

RESOLUTION NO. 12-128

BE IT RESOLVED by the City Council of the City of Decatur Alabama, that it hereby approves the attached Amendment to Project Development Agreement between Market Shoppes Venture LLC and the City of Decatur, Alabama; and accordingly the Mayor is authorized and directed to execute that document on behalf of the City.

ADOPTED THIS 29th DAY OF MAY, 2012.

AMENDMENT TO PROJECT DEVELOPMENT AGREEMENT

WHEREAS, Market Shoppes Venture LLC, a Delaware Limited Liability Company, hereinafter referred to as Developer, and the City of Decatur, Alabama, a municipal corporation, hereinafter referred to as City, mutually agree it is beneficial to extend the deadline dates in certain Sections of Article 3 (Development) of the present Project Development Agreement between the Developer and the City;

NOW THEREFORE, based upon the mutual considerations and benefits of the Developer and the City the present Project Development Agreement between them is hereby amended as follows:

Section 3.1 is hereby amended to read as follows:

“Section 3.1 Designation of Site Plan. No later than December 31, 2012, Developer shall designate in writing to the City whether it will develop the Project in accordance with Site Plan A or Site Plan B.”

Section 3.2 is hereby amended to read as follows:

“Section 3.2 Acquisition of Project Land. Developer shall acquire the Primary Site no later than March 1, 2012; and, if the Designated Site Plan is Site Plan B, Developer shall also acquire the Ancillary Site no later than December 31, 2012. Upon acquisition of the Primary Site and/or the Ancillary Site, Developer shall provide the City with notice thereof, together with evidence of Developer’s title thereto.”

Section 3.4 is hereby amended to read as follows:

“Section 3.4 Commencement of Construction. Developer shall commence, or cause to be commenced, construction of the Project: (a) no later than May 1, 2012 if the Designated Site Plan is Site Plan A, and (b) no later than April 30, 2013 if the Designated Site Plan is Site Plan B.”

Section 3.5 is hereby amended to read as follows:

“Section 3.5 Completion of Construction. Developer shall complete, or cause to be completed, construction of the Project: (a) no later than May 1, 2013 if the designated Site Plan is Site Plan A, and (b) no later than April 30, 2014 if the Designated Site Plan is Site Plan B.”

This amendment of the present Project Development Agreement only affects the Sections outlined above and all other Sections of said Agreement remain intact.

This amendment of the present Project Development Agreement is subject to the written approval of Aliant Bank, a division of USAMERIBANK, a Florida banking corporation, and will not take effect until said written approval is given.

IN WITNESS WHEREOF, the undersigned have executed this Amendment To Project Development Agreement to be effective on the date of its execution or the date of written approval by Aliant Bank, whichever date occurs last.

CITY (Executed on the ____ day of _____ 2012)

ATTEST:

CITY OF DECATUR, ALABAMA

City Clerk

By: _____
Name: _____
Title: _____

DEVELOPER: (Executed on the ____ day of _____ 2012)

MARKET SHOPPES VENTURE, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF ALABAMA)
COUNTY OF MORGAN)

I, the undersigned authority, a Notary Public and for said County, in said State, hereby certify that Don Stanford, whose name as Mayor of the City of Decatur, Alabama, a municipal corporation, is signed to the foregoing agreement and who is known to me, acknowledged before me on this day, that, being informed of the contents of this agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of said entity on the day the same bears date.

Given under my hand and official seal this ____ day of _____, 2012.

NOTARY PUBLIC

My Commission Expires:_____

STATE OF ALABAMA)

COUNTY OF _____)

I, the undersigned authority, a Notary Public and for said County, in said State, hereby certify that _____, whose name as _____ of Market Shoppes Venture, LLC, a Delaware limited liability company, is signed to the foregoing agreement and who is known to me, acknowledged before me on this day, that, being informed of the contents of this agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of limited liability company.

Given under my hand and official seal this ____ day of _____, 2012.

NOTARY PUBLIC

My Commission Expires:_____