily injury (including death) and property damage, each occurrence with $2,000,000 aggregate-combined single limit; (b) statutory worker's compensation insurance, if applicable, in accordance with the statutory requirements and limits of the State of Tennessee, and an all states endorsement, or a certificate of the State Worker's Compensation Board showing proof of ability to pay compensation directly; (c) errors and omissions coverage; and (d) Comprehensive Automobile Liability insurance coverage in an amount reasonably acceptable to the City. The City of Memphis and Shelby County, Tennessee shall be listed as additional insured on all policies of insurance that pertain to the activities to be conducted on the premises mentioned herein.

3.3. **Monthly Payment**. As full consideration to the City and County for the grant of authority to Bass Pro as set forth in Section 3.4 hereof, Bass Pro agrees to pay the annual sum of $420,000, payable in monthly installments during the Development Period. Bass Pro shall pay a monthly installment fee of Thirty Five Thousand Dollars ($35,000) (the "Monthly Fee").

The Monthly Fee shall be due and payable beginning on _____ 2008 and on the _____ day of each subsequent month during the Development Period. Payments should be made to: The City of Memphis, Division of Finance, 125 North Main Street, Room 368, Memphis, TN 38103; Attention: Roland McElrath, Director of Finance. Payments not received by the City of Memphis, Division of Finance, by the tenth calendar day following Bass Pro's due date, shall be deemed a late payment. On the eleventh calendar day following the monthly due date where a timely payment is not received, a default shall occur. The City and County shall cause a notice of default to be mailed to Bass Pro providing for a ten (10) day cure period. If the default is not cured by the end of the ten (10) day cure period, the City and County shall have the right to immediately terminate this Agreement by written notice to Bass Pro. In the event of termination, Bass Pro shall be required to provide the City with any outstanding monthly fee(s), (through the month of termination only), as well as, liquidated damages to the extent provided for in Section 5.4 of this Agreement and cure any obligations which Bass Pro may have incurred prior to the termination of this Agreement.

3.4. **Exclusivity**. The City and County hereby agree, jointly and severally, in consideration of the payment of the Monthly Fee and other amounts that Bass Pro has and will expend in furtherance hereof, that Bass Pro shall have the exclusive right from the Landlord and the City and County (and any agencies, subdivisions or affiliates of each) to the redevelopment of the Pyramid Arena site, as described herein, during the Development Period, and in that connection, the City and County (and their respective representatives) shall deal exclusively with Bass Pro on all matters pertaining to the redevelopment and reuse of the Pyramid during the Development Period, and neither the City nor County shall, and no person or entity shall on either the City's or County's behalf, enter into any written document or agreement whatsoever (whether binding or non-binding) with any party regarding the prospective redevelopment and reuse of the Pyramid.

3.5. **Scope of Improvements**. It is agreed that the revised scope of the project (the "Scope") will be determined and presented by Bass Pro to the City and County and for approval by all Parties during the Planning Phase and again prior to the execution and delivery of the Lease. It is contemplated that the Scope will maximize the unique benefit of the Pyramid as an icon in the Memphis and Shelby County landscape, and will be utilized for purposes consistent with family oriented values and usage by the citizens of Memphis and Shelby County. All improvements, as detailed in the Scope, shall be controlled by Bass Pro, and any variance prior to the execution and delivery of the Lease shall require subsequent

notice to and approval by Landlord (not to be unreasonably withheld or delayed). Current contemplated usage includes the concept of a first class (as defined and agreed upon by the Parties) Bass Pro Shops retail store (the "Retail Store") which shall include an atmosphere conducive to families, with an anticipated draw of visitors reaching a regional territory, and with amenities (as defined and agreed upon by the Parties) available free of charge to the general public as a community benefit to the citizens of Memphis and the surrounding area. It is anticipated that the scope provided herein, with all improvements and contributions from Bass Pro and its partners will serve to enhance the existence of the Pyramid as iconic structure in the Memphis community, as well as a center for the education of the value of fish and wildlife, and the motivation of the personal involvement of individuals in the conservation of outdoor resources.

ARTICLE IV.

DEFINITIVE DOCUMENTATION

4.1. **Improvement Agreement.** Prior to the expiration of the Development Period, the Parties shall use reasonable efforts to negotiate and complete an agreement which encompasses, but is not limited to, the intent of the parties as detailed in this Agreement, concerning the improvements (the "Improvement Agreement").

4.2. **Lease Agreement.** 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 said agreement upon completion of the Development Period. It is understood and agreed that prior to the execution and delivery of definitive documents (including, without limitation, the Lease) Bass Pro shall not have a possessory interest of any kind in the Pyramid structure or premises (other than the limited access rights expressly as set forth herein), and is not and will not be deemed to be in possession of the Pyramid in any manner or form.

4.2.1 **Term.** The proposed Lease Term shall consist of:

a) **Construction Period Lease Term**: A seven hundred thirty (730) day construction period (the "Construction Period" or "Construction Period Lease Term") beginning on the first day following the execution and delivery of the Lease ("Construction Commencement") and ending seven hundred thirty (730) days after Construction Commencement ("Construction Completion").

b) **The Initial Lease Term**: A period of twenty (20) years (the "Initial Lease Term") commencing (i) at the expiration of the Construction Period Lease Term, 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 blackout periods (the "Commencement Date").

c) **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 than one hundred eighty (180) days prior to expiration of the then current term.

4.2.2 **Rent**. The proposed Rent consists of:

a) **Construction Period Lease Term Rent**: Rent during the Construction Period Lease Term shall be Zero Dollars ($0.00). Bass Pro shall, however, assume the costs for the maintenance, upkeep, security, commercial general liability insurance and other Bass Pro insurance described in Section 4.2.5. below, costs of utilities used during renovation and construction, and any other operational costs during the Construction Period Lease Term.

b) **The Initial Term Rent**: Rent during the Initial Lease Term ("Annual Percentage Rent") shall be payable with the commencement of operations in an amount equivalent to (2.00%) of gross sales of merchandise (other than boats, RVs and ATVs) and restaurant sales for the Retail Store, and one percent (1.00%) of gross sales of boats, RVs and ATVs (not to exceed $250.00 per each sale) for the Bass Pro Shop Retail Store. Fees for bowling and other bowling related fees, if any, shall be excluded from gross sales for computation of Annual Percentage Rent. Rent shall be subject to an offset for taxes, as set forth below. Notwithstanding the foregoing, Rent for the first year of the Initial Lease Term shall be Eight Hundred Eighty Thousand Dollars ($880,000), subject to the offset for taxes. Bass Pro will guaranty a minimum percentage rent of One Million Dollars ($1,000,000) during each year of the Initial Lease Term other than the first year of the Initial Lease Term (subject to offset for taxes).

c) **Renewal Option Terms Rent:** Rent during the Renewal Option Terms shall remain the same as the Annual Percentage Rent, or as negotiated by the Landlord and Bass Pro at the end of the Initial Lease Term or any subsequent Renewal Option Term.

4.2.3 **Landlord Contribution**.

a) **Amount of Contribution**: It is agreed that the Landlord will contribute an amount (the "Landlord Contribution") toward the Project Costs equal to Thirty Million Dollars ($30,000,000).

b) **Guaranty of Landlord Contribution**: The City and County agree to guaranty the availability and payment of the Landlord Contribution, and shall provide or post (no later than the execution

of the Lease) an irrevocable letter of credit in form and substance and from an institution acceptable to Bass Pro, or other guaranty reasonably acceptable to Bass Pro, to assure the timely availability and payment of the Landlord Contribution to Bass Pro. Such letter of credit, or other agreed upon guaranty, shall be reduced on a dollar-for-dollar basis equal to the amount of Landlord Contribution funds actually received by Bass Pro (or, with the prior written approval of Bass Pro, applied on its behalf).

c) **Payment of Landlord Contribution**: The use, timing and mechanism for distribution of the Landlord Contribution shall be negotiated by the Parties during the Development Period; however it is contemplated that the Landlord Contribution shall be the first payments applied toward the improvements.

4.2.4 **Possession**. Possession shall transfer to Bass Pro on the first day of the Construction Period Lease Term or as agreed upon by the Lease Parties. Beginning on such date of transfer of possession. Bass Pro shall be responsible for all maintenance, utilities, tenant insurance requirements and upkeep expenses relative to the Facility.

4.2.5 **Indemnities and Insurance**. Bass Pro shall indemnify Landlord for all risks and liabilities related to the improvements and operations, and shall maintain and protect the Facility free of liens and claims and shall meet all municipal insurance requirements, each as will be more fully set forth in the Lease. Bass Pro will be responsible for maintaining commercial general liability insurance during the Construction Period and will secure a completion bond in favor of the Landlord in relation to the agreed upon improvements. Upon the opening of the Retail Store, Bass Pro will be responsible for maintaining adequate insurance with respect to its personal property improvements and installations created for the operation of the store, as well as its contents and merchandise. Landlord will be responsible for insuring the building structure.

4.2.6 **Assignment Rights**. Any assignment or subletting of the Facility shall be permitted without further approval only (a) in the ordinary course of business of Bass Pro (including but not limited to the leasing of space to third parties in connection with the project and as contemplated in the Scope), (b) to an affiliate of Bass Pro, (c) to lenders to Bass Pro, or (d) in connection with the sale of all or substantially all of the assets of Bass Pro or the ownership interests in Bass Pro. Any other assignment or subletting shall require approval of the Landlord which shall not be withheld or delayed unreasonably.

4.2.7 **Environmental and Structural Condition**. Landlord and the City and County shall be responsible for any and all costs, expenses, damages and liabilities arising from (a) environmental conditions existing at the Pyramid prior to the date of the Lease, and (b) structural elements,

building materials or workmanship that is not in compliance with the original/revised plans and specifications for the Pyramid, or not in compliance with regulatory requirements in place at the time. In addition to other remedies that may be available to Bass Pro, Bass Pro shall have the right to set off and deduct from the Rent due under the Lease in an amount equal to any such costs, expenses, damages and liabilities.

4.2.8 **Rights to Inspect**. Landlord at all times shall have full and complete rights of inspection, upon reasonable notice.

4.2.9 **Taxes**. Bass Pro will be responsible for paying real estate taxes or payments in lieu thereof, however Bass Pro will receive a credit on a dollar-for-dollar basis toward Rent payable by Bass Pro (including minimum rent) equal to all payments made by Bass Pro in this regard.

4.2.10 **Rights Upon Default**. To be negotiated in the Lease.

4.2.11 **Common Areas and Easements**. Landlord shall reserve such common areas and easements, as necessary and mutually agreed between the Parties, and which shall not interfere with the proposed re-use of the Facility.

4.2.12 **Parking**. The parties shall work together on parking needs, including any additional parking facility needs.

4.2.13 **Exclusivity**. Bass Pro and all of its related, controlling or controlled entities shall agree to an exclusivity provision within the Lease so that no competing individual store facility owned or controlled by Bass Pro, of a similar size and scope as the Memphis Pyramid, shall be located within a 100 mile radius of the Memphis Pyramid.

4.2.14 **Financing Requirements**. The Landlord and the City and County shall agree to amend the Lease from time to time to conform to the reasonable requirements of any lender to Bass Pro.

ARTICLE V.

TERMINATION AND DEFAULT

5.1 **Events of Default.** In the event that either party shall fail to substantially perform its obligations under this Agreement or any other agreement related hereto, and shall have failed to cure the same within thirty (30) days, then an event of default ("Event of Default") shall have occurred under this Agreement. When an action constituting an Event of Default shall occur, the non-defaulting party shall notify the defaulting party in writing and advise the defaulting party of the Default, as well as the time period within which the defaulting party shall have to cure same.

If the defaulting party fails to cure the default within the period prescribed, the non-defaulting party shall issue a Show Cause Notice to the defaulting party requiring the defaulting party to provide sufficient cause as to why the non-defaulting party should not find the defaulting party to be in default of the requisite provisions of this Agreement. If the defaulting party fails to provide sufficient cause or fails to respond to the Show Cause Notice in the time designated by the non-defaulting party, the defaulting party may be considered in default of the provisions of the Agreement, and the non-defaulting party shall exercise the appropriate actions against the defaulting party up to, and including termination of the Agreement, recovery of all funds, and any other remedy available to the non-defaulting party. An Event of Default shall not have occurred if the failure to substantially perform cannot be cured within said cure period and such defaulting party has commenced to cure within said cure period and thereafter diligently pursues such cure. Each of the following events, upon failure to cure within the aforesaid curative periods, shall constitute an Event of Default hereunder:

a) Any failure or omission on the part of the parties to comply with the material terms and conditions of this Agreement;

b) Misrepresentation or omission by the parties of any material fact or facts related to this Agreement which materially and adversely affects the rights or obligations of the parties hereto;

c) The filing of any petition under any bankruptcy, moratorium, re-organization or insolvency act, Federal or State, by Bass Pro or against Bass Pro which, if against same, is not dismissed within ninety (90) days of such filing;

d) The filing of an application for the appointment of a receiver for, or the making of a general assignment for the benefit of creditors of, Bass Pro, however expressed or indicated; and

e) The failure of Bass Pro to pay or discharge any judgment or judgments against it for the payment of money (not covered by insurance) which singularly or in the aggregate exceed One Million Dollars ($1,000,000) and such judgment or judgments be not satisfied, or an appeal taken therefrom or enforcement stayed, or any levy thereon not be removed within thirty (30) days from issue.

5.2 **Remedies Cumulative.** All remedies of the parties provided for herein are cumulative and shall be in addition to all other rights and remedies provided by law. The exercise of any right or remedy by either party hereunder shall not in any way constitute a cure or waiver of default hereunder or invalidate any act done pursuant to any Event of Default hereunder or prejudice a party hereto in the exercise of any of its rights hereunder, unless in the exercise of said rights the party realizes all amounts owed to it under this Agreement.

5.3 **Right to Contest.** Notwithstanding anything to the contrary herein contained, Bass Pro shall have the right to contest, in good faith, any claim, demand, levy or assessment, the assertion of which would constitute any Event of Default hereunder. Any such contest shall be prosecuted diligently and in a manner not prejudicial the City or the rights of the City and County. Upon demand by the City, Bass Pro shall make suitable provision by deposit of funds or by bond or other assurance satisfactory to the City and County for the possibility that any such contest will be unsuccessful. Such provision shall be made within five (5) days after receipt of demand by the City and County therefor.

5.4 **Termination.** Unless amended or otherwise modified, this Agreement shall automatically terminate upon the expiration of the Development Period. Upon such termination, there shall be no further obligation or liability pursuant to this Agreement on the part of any Party for the Project or otherwise, provided that the parties have either completed, or substantially completed the components set forth in Article III of this Agreement, which comprise the activities of the Development Period. If, however, during the Development Period, it should appear to the parties that either (a) the development as planned and approved is financially infeasible (b) it is determined after careful review that the Pyramid structure is unable to be redeveloped in the manner created by Bass Pro and contemplated by the parties, and the City and County fail to correct the deficiencies in the Pyramid Structure required for Bass Pro's redevelopment, or the City and County fail to deliver the premises to Bass Pro in a manner that will allow Bass Pro to carry out its pre-approved development plans, (c) Bass Pro does not secure Development Partners satisfactory to it by acceptable dates, or (d) the City or County fail to satisfy those necessary obligations as set forth in this Agreement, Bass Pro may terminate this Development Agreement by providing at least thirty (30) days prior written notice to the City and County, or (e) Bass Pro defaults on the payment of the Monthly Fee as set forth in Section 3.3 of this Agreement.

In the event of termination of this Development Agreement pursuant to subsections (a), (c) or (e) above, it would be difficult or impossible to determine the amount of loss that might be suffered by the City and County. Therefore, following any such termination by Bass Pro pursuant to subsections (a), (c) or (e), above, and within ten (10) days thereafter, Bass Pro shall pay to the City and County in place of actual damages as fixed, agreed and liquidated damages the total sum of five hundred thousand ($500,000.00) dollars. Following such payment of liquidated damages, Bass Pro shall have no further obligation or liability pursuant to this Agreement or otherwise, and all obligations and liabilities of Bass Pro shall end.

In the event Bass Pro terminates this Development Agreement pursuant to subsections (b) or (d), above, neither party shall have any obligation or liability to the other pursuant to this Development Agreement or otherwise, and all obligations and liabilities of the parties shall end.

Notwithstanding the provisions of this Section, termination of this Agreement as set forth herein is subject to the provisions in 3.2.8(ii), 3.2.9 and 3.2.10 which survive termination.

Absent the foregoing circumstances, it is anticipated that each Party will exercise commercially reasonable efforts to complete the conditions and due diligence milestones as set forth herein.

5.5 Force Majeure

If either party is delayed in performing any covenant hereunder due to causes beyond the control and without intentional misconduct or negligence of either party, then the time for performing the applicable covenant shall be extended for a period of time corresponding to the period of delay, with a reasonable adjustment to any applicable project milestone or party obligation affected by the delay.

Such causes that are beyond the control of either party shall include without limitation, if without intentional misconduct or negligence of either party: (a) acts of God or public enemy; (b) acts of governmental entity in either its sovereign or contractual capacity; (d) fires; (e) earthquakes or floods; (f) epidemics; (g) quarantine restrictions; (h) strikes or labor disputes; (i) freight embargoes; (j) unusually severe weather, (k) delays of subcontractors or suppliers at any tier arising from causes that were not reasonably foreseeable and beyond the control and without the intentional misconduct or negligence of the parties, and (l) litigation other than litigation among and between the parties or their affiliates. The parties agree, however, to the extent reasonably within its ability, to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its agreements and covenants, provided that the settlement of strikes, lockouts and other disturbances shall be entirely within the discretion of the parties and the parties shall not be required to make settlement of strikes, lockouts and other disturbances by acceding to the demands of the opposing party or parties when such course is, in the judgment of the parties, unfavorable to them.

Upon the occurrence of any of the aforementioned events, the affected party shall within ten (10) business days notify the non-affected party in writing of the event or set of events, which pursuant to this section, have caused the delay of performance under this Agreement by the affected party, and shall father notify the non-affected party of the reasonable time in which performance by the affected party may be completed. Both parties shall, then in good faith agree upon a reasonable time for completion of the obligations of the affected party which have been compromised by one or more of the events set forth in this section. Failure to provide adequate notice on behalf of either party pursuant to this section, may be considered an event of default, by the affected party, and may result in the elimination of the extension which would have otherwise resulted from the force majeure event.

ARTICLE VI.

MISCELLANEOUS PROVISIONS

6.1. **Subordination**. Landlord shall not subordinate its ownership interest or title to any leasehold or financing interest(s), except as may be provided in the Lease.

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: Toni M. Miller Attention: Larry K. Wilcher
If to the City:	Dr. Willie W. Herenton, 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:	Elbert Jefferson, Jr. Esq. 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
If to the County:	A C Wharton, Jr. Mayor Shelby County, Tennessee 160 North Main Street, 8th Floor Memphis, TN 38103
and a copy to:	Brian Kuhn, Esq. Shelby County Attorney 160 North Main Street 6th Floor Memphis, TN 38103

6.3 **Governing Law**. This Agreement shall be governed, construed, and enforced according to the laws of the State of Tennessee.

6.4 **Assignment**. This Agreement, except as set forth herein, shall not be transferred or assigned without prior written consent of the Parties. The limitations on assignment or transfer, however, shall not include any assignment of interests by and among the City of Memphis and Shelby County, Tennessee and their boards, commissions and authorities.

6.5 **Entire Agreement**. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained herein and supersedes all prior agreements and understandings of the Parties pertaining to the subject matter contained herein. No addition to or modification of this Agreement shall be binding unless executed in writing by the parties hereto.

6.6 **No Intended Third Party Beneficiary**. This Agreement is not intended to, and does not confer any rights upon any person or entity other than the Parties.

6.7 **Number and Gender**. Wherever used the singular number shall include the plural, the plural the singular, and the use of the any gender be applicable to all genders, as the context may require.

6.8 **Counterparts and Signatures**. This Agreement 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 Agreement may be by facsimile, and facsimile signatures shall have the same effect as an originally executed signature.

6.9 **Verbal Agreements.** It is specifically stipulated that there are no verbal agreements or understandings between the parties hereto affecting this

Agreement, which have not been set forth expressly herein. This Agreement constitutes a final and complete integration of those understandings.

6.10 **Parties to be Bound.** The Parties each bind themselves, their partners, successors, executors, administrators and assigns to this Agreement.

This Development Agreement must be executed by the Parties, if at all, no later than September 15, 2008.

It is acknowledged that Definitive Documentation described in Article IV will not be executed unless and until (a) properly submitted to and approved by the City's and County's governing bodies (Council and Commission, respectively, and their Public Building Authority) and the Chief Executive Officer (Mayor) of each; (b) it meets all applicable procurement requirements; and (c) all necessary corporate approvals of Bass Pro and consents required from third parties have been received. Nothing set forth herein obligates the Parties to enter into Definitive Documentation. This paragraph supersedes all other conflicting language.

[Text Ends – signatures commence on following page]

Dated as of the date above written.

BASS PRO MEMPHIS DEVELOPMENT COMPANY, LLC

By: Bass Pro Outdoor World, L.L.C., its sole member

By: Bass Pro, Inc., its sole member

By: _____
James A. Hagale
President

Bass Pro, Inc. hereby joins into this Agreement for the sole purpose of guaranteeing the obligations of Bass Pro Memphis Development Company, LLC under Sections 3.2.10, 3.3 and 5.4.

Bass Pro, Inc.

By: _____
James A. Hagale
President

Signature page to Development Agreement, dated February 1, 2008, among the City of Memphis, Tennessee, Shelby County, Tennessee and Bass Pro Memphis Development Company, LLC

Dated as of the date above written.

CITY OF MEMPHIS:

By:_____
Willie W. Herenton, Mayor

APPROVED BY:

_____
Robert Lipscomb, Director, HCD

_____
Keith L. McGee, Chief Administrative Officer

_____
Elbert Jefferson, Jr., City Attorney

_____
Marcus D. Ward
Senior Assistant City Attorney, HCD

Dated as of the date above written.

SHELBY COUNTY, TENNESSEE:

By:_____
AC Wharton, Mayor

APPROVED BY:

_____
Brian Kuhn, Shelby County Attorney