

State of Texas

§

County of Dallas

§

Third Amendment to Option Agreement

This **Third Amendment to Option Agreement** (“Third Amendment”) is made and entered into as of the Effective Date by and between **Main Street Coppell, Ltd.**, a Texas limited partnership (successor by assignment to CSE Commercial Real Estate, LP, a Texas limited partnership) (the “Company”), and the **Coppell Economic Development Foundation, Inc.**, a Texas nonprofit corporation (the “CEDF”) acting by and through their authorized representatives (CEDF and Company collectively referred to herein a “the Parties” or individually as “Party.”).

RECITALS

WHEREAS, on or about November 29, 2010, Company and CEDF entered that certain Option Agreement (“the Option Agreement”) granting to Company an option to purchase certain real property described in Exhibit “A-1” of the Option Agreement (the “Option Land”); and

WHEREAS, on or about December 21, 2011, CSE and CEDF entered into that certain First Amendment to Option Agreement (“the First Amendment”) amending various provisions of the Option Agreement; and

WHEREAS, on or about February 22, 2012, CSE assigned CSE's interest in the Option Agreement to Company, to which assignment City consented; and

WHEREAS, on or about July 28, 2015, CSE and CEDF entered into that certain Second Amendment to Option Agreement (“the Second Amendment”) amending various provisions of the Option Agreement (the Original Option Agreement, as amended by the First Amendment and the Second Amendment, is hereafter collectively referred to as “the Option Agreement”); and

WHEREAS, the City has approved further amendments to the Development Agreement, the Option Agreement and the Planned Development District Ordinance, adding the property described on Exhibit “A-2” attached hereto (the “Phase Four Land”) to the Option Land and creating certain obligations related to the Option Land; and

WHEREAS, Company and CEDF desire to make certain additional amendments to the Option Agreement to establish certain rights and obligations related to the Phase Four Land;

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions, and promises made one to the other, Company and CEDF agree as follows:

1. The capitalized words and phrases set forth in this Third Amendment shall have the same meanings as set forth in the Option Agreement except as otherwise amended in this Third Amendment.
2. The Option Agreement shall be amended as follows:

A. The definition of “Development Agreement” as set forth in Article I is amended to read in its entirety as follows:

“**Development Agreement**” shall mean that certain Development Agreement by and between Company and the City dated of approximate even date herewith, and any subsequent amendments thereto between Company and the City.

B. The definition of “Expiration Date” as set forth in Article I is amended to read in its entirety as follows:

“**Expiration Date**” shall mean December 20, 2019.

C. The definition of “Option Land” as set forth in Article I is amended to read in its entirety as follows:

“**Option Land**” shall mean (i) the real property described in Exhibit “A-1” and (ii) the Phase Four Land; provided, however, if the real property described in Exhibit “A-1” and/or the Phase Four Land is replatted in accordance with City’s subdivision regulations, the description of the Option Land shall be deemed to be amended to conform to the lot and block designations set forth in the final plat of such replatted portion of the Option Land without the necessity of execution of a written amendment to this Agreement.

D. Article I is amended to add the definition of the phrase “Phase Four Land” to read as follows:

“**Phase Four Land**” means the real property to be described as Lot 1X and Lots 14R through 25R, Block G, Replat Old Town Addition, an addition to the City of Coppell, Dallas County, Texas, according to the proposed replat to be recorded in the Map Records of Dallas County, Texas, said lots being depicted in Exhibit “A-2,” attached hereto and incorporated herein by reference.

E. Article I is amended to add the definition of the phrase “Phase Four Option Fee” to read as follows:

“**Phase Four Option Fee**” shall mean the sum of **TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)** to be paid by Company to the CEDF as independent consideration for the Option with respect to the Phase Four Land as set forth herein. The Phase Four Option Fee shall be credited against the Phase Four Purchase Price of the Phase Four Land as provided in Section 3.7(f) below.

F. Article I is amended to add the definition of the phrase “Phase Four Purchase Price” to read as follows:

“**Phase Four Purchase Price**” shall mean a total purchase price for the Phase Four Land of Three Hundred Twenty-Five Thousand and No/100 Dollars (\$325,000.00).

G. The phrase “fifty-five (55)” wherever it appears in the Option Agreement is amended to read “sixty-seven (67)”.

H. Section 2.1 is amended to read as follows:

2.1 Option Fee. Except as otherwise provided in Sections 3.2(c) and 4.3(b) of this Agreement or in the Development Agreement, the Option Fee and Phase Four Option Fee are non-refundable. Company shall pay the Option Fee and Phase Four Option Fee to CEDF as follows:

(a) \$50,000.00 to be paid upon the Effective Date;

(b) \$200,000.00 to be paid not later than the earlier of:

(1) Closing on the purchase of the Phase One Property;
and

(2) The third (3rd) business day following the end of the Inspection Period;

(c) The Phase Four Option Fee not later than the third (3rd) business day following the effective date of the Third Amendment to this Agreement.

Each installment of the Option Fee and the Phase Four Option Fee must be paid by certified or cashier’s check made payable to CEDF, or wired directly to an account designated by CEDF.

I. The first phrase of Section 2.2 is amended to read as follows:

“In consideration of payment of the Option Fee and the Phase Four Option Fee,...”

J. A new Section 2.6 is added to read as follows:

2.6 Exercise of Option on Phase Four Land. Company shall be obligated to exercise the Option with respect to the Phase Four Land not later than the tenth (10th) day following the later of (i) the date on which CEDF or the City notifies Company in writing that the City Phase Four

Work (as defined in the Development Agreement) is Substantially Complete, and (ii) the earlier of (y) completion by Company of the Company Phase Four Work (as defined in the Development Agreement) and (z) 180 days following the effective date of the Third Amendment to this Agreement. Company must exercise the Option as to all of the Phase Four Land in a single exercise of the Option and close on the purchase of all of the Phase Four Land in a single closing.

K. A new Section 3.13 is added to read as follows:

3.13 Purchase of Phase Four Land. Solely with respect to the purchase of the Phase Four Land, the provisions of this Article III are modified as follows:

- (a) The deadline for delivering to the Company the information and documents described in Section 3.2(a) shall be thirty (30) days after the effective date of the Third Amendment to this Agreement;
- (b) Section 3.2(c) shall only apply to a refund of the Phase Four Option Fee;
- (c) The insured amount of the title policy under Section 3.3 shall be equal to the Phase Four Purchase Price;
- (d) The Closing Date as provided in Section 3.7(a) shall be not later than the twentieth (20th) day following delivery of the Option Notice to CEDF, but in no case later than the Expiration Date;
- (e) The phrase “Purchase Price” in Section 3.7(b) shall be read as “Phase Four Purchase Price”;
- (f) Section 3.7(e) shall not be applicable; provided, however, the Phase Four Option Fee shall be credited to the Phase Four Purchase Price;
- (g) Notwithstanding anything in Section 3.8(e) or Section 3.9(b) to the contrary, Company shall pay all fees and premiums for the Basic Owner’s Title Policy with respect to the purchase of the Phase Four Land;
- (h) Notwithstanding anything to the contrary in Section 3.12, the Company’s exercise of the Option with respect to the Phase Four Land shall be deemed a representation by the Company that the Company has completed all inspections of the Phase Four Land to which it is entitled to make pursuant to Section 3.12 and is accepting the Phase Four Land “as is” pursuant Section 3.12 such that there will be no period of time to conduct inspections after the exercise of the Option with respect to the Phase Four Land.

M. Section 5.1 is amended by requiring notices be sent to Kevin B. Laughlin in lieu of Peter G. Smith as follows:

Kevin B. Laughlin
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201
Telephone: (214) 965-9900
Fax: (214) 965-0010
Email: klaughlin@njdhs.com

N. Add a new Exhibit “A-2” titled “Depiction of Phase Four Land” to read as set forth in Attachment 1, attached hereto and incorporated herein by reference.

3. Except as otherwise amended by this Third Amendment, the Option Agreement remains in full force and effect.

4. This Third Amendment shall become effective on the date it is signed by authorized representatives of the Parties (“the Effective Date”).

(Signatures on Following Page)

SIGNED AND AGREED this the _____ day of _____, 2017.

Coppell Economic Development Foundation, Inc.

By: _____
Jeff Varnell, President

SIGNED AND AGREED this the _____ day of _____, 2017.

MAIN STREET COPPELL, LTD.,
a Texas limited partnership

By: CSE-PROVIDENT, LLC
a Texas limited liability company,
its General Partner

By: _____
Charles Cotten, Manager

Attachment 1

EXHIBIT A-2
DEPICTION OF PHASE FOUR LAND

